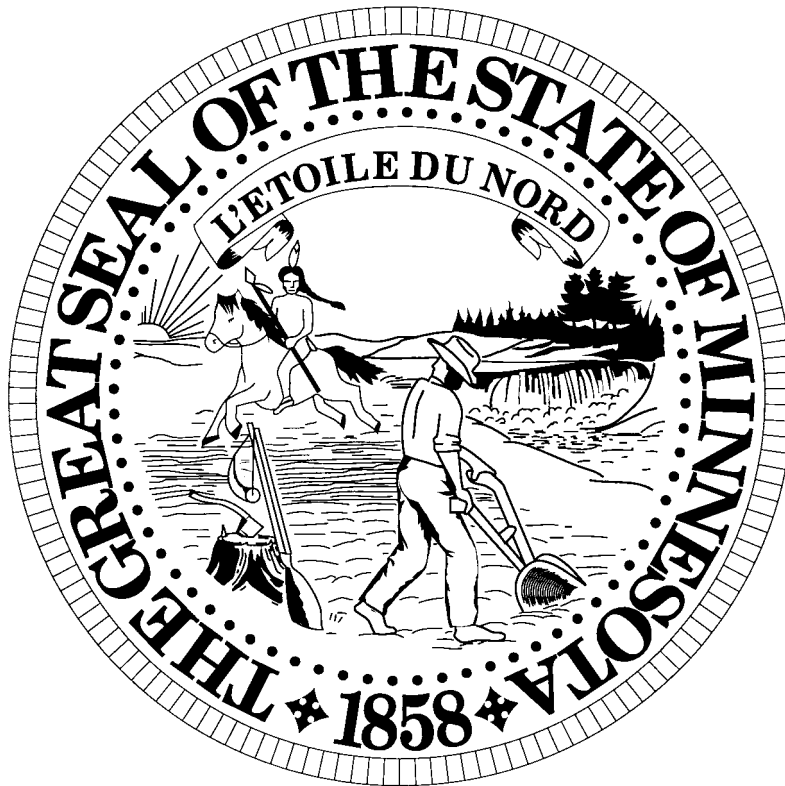


Minnesota

State Register

Rules and Official Notices Edition



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Monday 15 September 2003
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State Register

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

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

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
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Printing Schedule and Submission Deadlines

Vol. 28 Issue Number	PUBLISH DATE	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
#11	Monday 15 September	Noon Tuesday 9 September	Noon Wednesday 3 September
#12	Monday 22 September	Noon Tuesday 16 September	Noon Tuesday 10 September
#13	Monday 29 September	Noon Tuesday 23 September	Noon Tuesday 17 September
#14	Monday 6 October	Noon Tuesday 30 September	Noon Wednesday 24 September

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Website: www.house.leg.state.mn.us/hinfo/hinfo.htm

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U.S. Government Printing Office – Fax: (202) 512-1262
Website: http://www.access.gpo.gov/su_docs/aces/aces140.html

Minnesota State Court System

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Minnesota Judicial Center, Room 135, 25 Constitution Ave., St. Paul, MN 55155
Website: www.courts.state.mn.us

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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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Proposed Rules

Comments on Planned Rules or Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules 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 rules. 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 is then 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 Rules 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 Public Safety

Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Driver Education Schools and Programs

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

In the Matter of Proposed Permanent Rules Relating to Driver Education Schools and Programs, *Minnesota Rules* Parts 7411.0100 to 7411.2000 and Repeal of Parts 7411.0100, subparts 2a, 5, and 11; 7411.0300; 7411.0400; 7411.0510; 7411.0550; 7411.0610; 7411.0700; 7411.0800; 7411.0900; 7411.3100; and 7411.3200.

Introduction. The Minnesota Department of Public Safety intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on October 15, 2003, a public hearing will be held in Room 200 of the State Office Building, 100 The Rev. Dr. Martin Luther King, Jr. Blvd., St. Paul, Minnesota 55155 starting at 9 a.m. on Tuesday, October 28, 2003. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after October 15, 2003 and before October 28, 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 Jane Ann Nelson at the Minnesota Department of Public Safety, Driver and Vehicle Services Division, 445 Minnesota Street, Suite 195, St. Paul, Minnesota 55101-5196. **Phone** (651) 296-2608, **FAX** (651) 296-3141. TTY users may call the Department of Public Safety at (651) 282-6555.

Subject of rules and statutory authority. The proposed rules address standards for the operation of public, private and commercial driver education schools and programs. The rules address instruction for class A, B, C and D motor vehicles, motorcycles, and motorized bicycles. The proposed rules will replace many of the existing rules in Chapter 7411 so there are uniform standards statewide for public, private and commercial programs. Improved customer service, expanded learning options, and the continued availability of programs statewide are rule revision goals. Changes in the proposed rules:

- Address curriculum for the motorized bicycle permit and for class A, B, C and D motor vehicle instruction;
- Reduce the classroom hours for motorcycle endorsement instruction, enhance on-street time, and update the motorcycle curriculum topics;
- Address home school, teleconferenced, simulation, range, and on-line instruction;
- Consolidate and modify the qualifications, disqualification criteria and training criteria for instructors;
- Revise bond and motor vehicle insurance requirements;
- Address student contracts and agreements and fee refund information; and
- Expand the option of vehicle inspection and maintenance as an alternative to mandatory replacement.

Proposed Rules

The proposed rules do not address driver improvement clinics or accident prevention courses for persons age 55 and older. These courses will be addressed in a future rule proceeding.

A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules are available from Cindy Hom (651) 296-3966, 445 Minnesota Street, Suite 175, St. Paul, Minnesota 55101-5175. This notice and the proposed rules are available through the department's **WEB site** at <http://www.dps.state.mn.us/DVS> and may also be accessed directly from the *State Register* at <http://www.comm.media.state.mn.us>.

The proposed rules are authorized by *Minnesota Statutes*, section 14.06; section 169.26, subdivision 3; section 169.446, subdivisions 2 and 3; section 169.974; section 171.02, subdivision 3; section 171.05, subdivision 2; section 171.055, subdivision 1, paragraph (a), clause (3); section 171.0701; sections 171.33 to 171.41, and section 299A.01, subdivision 7.

Comments. You have until 4:30 p.m. on October 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 October 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 rules. 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 or 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 without a public hearing or as a result of the rule hearing process. Modifications must be supported by data and views submitted by the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, 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 October 28, 2003, will be cancelled 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) 296-2608 after October 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 Heydinger can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone** (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 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 rebuttal 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 rebuttal period. All comments or responses received will be available for review at the Office of Administrative Hearings. The hearing is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about hearing procedures 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 rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Proposed Rules

Statement of need and reasonableness. A statement of need and reasonableness is now available from Cindy Hom, (651) 296-3966, 445 Minnesota Street, Suite 183, St. Paul, Minnesota 55101-5183. The Statement of Need and Reasonableness is also available through the department's **WEB site** at <http://www.dps.state.mn.us/DVS>. 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 the agency.

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

Adoption procedures if no hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period on October 15, 2003. 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 of Administrative Hearings. 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 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 the rules 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: September 3, 2003

Richard W. Stanek, Commissioner
Minnesota Department of Public Safety

7411.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7411.0100 to ~~7411.0900~~ 7411.2000 have the meanings given them in this part.

Subp. 2a. [See repealer.]

Subp. 4. **Certificate of approval.** "Certificate of approval" ~~refers to~~ means the written document issued by the commissioner to a ~~public or private or parochial college, university, or high school that offers driver education to persons under 18 years of age as part of the normal program for that institution,~~ indicating the department's approval of the school's driver education program under *Minnesota Statutes*, section 171.05, ~~subdivision 2, paragraph (a), clause (1);~~ and parts 7411.0100 to ~~7411.0900~~ 7411.2000.

Subp. 5. [See repealer.]

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

Subp. 8a. **Class D vehicle.** "Class D vehicle" means a vehicle that requires its operator to have a class D driver's license ~~with proper endorsement or permit~~ before it may be driven, under *Minnesota Statutes*, section 171.02, subdivision 2, but may also be operated by the holder of a class A, class B, or class C commercial driver's license with proper endorsement. A motorcycle or motorized bicycle is not a class D vehicle for purposes of parts 7411.0100 to ~~7411.0900~~ 7411.2000.

Subp. 9. **Commercial driver education training school.** "Commercial driver education training school" ~~means a business enterprise conducted by an individual, association, partnership, or corporation, that charges a fee to educate and train persons to drive motor vehicles or to prepare an applicant for a driver's license examination given by the state, and that is required to be licensed by the commissioner under Minnesota Statutes, sections 171.33 to 171.41~~ has the meaning given in Minnesota Statutes, section 171.33, subdivision 1.

Subp. 10. **Commissioner.** "Commissioner" means the commissioner of the Department of Public Safety or an authorized agent of the commissioner.

Subp. 11. [See repealer.]

Subp. 11a. **Date first put into service.** "Date first put into service" means the date a motor vehicle was first driven more than the limited driving necessary to move or road test the vehicle before delivery to a customer.

For a motor vehicle used by a dealer as a demonstration model, "date first put into service" means either the date the motor vehicle was first driven by a potential customer or, if records are not available to show this date, then the date of the beginning of the model year of the motor vehicle.

Subp. 11b. **Dealer.** "Dealer" means an entity licensed under chapter 7400 and Minnesota Statutes, section 168.27.

Subp. 11c. **Department.** "Department" means the Department of Public Safety.

Subp. 12. **Driver education program; program.** "Driver education program" or "program" means a:

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- A. ~~a commercial driver education training school licensed by the commissioner; or~~
- B. ~~a certified program;~~
- C. ~~a private or commercial school or institute offering a two-wheeled vehicle driver's safety course that is required to be approved by the commissioner under Minnesota Statutes, section 169.974, subdivision 2; or~~
- D. ~~a public high school offering, directly or indirectly, a driver education program approved by the commissioner of Children, Families, and Learning. A driver education program includes instruction to operate a:~~
 - (1) class A, B, C, or D motor vehicle;
 - (2) motorcycle; or
 - (3) motorized bicycle.

Subp. 13. **Good cause to believe.** "Good cause to believe" means grounds put forth in good faith that are not arbitrary, irrational, unreasonable, or irrelevant and ~~that~~ are based on at least one of the following sources specified in this subpart:

- A. written information from an identified person;
- B. facts supplied by the program, instructor, or applicant;
- C. driver's license or accident records;
- D. court or police records; or
- E. facts of which the ~~approving authority commissioner~~ or the ~~approving authority's employees or commissioner's agents~~ have personal knowledge.

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

Subp. 17. **Instruction.** "Instruction" means lecture, tutoring, practice driving, lessons, or other teaching method ~~given~~ approved by the commissioner to teach the proper operation of a motor vehicle.

- A. One hour of instruction time means 60 minutes of actual instruction.
- B. Breaks and time between instruction are not counted as instruction time.

Subp. 18. **Instructor.** "Instructor" means ~~a any person, whether acting as an operator of a driver education public, private, or commercial program or as an employee of the program, who teaches or supervises persons, who meets the qualifications in parts 7411.0620 to 7411.0690 and provides instruction to a person:~~

- A. learning to drive operate a motor vehicles or vehicle;
- B. preparing to take an examination for a driver's license, and a person who supervises the work of another instructor; or
- C. training to be an instructor.

Subp. 19. **Laboratory instruction.** "Laboratory instruction" means either:

- A. behind-the-wheel instruction for in a class A, class B, class C, and class D vehicles and astride the motorcycle motor vehicle;
- B. instruction for motorcycles astride a motorcycle or motorized bicycle;
- C. simulation instruction as described in part 7411.0525; or
- D. range instruction as described in part 7411.0555.

Subp. 19a. **License.** "License" means either:

- A. the document issued by the commissioner to operate a commercial driver training school under this chapter and Minnesota Statutes, sections 171.33 to 171.41; or
- B. the document issued by the commissioner under Minnesota Statutes, section 171.35, to be an instructor in a commercial driver training school.

[For text of subp 20, see M.R.]

Subp. 20a. **Motor vehicle.** "Motor vehicle" has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision 39.

Subp. 21. **Motorcycle.** "Motorcycle" has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision ~~47~~ 40.

Subp. 21a. **Motorized bicycle.** "Motorized bicycle" has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision 41.

Subp. 22. **Parking or motor vehicle equipment offense.** "Parking or motor vehicle equipment offense" means a violation of:

- A. *Minnesota Statutes*, section 169.34 (stopping and parking prohibitions), 169.346 (parking privileges for persons with disabilities), 169.35; or 169.36 (parking requirements), or 169.47; (unsafe equipment); or
- B. an ordinance in conformity with these sections.

Subp. 22a. **Passenger or student observation time.** "Passenger or student observation time" means time spent by an enrollee in

a program, in a motor vehicle, observing a person operate the motor vehicle.

Subp. 22b. Private program. “Private program” means a program regulated by a board of directors and registered with the secretary of state as a nonprofit corporation that:

- A. assumes administration of the driver education program;
- B. assumes liability for the driver education program; and
- C. provides instruction with instructors who meet the driver education instructor qualifications in parts 7411.0620 to 7411.0690.

Subp. 22c. Public program. “Public program” means a program that provides instruction to operate any class of motor vehicle to any individual under the age of 18 and the program is an elected or appointed authority of state or local government that:

- A. directly regulates and supervises the program;
- B. insures or indemnifies all program activities; and
- C. provides instruction with instructors who meet the driver education instructor qualifications in parts 7411.0620 to 7411.0690.

Subp. 22d. Range. “Range” means a driving area not on a public street or highway, that simulates driving situations.

Subp. 22e. Range driving. “Range driving” means that portion of the laboratory instruction where an instructor is positioned outside a motor vehicle but in electronic or oral communication with the student driver, and in visual contact with the motor vehicle.

Subp. 23. Semitrailer. “Semitrailer” has the meaning given it in *Minnesota Statutes*, section 169.01, subdivision 11.

Subp. 23a. Simulator; simulation. “Simulator” or “simulation” means instruction that uses computer-based equipment that reproduces driving situations likely to occur in actual driving performance on the street or highway.

Subp. 24. Traffic violation. “Traffic violation” means a violation of:

- A. a traffic law or ordinance involving the movement or operation of a motor vehicle that is not:
 - A. a parking or motor vehicle equipment offense, a log book offense, or an offense involving the nonpayment of a fine or child support;
 - B. a violation under *Minnesota Statutes*, section 169.09 (accident stop or reporting), or a comparable law of another state; or
 - C. a violation under *Minnesota Statutes*, section 65B.48 (motor vehicle insurance), or a comparable law of another state.

[For text of subp 25, see M.R.]

Subp. 26. Vehicle. “Vehicle” has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision 2 50.

7411.0200 PURPOSE.

The purpose of parts 7411.0100 to ~~7411.0900~~ 7411.2000 is to ~~carry out the mandate of the legislature in license or approve driver education programs as required under *Minnesota Statutes*, sections 169.446, subdivisions 2 and 3 (school bus safety education); 169.974, subdivision 2 (motorcycle courses); 171.02, subdivision 3 (motorized bicycle course); 171.05 (public and private driver education programs); and 171.33 to 171.41, for regulating and licensing driver education programs and instructors. Parts 7411.0100 to 7411.0900 also carry out the legislative mandate of *Laws 1993*, chapter 224, article 12, section 35, which provides that the commissioner of Children, Families, and Learning shall cooperate with the department to develop a single set of rules for driver education programs, whether public, private, or commercial (commercial driver training schools).~~

ADMINISTRATIVE REQUIREMENTS FOR ALL PROGRAMS

7411.0210 APPLYING FOR DRIVER EDUCATION PROGRAM LICENSE OR APPROVAL.

Subpart 1. Commercial school licensure. To operate a commercial driver training school, a person must apply for a license and comply with parts 7411.0100 to 7411.2000 and *Minnesota Statutes*, sections 171.33 to 171.41.

- A. If a program meets the definition of a commercial driver training school, the applicant must apply for a license.
- B. A program or person that charges a fee to provide instruction is not subject to *Minnesota Statutes*, sections 171.33 to 171.41, as a licensed commercial driver training school if the program or instruction is exempt under *Minnesota Statutes*, section 171.39.

Subp. 2. Approval of public or private program. To operate a public driver education program or a private driver education program, a person must apply to the commissioner for a certificate of approval and comply with parts 7411.0100 to 7411.2000 and *Minnesota Statutes*, section 171.05.

Subp. 3. Motorcycle course. To operate a program that provides instruction to operate a motorcycle, a person must comply with parts 7411.0100 to 7411.2000 and *Minnesota Statutes*, section 169.974. A course of instruction to operate a motorcycle may be either licensed as a commercial driver training school or certified as an approved public program or private program.

Subp. 4. Motorized bicycle course. To operate a program that is a motorized bicycle course, a person must comply with parts 7411.0100 to 7411.2000 and *Minnesota Statutes*, section 171.02, subdivision 3. A motorized bicycle course may be either licensed as a commercial driver training school or certified as an approved public program or private program.

Subp. 5. Community education programs. A driver education program offered through community education must be either:

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A. approved as a public program by the commissioner under parts 7411.0100 to 7411.2000 if the program:

(1) is administered through the local school board;

(2) is insured or indemnified by the local school board; and

(3) employs instructors who meet the instructor qualifications in parts 7411.0620 to 7411.0690; or

B. if the program does not meet the criteria in item A, offered through a contract with a commercial driver training school licensed by the commissioner under parts 7411.0100 to 7411.2000 and *Minnesota Statutes*, sections 171.33 to 171.41.

Subp. 6. **Postsecondary schools.** A driver education program provided by a postsecondary college or university is exempt from approval or licensure by the commissioner under this chapter if the institution:

A. provides the instruction as a part of the normal program or curriculum for that institution;

B. directly regulates or administers the program;

C. insures or indemnifies all program activities; and

D. does not provide instruction to operate a motor vehicle to persons under the age of 18.

Subp. 7. **Application content for program license or certificate of approval.** Application for a new or renewal license or certificate of approval for the program must be made on a format prescribed by the commissioner.

A. Owners, partners, corporate directors, administrators, and officers must be named, with their titles, on each program application.

B. The application must be signed by one of the program owners, partners, corporate directors, administrators, or officers.

C. An initial and renewal application must be accompanied by the schedule of maximum course fees and charges distributed to students.

(1) The schedule of fees and charges may be amended by the program at any time.

(2) Changes in the fee schedule must be filed with the commissioner at least ten days before the changes become effective.

D. A program application must identify the authorized official specified in part 7411.0250 and must contain an exemplar of the authorized official's signature.

E. A program application must identify the instructors of students and provide each instructor's driver's license number.

F. A program application must be accompanied by the information about each instructor's qualifications as required to be submitted by parts 7411.0620 to 7411.0690.

G. The application must specify each class of motor vehicle for which the program wants to provide instruction.

H. The application must specify whether the program will be providing classroom instruction, laboratory instruction, or both, for each class of motor vehicle delineated.

Subp. 8. **Commissioner's approval before start of program instruction.** The program must receive a license or a certificate of approval of the program before training, instruction, or preparation to operate a motor vehicle begins.

A. If there is a material change in either the class of motor vehicle instruction offered, the curriculum, or the program's administration, approval must be obtained from the commissioner before the change is implemented.

B. All instructors must meet the qualifications in parts 7411.0620 to 7411.0690 before providing instruction in any program.

Subp. 9. **Duplicate license or certificate.** If the program changes its location or if the license or certificate of approval for the program is lost within the year of issuance, the commissioner shall issue a duplicate license or certificate of approval if the program continues to comply with this chapter. The fee for issuing a duplicate license or certificate of approval for the program is \$25.

Subp. 10. **License or certificate at program locations.** The commissioner shall issue a single license or certificate of approval for the program for both the program's administrative office and one location at which classroom or laboratory instruction is provided. An additional license or certificate of approval must be obtained if:

A. the program provides either classroom or laboratory instruction, or both, at more than one permanent location; and

B. the program has exclusive use of the classroom or laboratory location during the hours of instruction for a continuous period of 90 days or more.

Subp. 11. **Renewal of license or certificate.** A program license or certificate of approval expires one year from the date issued and may be renewed on application to the commissioner. Application for renewal of the license or certificate must be submitted to the commissioner at least ten days before expiration, but will not be accepted more than 30 days before the expiration date.

Subp. 12. **Fees payable to commissioner.** Fees for an original, renewal, duplicate, or replacement program license or certificate of approval must be made payable to the commissioner.

7411.0220 PROGRAM LICENSE OR CERTIFICATE NOT TRANSFERABLE.

The license or certificate of approval for a program is not transferable. If the ownership of a program changes, the program must

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apply for a new license or certificate of approval in the same manner as required for the original.

7411.0230 DISPLAY OF LICENSE OR CERTIFICATE.

The license or certificate of approval to operate a program must be displayed in a conspicuous place at each licensed or approved location.

7411.0250 AUTHORIZED PROGRAM OFFICIAL.

Subpart 1. Designation, signature. Each program must designate a person who is authorized on behalf of the program to execute program licensure and approval certificates and sign student contracts, student agreements, and student certificates of course completion.

A. The authorized official need not be a licensed or qualified instructor.

B. The program owner or administrator shall provide written notice to the commissioner of:

(1) the name of the authorized official at the time of initial application for program licensure or approval; and

(2) any change in the designation of the authorized official before the designation of the new official.

C. A complete signature of the full name of the authorized official must be on file with the commissioner before the authorized official may sign or issue the documents specified in this part.

Subp. 2. Duties of program's authorized official. The authorized official shall perform the duties specified in this subpart.

A. The authorized official shall issue each student under age 18 a letter of completion of the classroom portion of a program providing instruction to operate a class D motor vehicle, motorcycle, or motorized bicycle in a format provided by or specified by the commissioner, within 15 calendar days after the student completes the classroom portion of a program.

B. If the student completes the classroom portion of a program and demonstrates current financial enrollment in the laboratory portion of a class D or motorcycle program, the authorized official shall issue a certificate of enrollment in the laboratory portion of the class D or motorcycle program. The certificate must be in a format provided or specified by the commissioner.

C. Within 15 days after a student under age 18 completes the laboratory portion of a class D or motorcycle program, the authorized official shall issue a certificate of completion of the laboratory portion of the program, in a format provided or specified by the commissioner.

D. For a motorcycle endorsement training course where classroom and laboratory instruction may be taken concurrently, the student must be issued a certificate of enrollment by the authorized official, indicating the student is enrolled in both the classroom and laboratory portions of a course at the same time. Upon completion of the motorcycle endorsement training course, a certificate of completion of both the classroom and laboratory portions of the course, in a format provided by or specified by the commissioner, must be issued by the authorized official within 15 calendar days after the student completes both portions of the course.

E. The authorized official shall notify the commissioner within 15 days of the time a student fails to continue or complete the laboratory portion of a class D motor vehicle program or motorcycle endorsement course as specified in the program's contract or agreement with the student.

7411.0260 PROHIBITED CONDUCT BY PROGRAM PERSONNEL.

Subpart 1. Interaction with public safety personnel. An owner, operator, partner, officer, administrator, authorized official or representative, or employee of a program shall not influence, or attempt to influence, a decision of an employee of the commissioner to issue a permit, license, or endorsement to a student of the program, or to any other person.

Subp. 2. Interaction with students. An owner, operator, partner, officer, administrator, authorized official or representative, or employee of a program shall not imply to a student or to any other person that the program or an instructor can influence driver's license examiners or other employees of the commissioner.

7411.0270 MOTOR VEHICLE INSURANCE.

Subpart 1. General requirements. If a driver education program allows a student to operate a motor vehicle for laboratory instruction, the program must provide the motor vehicle insurance specified in this part.

A. At the time of application for program licensure or program approval, the program must file with the commissioner evidence of liability insurance obtained from a company authorized to do business in Minnesota.

B. The program must furnish evidence of coverage to the commissioner in the form of an original certificate of insurance from the insurance company demonstrating the required amount of insurance under this part and demonstrating that the insurance may not be canceled or terminated, except upon 30 days' prior written notice to the commissioner.

C. If the insurance is canceled, then on the date the insurance cancellation becomes effective the program's certificate of approval is withdrawn automatically or the program license is revoked automatically.

(1) All motor vehicles used for instruction in a program may not be used for program purposes unless the program obtains adequate insurance coverage and notifies the commissioner of the coverage, and the commissioner notifies the program in writing

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that the program's certificate of approval or program license has been reinstated.

(2) When motor vehicle insurance is provided by an instructor or motor vehicle lessor and the vehicle insurance is canceled, the motor vehicle must immediately be removed from the program's approved motor vehicle list as filed with the commissioner. If the vehicle is not removed from service, the program's certificate of approval is withdrawn automatically or the program license is revoked automatically.

(3) A program whose certificate of approval has been withdrawn or whose license has been revoked may reapply for a license or certificate upon meeting the insurance requirements under this part.

Subp. 2. Class A, B, C, and D vehicles. A program providing instruction in a class A, B, C, or D motor vehicle must maintain insurance or demonstrate insurance coverage in the amounts of:

A. at least \$250,000 because of bodily injury to, or death of, any one person in any one accident;

B. at least \$500,000 because of bodily injury to, or death of, two or more persons in any one accident;

C. at least \$100,000 because of damage to, or destruction of, property of others in any one accident;

D. at least \$40,000 for medical expenses; and

E. at least the minimum amount of uninsured motorist coverage, when any portion of the program instruction is conducted on public streets.

Subp. 3. Motorcycles. A program providing motorcycle instruction must maintain insurance or demonstrate insurance coverage in the amounts of:

A. at least \$100,000 because of bodily injury to, or death of, any one person in any one accident;

B. at least \$300,000 because of bodily injury to, or death of, two or more persons in any one accident;

C. at least \$50,000 because of damage to, or destruction of, property of others in any one accident;

D. at least \$20,000 for medical expenses; and

E. at least the minimum amount of uninsured motorist coverage, when any portion of the program instruction is conducted on public streets.

7411.0275 BOND.

Subpart 1. General requirement. A commercial driver training school must secure and submit to the commissioner with the application for program licensure a continuous surety company bond.

Subp. 2. Bond based on student enrollment. Except as otherwise provided in subpart 3, the surety bond for a program whose license is approved or renewed after January 1, 2004, must be based on the total number of students enrolled in the program the previous calendar year.

A. Student enrollment must be reported for all permanent and temporary locations at which the program provided instruction the previous calendar year.

B. Enrollment must be reported for all student contracts and agreements entered into by the program the previous calendar year.

C. If the program enrolled one to 100 students, a \$10,000 bond must be secured.

D. If the program enrolled 101 to 500 students, a \$20,000 bond must be secured.

E. If the program enrolled 501 or more students, a \$30,000 bond must be secured.

Subp. 3. New ownership. A school that assumes ownership of a previously licensed school must obtain an initial bond at the student enrollment level reported by the acquired school the previous calendar year.

Subp. 4. Adjustments. The bond must be adjusted after the first year of program operation after July 1, 2003, and every two years after on the date of renewal of the program license.

At the time of adjustment, the bond must be in an amount as specified in subpart 2 that reflects student enrollment for the previous calendar year.

Subp. 5. Sureties. The bond must be undertaken by a company authorized to do business in Minnesota.

A. The school shall furnish satisfactory evidence of coverage to the commissioner at the time of application for renewal of the school's license.

B. The bond must indicate that the concerned surety company may cancel the bond only after giving 30 days' written notice to the commissioner.

C. The bond must indicate that the surety company is relieved of all liability for the breach of a condition of the bond occurring after the effective date of cancellation.

Subp. 6. Revocation. If the bond is canceled, then on the date the bond cancellation becomes effective, the program's license is revoked automatically.

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A program whose license has been revoked for failure to maintain a bond, may apply for license reinstatement upon meeting the bond requirements under this part.

7411.0280 PROGRAM RECORDS.

Subpart 1. General requirements. The program must:

A. maintain the records specified in this part for at least five years;

B. keep an instruction record of every person enrolled, whether or not the person was given instruction or other services relating to classroom instruction, laboratory instruction, or both, in operating a motor vehicle, and the instruction record must contain:

(1) the person's legal name, including first, middle, and last name; residence address; date of birth; unique identifier of the contract or agreement; date and number of hours of all instruction; and type of instruction; and

(2) for a student who has completed a portion of the driver education program, the completion date of the portion of the program shown on the certificate of completion issued to the student and the name of both the last instructor and the program's authorized official;

C. keep a file containing the original, subsequent, and renewal contracts or agreements specified in part 7411.0305 between the program and every person receiving instruction, and any other services provided by the program to the person relating to the operation of a motor vehicle;

D. maintain program records in a businesslike manner, using only standard abbreviations;

E. make the records available for inspection by the commissioner during reasonable business hours; and

F. report immediately to the commissioner by affidavit the loss, mutilation, or destruction of the records required to be maintained by the program, stating the date the records were lost, destroyed, or mutilated; the circumstances involving the loss, destruction, or mutilation; the names of the law enforcement officer or fire department official to whom the loss was reported; and the date of the report.

Subp. 2. Location of records. The program records must be available in Minnesota at the program's administrative office for inspection by the commissioner. At the time of application for program licensure or approval, the commissioner must be informed of the location where records will be available. The commissioner must be notified of a change in the record location before the change occurs.

7411.0295 ADVERTISING RESTRICTIONS.

Subpart 1. General restrictions. A driver education program must not:

A. publish, advertise, or intimate that a driver's license is guaranteed or assured;

B. advertise free instruction;

C. duplicate or reproduce in whole or in part, for use in advertising, forms or examination material used by the state;

D. use the word "state" in a sign or other medium of advertising, except as permitted in this part;

E. advertise an address or location other than a licensed location or approved location;

F. advertise the address of any temporary location without identifying it as a temporary location and without also indicating the address of the program's permanent location; or

G. distribute advertising material within 150 feet of a driver's license examination station, except as permitted in this part.

Subp. 2. Advertising on test vehicles. Program instructors may appear at driver test locations operated by the state with a student scheduled for an examination, in a program vehicle on which appear the markings and signs required or authorized in part 7411.0850.

Subp. 3. Advertising in state driving manuals. Advertising for a driver education program contained in the department-produced Minnesota driver's manual is not subject to the distance restriction in subpart 1, item G.

Subp. 4. Permitted statement. A program may use in its advertising or on forms, contracts, and other materials, one of the following phrases, as applicable:

A. "This program is licensed by the Minnesota Department of Public Safety" if the program is a commercial driver's training school licensed by the Minnesota Department of Public Safety.

B. "This program is approved by the Minnesota Department of Public Safety" if the program is a public program with a certificate of approval or a private program with a certificate of approval issued by the Minnesota Department of Public Safety.

7411.0305 STUDENT AGREEMENTS OR CONTRACTS.

Initial and revised contracts and agreements between a program and student must comply with this part.

A. The contract or agreement must be approved by the commissioner before it is used by the program.

B. Each contract or agreement must bear an individual, unique number or identifier.

C. A driver education program must not give a person instruction or other service relating to instruction in motor vehicle oper-

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ation until a written contract or written agreement has been executed between the program and the person.

D. The contract or agreement must be signed by the program's authorized official designated under part 7411.0250.

E. A program must not represent or agree orally, in writing, or as part of an inducement to sign a contract or agreement for instruction:

(1) to give instruction until a driver's license, permit, or license endorsement is obtained; or

(2) to offer premiums or provide discounts if a driver's license, permit, or license endorsement is not obtained.

F. A contract or agreement for a program providing laboratory instruction to operate a class D motor vehicle must be limited to a maximum of 30 hours of laboratory instruction.

G. The contract or agreement must specify the beginning and ending dates for program completion.

H. If a program wants to exceed the hours specified in item F, the contract or agreement may be renewed only by mutual agreement between the student and program, in writing, and only if approved by the commissioner.

I. When an original contract or agreement and each subsequent contract or agreement for instruction expires, the instructor shall evaluate with the student the progress made and determine how much further instruction, if any, is necessary.

(1) The instructor and authorized official shall then determine if the student can complete the instruction.

(2) If the instructor and authorized official of the program determine that the student cannot complete the instruction, the authorized official shall notify the commissioner in writing.

(3) The program may continue the instruction of that student only if authorized to do so in writing by the commissioner.

J. A contract or agreement to provide instruction to operate a class A, B, or C motor vehicle must:

(1) specify the hours of instruction to be provided to the student;

(2) describe the course or individualized instruction provided;

(3) specify the course fee or hourly rate for individualized instruction;

(4) provide that the authorized program official notify the commissioner in writing if the instructor and official determine that the student cannot complete the instruction; and

(5) specify that the program may continue the instruction of that student only if authorized to do so in writing by the commissioner.

K. Contracts or agreements for which a fee is charged must address the issue of refunds in the event a student or the program is not able to complete instruction.

L. The contract or agreement must specify whether and under what circumstances a person other than the student or instructor will be permitted or required in the motor vehicle during laboratory instruction.

7411.0325 STUDENT AGE, QUALIFICATIONS; ENROLLMENT REQUIREMENTS.

Subpart 1. Generally. A program shall not offer driver education:

A. classroom or laboratory instruction to operate a class A or C motor vehicle to a student who is not at least 18 years old and in possession of at least a class D driver's license;

B. classroom or laboratory instruction to operate a class B motor vehicle to a student who is not at least 16 years old and in possession of at least a class D driver's license;

C. classroom or laboratory instruction for a motorcycle endorsement to a student who is not at least 15 years old; or

D. classroom instruction to operate a class D motor vehicle or motorized bicycle to a student who is not at least 14 years old.

Subp. 2. Motorcycle endorsement course enrollment. A program offering a course to obtain a motorcycle endorsement must require that a student who takes the motorcycle endorsement course be enrolled in both the classroom and laboratory portions of the course.

Subp. 3. Students under age 18. A program offering a class D motor vehicle course to a student under the age of 18 must require the student to enroll in either the classroom phase of a program, the laboratory phase of a program, or both.

A. Proper enrollment must be reflected in the student contract or agreement.

B. Enrollment in either classroom instruction or laboratory instruction need not occur with the same program.

C. A homeschooled student need only indicate enrollment in the laboratory phase of a program.

D. Classroom instruction hours are not transferable from one program to another unless the commissioner can verify documentation of comparable instruction.

7411.0335 WITHHOLDING CERTIFICATE OF COURSE COMPLETION.

A program is not required to issue a certificate or letter of course completion to a student who has not paid the fees agreed on in the student contract or agreement.

7411.0340 PROGRAM ANNUAL REPORT.

The authorized official of a program must submit to the commissioner an annual report 30 days after the close of the calendar year.

A. The annual report must indicate:

- (1) the number of students who received any instruction from the program the previous year; and
- (2) the number of students who completed instruction from the program the previous year.

B. The commissioner shall make the report format available to the program at least 60 days before the report is due.

7411.0345 LOCATION OF PROGRAM ADMINISTRATIVE OFFICE.

Subpart 1. Location of program administrative office. A program must have an administrative office that meets the location requirements specified in this part.

A. A program must have a permanent administrative office located in Minnesota.

B. The program must have continuous and exclusive control of the permanent administrative office location for at least one year beginning on the date of projected program licensure or approval either through ownership or a lease.

C. The program must have a program certificate of approval or program license from the commissioner to operate a driver education program out of the permanent administrative office location.

D. The program may operate its classroom and laboratory instruction at sites and locations separate from the space occupied by the program's permanent administrative office.

Subp. 2. Location change. A program may not change the program's permanent administrative office location specified on its license or certificate of approval without prior notice to the commissioner.

Subp. 3. Distance from state examination sites. No program's permanent office location or any instruction location may be within 150 feet of a site where any part of a driver's license examination is administered. This subpart does not apply to a program with a license or certificate of approval in operation at the location before a state examination site was established.

7411.0355 INSTRUCTION LOCATIONS.

Subpart 1. Classroom instruction locations. Each classroom instruction location operated by a program must be approved by the commissioner before instruction begins. Instruction must be in a nonresidential occupancy, or occupancy not occupied as a residence, except for instruction provided by a parent to a homeschooled student.

Subp. 2. Temporary locations. A program may obtain classroom or laboratory facilities at temporary locations that comply with this part. The program must notify the commissioner of the address, time, and date of each scheduled use of each temporary location before using it for instruction.

Subp. 3. Classroom size. A program providing classroom instruction in a classroom must provide instruction in a room of at least 300 square feet and suitable for instruction.

Subp. 4. Teleconferenced instruction location. Classroom instruction must be provided to a student, except for a homeschooled student, in a location complying with subpart 3. The instructor must be either physically present or immediately available to the student through teleconferencing during the classroom instruction period to instruct as well as address questions and comments.

Subp. 5. Laboratory instruction route location. A program must not provide laboratory instruction on the actual routes used for state driver's license road tests, except when unavoidable due to the lack of alternative routes.

Subp. 6. Class C or D driving range size. If a program offers class D training on a driving range, the program must provide at least 80,000 square feet of unobstructed driving surface space other than space occupied by light standards.

Subp. 7. Class A or B vehicle driving range size. A program offering class A or B vehicle instruction must provide a driving range of at least 90,000 square feet. If more than two class A vehicles are to be used on the driving range at the same time, an additional 45,000 square feet of driving range must be provided for each additional class A motor vehicle.

Subp. 8. Motorcycle endorsement course riding range. A riding range used for motorcycle course laboratory instruction must be at least 160 feet long and 60 feet wide.

A. Up to 12 students may receive instruction at one time if the dimensions of the riding range are at least 220 feet by 120 feet.

B. There must be at least 20 feet of level, run-out space around the outside of the range and between an intended path of travel and the nearest obstacle.

C. The riding range area must be paved.

D. The commissioner shall waive the requirements for the minimum dimensions of the riding range if a suitable paved area is not available and if the program demonstrates that the required laboratory curriculum objectives can be met on the proposed riding range without compromising the safety of the students. The program must obtain the waiver before instruction begins.

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7411.0365 SITUATIONS REQUIRING NOTIFICATION.

The authorized official of a program shall notify the commissioner, in writing, if any of the situations specified in this part occur.

A. The program's authorized official shall notify the commissioner when an instructor is hired by the program or there is a change in a program instructor.

(1) An individual must be approved by the commissioner before the individual provides either classroom or laboratory instruction.

(2) Approval must be in accordance with parts 7411.0620 to 7411.0690.

B. The program's authorized official shall notify the commissioner if one of the program's instructors incurs a conviction or violation as specified in part 7411.0620. Notice of the conviction or violation must occur within three business days of the date the program's authorized official becomes aware of the conviction or violation.

C. The commissioner must be notified if one of the program's instructors is involved in a reportable motor vehicle accident as specified in *Minnesota Statutes*, section 169.09. Notice of the accident must occur within ten calendar days of the date of the accident.

D. The commissioner must be notified in writing within ten days from the date of the accident if one of the program's students, while receiving laboratory instruction, is involved in a motor vehicle accident requiring reporting under *Minnesota Statutes*, section 169.09.

(1) The student must be informed by the program of the student's obligation to submit an accident report to the commissioner when required by *Minnesota Statutes*, section 169.09.

(2) The program must provide the student with information about the motor vehicle and insurance that is required to be on the accident report.

E. A program must notify the commissioner within five days if one of its instructors has violated a statute or rule or committed an act that would cause the instructor to be unfit to continue working as an instructor.

F. The authorized official of the program shall notify the commissioner in writing within five days of the death, retirement, resignation, or discontinuance of employment or service of an instructor.

PROGRAM CURRICULUM

7411.0410 SUBMISSION OF PROGRAM CURRICULUM.

The program must submit all curriculum that will be provided to students to the commissioner for approval at the time of application for program licensure or approval.

A. The commissioner shall approve the curriculum if it meets the curriculum requirements in this chapter.

B. If a program wants to change its curriculum during the period of program licensure or program approval, the program must submit the new curriculum to the commissioner for review and approval.

C. A program may not use the proposed curriculum until the curriculum has been approved by the commissioner.

D. Curriculum must be submitted for approval for each motor vehicle classification for which instruction will be provided.

E. If a program seeks to provide motorcycle instruction, separate curricula must be submitted for approval if either consecutive or concurrent classroom and laboratory instruction is to be provided.

F. If a program seeks to provide instruction to operate a class A, B, or C motor vehicle, the curriculum must be submitted for approval if either classroom, laboratory, or individualized instruction is to be provided.

7411.0435 INSTRUCTION MAY NOT DUPLICATE STATE TESTS.

Knowledge tests, curriculum used by a program, and instruction must not substantially duplicate any part of a Minnesota driver's knowledge examination and must not duplicate the road or skills test administered to students or instructor applicants, including state test ranges and routes.

7411.0515 CURRICULUM FOR DRIVER EDUCATION PROGRAMS.

Subpart 1. Scope. This part applies to all driver education programs.

Subp. 2. Classroom curriculum for class D motor vehicles. The classroom curriculum presented and delivered to each student enrolled in a program for class D motor vehicle operation must include:

A. opportunity for the student to analyze and assess several decision-making models and factors influencing highway-user decisions;

B. information on how alcohol and other drugs affect a driver's ability to safely operate a motor vehicle, including:

(1) information on the effects of consumption of alcohol and the use of other drugs on the ability of a person to operate a motor vehicle;

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(2) the hazards of driving while under the influence of alcohol or other drugs; and

(3) the legal penalties and financial consequences resulting from violations of laws prohibiting the operation of a motor vehicle while under the influence of alcohol or other drugs;

C. opportunity for the student to analyze and practice making decisions about using occupant restraints;

D. opportunity for the student to identify and analyze a variety of driving decisions about highway users and roadway characteristics;

E. opportunity for the student to analyze and practice making decisions about a vehicle's speed under different driving conditions;

F. content and purpose of motor vehicle and traffic laws and rules for safe driving performance;

G. opportunity for the student to identify, analyze, and describe proper procedures for a variety of driving situations;

H. opportunity for the student to gather information and practice making decisions about vehicle ownership, leasing, insurance, and maintenance;

I. opportunity for the student to identify, analyze, and practice making decisions related to drivers' attitudes and emotions;

J. opportunity for the student to explore alternative ways to become a better driver;

K. duties of the driver when encountering a school bus, the content and requirements of *Minnesota Statutes*, section 169.444, and the penalties for violating that section;

L. principles of safe operation of a motor vehicle at railroad-highway grade crossings;

M. principles and relationships of tires and surfaces when turning, braking, and accelerating;

N. characteristics of both conventional and antilock brake systems; and

O. opportunity for the student to become informed about becoming an organ donor.

Subp. 3. **Laboratory curriculum for class D motor vehicles.** The laboratory curriculum presented and delivered to each student enrolled in a program for class D motor vehicles must include:

A. orientation to the purpose, content, and procedures for laboratory instruction;

B. orientation to gauges, instruments, and preparing to move the vehicle;

C. basic skills in speed control and tracking on forward and backward paths;

D. orientation to driving and initial techniques in scanning for, recognizing, and responding to obstacles;

E. changing lanes, crossing intersections, merging, and passing;

F. reduced-risk city driving, highway driving, freeway driving, and interacting with highway users;

G. strategies for perceiving and responding to adverse and special conditions and emergencies; and

H. a written evaluation, self-evaluation, and plan for future improvement.

Subp. 4. **Class A, B, or C motor vehicle curriculum.** The curriculum presented to each student provided instruction to operate a class A, B, or C motor vehicle must:

A. specify the hours of instruction to be provided to the student;

B. describe the content of all classroom and laboratory instruction for all courses and individualized instruction; and

C. specify the course fee or hourly rate for instruction.

Subp. 5. **Motorcycle classroom curriculum.** The classroom curriculum presented for a driver education program for a motorcycle endorsement must meet the requirements in either item A or B.

A. The classroom curriculum must be the Motorcycle Safety Foundation Basic Rider Course and also address the provisions in *Minnesota Statutes*, section 169.974. The Motorcycle Safety Foundation Basic Rider Course Curriculum Manual, 2001, is incorporated by reference and is not subject to frequent change. The manual is available through the interlibrary loan system or a copy may be obtained from the Motorcycle Safety Foundation, 2 Jenner Street, Suite 150, Irvine, California, 92618-3806.

B. The curriculum must address:

(1) the purpose, content, and procedures for classroom instruction;

(2) the location and operation of motorcycle controls and indicators;

(3) the opportunity for students to identify, analyze, and practice making decisions about proper protective gear;

(4) the procedures for starting, riding, and stopping a motorcycle;

(5) the procedures for turning, changing gears, and using both brakes to stop a motorcycle;

(6) the identification of basic riding strategies and preparation to ride safely in traffic;

(7) the various methods used to reduce the risks of riding hazards;

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(8) the procedures for passing, controlling rear wheel skids, and nighttime riding;

(9) preparation for handling unusual or emergency situations;

(10) the opportunity for the student to gather information and practice making decisions about selecting and maintaining a motorcycle;

(11) how alcohol and other drugs affect a driver's ability to safely operate a motor vehicle, including:

(a) information on the effects of the consumption of alcohol and the use of other drugs on the ability of a person to operate a motor vehicle;

(b) information on the hazards of driving while under the influence of alcohol or other drugs; and

(c) information on the legal penalties and financial consequences resulting from violations of laws prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs;

(12) having the student's knowledge evaluated;

(13) the duties of a driver when encountering a school bus, the content and requirements of *Minnesota Statutes*, section 169.444, and the penalties for violating that statute; and

(14) the principles of safe operation of vehicles at railroad-highway grade crossings.

Subp. 6. Motorcycle laboratory curriculum. The laboratory curriculum presented for a driver education program for a motorcycle endorsement must meet the requirements in either item A or B.

A. The laboratory curriculum must be based on the Motorcycle Safety Foundation Basic Rider Course, incorporated by reference in subpart 5, and also address the provisions in *Minnesota Statutes*, section 169.974.

B. The curriculum must include:

(1) orientation to the purpose, content, and procedures for laboratory instruction;

(2) instruction in mounting, dismounting, starting, and stopping the engine;

(3) instruction in moving the motorcycle;

(4) instruction in understanding the friction zone;

(5) instruction in riding in a straight line;

(6) instruction in turning, which must include slow, tight turns and higher speed turns;

(7) instruction in shifting;

(8) instruction in braking, which must include braking technique for stopping in a straight line and in a curve, emergency straight-line braking, and emergency braking in a curve;

(9) instruction in scanning techniques for recognizing and responding to hazards;

(10) instruction in changing lanes;

(11) instruction in counter-steering and changing lanes quickly; and

(12) formal written skills evaluation, self-evaluation, and planning for future improvement.

Subp. 7. Curriculum hours for motorized bicycles.

A. The curriculum presented to each student enrolled in a motorized bicycle driver education program must include at least three hours of classroom instruction.

B. The commissioner shall approve a course if the course content includes the subject items listed in *Minnesota Statutes*, section 171.02, subdivision 3.

CLASSROOM AND LABORATORY INSTRUCTION

7411.0520 CLASSROOM AND LABORATORY INSTRUCTION.

Subpart 1. Curriculum guide. An approved written classroom curriculum guide must be available to and used by an instructor providing classroom instruction for class A, class B, class C, class D, motorcycle, and motorized bicycle courses.

Subp. 2. Instruction location. Classroom instruction must be conducted in a location complying with part 7411.0355.

Subp. 3. Classroom hours limitation. A program may offer no more than three hours of classroom instruction per day to a student under 18 years of age who has not yet obtained a driver's license.

Subp. 4. Required number of class D motor vehicle classroom hours. A class D motor vehicle program must provide a student who is less than 18 years old with a minimum of 30 hours of approved classroom instruction.

Subp. 5. Motorcycle classroom hours. A program shall provide a student enrolled in a motorcycle endorsement driver education program who is less than 18 years old with a minimum of four hours of approved classroom instruction.

7411.0525 SIMULATION INSTRUCTION.

Subpart 1. Authority generally. Computer-simulated instruction may be used to reproduce driving situations likely to be encountered during actual driving performance.

Subp. 2. Class D programs. In a class D program:

A. Simulation instruction must be counted as laboratory instruction in a ratio of four hours of simulator time equaling one hour of on-street time.

B. Simulator instruction must not be substituted for more than two hours of on-street laboratory instruction and in no case may a student receive less than four hours of on-street laboratory instruction if range instruction as specified in part 7411.0570 is not also provided.

C. The simulator for a class D vehicle must be equipped with a brake pedal, accelerator, steering wheel, gear shift, operator seat, speedometer, and turn signals.

D. The simulator curriculum must allow the student to evaluate risk and make proper driving decisions and responses.

E. The simulation must be designed to replicate actual in-the-vehicle or on-the-motorcycle driving situations.

F. A simulator must provide a means to measure each student's decisions and responses.

Subp. 3. Motorcycle program. A motorcycle endorsement program may use machines that simulate motorcycle riding but may not substitute simulator instruction for the required ten hours of laboratory instruction.

7411.0530 TELECONFERENCED CLASSROOM INSTRUCTION.

Teleconferenced classroom instruction for class A, B, C, or D motor vehicles or for a motorcycle endorsement may be used to link multiple classroom locations.

A. The broadcasting location must have a licensed or approved instructor present during classroom instruction.

B. Each location where students receive instruction must be in a classroom that complies with part 7411.0355.

C. If the receiving location has one or more students under the age of 18 receiving program instruction, the location must have a proctor, who is at least 21 years old, available on site for control and assistance.

D. Locations must be linked using both picture and sound so that instruction and the ability to interact with students is assured.

E. Identical curriculum materials must be available at all locations.

7411.0535 ON-LINE CLASSROOM INSTRUCTION; ADULT ONLY.

Classroom instruction via the Internet may be provided by a program to any student who is at least 18 years old.

A. The course of study must provide a means for the student to measure performance outcomes.

B. There must be a pool of rotating quiz questions.

C. The course must have accountability features to ensure the age and identity of the student taking the course.

D. Technical designs must have features that measure the amount of time a student spends on each section of the course.

E. Customer support access must be made available through a toll-free telephone number.

F. The course must have a secure server and be backed up by a second unit.

G. The program must have preventives in place to protect against the access of private information.

H. The course must have the ability to update course content uniformly throughout the state.

I. The course must have a location in Minnesota where program and student records are accessible.

7411.0540 HOMESCHOOL CLASSROOM INSTRUCTION.

A. Classroom instruction for a class D motor vehicle program must be accessible to full-time homeschool students under the age of 18.

B. A student shall submit a letter to the commissioner from the school superintendent or authorized school authority in the district in which the student resides, verifying the student's full-time homeschool status.

C. The commissioner must be informed in writing by the homeschool parent or guardian of the student's completion of 30 hours of classroom instruction for a class D motor vehicle, including the student's full legal name and date of birth.

D. Course materials must be approved by the commissioner and identified in writing when informing the commissioner that classroom instruction has been completed.

E. When the classroom course requirements are met, the commissioner shall furnish the student with a letter of classroom completion for the class D motor vehicle course.

7411.0545 LABORATORY INSTRUCTION.

The requirements in this part apply to laboratory instruction for all programs.

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A. An instructor shall ensure that any student operating a motor vehicle is in possession of a valid Minnesota instruction permit or Minnesota driver's license or has passed the knowledge test representative of the class of vehicle in which instruction is to be given.

B. An instructor shall ensure that seat belts are used at all times by persons in the motor vehicle.

C. The class A vehicle provided by a program for driver education must be one that requires a class A license for its operation.

D. The class B vehicle provided by a program for driver education must be one that requires a class B license for its operation.

E. A firearm may not be transported in any vehicle used for driver education. For the purpose of this item, "firearm" has the meaning given it in *Minnesota Statutes*, section 97A.015, subdivision 19.

7411.0555 CLASS D PROGRAM LABORATORY SCHEDULE; HOURS.

A. A class D motor vehicle program:

(1) must not provide more than two hours of laboratory instruction per day to a student under 18 years old in a class D motor vehicle;

(2) must provide a class D driver education student who is less than 18 years old with a minimum of six hours of laboratory instruction;

(3) except for the instruction offered in class A, B, or C vehicles, must not give a student more than 30 hours of laboratory instruction without the written authorization of the commissioner; and

(4) may substitute range driving hours for laboratory instruction hours if:

(a) the student has in possession a valid Minnesota instruction permit;

(b) the student is operating the class D motor vehicle; and

(c) no more than two hours of range instruction are substituted for one hour of the daily laboratory instruction permitted in subitem (1).

B. Total on-street time for class D motor vehicle laboratory instruction must not be less than four hours of the required six hours of laboratory instruction. However, if a program providing class D motor vehicle instruction provides both range and simulator instruction, no less than three hours of on-the-road laboratory instruction may be provided if the program also provides:

(1) at least eight hours of simulator instruction; and

(2) at least two hours of range instruction.

C. Observation time in a class D motor vehicle does not count as laboratory instruction time.

7411.0565 MOTORCYCLE LABORATORY SCHEDULE; HOURS; PROTECTIVE GEAR.

Subpart 1. Hours. A motorcycle endorsement program must provide a student who is less than 18 years old with at least ten hours of approved laboratory instruction.

Subp. 2. Hour limits. A program may offer a student no more than a total of eight hours of motorcycle instruction per day.

Subp. 3. Enrollment. A student under age 18 wishing to take the motorcycle endorsement course must be enrolled in both the classroom and laboratory portions of the course.

Subp. 4. Protective clothing. The instructor in a motorcycle endorsement program shall ensure that during laboratory instruction all students wear a helmet, an eye protective device, and protective clothing, including gloves, a jacket or long-sleeved shirt, long pants, and shoes or boots that cover the feet and ankles.

7411.0570 LABORATORY RANGE INSTRUCTION.

Subpart 1. General requirements.

A. Range driving instruction must take place on a range that:

(1) is designated for range driving during the period of instruction;

(2) is visually separated from on-street driving areas; and

(3) meets the location and size requirements for a driving range specified in part 7411.0355.

B. The instructor must be able to communicate with each separate motor vehicle on the driving range.

C. For range driving time to count as laboratory instruction, the student must operate a motor vehicle representative of the class of vehicle for which the student being trained is to be licensed.

Subp. 2. Class C or D range.

A. The student-to-instructor ratio on a range used for class C or D motor vehicle instruction must not exceed 12 students operating a class C or D motor vehicle for each instructor who meets the qualifications in parts 7411.0620 to 7411.0690.

B. For instruction provided to a student under the age of 18, only one student may be present in the motor vehicle.

Subp. 3. **Motorcycle range.** During motorcycle laboratory instruction:

- A. No more than eight students may receive instruction at one time on a range 160 feet long and 60 feet wide.
- B. Up to 12 students may receive instruction at one time if the dimensions of the riding range are at least 220 feet by 120 feet.
- C. The instructor-to-student ratio of one qualified instructor to up to eight students must be maintained at all times.

Subp. 4. **Class A or B range.** The student-to-instructor ratio on a range used for class A or B motor vehicle instruction must not exceed ten students operating class A or B vehicles for each qualified instructor present on the range. If a class A combination vehicle is in use, the student-to-instructor ratio must be five to one.

INSTRUCTOR QUALIFICATIONS

7411.0620 INSTRUCTOR QUALIFICATIONS FOR ALL PROGRAMS.

Subpart 1. **Generally.** An instructor must:

- A. be at least 21 years old;
- B. have been a valid licensed driver for three years in Minnesota or another United States state;
- C. have a valid driver's license for the class of motor vehicle for which the applicant wants to provide instruction; and
- D. have a high school diploma or the equivalent.

Subp. 2. **Certified copy of driving record.**

A. An instructor applicant shall submit a certified copy of the applicant's driving record to the program's authorized official.

B. An instructor who does not have a Minnesota driver's license shall submit a certified copy of the instructor's driving record from the United States state where the instructor is licensed to the commissioner when initially applying to become an instructor and annually afterward.

(1) For a licensed instructor, the annual certified copy of the instructor's driving record must be submitted with the instructor's license renewal application.

(2) For an instructor at an approved public or private program, the annual certified copy of the instructor's driving record must be submitted with the program's annual application for renewal of its certificate of approval.

C. A certified copy of a driving record submitted under this subpart must be dated no earlier than 30 days before the date the commissioner receives it.

Subp. 3. **Report of driving violations and incidents.** An instructor shall notify the commissioner and authorized program official, in writing, if the instructor is convicted of a traffic violation or is involved in a motor vehicle accident requiring reporting under *Minnesota Statutes*, section 169.09, subdivision 7. The written notification must be submitted to the commissioner and authorized program official within ten days from the date of the conviction or the accident.

Subp. 4. **Initial and annual review of driving record.**

A. The commissioner shall review the driving record of each initial instructor applicant.

B. The commissioner shall also annually review the driving record of each instructor at the time of renewal of the instructor license or at the time of program approval.

Subp. 5. **General health.**

A. When the commissioner has good cause to believe that an instructor has a physical or mental disability that will interfere with the safe operation of a motor vehicle, the commissioner shall require a physician's statement as often as necessary for the commissioner to monitor the instructor's condition.

B. The physician's statement must be submitted no later than 30 days after the examination on which the statement is based.

Subp. 6. **Hearing.**

A. An applicant or instructor must be able to speak and hear well enough to conduct a normal verbal conversation with another at a distance of five feet, with or without a hearing aid.

B. An exception to item A is allowed for an instructor specializing in the instruction of hearing-impaired students in class D, motorcycle, or motorized bicycle programs.

Subp. 7. **Vision.** An applicant or instructor must be able to meet the vision requirements to obtain an unrestricted class D license, except that the restriction of corrective lenses enabling the applicant or instructor to meet the vision requirement is an acceptable restriction.

Subp. 8. **Criminal history.** Each person applying to become a qualified instructor shall authorize an investigation with the Bureau of Criminal Apprehension (BCA) and the Federal Bureau of Investigation (FBI) to determine if the applicant or instructor has a criminal record.

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A. The authorization fingerprints and the fee for the FBI background check must be submitted with the application for an instructor's license.

B. If the investigation by the BCA indicates no criminal record, the person must be issued a temporary license pending the outcome of the check of the national criminal data repository.

C. If a person has been convicted of a gross misdemeanor or felony, then the person is ineligible to be an instructor unless:

(1) the commissioner determines that the crime does not directly relate to the position of instructor; or

(2) the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of an instructor.

D. An instructor is disqualified from providing instruction to any student under age 18 for any violations specified in *Minnesota Statutes*, section 171.3215.

7411.0630 INSTRUCTOR TRAINING QUALIFICATIONS.

Subpart 1. **Generally.** The training requirements for an instructor who provides instruction in a driver education program are specified in this part.

Subp. 2. **Initial training.** An individual must satisfactorily complete training approved by the commissioner to be an instructor in a program that provides instruction to operate a motor vehicle.

A. An individual may not provide instruction until:

(1) the commissioner approves the public or private program; or

(2) the individual is licensed as an instructor for a commercial driver training program.

B. Satisfactory completion of instructor training must be provided by the instructor applicant to the commissioner.

Subp. 3. **Classroom instructor in class D program.** To provide classroom instruction in a program providing instruction to operate a class D motor vehicle, the individual must document and demonstrate competency of the individual's:

A. knowledge of the classroom curriculum for class D motor vehicles specified in part 7411.0515, subpart 2;

B. ability to identify and apply current state law and regulations applicable to the ownership and operation of a class D vehicle;

C. organization of lessons and preparation to conduct classroom instruction;

D. ability to maintain a learning environment and management of a class;

E. ability to assess, monitor, and adjust performance as necessary;

F. time management;

G. record keeping in compliance with this chapter;

H. written communication skills;

I. ability to contact first aid resources in the event of an emergency;

J. oral instruction presentation and delivery techniques;

K. ability to use visual aids and technical apparatus pertinent to the program's curriculum; and

L. completion of team teaching with a qualified instructor.

Subp. 4. **Laboratory instructor in class D program.** To provide instruction in a program providing instruction to operate a class D motor vehicle, the individual must document and demonstrate competency of the individual's:

A. knowledge of the class D vehicle laboratory curriculum specified in part 7411.0515, subpart 3;

B. ability to provide instruction and demonstrate vehicle operation and control from the right passenger position;

C. use of vehicle tools for vehicle control;

D. oral instruction presentation and delivery techniques;

E. ability to plan and maintain the scheduling of lessons, in the case of an instructor who must plan lessons and schedule lessons;

F. ability to develop training routes;

G. ability to respond calmly and decisively to instruction situations;

H. ability to develop task breakdown explanations;

I. ability to role play while behind-the-wheel with another qualified instructor;

J. ability to organize lessons;

K. ability to conduct performance assessments;

L. ability to demonstrate safe personal driving skills;

M. ability to identify and apply current state law and regulations applicable to the ownership and operation of a class D vehicle;

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N. ability to contact first aid resources in the event of an emergency; and

O. ability to comment on the driving environment while safely operating the motor vehicle.

Subp. 5. Class A, B, or C motor vehicle training instructor. An instructor providing instruction to operate a class A, B, or C motor vehicle must have a commercial driver's license representative of the vehicle class used for instruction.

A. To provide instruction in a program for the operation of a class A, B, or C motor vehicle, the instructor must successfully complete training to operate the class of motor vehicle for which instruction will be provided.

B. To qualify as an instructor, the individual must document and demonstrate competency of the individual's:

(1) knowledge of the motor vehicle class;

(2) knowledge of federal and state laws and regulations related to the class of motor vehicle for which instruction will be provided;

(3) written communication skills;

(4) oral instruction presentation and delivery techniques;

(5) ability to conduct performance assessments;

(6) ability to control driving activities on the range;

(7) experience, by a showing of 6,240 hours within the last five years of experience operating the class of vehicle for which instruction will be provided;

(8) ability to develop training routes and ranges;

(9) record keeping in compliance with state rules and federal regulations;

(10) ability to develop and maintain a learning environment;

(11) ability to give clear and concise directions;

(12) ability to develop task breakdown explanations;

(13) ability to organize and deliver lessons;

(14) ability to respond calmly and decisively to instruction situations;

(15) time management;

(16) ability to comment on the driving environment while safely operating the motor vehicle;

(17) ability to take control of the vehicle from the right passenger seat of the vehicle; and

(18) ability to contact first aid resources in the event of an emergency.

Subp. 6. Training for motorcycle instructor. To be an instructor in a program providing instruction on the operation of a motorcycle, a person must satisfactorily complete motorcycle instructor training provided by the Motorcycle Safety Foundation or another training course that provides the training described in this subpart.

A. The training must consist of at least 45 hours of instruction.

B. Instructor training must include:

(1) 8-1/2 hours of instruction on classroom instruction techniques and classroom course content;

(2) 11-1/2 hours of instruction on laboratory instruction techniques and laboratory course content;

(3) 11 hours of peer instruction, with each instructor-student acting as both an instructor and a student to other instructor-students in the class; and

(4) 14 hours of participation as a student instructor in a program providing instruction to operate a motorcycle, with the student-instructor providing instruction for a portion of both the classroom and laboratory phases of the program.

Subp. 7. Requirement to renew motorcycle instructor license. To qualify for renewal of a license to provide instruction to operate a motorcycle, an instructor must provide instruction for at least two courses on the operation of a motorcycle during the two-year period preceding renewal.

7411.0640 QUALIFICATIONS FOR TELECONFERENCED CLASSROOM INSTRUCTION.

To use teleconferencing as a method of instruction, an instructor must complete commissioner-approved training in this instructional method.

7411.0645 LABORATORY INSTRUCTOR DISQUALIFICATION.

Subpart 1. Class D and motorcycle programs. A person is ineligible to provide on-street or range laboratory instruction with a licensed or approved program for class D motor vehicle operation or a motorcycle endorsement if:

A. the person's driver's license has been revoked or suspended for a traffic violation other than an insurance-related traffic violation and not less than one year has elapsed since the person's driver's license has been reinstated;

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B. the person has been convicted of three or more traffic violations within a one-year period and one year has not elapsed since the date of the last conviction; or

C. the person has been convicted of four or more traffic violations within a three-year period and one year has not elapsed since the date of the last conviction.

Subp. 2. Class A, B, or C program. The commissioner shall disqualify an instructor from providing laboratory instruction in a program for class A, B, or C motor vehicle operation for violations and incidents that would preclude the individual from obtaining a commercial driver's license.

7411.0650 INSTRUCTOR TESTS.

Subpart 1. For all qualified instructors. The test requirements to qualify as an instructor are specified in this part. To be a qualified instructor, an applicant must pass a written test and a road test administered by the commissioner.

Subp. 2. Test content. The tests must address motor vehicle operation, traffic laws, road signs, requirements of this chapter, and other material pertaining to and affecting the driver, traffic, the motor vehicle, and instruction methods.

A. The tests must be developed or approved by the commissioner.

B. When an applicant fails the road test portion after two attempts, the commissioner shall require the applicant to undergo a driver evaluation interview given by the department.

C. A test addressing methods of instruction must be administered and consist of an evaluation of the instructor's instruction methods and ability. The applicant must be evaluated for the type of instruction for the class of motor vehicle for which the applicant seeks to provide instruction.

(1) Classroom evaluation must be witnessed live, via teleconferencing or videotape.

(2) Laboratory evaluation for an initial instructor must be simulated.

D. An applicant who fails to pass any part of a test fails the entire test.

E. An applicant who fails a test twice within six months may not retest for six months after the date of the second test.

F. When the commissioner has good cause to believe that an instructor is not able to properly instruct in a driver education program or safely operate a motor vehicle, the commissioner shall require the instructor to submit to reexamination, consisting of all or part of the tests specified in this part or to a review of the instructor's instruction methods and ability while actually instructing students.

Subp. 3. Motorcycle instructor tests. To instruct in a program providing instruction to operate a motorcycle, a person must first pass a written motorcycle instructor test. The written test must be developed or approved by the commissioner. The written test must be administered by the commissioner.

A. An applicant who fails the written test twice within six months may not retest for six months after the second test.

B. The written test must cover:

(1) knowledge of motorcycle operation;

(2) state traffic laws;

(3) road signs;

(4) provisions in this chapter relevant to a program providing instruction in the operation of a motorcycle;

(5) other material pertaining to and affecting the motorcycle operator, traffic, and other motor vehicles; and

(6) instructional methods.

7411.0655 COMMERCIAL PROGRAM INSTRUCTOR LICENSE.

Subpart 1. Instructor license application; duplicate license. Application for a new license or for renewal of a license to be an instructor in a commercial program must be made on a format prescribed by the commissioner.

A. The application for an instructor's license must be signed by the applicant and the authorized official of the program where the instructor is employed or is to be employed.

B. The license is valid only while the instructor is in the employment of the commercial driving school.

C. When the employment of an instructor with the commercial driving school is terminated, the license of the instructor becomes invalid and must be surrendered to the commissioner within ten days.

D. The authorized official of the commercial driving school shall notify the commissioner in writing within five days of termination of a licensed instructor.

E. The commissioner shall issue a duplicate license for employment at another licensed commercial driving school if the applicant continues to be qualified as an instructor.

F. If the instructor attests that the license is lost, mutilated, or destroyed, the commissioner shall issue a duplicate.

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(1) The instructor shall attest to the date the license was lost, mutilated, or destroyed and the circumstances involving the loss, mutilation, or destruction of the license.

(2) The fee for issuing a duplicate instructor's license is \$5.

G. An instructor may be licensed at the same time by separate commercial driving schools if the applicant continues to be qualified as an instructor and holds separate licenses for each program.

H. When an instructor's license has been expired over one year but less than three years, the testing requirements shall consist of an evaluation by the commissioner of the teaching methodologies for classroom, laboratory, or both, depending on the scope of instruction, before relicensure.

Subp. 2. Instructor license in possession. An instructor must be able to produce the department-issued instructor license at the request of a peace officer, the commissioner, or an officer authorized to enforce the laws relating to the operation of a motor vehicle on public streets and highways.

Subp. 3. Renewal of instructor license. An instructor license expires one year from the date issued and may be renewed on application to the commissioner. Application for renewal of the license must be submitted to the commissioner at least ten days before expiration, but will not be accepted more than 30 days before the expiration date.

Subp. 4. Fees payable to commissioner. Fees for an original, renewal, duplicate, and replacement instructor license must be made payable to the commissioner.

7411.0670 QUALIFICATIONS FOR MOTORIZED BICYCLE INSTRUCTOR.

An instructor for a motorized bicycle course must be:

- A. a current licensed or approved instructor for a class A, B, C, or D vehicle or a motorcycle;
- B. a current representative of a dealership that sells motorized bicycles and holds a valid class D driver's license; or
- C. a certified law enforcement officer.

7411.0690 INSTRUCTOR CONTINUING EDUCATION.

The department shall require instructors to complete driver and traffic safety education periodically when the education is approved, provided, or supervised by the commissioner.

VEHICLE REQUIREMENTS

7411.0850 VEHICLE REQUIREMENTS.

Subpart 1. Safety standards. A vehicle used for driver education instruction must comply with federal and state motor vehicle safety standards for the model year of the vehicle.

A. A vehicle must be maintained in a safe operating condition.

B. The vehicle age limits specified in this part do not relieve a program of its responsibility to ensure that a vehicle used by the program is maintained in a safe operating condition.

C. An instructor shall report in writing to the program and the commissioner a mechanical problem affecting the safe operation of a vehicle.

D. The program must correct the problem before again using the vehicle for driver education instruction.

E. If a vehicle used for driver education instruction is not maintained in a safe operating condition, the commissioner shall prohibit the program from using the vehicle for instruction until the unsafe condition has been corrected.

F. The commissioner shall suspend or revoke the license or certificate of approval of a program or an instructor license, or both, if the commissioner determines that the unsafe condition could foreseeably be the cause of serious personal injury or property damage and that the program or instructor had notice, or should have had notice through the ordinary discharge of duties, of the unsafe condition of the vehicle.

Subp. 2. Vehicle inspection. A vehicle inspection form must be completed initially for all used vehicles, after a reportable accident, and annually for any motorcycle or class D motor vehicle over six years of age or any commercial vehicle over ten years of age. For commercial motor vehicles, the commissioner shall accept a state patrol motor vehicle inspection report.

Subp. 3. Equipment required on vehicles. A class A, B, C, or D vehicle used for driver education instruction must have an outside rearview mirror on each side of the vehicle, a separate inside rearview or visor mirror for the instructor's use, and seat belts for each occupant of the vehicle as required by state law. In addition:

A. a class D vehicle, other than one used on a driving range, must have dual control brakes and, when applicable, a dual control clutch pedal; and

B. a class A vehicle must have a parabolic mirror not less than five inches in diameter on each side of the motor vehicle.

Subp. 4. Class A, B, or C motor vehicle age limit. A class A, B, or C motor vehicle may be used for more than ten years from

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the date it was first put into service, only if:

A. the motor vehicle has been inspected during the previous six months by a mechanic for a licensed truck dealer, or by a person certified to inspect commercial motor vehicles under *Minnesota Statutes*, section 169.781;

B. all repairs and replacements of parts indicated by the inspection have been made; and

C. records are available to show the inspection, repair, and replacement of parts.

Subp. 5. Age limit for semitrailers. Semitrailers are exempt from age limitation provided there is a record of current inspection and repair.

Subp. 6. Age limit for motorcycles. A motorcycle may be used for more than six years from the date first put into service, only if:

A. the tires, tubes, control cables, fuel line, spark plugs, front and rear brake pads and shoes, hydraulic brake hoses, wheel bearings, drive chain, battery, fork oil, brake and clutch cables, and steering and suspension have been inspected during the previous 12 months and each part not meeting operating specifications contained in the manufacturer's factory repair manual has been replaced;

B. a record is available to show the inspection and replacement of parts; and

C. the motorcycle has been inspected during the previous 12 months by a manufacturer's service representative or certified mechanic, by a motorcycle mechanic for a licensed motorcycle dealer, or by a certified technical college mechanic instructor.

Subp. 7. Age limit for class D motor vehicles. A class D motor vehicle may be used for more than six years from the date first put into service, only if:

A. the following parts have been inspected during the previous 12 months and each part not meeting operating specifications contained in the manufacturer's factory repair manual has been replaced:

(1) accelerator, to ensure it is not damaged or loose;

(2) belts to fan and power assist units;

(3) dual and parking brakes, to ensure they are not damaged and the lines or linings are not worn;

(4) clutch;

(5) door latches, locks, hinges, and handles;

(6) drive train, to ensure it is not damaged or loose;

(7) hood latches, locks, hinges, and handle;

(8) horn;

(9) head, tail, parking, and brake lights;

(10) rearview, inside, outside, right, and left mirrors;

(11) motor, transmission, and body mountings;

(12) exhaust system and muffler;

(13) license plates, to ensure they are attached and unobstructed;

(14) signs required by this subpart, to ensure they are visible and attached;

(15) assembly sheeting, to ensure it is not damaged, worn, or loose;

(16) seat belts, to ensure they are not damaged or loose;

(17) steering assembly, to ensure it is not damaged or loose;

(18) tires, to ensure they are not cut or damaged and have a minimum tread depth of 1/16 inch;

(19) turn signals; and

(20) unobstructed windshield with wipers and washers;

B. a record is available to show the inspection and replacement of parts; and

C. the motor vehicle was inspected during the previous 12 months by a manufacturer's service representative, a mechanic for a licensed dealer for the vehicle, a certified technical or vocational college mechanics instructor, or an automotive service excellence mechanic fully certified by a vocational or technical school or college in all areas of vehicle inspection.

Subp. 8. Vehicle markings. While being used for on-street laboratory instruction, class A, B, C, and D program vehicles must have signs conspicuously and legally displayed on the rear of the vehicle, with background and letters of contrasting colors stating "Student Driver."

A. On vehicles used for class D driver education, the "Student Driver" lettering must be at least two but not more than five inches in height.

B. On vehicles used for class A, B, and C driver education, the "Student Driver" lettering must be at least ten inches in height.

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C. No other signs or advertising may be displayed on the vehicle without the approval of the commissioner.

D. When on a vehicle owned or used by a public program, the sign must be removed when the vehicle is used for purposes other than driver education instruction.

Subp. 9. Tax-exempt plates. Any vehicle owned or used by a driver education program and used exclusively for instruction may display tax-exempt license plates.

A. A letter stating that the vehicle is used for instruction in the driver education program and a copy of the program license or certificate of approval must be submitted to the commissioner when applying for tax-exempt license plates.

B. Any class D vehicle licensed under this subpart must have the name of the driver education program displayed on both sides of the vehicle in letters not less than 2-1/2 inches high and one-half inch wide.

C. Any class A, B, or C vehicle licensed under this subpart must have the name of the driver education program displayed on both sides of the vehicle in letters comparable to the marking requirements in *Code of Federal Regulations*, title 49, section 390.21. The color of the letters must contrast with the area on which they are placed.

Subp. 10. Good cause vehicle inspections. When the commissioner has good cause to believe a vehicle used for driver education purposes does not meet the requirements of this chapter, the commissioner shall inspect or require the inspection of the vehicle.

Subp. 11. Commercial use of driver education program vehicle. A class A, B, or C vehicle used in a driver education program may not be used for commercial purposes during driver education unless each condition in this subpart is met:

A. hazardous materials, hazardous substances, and hazardous waste are not transported;

B. an instructor accompanies the student in the motor vehicle while it is being used for commercial purposes; and

C. the student is covered by the program's insurance as required in part 7411.0270.

Subp. 12. Vehicle supplied by instructor or student. If the instructor or the student supplies the vehicle to be used for driver education, the program must verify that the vehicle meets the requirements in this part and the program insurance requirements under part 7411.0270 before the vehicle may be used for driver education. If the student is already in possession of a license to operate the vehicle, the vehicle is exempt from the:

A. age requirements under subparts 4 to 7;

B. requirements of dual control brakes and dual control clutch pedal under subpart 3; and

C. program insurance requirements under part 7411.0270 for that vehicle, provided the program verifies that the vehicle used by the student during the instruction has at least the minimum amount of insurance required under *Minnesota Statutes*, chapter 65B.

Subp. 13. Use of program vehicle for student road or skills test. An instructor must accompany an applicant appearing for the state driver's license road test when a program's vehicle is to be used. The instructor must be employed by the program that owns or leases the vehicle.

ADMINISTRATIVE ENFORCEMENT ACTIONS

7411.1800 PROGRAM ADMINISTRATIVE ENFORCEMENT ACTIONS.

Subpart 1. Suspension, revocation, or refusal to renew program license. The license of a program may be revoked, suspended, or not renewed for any of the conditions specified in this subpart.

A. The license holder of the program has permitted fraud or engaged in fraudulent practices with respect to the license application, in the operation of the program, or the conduct of employment.

B. The program or an instructor has induced or countenanced fraud or fraudulent practices on the part of an applicant for a driver's license, endorsement, or instruction permit.

C. A certificate of enrollment or completion has been signed by the authorized official of the program and the official knew, or should have known after reasonable investigation, that information on the certificate was false.

D. There is evidence that intoxicating beverages have been present or consumed on the program premises or in its vehicles during a period of instruction.

E. The program or an instructor has delayed the start or completion of instruction without good reason.

F. The program or an instructor has conducted business in a way that substantially departs from commonly accepted practices as used by other driver education programs and instructors.

G. The program or an instructor encouraged a student to continue indefinite instruction beyond the point the student is capable of passing a driver's license, permit, or endorsement examination or it is easily determined that the student, for one reason or another, could never pass an examination. A question about the competency of the student or the number of hours of instruction must be referred in writing to the commissioner.

H. The program failed to comply with the requirements for programs in this chapter and *Minnesota Statutes*, chapters 169 and 171.

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I. The program or an instructor permitted, aided, or abetted the commission of an illegal act in the operation of the program or in the conduct of employment.

J. The program or an instructor has:

(1) engaged in conduct, in the operation of the program or in the conduct of employment, that is likely to harm the public or a student; or

(2) demonstrated a willful or careless disregard for the health or safety of another person or student.

K. The program or an instructor committed serious or repeated violations of the requirements of a statute, rule, or correction order.

L. The program or an instructor has allowed the alteration or illegal use of a license or certificate of approval.

Subp. 2. **Withdrawal of program approval.** The commissioner's approval of a program may be withdrawn for any of the conditions specified in subpart 1.

7411.1850 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW INSTRUCTOR'S LICENSE.

The license of an instructor may be revoked, suspended, or not renewed for any of the conditions specified in this part.

A. The license holder has permitted fraud or engaged in fraudulent practices with reference to the license application, in the operation of the program, provision of instruction, or employment conduct.

B. The instructor has induced or countenanced fraud or fraudulent practices on the part of an applicant for a driver's license, instruction permit, or endorsement.

C. There is evidence that the instructor consumed or permitted the consumption of intoxicating beverages on the program premises or in an education vehicle.

D. The instructor failed to keep or has been repeatedly late for appointments with students without good reason.

E. The instructor has delayed the start or completion of instruction without good reason.

F. The instructor has provided instruction in a way that substantially departs from commonly accepted practices used by other driver education instructors.

G. The instructor has encouraged a student to continue indefinite instruction beyond the point the student is capable of passing a driver's license, permit, or endorsement examination or it can easily be determined that the student, for one reason or another, could never pass an examination. A question about the competency of the student or the number of hours of instruction must be referred in writing to the commissioner.

H. The instructor failed to comply with the requirements for instructors in this chapter and *Minnesota Statutes*, chapters 169 and 171.

I. The instructor permitted, aided, or abetted the commission of an illegal act in the operation of the program or in employment conduct.

J. The instructor engaged in conduct within the operation of the program or in the employment within the program, that is likely to harm the public or a student or that demonstrated a willful or careless disregard for the health or safety of other persons or students.

K. The program or an instructor has committed serious or repeated violations of the requirements of a statute, rule, or correction order.

L. The program or an instructor has allowed the alteration or illegal use of a license or certificate of approval.

7411.1875 CORRECTION ORDER.

The commissioner may issue to a licensed program or instructor or approved program a correction order requiring violations cited in the order to be corrected within 30 calendar days from the date the order is received.

A. The person to whom the order is issued shall provide information to the commissioner before the 31st day after the order is received demonstrating that the violation has been corrected or that the person has developed a corrective plan acceptable to the commissioner.

B. The commissioner shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's determination.

7411.1900 CEASE AND DESIST ORDER.

The commissioner, or a department employee designated by the commissioner, may issue an order to cease a program or instructor's activity if continuation of the activity would result in an immediate risk to public safety.

A. An order issued under this part is effective for a maximum of 72 hours.

B. In conjunction with the issuance of the cease and desist order, the commissioner may post a sign to cease an activity until

the cease and desist order is lifted and the sign is removed by the commissioner.

C. To enjoin the violation after the 72 hours has expired, the commissioner must either:

(1) seek injunctive relief in a district court in Ramsey County or, at the commissioner's discretion, in a district court in the county in which the violation occurred; or

(2) pursue other administrative action as provided in this part.

7411.1925 ADMINISTRATIVE REVIEW OR HEARING.

When the commissioner notifies a program or an instructor of a license revocation, suspension, or refusal to renew, or when the commissioner notifies a program of withdrawal of the program's approval, the affected program or instructor may request a review or hearing on the action in accordance with this part.

A. A license revocation, suspension, or refusal to renew or the withdrawal of approval is not effective until the time for requesting a review or hearing has lapsed or, if a review or hearing is requested, until completion of these proceedings.

B. The notice of revocation, suspension, or refusal to renew or the approval withdrawal is adjudged received three days after mailing to the last known address of the program or instructor as listed in the records of the commissioner.

C. The program or instructor may ask the commissioner to review the revocation, suspension, refusal, or withdrawal.

(1) The program or instructor may request a review by submitting a statement, together with written materials supporting the position of the program or instructor.

(2) In addition to submitting written materials, the program or instructor may request to appear before the commissioner to show cause why the revocation, suspension, refusal, or withdrawal should be rescinded.

(3) The request for review must be submitted within ten days after the program or instructor receives notice of the revocation, suspension, refusal, or withdrawal.

(4) The commissioner shall perform the review and notify the program or instructor within ten days after the review whether the revocation, suspension, refusal, or withdrawal will be affirmed or rescinded.

D. The program or instructor may request a contested case hearing under *Minnesota Statutes*, chapter 14, only after undergoing the review process in item C.

(1) The request must be in writing and must be received within 30 days after the program or instructor receives notice of the revocation, suspension, refusal, or withdrawal or within ten days after the party receives notice of an adverse determination under item C, whichever period is longer.

(2) When a contested case hearing is requested, the commissioner shall arrange a contested case hearing before an administrative law judge under *Minnesota Statutes*, chapter 14. After the hearing, the administrative law judge may recommend that the commissioner affirm, modify, or reverse the revocation, suspension, refusal, or withdrawal.

7411.1975 BOARD OF TEACHING REFERRAL.

If the commissioner takes administrative action against an instructor with a Minnesota Board of Teaching license or certificate of an approved public program due to action of the instructor with the approved program, the commissioner shall notify the Board of Teaching so appropriate action may be taken by the board.

7411.1985 PROGRAM SUSPENSION OR TERMINATION OF UNQUALIFIED INSTRUCTOR.

If a program has notice or should have notice that an instructor for that program does not meet the requirements to be an instructor, the program shall immediately suspend the instructor from providing instruction and report the suspension to the commissioner. If the instructor does not or cannot promptly meet the requirements to be an instructor, the program shall terminate the instructor's employment with the program as an instructor.

7411.2000 COMMISSIONER NOTICE TO PROGRAM OF INSTRUCTOR DISQUALIFICATION.

The commissioner shall notify a program if an instructor does not meet the requirements to be an instructor, as long as the information concerning the instructor is public data under *Minnesota Statutes*, section 13.03.

REPEALER. *Minnesota Rules*, parts 7411.0100, subparts 2a, 5, and 11; 7411.0300; 7411.0400; 7411.0510; 7411.0550; 7411.0610; 7411.0700; 7411.0800; 7411.0900; 7411.3100; and 7411.3200, are repealed.

Adopted Rules

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

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

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

Expedited and Emergency Rules

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

Department of Public Safety

Adopted Permanent Rules Governing Drivers' Licenses and Vehicle Records; Proof of Identity and Residency

The rules proposed and published at *State Register*, Volume 27, Number 43, pages 1573-1578, April 21, 2003 (27 SR 1573), are adopted with the following modifications:

7410.0400 DOCUMENTING PROOF OF NAME, DATE OF BIRTH, IDENTITY.

Subp. 2. **Primary documents.** If the applicant for a driver's license, permit, or identification card, or an individual who is applying as the owner for a vehicle title or registration, cannot present a Minnesota driver's license, identification card, or permit, as described in subpart 1, item C, then the applicant must present one legible, unaltered, primary document that contains the applicant's full name and date of birth as proof of name, date of birth, and identity, which are described as follows:

E. An applicant or owner may present a valid, unexpired passport issued to the applicant from a jurisdiction other than the United States Department of State with either:

(1) a United States Department of Justice or United States Department of Homeland Security Arrival and Departure Form I-94 attached, bearing the same name as that on the passport and containing an unexpired endorsement of the alien's nonimmigrant status or authorized presence or an expired Form I-94 together with a Form I-797 accepted by the United States Department of Justice or the United States Department of Homeland Security within the past one year for an extension or change of the alien's nonimmigrant status or authorized presence, or a Form I-94 endorsed "D/S" together with an unexpired Form I-20 or Form DS-2019; or

Subp. 3a. **Verification.** ~~If necessary,~~ The department must be able to verify with the issuing jurisdiction the issuance of and authenticity of the primary or secondary document presented.

A. Verification is required if:

- (1) the document provided by the applicant is inconsistent with the department record;
- (2) the document provided by the applicant appears to be altered or fraudulent;
- (3) there is reason to believe the applicant is not legally present in the United States; or
- (4) there is reason to believe the applicant is not who the applicant claims to be.

B. If a document is presented that cannot be verified, notice of refusal shall occur in accordance with the procedures in part 7410.0425.

7410.0410 PROOF OF RESIDENCY.

Subp. 4. **Documents sufficient to prove residency.** To demonstrate permanent United States resident status, indefinite authorized presence status, lawful short-term admission, or United States citizenship, an applicant must attest to a Minnesota residence address on the application form and present a ~~primary~~ document specified in part 7410.0400, subpart 1 or 2. If the ~~primary~~ document presented to demonstrate lawful short-term admission does not indicate a date that the admission period ends or if the date has been extended, the applicant must present additional documentation issued under the authority of the United States Department of Justice or the United States Department of Homeland Security that indicates the duration of the applicant's lawful short-term admission status.

Subp. 9. **Reissuance.** A driver's license, permit, or identification card shall be reissued with a new status check date if the applicant presents an employment authorization card (I-688B, I-766 series) or notice of action (I-797A series) issued by the United States Department of Justice or the United States Department of Homeland Security to indicate extension of the lawful admission period.

A. If the applicant presents an accepted application from the United States Department of Justice or the United States Department of Homeland Security for an extension of or change in the federal lawful admission period, the driver's license, permit, or identification card will be reissued with a status check date extension of six months from the date of the federal receipt for the extension or change.

(1) The state document shall be reissued for a second six-month period if the applicant presents a subsequent federal document or information indicating a decision by the federal government on the extension or change of status is still pending.

(2) After one year, any extension request shall be handled through a request for a variance under part 7410.0600.

7410.1810 DRIVER'S LICENSE AND IDENTIFICATION CARD IMAGE.

Subpart 1. **Image.** The applicant for a driver's license, permit, or identification card shall have a full-face image taken by the department that is a representation of the true appearance of the applicant.

A. The face of the applicant must be uncovered and unobscured.

B. If an applicant objects to the capture of a full-face image or to the display of a full-face image on the driver's license, permit, or identification card due to a religious objection, the applicant may apply for a variance from this subpart under *Minnesota Statutes*, sections 14.055 and 14.056.

C. As a condition of granting a variance, the applicant must either allow placement of the full-face image in the department record or provide the department with a unique biometric identifier, such as fingerprints, that can be used by the department and allow enforcement agencies to identify the applicant.

Subp. 3. **Updated image required upon return.** Within 30 days after the return to Minnesota of an applicant whose previous image was used in accordance with subpart 2, item ~~B~~ C, the applicant shall appear at a driver's license renewal office and shall allow an updated image to be taken. The applicant shall comply with the identity provisions in part 7410.0400.

Exempt Rules

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

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

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

These exempt rules are also reviewed for form by the Revisor or Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years from the date of publication of the rule in the *State Register*. Rules adopted, amended or repealed under clause (3) or (4) are effective upon publication in the *State Register*.

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

Department of Labor and Industry

Adopted Exempt Permanent Rules Relating to Workers' Compensation; Independent Medical Examination Fee Schedule and Conversion Factor

5219.0500 INDEPENDENT MEDICAL EXAMINATION FEES.

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

Subp. 4. **Adjustments.** On October 1, 1994, and on October 1 of each succeeding year, the fees in this part must be adjusted by the percentage determined under *Minnesota Statutes*, section 176.645, in the same manner as the conversion factor of the relative value fee schedule is adjusted under *Minnesota Statutes*, section 176.136. This provision does not apply to expenses under subpart 3, item E, subitem (1). The fees shall be adjusted as follows:

- A. on October 1, 1994, the fees in this part shall be increased by 1.65 percent;

Exempt Rules

- B. on October 1, 1995, the fees as adjusted in item A shall be increased by 2.64 percent;
- C. on October 1, 1996, the fees as adjusted in item B shall be increased by 3.76 percent;
- D. on October 1, 1997, the fees as adjusted in item C shall be increased by 5.53 percent;
- E. on October 1, 1998, the fees as adjusted in item D shall be increased by 4.70 percent;
- F. on October 1, 1999, the fees as adjusted in item E shall be increased by 6.22 percent;
- G. on October 1, 2000, the fees as adjusted in item F shall be increased by 4.39 percent;
- H. on October 1, 2001, the fees as adjusted in item G shall be increased by 5.92 percent; ~~and~~
- I. on October 1, 2002, the fees as adjusted in item H shall be increased by 2.8 percent; and
- J. on October 1, 2003, there shall be no further adjustment to the fees set forth in item I.

5221.4020 DETERMINING FEE SCHEDULE PAYMENT LIMITS.

Subpart 1. Conversion factor.

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

B. The conversion factor shall be updated annually, pursuant to *Minnesota Statutes*, section 176.136, subdivision 1a. The conversion factor for services included in parts 5221.4030 to 5221.4060 provided after October 1, 1993, is \$52.05. This initial conversion factor is annually adjusted as follows:

[For text of subitems (1) to (7), see M.R.]

(8) for dates of service from October 1, 2001, to September 30, 2002: \$73.13; ~~and~~

(9) for dates of service from October 1, 2002, to September 30, 2003: \$75.18; and

(10) for dates of service from October 1, 2003, to September 30, 2004: \$75.18.

As a sample calculation, assume the RVU for a new patient office examination, nonfacility, by a physician, procedure code 99201, is 0.84 RVU. If the date of service was September 1, 2000, this RVU is multiplied by 66.14 (conversion factor effective October 1, 1999). The maximum fee under parts 5221.4030 to 5221.4070, excluding any applicable adjustment, would be equal to \$55.56 for the service.

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

Pollution Control Agency

Adopted Exempt Permanent Rules Relating to Obsolete Fee Rules

7002.0005 SCOPE.

Parts 7002.0005 to 7002.0085 apply to all persons required to obtain an air emission permit ~~or an indirect source permit~~ from the Minnesota Pollution Control Agency under chapter 7007 ~~and parts 7023.9000 to 7023.9050.~~

7002.0045 COMPUTATION OF THE DOLLAR PER TON FIGURE.

The dollar per ton figure "\$X" used in part 7002.0025 shall be computed as follows:

$\$X = [F - \del{I} + P + R + (\$25 \times N)] / (T - L)$ where:

\$X = Dollar amount per ton figure.

F = Total annual fee target, as determined in part 7002.0035.

~~I = Total amount billed as indirect source permit fees in the previous calendar year under part 7002.0055.~~

P = Total amount billed as newly permitted facility fees in the previous calendar year under part 7002.0025, subpart 2a.

R = Total amount to be billed under part 7002.0025, subpart 1, item C, subitem (2), as option B registration permit annual emission fees based on the quantity of VOC-containing materials purchased or used.

N = Total number of emission reporting facilities and facilities issued option B registration permits that are assessed an annual emission fee based on actual emissions under part 7002.0025, subpart 1, item C, subitem (1), with less than one ton of total actual emissions of chargeable pollutants.

T = Total number of tons of all chargeable pollutants listed in the most recently available annual emissions inventory emitted from emission reporting facilities and facilities issued option B registration permits that are assessed an annual emission fee based on actual emissions under part 7002.0025, subpart 1, item C, subitem (1). No pollutant shall be double counted.

L = Total number of tons of all chargeable pollutants listed in the most recently available annual emission inventory emitted from emission reporting facilities and facilities issued option B registration permits that are assessed an annual emission fee based on actual emissions under part 7002.0025, subpart 1, item C, subitem (1), that emit less than one ton of total actual emissions of charge-

able pollutants. No pollutant shall be double counted.

7002.0065 PAYMENT OF FEES.

Fees assessed under ~~parts part~~ ~~7002.0025 and 7002.0055~~ shall be paid within 60 days of receipt of an invoice from the division manager. The person submitting the fee shall make it payable to the Minnesota Pollution Control Agency, and shall submit it to the division manager.

7002.0085 LATE PAYMENT FEE.

An owner or operator of a facility subject to one or more fees under parts 7002.0005 to ~~7002.0055~~ 7002.0045 shall pay a late payment fee of ten percent of the payment due for failure to pay an assessed fee within 60 days of receipt of an invoice from the division manager. At 30-day intervals thereafter, the owner or operator shall be assessed an additional ten percent of the original payment for failure to pay the assessed fee within that 30-day period. All late fees are due upon receipt of an invoice from the division manager.

REPEALER. *Minnesota Rules, part 7002.0055, is repealed.*

Executive Orders

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

Office of the Governor

Executive Order # 03-11: Providing for Assistance to Patients and Residents in State Regional Treatment Centers, Veteran Homes, and Community-based Residences of the State of Minnesota

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, current labor negotiations with state employees represented by the American Federation of State, County and Municipal Employees (AFSCME, Council 6) and the Minnesota Association of Professional Employees (MAPE) present the possibility these state employees could choose to strike;

WHEREAS, state employees represented by AFSCME and MAPE provide critical direct care services to individuals in state regional treatment centers, veterans homes, and community-based residences;

WHEREAS, these direct care personnel provide essential life, safety and health care to the persons served by these facilities; and

WHEREAS, in the event of a strike, the absence of direct care personnel presents an immediate threat to the health, welfare and safety of the persons served by these facilities; and

WHEREAS, the Commissioner of the Department of Human Services and the Veterans Home Board have requested assistance from the Commissioner of Employee Relations in obtaining personnel to provide essential life, safety and health care services to the persons served by these facilities in the event of a strike; and

WHEREAS, the Commissioner of Employee Relations has requested assistance from the Governor to ensure the provision of essential services to the persons served by these facilities in the event of a strike; and

WHEREAS, the temporary assignment of State of Minnesota employees and the deployment of personnel from the Minnesota National Guard will be needed to avoid a breakdown in the essential care of persons in these facilities in the event of a strike; and

WHEREAS, the training of personnel to carry out this function must be undertaken in due course to ensure proper care for the persons in these listed facilities in the event of a strike.

NOW, THEREFORE, I hereby order that:

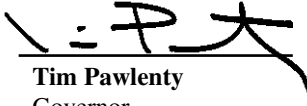
1. The Department of Human Services and the Veterans Home Board immediately implement their strike preparation plans to provide for the safety and the essential direct care and treatment of individuals in the custodial care of the State of Minnesota and the above listed facilities, including the provision of appropriate training programs for personnel temporarily assigned or deployed pursuant to this Order, for the purpose of assuring an appropriate level of care and treatment of such individuals.

Executive Orders

2. State agencies and State employees cooperate and assist the Minnesota Department of Employee Relations in the implementation of the State of Minnesota Strike Contingency Plan and agency strike preparation plans approved by the Commissioner of Employee Relations.
3. The Adjutant General or Acting Adjutant General for the State of Minnesota shall order to state active duty, on or before October 1, 2003, such elements of the military forces of the State, as required, for the purpose of receiving the necessary advance training and providing essential life, safety and health care services in the event of a strike pursuant to the strike response plans implemented by the Department of Human Services and the Veterans Home Board.
4. The Adjutant General or Acting Adjutant General is authorized to purchase, lease, or contract goods or services necessary to accomplish the mission.
5. The cost of subsistence, transportation, fuel, pay and allowances of said military personnel shall be defrayed from the general fund of the State, as provided for generally and in particular in *Minnesota Statutes* 2002, Sections 192.49, subds. 1 and 2; 192.52, and 192.54.


Pursuant to *Minnesota Statutes* 2002, section 4.035, subd. 2, this Order is effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 2002, section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this 11th day of September 2003.



Tim Pawlenty
Governor

Filed According to Law:



Mary Kiffmeyer
Secretary of State

Official Notices

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

Department of Administration

Governor's Council on Developmental Disabilities

Notice of Meeting Schedule for Federal Fiscal Year 2004

The Minnesota Governor's Council on Developmental Disabilities (GCDD) meets the first Wednesday of the even-numbered months at Earle Brown Center, University of Minnesota, St. Paul Campus, 1890 Buford Avenue, St. Paul, Minnesota 55108. Meetings begin at 9:30 a.m. and end at 2:30 p.m. The meeting schedule for Federal Fiscal Year 2004 is as follows:

October 1, 2003; December 3, 2003; February 4, 2004; April 7, 2004; June 2, 2004; and August 4, 2004.

Under provisions of P.L. 106-402, the GCDD's business - information, education, and training - is intended to result in greater independence, productivity, self determination, integration and inclusion of people with developmental disabilities and their families in the community.

For further information, contact the GCDD at **phone:** (651) 296-4018; **toll free:** (877) 348-0505; **TTY:** (651) 296-9962; **email:** admin.dd@state.mn.us; **website:** www.mnddc.org OR www.mncdd.org.

Minnesota Department of Health

Division of Environmental Health, Radioactive Materials Unit

REQUEST FOR COMMENTS on Rulemaking for State Assumption of NRC Authority to Regulate Nonpower Plant Radiation Sources, *Minnesota Rules*, Chapter 4731

Subject of Rules. The Minnesota Department of Health (MDH) requests comments on new rules covering the receipt, possession, use, storage, and transfer of radioactive materials in Minnesota (excluding federal facilities and nuclear power plants). A Request for Comments on these rules was originally published in the *State Register* on August 3, 1998. The rule changes being considered now are substantially the same as the rules contemplated at that time.

The proposed rules will be codified at *Minnesota Rules*, chapter 4731. Certain portions of existing chapter 4730 are proposed to be deleted, primarily those parts relating to radioactive materials and naturally occurring or accelerator produced radioactive materials (NARM).

Persons affected. New or amended rules will likely affect any industrial, medical, dental, veterinary, chiropractic, podiatric, therapeutic, educational, or research facility using radioactive material within the state of Minnesota. Because the State is required to have rules compatible with existing federal regulations, the changes will be minimal for parties currently licensed or regulated by the Nuclear Regulatory Commission (NRC).

Statutory Authority. *Minnesota Statutes*, sections 144.1202 and 144.1203 authorize the Department to enter into an agreement with the NRC to assume regulatory authority over certain nuclear materials. These sections also authorize the promulgation of rules that will allow Minnesota to become an NRC agreement state.

Public Comment. Interested persons or groups may submit comments or information on these planned rules in writing until 4:30 p.m. on October 20, 2003. The Department has developed draft rules based on input from an advisory committee, but welcomes any additional public comments.

Rule Drafts. The Department has prepared a draft of the possible rules. A draft is available from the agency contact person listed below.

Agency Contact Person. Written comments, questions, requests to receive a draft of the rules and request for more information on these possible rules should be directed to:

George F. Johns, Jr., Supervisor
Radioactive Materials Section
Minnesota Department of Health
Snelling Office Park
1645 Energy Park Drive, Suite 300
St. Paul, Minnesota 55108-2970
Phone: (651) 642-0492
FAX: (651) 643-2152
TTY users may call the Department at (651) 215-8980.

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. 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 submit the comments after the rules are formally proposed.

Dated: 9 September 2003

Patricia A. Bloomgren, Director
Division of Environmental Health

Metropolitan Council

Notice of Request for Statements of Interest (SOI) for the Hiawatha Light Rail Transit Line Transportation Services

The Metropolitan Council of the twin cities of Minneapolis and St. Paul, Minnesota is soliciting statements of interest (SOI) for providing transportation services in the operation of the Hiawatha Light Rail Project in Minneapolis, Minnesota. The services are

Official Notices

expected to include management of the operations function, supervision of central control, line supervision and train operators. The service provider will work under the direction of the Council's Metro Transit Assistant General Manager for Rail Operations.

It is anticipated that a request for proposals (RFP) will be issued in mid-October 2003, with proposals due in mid-November 2003 and a final selection made on or before December 1, 2003. Revenue service operation for the Hiawatha Light Rail Project is scheduled to begin in April 2004.

An RFP document will be sent to all respondents to this SOI.

SOI and all related correspondence should be directed to:

James R. Sipe
Manager, Contracts & Procurement Unit
Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101-1626
Phone: (651) 602-1149
Fax: (651) 602-1138
Email: jim.sipe@metc.state.mn.us

Pollution Control Agency

Notice of Availability and Request for Comments for the Draft Lake Superior Basin Plan

The Minnesota Pollution Control Agency is requesting comment on the draft "Lake Superior Basin Plan." The plan broadly defines strategies, geographic and programmatic priorities, and goals for the management of water resources in the Minnesota portion of the Lake Superior Basin. The draft plan is available for viewing on the Lake Superior Basin **website** at <http://www.pca.state.mn.us/water/basins/superior/lbsbasin/index.html>. Submit comments, or request a CD or paper copy of the draft plan, from the Basin Coordinator at the following address:

Brian Fredrickson
Minnesota Pollution Control Agency
525 S. Lake Ave, Suite 400, Duluth, MN 55802
Phone: (218) 723-4663
E-mail: brian.fredrickson@pca.state.mn.us

The public review will last for 45 days. Written comments will be accepted through 10/24/03. Public informational meetings will be held in Cloquet at the Fond du Lac Tribal and Community College on 9/15/03 from 6 - 8 p.m., in Hibbing at the Hibbing Community College on 9/16/03 from 6 - 8 p.m., in Grand Marais at the Blue Water Cafe on 9/17/03 from 6 - 8 p.m., in Two Harbors at the Superior Shores Resort and Conference Center on 9/18/03 from 6 - 8 p.m., and in Duluth at the Minnesota Pollution Control Agency on 9/22/03 from 2 - 4 p.m. and 6 - 8 p.m.

Pollution Control Agency

Notice of Extension of Availability of Draft Rainy River Basin Water Plan 2003 and Request for Comment

The Minnesota Pollution Control Agency is extending the comment period for the draft "Rainy River Basin Water Plan 2003." The plan addresses management, protection and restoration for the water resources of the Minnesota portion of the Rainy River Basin. The plan's water management goals, objectives and strategies were developed through a partnership among basin residents, stakeholders, local elected officials and local, state, and federal resource managers.

Written comments will be accepted through September 30, 2003. The draft plan is available for viewing on the Rainy River Basin **Website** at: <http://www.pca.state.mn.us/water/basins/rainy/index.html#plan>.

Submit comments, or request a CD or paper copy of the draft plan, from the Basin Coordinator at the following address:

Nolan Baratono
Minnesota Pollution Control Agency
P.O. Box 61
International Falls, MN 56649
e-mail: Nolan.baratono@pca.state.mn.us
phone: (218) 283-2240

Minnesota State Rehabilitation Council

NOTICE of CORRECTION

The information published in the August 18th, 2003 *State Register* (28 SR 152) regarding Public Comments on Employment Services for Persons with Disabilities contains an incorrect date for the public hearing in Marshall, Minnesota. The text below has been amended to reflect the proper meeting date. For more information, please contact the Minnesota Department of Employment and Economic Development at: **phone** (800) 328-9095; (651) 296-5616. **TTY:** (800) 657-3973; (651) 296-3900.

September 24

Public Forum
Marshall Area YMCA
200 South A Street
Marshall, MN 56258

PUBLIC COMMENT INVITED ON EMPLOYMENT SERVICES FOR PERSONS WITH DISABILITIES

The Minnesota State Rehabilitation Council and the Department of Employment and Economic Development - Rehabilitation Services invite persons with disabilities, Vocational Rehabilitation Program consumers, parents, advocates, teachers and other interested community members to contribute their experiences, ideas and opinions at a Public Forum on Vocational Rehabilitation in Minnesota. Comments from the public will be taken from 9:30 to 2:00.

The meeting will be held in Marshall, Minnesota on September 24 at the Marshall Area YMCA, 200 South A Street, Marshall, MN. 56258.

Public comment received at the meeting will be used to plan and improve the state's vocational rehabilitation services. Comment is particularly invited on the following: barriers to employment faced by persons with the most significant disabilities; the need for supported employment services in southwest Minnesota; the vocational rehabilitation needs of youth and young adults with disabilities for services that assist their transition from school to their chosen jobs and careers; and, how vocational rehabilitation services can be improved.

ASL interpreters and real-time captioning will be present. To request other accommodations or for more information, please call (651) 296-5629 or TTY 1-800-657-3973.

Minnesota Department of Transportation

Notice of Intent to Solicit Outside Information and Opinion on the Proposed Disadvantaged Business Enterprise (DBE) Annual Goal for Transit for Federal Fiscal Year 2004

NOTICE IS HEREBY GIVEN that the Minnesota Department of Transportation proposes to set its annual goal for transit for DBE participation on all U.S. Department of Transportation assisted contracts at 2.8%.

In accordance with DOT regulations at 49 CFR Part 26, Mn/DOT has established a Disadvantaged Business Enterprise (DBE) Program, which mandates setting DBE annual goals. The DBE annual goal and its rationale are available for public inspection during normal business hours from 8 a.m. until 4:30 p.m. at the Mn/DOT Office of Transit, located on the 3rd floor of the Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

The goal and rationale will be available for 45 days from the date of publication of this notice.

The goal of 2.8% may be adjusted in response to comments received during the public comment period.

Address written comments to:

Donna Allan, Director
Office of Transit
Minnesota Department of Transportation
395 John Ireland Boulevard, Mail Stop 430
St. Paul, Minnesota 55155
Email: donna.allan@dot.state.mn.us
Fax: (651) 297-7252

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.

Minnesota Housing Finance Agency

REQUEST FOR PROPOSALS for the Capacity Building Grant Program

Background and Legislative History

In 1989 the Legislature created the Nonprofit Capacity Building Grant Program for the purpose of assisting nonprofit organizations and government entities expand their capacity to provide affordable housing and housing services.

After delivering the program directly, the Minnesota Housing Finance Agency (MHFA) determined a more efficient and effective outcome could be achieved by funds coordination with other organization(s) that offer funding and technical assistance for the same purposes.

Goal

Pursuant to its authority under *Minnesota Statutes* Sections 462A.07, Subdivision 12 and 462A.21, Subdivision 3(b), the Minnesota Housing Finance Agency is requesting proposals from organizations with relevant experience to act on behalf of the Agency for the purpose of awarding grants and providing technical assistance to increase the capacity of Minnesota non-profit organizations, local government units, Indian tribes and Indian Tribal Organizations (collectively the "Organizations") to provide affordable housing and housing services.

Available Funds

\$320,000 is being made available for use over the course of the 2003-04 state biennium. Funds to a successful responder will be disbursed in two installments: Fifty percent will be disbursed to the responder upon execution of the Agreement and the remainder will be disbursed after July 1, 2004 after the MHFA receives the required report.

Minimum Requirement

Eligible Responders are those organizations that currently provide funding and technical assistance for building the capacity of the above-described Organizations. Successful Responders must use and disburse the funds strictly in accordance with the requirements of *Minnesota Statutes* 462A, Subdivision 3(b) and Minnesota Housing Finance Agency Rules 4900.1931 - 4900.1937.

RFP Submission

Each response to this RFP must contain, at a minimum, the following information:

- A summary of Responder's experience in Minnesota of providing funding and technical assistance to Organizations.
- The amount of funds requested for each of the two years of the biennium.
- A detailed explanation of how it intends to use the requested funds to increase the capacity of the Organizations to provide affordable housing and housing-related services.
- An explanation of the process the Responder will use to choose the Organizations to assist.
- Provide a mechanism for measuring the effectiveness of Responder's use of the funds.
- Identification of the Responders service area.

Selections

The capacity building proposals will be reviewed, discussed, evaluated and ranked based on the information provided regarding:

- Relevant experience.
- Amount of funds requested.
- Proposal for increasing Organizations capacity.
- Selection process.
- Measurement of effectiveness.
- Distribution of funds throughout the state.

The selection committee will be comprised of MHFA staff.

Reporting Requirements

A written report detailing, at a minimum, the number and amount of awards made, to whom the funds were awarded, Responder's accomplishments through its use of the funds, and the effectiveness of Responder's use of the funds must be submitted by August 1, 2004. The remaining funds will be disbursed upon review and acceptance of the report. A final report must be submitted by August 1, 2005.

Effective Date

The contract will begin on the date stated in the contract or upon full execution of the contract, whichever is later, and must be completed by June 30, 2005.

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 service that is contemplated in this request for proposals.

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 Statute* section 13.591 after the evaluation process is completed. Completion of the evaluation process occurs when the government entity has completed negotiating the contract with the selected vendor.

General Conditions

This request for proposal does not obligate the state to award a contract and the MHFA reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective responders who have any questions may contact Susan Ude at susan.ude@state.mn.us.

All costs incurred in responding to this RFP will be borne by the responder. Fax and e-mail proposals will not be considered.

Responders must submit three copies of the proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address written on the outside.

All proposals must be received at the MHFA office not later than 4:00 p.m., Central Standard Time, October 1, 2003. Any proposal not received at the place, date, or time designated will be rejected.

It is expected that the selection will be completed by September 25, 2003.

All proposals must be sent to:

Minnesota Housing Finance Agency
Susan Ude, Community Lending Team
400 Sibley St., Suite 300
St. Paul, MN 55121

State Contracts

Informal Solicitations: 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.

Administration Department

Office of Technology

Notice of Request for Proposal for the 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, appli-

State Contracts

cation design and development, telecommunications and consulting.

For a complete copy of the Request for Proposal please contact via e-mail:

Steve Gustafson
Planning Director
Office of Technology
332 Minnesota Street, Suite E1100
St. Paul, MN 55101
E-mail: 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 Featured Links at www.ot.state.mn.us.

Responses to the RFP are due no later than 2:00 p.m. on Friday, October 10, 2003. Late responses will not be considered.

Colleges and Universities, Minnesota State (MnSCU)

Ice and Snow Removal and Salt/Sanding of our Campus Parking Lots, Roadways and Turnarounds

Proposal to remove snow and ice from our campus parking lots, roadways and turnarounds. To supply and apply salt/sand to all the above areas mentioned. The campus consists of five parking lots, several roadways and turnarounds. Bidders must include in their bid package types of equipment they own, the cost per hour for all equipment identified to include operator and equipment. The breakdown of percentage of the salt/sand mixture they would use on our campus and the cost of each yard to include delivery and a per hour charge to apply salt/sand. Each bidder will be required to answer questions on a mock scenario.

To receive more information contact:

Patrick Buhl
Director of Facilities Planning and Management
Inver Hills Community College
2500 East 80th Street
IGH, MN 55076-3224
Office: (651) 450-8536
Fax: (651) 554-3706
Email: pbuhl@inverhills.edu

This is the only person designated to answer questions regarding this request. If you are interested in submitting a proposal please contact Patrick Buhl for a Proposal Package.

Interested parties must submit their proposal to this office (Heritage Hall) by 11a.m. on September 30, 2003.

Minnesota Historical Society

Request for Proposals for Professional Architectural and Engineering Service to Develop Design and Construction Documents for the Faribault House, Sibley House, and Well House at Sibley House Historic Site, Mendota Minnesota

The Minnesota Historical Society seeks to contract for professional architectural and engineering services to develop design and construction documents and perform construction administration/observation services for a variety of capital improvement projects on the 1840 Faribault House, the 1883 Sibley House, and the 1937 well house.

A mandatory pre-proposal meeting will be held at 11:00, Monday October 6, 2003 at the Sibley House Historic Site in Mendota, Minnesota. The request for proposals is available by calling (651) 297-7007, e-mailing Mary Green-Toussaint at mary.green-toussaint@mnhs.org or writing:

Mary Green-Toussaint, Contracting and Procurement Assistant
Minnesota Historical Society
345 Kellogg Boulevard West
St. Paul, Minnesota 55102

The deadline for receipt of proposals is 2:00 p.m., Thursday, October 16, 2003. Late proposals will not be accepted.

Dated: September 16, 2003

Department of Human Services

Notice of Availability of Contract for Study of Structured Decision Making Family Risk Assessment Instrument

The Minnesota Department of Human Services is requesting proposals for the purpose of a contract for professional and technical consulting services with a qualified vendor to design and manage the study of the SDM Family Risk Assessment of Abuse/Neglect instrument. The research contractor will design and implement a study that will examine the effectiveness of the SDM Family Risk Assessment of Abuse/Neglect tool in distinguishing levels of risk for child maltreatment and predicting the likelihood of recurrence within risk classifications.

This retrospective analysis will include an examination of the efficacy of SDM risk assessment protocol as it pertains to the entire child welfare population and isolate outcomes for Caucasian, American Indian, African American, Hispanic and SE Asian sub-populations. In addition, the study design should include a review of rater to rater reliability in the completion of the SDM Family Risk Assessment of Abuse/Neglect.

The study design should also analyze the frequency of service openings and types of services provided (including placement services) as a result of the risk assignment. This portion of the study should identify the relationship between risk classification and the likelihood of having a protective services case opening and the provision of related services.

Work is proposed to start after December 1, 2003.

A Request for Proposals will be available by mail from this office through September 29, 2003. **A written request (by direct mail or fax) is required to receive the Request for Proposal.** After September 29, 2003, the Request for Proposal must be picked up in person.

The Request for Proposal can be obtained from:

Carole Johnson or David Thompson
Children and Family Services
444 Lafayette Road N.
St. Paul, MN 55155-3832
Fax: (651) 297-1949

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than October 13, 2003. **Late proposals will not be considered.** Fax or e-mailed proposals will **NOT** be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Natural Resources

Division of Enforcement

Notice of Request for Proposal for Pre-employment Medical and Functional Capacity Exams for Natural Resource Law Enforcement Officers

NOTICE IS HEREBY GIVEN to request proposals for the purpose of providing medical and functional capacity examinations, including the development of exams for DNR's needs, and conducting exams, reporting findings, and justifying fundings. Peace Officers Standards and Training Board Rule 6700.0700 subp. 1G, "A licensed physician or surgeon shall make a thorough medical examination of the applicant to determine that the applicant is free from any physical condition which might adversely affect the performance of peace office duties."

Work is proposed to start after October 1, 2003.

To receive the complete Request for Proposal package contact:

Nancy Glasenapp, Business Manager
Division of Enforcement
500 Lafayette Road, Box 47
St. Paul, MN 55155-4047
FAX: (651) 297-3727

Requests to receive the proposal package must be received by Monday, September 29, 2003.

Completed proposals must be received **no later than Monday, October 6, 2003.**

State Contracts

Solid Waste Management Coordinating Board

Notice of Request for Proposals for a Researcher and Editor to Update the Resourceful Waste Management Guide (A Business Guide on How to Recycle or Dispose of Just About Anything)

The Solid Waste Management Coordinating Board is seeking proposals from qualified individuals/firms to provide research and editing services to update the Resourceful Waste Management Guide - a reference tool for businesses to reduce, reuse, recycle or dispose of just about anything a company uses. The Guide was last updated in 2001. Project activity will take place between November 10, 2003 and February 15, 2004.

The Request for Proposals is available on <http://www.swmcb.org/rfp-rfq/index.html>, or by calling or writing Linda Gondringer, Solid Waste Management Coordinating Board, c/o Richardson, Richter & Associates, Inc., 477 Selby Avenue, St. Paul, Minnesota 55102. **Phone:** (651) 222-7227. **Email:** lgondringer@richardsonrichter.com.

Proposals must be received no later than 12:00 noon, Central Standard Time, on Friday, October 17, 2003. SWMCB reserves the right to reject late proposals.

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

Department of Transportation

Metro District

Request for Qualification for a Design-Build Contract on Interstate 494 in Eden Prairie and Minnetonka, Minnesota

The Minnesota Department of Transportation ("Mn/DOT") is requesting statements of qualifications for the Interstate 494 Design-Build project, S.P. 2785-304, ("Project") in Eden Prairie and Minnetonka, Minnesota.

Mn/DOT has completed a preliminary engineering design of roadway and bridge improvements for the Project. The Project will consist of reconstructing the highway and adding one additional through-lane (for a total of 3 lanes in each direction) in each direction of Interstate 494 from T.H. 5 to Interstate 394, a distance of 7.8 miles, in the cities of Minnetonka and Eden Prairie in Hennepin County. The design-build project will also include a modification of the collector-distributor roadway along eastbound I-394 at the I-494/I-394 interchange and adding a third lane along side the existing pavement in between the north loops and north ramps at I-394 and under the Carlson Parkway bridge. Mn/DOT will use the best value design-build method of project delivery, as defined in *Minnesota Statutes* Section 161.3426, Subdivision 1(b). The current Project cost estimate is \$80 million.

The Request for Qualifications ("RFQ") document provides information about the Project scope, schedule, and weighted criteria that Mn/DOT will use to establish a short list. The RFQ invites each interested design-build submitter to submit a statement of qualifications ("SOQ") that demonstrates how that Submitter satisfies certain criteria relevant to the Project, including, but not limited to, the following items: submitter organization and experience, key personnel experience, project understanding, project approach, and project management approach.

Mn/DOT will evaluate and score all SOQs and compile a short list of at least three but not more than five Proposers. Mn/DOT intends to issue a Request for Proposals ("RFP") after establishing the short list. Only short-listed Proposers will be eligible to respond to the RFP, although other interested individuals may purchase copies of the RFP for information. Mn/DOT will offer a stipend of approximately 0.2% of Mn/DOT's final Project design and construction estimated cost to each unsuccessful short-listed Proposer that submits technical and price proposals that Mn/DOT considers responsive.

Mn/DOT has established a Disadvantaged Business Enterprise (DBE) goal for this Project. Please refer to the RFQ for further details.

Submitters must request an RFQ in writing by mail, fax, or e-mail. With each request, Submitters must also provide a contact name, mailing address, fax number, phone number, and e-mail address. There is no charge for the RFQ. **All requests for an RFQ** must be sent to Kevin G. Anderson, 494 Design-Build Project Manager, at one of the following addresses:

Mail: 1500 West County Road B2, Roseville, MN 55113

Fax: (651) 582-1302

E-mail: kevin.anderson@dot.state.mn.us

All questions and comments about the project must be submitted in writing to Mn/DOT's Project Manager at one of the addresses given above. Mn/DOT will only accept written questions or comments.

All SOQs will be considered any time up to 4:30 p.m. Central Standard Time, Wednesday, October 1, 2003, and must be addressed to Kevin G. Andersen, 494 Design-Build Project Manager, 1500 West County Road B2, Roseville, MN 55113. Any SOQ that fails to meet the October 1, 2003 deadline will be returned, unopened, to the sender.

Mn/DOT's design-build website is frequently updated with Project information: www.dot.state.mn.us/designbuild. Project information can also be found at the following ftp sites: <ftp://ftp2.dot.state.mn.us/pub/outbound/mdesign/I494DesignBuild/> and <ftp://ftp2.dot.state.mn.us/pub/products/mdesign/I494DesignBuild/>.

Department of Transportation

Program Support Group

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the "Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Robin Valento at (651) 284-3622 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the Department of Administration, has developed the Consultant Pre-qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway-related technical activities will be awarded using this method, however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of a particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and application forms are available on Mn/DOT's **web site** at <http://www.dot.state.mn.us/consult>

Send completed application material to:

Robin Valento
Pre-Qualification Administrator
Minnesota Department of Transportation
Consultant Services
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680
St. Paul, MN 55155

Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation

Engineering Services Division

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 editor for further details.

Metropolitan Council

Notice of Invitation for Bids (IFB) for the Procurement of a Police Information Management System Phase 1

Project Number 64190 - Contract 03P022

The Metropolitan Council is requesting bids for the purpose of purchase and installation of new, fixed mounted modular Mobile Data Computer (wireless) networked in police squad cars.

Issue Invitation for Bids	9/08/03
Receive Bids	10/9/03
Delivery	45 days from NTP
Contract, executed, NTP	11/3/03

All firms interested in being considered for this project and desiring to receive a Bid package are invited to submit a Letter of Interest to:

Harriet Simmons, Senior Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1086
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Metropolitan Council

Notice of Request for Proposals (RFP) for Comprehensive Facility Plan for the Lift Stations Oakdale L-11 and Point Douglas Road L-12 Improvements

Contract Number 03P068

The Metropolitan Council is requesting proposals for a comprehensive Facility Plan for the Lift Stations Oakdale L-11 and Point Douglas Road L-12 improvements. This will be a Lump Sum Contract.

Issue Request for Proposals	September 15, 2003
Receive Proposals	October 13, 2003
Contract negotiated, executed, NTP	December 1, 2003

Non-State Contracts & Grants

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest:

Harriet Simmons, Senior Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1068
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Metropolitan Council

Notice of Request for Proposals (RFP) for Professional/Technical Services to Co-lead the DMZ Architecture Review of IS

Contract Number 03P097

The Metropolitan Council is requesting proposals for Professional/Technical Services to co-lead the DMZ Architecture review project for IS.

<i>Issue Request for Proposals</i>	September 15, 2003
<i>Receive Proposals</i>	October 13, 2003
<i>Contract negotiated, executed, NTP</i>	December 1, 2003

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest:

Harriet Simmons, Senior Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1068
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Metropolitan Council

Notice of Request for Proposals (RFP) for Professional/Technical Services to Co-lead a Server Consolidation for IS

Contract Number 03P096

The Metropolitan Council is requesting proposals for Professional/Technical Services to co-lead a server consolidation for IS.

<i>Issue Request for Proposals</i>	September 15, 2003
<i>Receive Proposals</i>	October 13, 2003
<i>Contract negotiated, executed, NTP</i>	December 1, 2003

Non-State Contracts & Grants

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest:

Harriet Simmons, Senior Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council Environmental Services
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1068
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Minnesota Statutes, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

Mower County

Department of Human Services

Request for Proposals to Operate Transit System

Mower County is seeking proposals from providers interested in contracting to operate Mower County Transit, (MCT), beginning January 1, 2004 and continuing through December 31, 2005 with an option for 2006.

MCT is a countywide state subsidized public transportation system, utilizing small buses and volunteer drivers to transport passengers. The annual budget is approximately \$512,000. However, this proposal does not obligate the agency to spend this dollar amount.

Call or write for the full RFP, which will be sent free of charge to interested vendors by contacting:

Bruce Hendricks, Director
Mower County Human Services
1005 North Main Street
Austin, MN 55912
(507) 437-9729

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

All proposals must be postmarked on or before October 15, 2003.

Mower County reserves the right to reject any and all proposals.

University of Minnesota

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

The University of Minnesota offers 24 hour/day, 7 day/week access to all 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 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 the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

Non-State Contracts & Grants

Minnesota Workers' Compensation Assigned Risk Plan

Notice of Request for Proposals for Actuarial Services

The Minnesota Workers' Compensation Assigned Risk Plan intends to contract with an entity qualified to provide actuarial services. The contract period will commence on January 1st, 2004. Interested parties may obtain the complete request for Proposals by sending a written request by mail or fax to:

MWCARP Administrative Office
4500 Park Glen Road, Suite410
Minneapolis, MN 55416
FAX: (952) 922-5423

Please provide an email address if you wish to receive the proposal via email. deadline for proposals is Monday, October, 20th, 2003 at 4:00 p.m.

