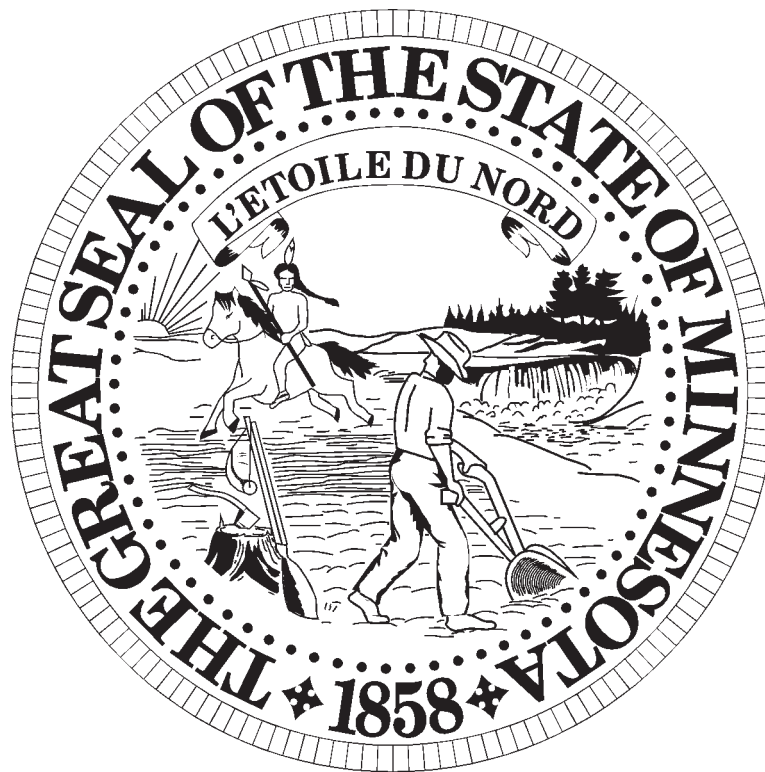


State of Minnesota

State Register



Rules and Official Notices Edition

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State Register

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

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

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- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
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#13	Monday 27 September	Noon Tuesday 21 September	Noon Wednesday 15 September
#14	Monday 4 October	Noon Tuesday 28 September	Noon Wednesday 22 September
#15	Monday 11 October	Noon Tuesday 5 October	Noon Wednesday 29 September

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

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

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

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

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

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Proposed Rules

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

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

Rules to be Adopted Without a Hearing

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

Pollution Control Agency

Majors and Remediation Division

Proposed Permanent Rules Relating to Hazardous Waste

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING on Proposed Amendment to Rules Governing Hazardous Waste, *Minnesota Rules*, 7045.0020, 7045.0090, 7045.0450, 7045.0478, 7045.0485, 7045.0545, 7045.0546, 7045.0547, 7045.0548 and 7045.0552

Introduction. The Minnesota Pollution Control Agency (MPCA) 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 Procedure Act, *Minnesota Statutes*, §§ 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until October 25, 2004.

MPCA Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the MPCA contact person. The MPCA contact person is: Carol Nankivel, MPCA, 520 Lafayette Road, St. Paul, MN 55155-4194, (carol.nankivel@pca.state.mn). TTY users may call the MPCA at (651) 297-5353 or 1-800-627-3529.

KEY: Proposed Rules Section - Underlining indicates additions to existing rule language. **Strikeouts** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules Section - Underlining** indicates additions to proposed rule language. **Strikeout** indicates deletions from proposed rule language.

Proposed Rules

Subject of Rules and Statutory Authority. The proposed rules will amend the state hazardous waste rules to reflect changes to the federal hazardous waste regulations. The amendments will incorporate federal changes affecting the operation of remediation waste management sites, corrective action management units, temporary units and staging piles. The rules will also provide a new rule part to clarify the application of federal rules adopted by reference into the state hazardous waste rules. The statutory authority to adopt the rules is *Minnesota Statutes*, § 116.07, subp. 4. A copy of the proposed rules was published in the *State Register* on September 20, 2004. A free copy of the rules is available upon request from the MPCA contact person listed above.

Comments. You have until 4:30 p.m. on October 25, 2004, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the MPCA contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the MPCA contact person by 4:30 p.m. on October 25, 2004. 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 MPCA 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 MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to cause the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, §§ 14.131 to 14.20.

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

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the MPCA, and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules* 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness (SONAR). A SONAR is now available from the MPCA contact person. This SONAR contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the SONAR may be obtained from the MPCA contact person listed above.

Request to Have MPCA Citizens' Board Make Decision on Rule if No Hearing is Required. If a hearing is required, the MPCA Citizens' Board will make the final decision on whether to adopt the proposed rules. However, even if no hearing is required, you may submit a request to the Commissioner or an MPCA Citizens' Board member to have the MPCA Citizens' Board make the decision on whether to adopt the proposed rules. Your request must be in writing, must state to whom it is directed and must be received by the MPCA contact person by 4:30 on October 25, 2004. Under *Minnesota Statutes*, § 116.02, where a hearing is not required, the MPCA Citizens' Board will only make the decision on the rule if the MPCA Commissioner grants your request or if an MPCA Citizens' Board member makes a timely request that the decision be made by the MPCA Citizens' Board. If you have any questions regarding the process to have the MPCA Citizens' Board make a decision on a final rule adoption if no hearing is required, or need MPCA Citizens' Board member information, you should contact the MPCA contact person listed in this notice.

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

Sheryl A. Corrigan
Commissioner
Minnesota Pollution Control Agency

7045.0020 DEFINITIONS.

[For text of subps 1 to 13, see M.R.]

Subp. 13a. **See repealer.**

[For text of subps 13b to 23a, see M.R.]

Subp. 24. **Facility.** "Facility" means:

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

B. for the purpose of implementing corrective action under part 7045.0485, all contiguous property under the control of an owner or operator seeking a permit under parts 7001.0010 to 7001.0730 or subtitle C of RCRA, including facilities implementing corrective action under part 7045.0275, subpart 3, or RCRA, section 3008(h); however a remediation waste management site is not a facility that is subject to part 7045.0485, unless the remediation waste management site is located within a facility that is subject to part 7045.0485.

[For text of subs 24a to 47, see M.R.]

Subp. 47a. **Land disposal.** “Land disposal” means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

[For text of subs 48 to 58, see M.R.]

Subp. 58a. **Miscellaneous unit.** “Miscellaneous unit” means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under Code of Federal Regulations, title 40, part 146, containment building, corrective action management unit, staging pile, or unit eligible for a research, development, and demonstration permit under part 7001.0712.

[For text of subs 58b to 73h, see M.R.]

Subp. 73i. **Remediation waste.** “Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, ~~which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic; that are managed for the purpose of implementing corrective action requirements under part 7045.0275, subpart 3, or 7045.0485, or RCRA, section 3008(h). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing part 7045.0275, subpart 3, or RCRA, section 3004(v) or 3008(h), for releases beyond the facility boundary cleanup.~~

Subp. 73j. **Remediation waste management site.**

“Remediation waste management site” means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under part 7045.0485, but is subject to corrective action requirements if the site is located in a facility that is subject to part 7045.0485.

Subp. 73k. **Replacement unit.** “Replacement unit” means a landfill, surface impoundment, or waste pile unit (1) from which all or substantially all of the waste is removed, and (2) that is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or stateapproved corrective action.

[For text of subs 74 to 85, see M.R.]

Subp. 85a. **Staging pile.** “Staging pile” means an accumulation of solid, nonflowing remediation waste that is not a containment building and is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the commissioner according to the requirements of part 7045.0547.

[For text of subs 86 to 109, see M.R.]

7045.0090 ADOPTION AND INCORPORATION BY REFERENCE.

Subpart 1. **Applicability.** Except as specified in subpart 2, the terms in this subpart apply whenever federal regulations are adopted or incorporated by reference in this chapter whether or not this part is specifically referenced.

A. Terms defined in *Minnesota Rules* and *Minnesota Statutes* that are also defined in *Code of Federal Regulations*, title 40, have the meaning given in part 7045.0020 and the applicable Minnesota statute.

B. “EPA” and “agency” mean the Pollution Control Agency and its commissioner.

C. “Generator” has the meaning given in part 7045.0020.

D. “Hazardous waste” has the meaning given in part 7045.0020.

E. “Regional administrator” and “director” mean the commissioner of the Pollution Control Agency.

F. “State,” “authorized state,” “approved state,” or “approved program” means Minnesota.

G. “Waste” has the meaning given in part 7045.0020.

H. References to “*Code of Federal Regulations*, title 40, part 261, subpart C,” or “*Code of Federal Regulations*, title 40, parts 261.20 to 261.24,” or “characteristic hazardous waste” mean the characteristics established in part 7045.0131.

<p>KEY: Proposed Rules Section - Underlining indicates additions to existing rule language. Strikeouts indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” Adopted Rules Section - Underlining indicates additions to proposed rule language. Strikeout indicates deletions from proposed rule language.</p>
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Proposed Rules

I. References to “*Code of Federal Regulations*, title 40, part 260, subpart C,” or “*Code of Federal Regulations*, title 40, parts 260.20 to 260.41,” mean the petition processes established in part 7045.0075.

J. References to “*Code of Federal Regulations*, title 40, part 261.4,” mean the exclusions listed in part 7045.0120.

K. References to “*Code of Federal Regulations*, title 40, part 270, subparts A to H,” or “*Code of Federal Regulations*, title 40, parts 270.1 to 270.230,” or any other reference to a hazardous waste facility permit mean the hazardous waste facility permit requirements in parts 7001.0500 to 7001.0730.

L. References to “*Code of Federal Regulations*, title 40, part 261.6,” mean the use, reuse, recycling, and reclamation requirements of part 7045.0125.

M. References to “*Code of Federal Regulations*, title 40, part 264, subpart F,” or “*Code of Federal Regulations*, title 40, parts 264.90 to 264.101,” or “*Code of Federal Regulations*, title 40, part 265, subpart F,” or “*Code of Federal Regulations*, title 40, parts 265.90 to 265.94,” mean the requirements of parts 7045.0484, 7045.0485, 7045.0590, and 7045.0592 relating to groundwater protection, monitoring, and corrective action actions for releases.

N. References to “*Code of Federal Regulations*, title 40, part 264, subpart H,” or “*Code of Federal Regulations*, title 40, parts 264.140 to 264.151,” or “*Code of Federal Regulations*, title 40, part 265, subpart H,” or “*Code of Federal Regulations*, title 40, parts 265.140 to 265.150,” mean the financial assurance requirements of parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

O. References to “*Code of Federal Regulations*, title 40, part 264, subpart O,” or “*Code of Federal Regulations*, title 40, parts 264.340 to 264.351,” or “*Code of Federal Regulations*, title 40, part 265, subpart O,” or “*Code of Federal Regulations*, title 40, parts 265.340 to 265.352,” mean the thermal treatment standards of parts 7045.0542 and 7045.0640.

P. References to “*Code of Federal Regulations*, title 40, part 264, subpart N,” or “*Code of Federal Regulations*, title 40, parts 264.300 to 264.317,” or “*Code of Federal Regulations*, title 40, part 265, subpart N,” or “*Code of Federal Regulations*, title 40, parts 265.300 to 265.316,” mean the landfill standards of parts 7045.0538 and 7045.0638.

Subp. 2. **Exceptions.** In the following cases, the terms identified in subpart 1 do not apply and the terms in items A and B continue to have the meaning in accordance with applicable EPA regulations.

A. “EPA identification numbers,” “EPA hazardous waste numbers,” “EPA test methods,” “EPA publications,” “EPA form(s),” “EPA guidance,” or “EPA acknowledgment of consent.”

B. “EPA,” “administrator,” or a synonymous term in any section of EPA regulations for which EPA does not grant the state authorization. These include:

(1) *Code of Federal Regulations*, title 40, part 262, subparts E and H, and part 263, subpart B, regarding governmental oversight of exports and transfrontier shipments of hazardous waste;

(2) *Code of Federal Regulations*, title 40, parts 268.5, 268.6, 268.42(b), and 268.44, regarding land disposal restrictions; and

(3) *Code of Federal Regulations*, title 40, part 279.82(b) regarding state petitions to allow use of used oil as a dust suppressant.

7045.0450 FACILITIES GOVERNED BY FACILITY STANDARDS.

Subpart 1. General requirements.

A. Parts 7045.0450 to ~~7045.0544~~ 7045.0551 apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste except as specifically provided otherwise in this part or in parts 7045.0102 to 7045.0320.

B. Parts 7045.0450 to ~~7045.0544~~ 7045.0551 apply to the owners or operators of publicly owned treatment works that treat, store, or dispose of hazardous waste only to the extent they are included in a permit by rule granted under the agency’s permitting procedures.

C. Parts 7045.0450 to ~~7045.0544~~ 7045.0551 apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972, *United States Code*, title 16, sections 1431 to 1434, as amended, and *United States Code*, title 33, section 1401, as amended, only to the extent they are included in a permit by rule granted under the agency’s permitting procedures. Parts 7045.0450 to ~~7045.0544~~ 7045.0551 apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

D. Parts 7045.0450 to ~~7045.0544~~ 7045.0551 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380.

E. The requirements of parts 7045.0452 to 7045.0470 and 7045.0485 do not apply to remediation waste management sites. The requirements of *Code of Federal Regulations*, title 40, section 264.1(j), as amended, are adopted by reference and apply to remediation waste management sites. In addition, the provisions of part 7045.0090 also apply.

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

7045.0478 OPERATING RECORD.

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

Subp. 3. **Record information.** The information in items A to S I must be recorded, as it becomes available, and maintained in the operating record until closure of the facility.

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

T. Any records required under part 7045.0450, subpart 1, item E.

7045.0485 CORRECTIVE ACTION FOR SOLID AND HAZARDOUS WASTE MANAGEMENT UNITS.

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

Subp. 4. Exception. Subparts 1 to 3 do not apply to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

7045.0545 CORRECTIVE ACTION MANAGEMENT UNITS (CAMU).

Subpart 1. **See repealer.**

Subp. 1a. Federal regulations adopted. The requirements of *Code of Federal Regulations*, title 40, sections 264.550 to 264.552, as amended, are adopted and incorporated by reference to apply to the regulation of corrective action management units, except as provided in subpart 2a. In addition, the provisions of part 7045.0090 also apply.

Subp. 2. **See repealer.**

Subp. 2a. Exceptions.

A. For purposes of the reference to *Code of Federal Regulations*, title 40, section 264.314(f), in *Code of Federal Regulations*, title 40, section 264.552(a)(3)(iii), the demonstration must be made to the commissioner according to the requirements of *Code of Federal Regulations*, title 40, section 264.314(f).

B. Where *Code of Federal Regulations*, title 40, sections 264.551(a) and 264.552(a), specify that the regional administrator may designate a facility as a CAMU, the authorities cited to implement remedies shall also include part 7045.0275, subpart 3.

C. Where *Code of Federal Regulations*, title 40, section 264.552(e)(4)(i)(A)(1) refers to principal hazardous constituents and section 264.552(e)(4)(i)(C)(iv) refers to treatment standards, those standards apply except when the commissioner determines that more stringent standards are appropriate. The commissioner's determination shall be based on:

- (1) sitespecific considerations, including the proximity to drinking water supplies, site geology, or engineered features;
- (2) the nature and effect of the constituents present at the site;
- (3) the design of the CAMU, the schedule for completion of the site activities and postclosure care, and monitoring of the CAMU; or
- (4) other factors that will increase the potential for adverse effects on human health or the environment.

Subp. 3. **See repealer.**

Subp. 4. **See repealer.**

Subp. 5. **See repealer.**

Subp. 6. **See repealer.**

Subp. 7. **See repealer.**

Subp. 8. **See repealer.**

7045.0546 TEMPORARY UNITS.

Subpart 1. **See repealer.**

Subp. 1a. Adoption of federal rule. The requirements of *Code of Federal Regulations*, title 40, section 264.553(a), as amended, are adopted and incorporated by reference to apply to the owners and operators of temporary units. The remedial activities cited in *Code of Federal Regulations*, title 40, section 264.553, also include remedial activities required under part 7045.0275, subpart 3. In addition, the provisions of part 7045.0090 also apply.

[For text of subps 2 to 7, see M.R.]

7045.0547 STAGING PILES; FEDERAL REGULATIONS ADOPTED.

The requirements of *Code of Federal Regulations*, title 40, section 264.554, as amended, are adopted and incorporated by reference to apply to the owners and operators of staging piles. In addition, the provisions of part 7045.0090 also apply.

7045.0548 DISPOSAL OF CAMU-ELIGIBLE WASTES IN PERMITTED HAZARDOUS WASTE LANDFILLS; FEDERAL REGULATIONS ADOPTED.

The requirements of *Code of Federal Regulations*, title 40, section 264.555, as amended, are adopted and incorporated by reference to apply to the disposal of CAMU-eligible wastes, except as provided in items A and B. In addition, the provisions of part 7045.0090 also apply.

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Proposed Rules

A. Code of Federal Regulations, title 40, section 264.555(e)(2) and (3), are not adopted.

B. The reference to Code of Federal Regulations, title 40, part 124.10(c)(1)(ix), regarding public notice, means part 7001.0200.

7045.0552 FACILITIES GOVERNED BY INTERIM STATUS.

Subpart 1. **General requirements.** Parts 7045.0552 to 7045.0642 establish minimum standards for the management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to postclosure requirements, until postclosure responsibilities are fulfilled. These standards, and those in parts 7045.0545 and 7045.0546 to 7045.0547, apply to owners and operators of existing facilities who have fully complied with the requirements for state or federal interim status until a permit is issued or until applicable interim status closure and postclosure responsibilities are fulfilled, and those who have failed to achieve state or federal interim status.

Parts 7045.0552 to 7045.0642 apply to the owners and operators of all facilities that treat, store, or dispose of hazardous waste referred to in parts 7045.1300 to 7045.1380, land disposal restrictions, and those restrictions are considered material conditions or requirements of parts 7045.0552 to 7045.0642, interim status standards.

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

RENUMBERER. Minnesota Rules, parts 7045.0547 and 7045.0548, are renumbered as parts 7045.0549 and 7045.0551, respectively. The Revisor of Statutes shall correct references to those parts in Minnesota Rules. The revisor shall change references from “7045.0544” to “7045.0551” in the phrase “7045.0450 to 7045.0544.”

REPEALER. Minnesota Rules, parts 7045.0020, subpart 13a; 7045.0545, subparts 1, 2, 3, 4, 5, 6, 7, and 8; and 7045.0546, subpart 1, are repealed.

Exempt Rules

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

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

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes*

§§ 14.14-14.28, or

- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Minnesota Department of Revenue

Adopted Exempt Permanent Rules Governing Withholding Taxes

8092.0400 REQUIREMENT OF WITHHOLDING.

Subpart 1. **Alternative methods.** *Minnesota Statutes*, section 290.92, subdivision 2 2a, provides alternative methods, at the election of the employer, for use in computing the income tax to be collected at source on wages. Under the wage bracket method (see *Minnesota Statutes*, section 290.92, subdivision 2 2a, clause (3)) the employer is required to deduct and withhold a tax in accordance with the tables prepared by the commissioner. The commissioner may authorize under the provisions of *Minnesota Statutes*, section 290.92, subdivision 2 2a, clause (7), the employer to withhold the tax on the basis of the employee's average estimated wages with necessary adjustments for any quarter. Before using this method the employer must receive authorization from the commissioner. Applications to use such method must be accompanied by evidence establishing the need for such method.

[For text of subs 2 to 5, see M.R.]

8092.0500 WAGE BRACKET WITHHOLDING.

Exempt Rules

Subpart 1. **General.** The employer may elect to use the wage bracket method provided in *Minnesota Statutes*, section 290.92, subdivision ~~2~~ 2a, clause (3), with respect to any employee. The tax computed under the wage bracket method shall be the tax required to be deducted and withheld under *Minnesota Statutes*, section 290.92. Wage bracket withholding tables for weekly, semimonthly, monthly, and daily or miscellaneous payroll periods have been prepared by the commissioner and are available for distribution in a separate publication.

[For text of subps 2 to 5, see M.R.]

8092.0700 SUPPLEMENTAL WAGE PAYMENTS.

Subpart 1. **In general.** An employee's remuneration may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period, or without regard to a particular period. When such supplemental wages are paid (whether or not at the same time as the regular wages) the amount of the tax required to be withheld shall be determined in accordance with this subpart or subpart 2.

The supplemental wages, if paid concurrently with wages for a payroll period, shall be aggregated with the wages paid for such payroll period. If not paid concurrently, the supplemental wages shall be aggregated with the wages paid or to be paid within the same calendar year for the last preceding payroll period or for the current payroll period. The amount of tax to be withheld shall be determined as if the aggregate of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

In cases where supplemental wages are not paid concurrently with wages for a payroll period the employer may determine the amount of tax required to be withheld in accordance with this paragraph rather than in accordance with the provisions of the previous paragraph. In such a case the withholding of tax on such supplemental payments shall be at the rate of ~~four percent~~ provided in *Minnesota Statutes*, section 290.92, subdivision 3, paragraph (d), as if no exemption had been claimed.

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

8092.1100 LIABILITY FOR TAX.

Every employer required to deduct and withhold the tax under *Minnesota Statutes*, section 290.92, from the wages of an employee is liable for the payment of such tax whether or not it is collected from the employee by the employer. If, for example, the employer deducts less than the correct amount of tax, or fails to deduct any part of the tax, the employer is nevertheless liable for the correct amount of the tax. ~~See, however, 2092(6).~~ The employer is relieved of liability to any other person for the amount of any such tax withheld and paid to or deposited with the commissioner.

8092.2000 CONTRACTS WITH STATE; WITHHOLDING; CERTIFICATION.

Minnesota Statutes, section 290.97 provides that no department of the state of Minnesota nor any political or governmental subdivision thereof shall make final settlement with any contractor, under a contract requiring the employment of employees for wages by said contractor, until satisfactory showing is furnished to said department or governmental subdivision that the contractor in question has complied with the withholding provisions of *Minnesota Statutes*, section 290.92. The statute further provides that a certificate issued by the commissioner of revenue shall satisfy this requirement.

The provisions of the statute are prospective in their effect and apply only to contracts executed after April 7, 1961. To facilitate the obtaining of the certification provided for by *Minnesota Statutes*, section 290.97 the commissioner has made available form ~~134~~ IC134. This form is in two parts, the first section thereof is in the form of an affidavit to be executed by a prime contractor or subcontractor and the second portion thereof is the commissioner's certification. The affidavit portion of the form in any event requires that certain identifying information be set forth by the affiant such as the name of the contractor, the address, withholding identification number, the number of the contract or contracts involved and the name of the department of the state or governmental subdivision with whom the contractor has contracted. The affidavit itself is divided into two parts A and B and it is intended that part A will be executed by both a prime contractor or subcontractor with respect to the employees of such prime contractor or subcontractor.

Part B of said affidavit is to be executed only by a prime contractor who has utilized subcontractors in completing a contract with the state or governmental subdivision thereof. In such a case it is contemplated that each subcontractor will execute part A of the affidavit on form ~~134~~ IC134 and obtain from the commissioner certification with respect to such subcontractor's own employees. This copy of form ~~134~~ IC134 certified to with respect to the subcontractor's employees will be given to the prime contractor who should keep such affidavit and certification in the prime contractor's own files. When the prime contractor has received such an affidavit and certification from all of the subcontractors on the contract, the prime contractor will then be in a position to execute part B of the affidavit as well as part A and obtain a certification from the commissioner as to the prime contractor's own employees. This form ~~134~~ IC134, when both parts A and B have been executed by the prime contractor and certified to by the commissioner, should then be delivered to the department or

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Exempt Rules

governmental subdivision in satisfaction of the requirements of *Minnesota Statutes*, section 290.97.

The withholding section of the Department of Revenue will process these affidavits and any requests for forms 134 form IC134 or inquiries relative to their use and application should be directed to this part.

REPEALER. *Minnesota Rules*, parts 8092.0200; 8092.0300; and 8092.1300, are repealed.

Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt expedited emergency rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Expedited emergency rules are effective upon publication in the State Register, and may be effective up to seven days before publication under certain emergency conditions.

Expedited emergency rules are effective for the period stated or up to 18 months. Specific *Minnesota Statute* citations accompanying these expedited emergency rules detail the agency's rulemaking authority.

Department of Natural Resources

Adopted Expedited Emergency Game and Fish Rules: State Game Refuges; Waterfowl Hunting

NOTICE IS HEREBY GIVEN that the above entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, section 84.027, subdivision 13 (b). The statutory authority for the contents of the rule is *Minnesota Statutes*, Sections 97A.091, 97B.105, 97B.731, 97B.802, and 97B.803.

The emergency conditions that do not allow compliance with *Minnesota Statutes*, sections 97A.0451 to 97A.0459, are as follows.

- Waterfowl seasons by all methods, including falconry, are limited by federal rule to no more than 107 days per year. The change to falconry waterfowl seasons is necessary to be consistent with Minnesota's waterfowl seasons established under the federal frameworks that were announced in August.
- Coots, moorhens, ducks, and geese breeding population data are not available until June and federal frameworks for late season migratory birds are not announced until early August.
- The delayed opening of Canada goose hunting in the Lac Qui Parle refuge requires adjustment in small game and fishing seasons for this year to reduce goose disturbance and hunter interference.
- A mistake in deleting deer and bear hunting in an earlier expedited emergency game and fish rule for the Clay County Game Refuge needs correction.

Dated: September 3, 2004

Gene Merriam
Commissioner of Natural Resources

6230.0400 SPECIAL PROVISIONS FOR STATE GAME REFUGES.

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

[For text of subp 2, see 29 SR 218]

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

[For text of subp 4, see 29 SR 218]

Subp. 5. **Clay County Game Refuge, Clay County.** The Clay County Game Refuge in Clay County is open to:

A. prairie chickens;

B. deer and bear hunting by firearms; ~~and~~

~~B. C.~~ deer and bear hunting by archery; and

D. Canada goose hunting during the early goose season.

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

[For text of subp 8, see 29 SR 218]

[For text of subps 9 and 10, see M.R.]

[For text of subp 11, see 29 SR 218]

[For text of subps 12 to 20, see M.R.]

Subp. 21. **Lac qui Parle Game Refuge, Chippewa and Lac qui Parle Counties.** The following special provisions apply to the Lac qui Parle Game Refuge, Chippewa and Lac qui Parle Counties:

Expedited Emergency Rules

A. Those portions within the Lac qui Parle State Recreational Area, Mission Site, or that are posted to prohibit trespass are closed to hunting. The remainder of the refuge is open to:

(1) waterfowl hunting only during the open Canada goose season in the ~~Lac qui Parle~~ West Central Goose Zone, only at designated hunting stations as provided by parts 6230.0500 to 6230.1100;

(2) deer hunting; and

(3) small game hunting other than waterfowl, except from ~~the first day of the open goose season Saturday, October 16~~ through the last day of the open Canada goose season in the ~~Lac qui Parle~~ West Central Goose Zone, when small game hunting is allowed only at designated hunting stations as provided by parts 6230.0500 to 6230.1100. Small game hunting is not allowed on closed goose hunting days during a split goose season.

B. A person may not trespass on any part of the refuge which is posted with signs prohibiting trespass during the dates posted, except that fishing is permitted in the posted closed area ~~within the Lac qui Parle, except from Saturday, October 16 through the last day of the open Canada goose season in the West Central~~ Goose Zone on any day when goose hunting in the zone is closed.

C. A person may not enter onto Rosemoen Island at any time during the year, except as specifically authorized.

D. Designated hunting stations within the refuge must be spaced no less than 200 yards apart and must be no more than 125 yards inside the refuge, as measured from the posted boundary.

[For text of subp 22, see 29 SR 218]

[For text of subps 23 to 28, see M.R.]

[For text of subp 29, see 29 SR 218]

[For text of subp 30, see M.R.]

[For text of subp 31, see 29 SR 218]

[For text of subps 32 to 53, see M.R.]

[For text of subps 54 to 58, see 29 SR 218]

6234.0800 HUNTING BY FALCONRY.

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

Subp. 4. Open season and hours for migratory game birds.

Woodcock, sora and Virginia rails, and common snipe may be taken by falconry from September 1 to December 16. Ducks, coots, and moorhens (Gallinules) may be taken by falconry from ~~the Saturday nearest October 1, September 25~~ to the Saturday nearest, January 14 8. Geese may be taken by falconry during any open goose season. Crows may be taken by falconry during the open season. Falconry hours are from one half hour before sunrise to sunset, except during the regular waterfowl season when falconry hours are the same as waterfowl shooting hours.

6240.0650 TAKING COOTS, MOORHENS, AND DUCKS.

Subpart 1. Open season. Coots, moorhens, and ducks, except pintails and canvasbacks, may be taken statewide during the 60-day period from September 25 to November 23, 2004. Pintails may be taken statewide during the 30-day period from September 25 to October 24, 2004. Canvasbacks may be taken during the 30-day period from October 9 to November 7, 2004.

Subp. 2. Daily limits. In any one day, a person may not take more than six ducks, five mergansers, and a total of 15 coots and moorhens. The daily limit of ducks (other than mergansers) may not include more than four mallards, of which not more than two may be female mallards; one black duck; two redheads; three lesser or greater scaup; two wood ducks; one pintail; and one canvasback, during the respective open seasons in subpart 1. The daily limit of mergansers may not include more than one hooded merganser.

6240.0950 OPEN SEASONS; DAILY LIMIT; WEST, WEST CENTRAL, AND NORTHWEST GOOSE ZONE.

Subpart 1. Open season; West Goose Zone. Canada geese may be taken in the West Goose Zone during the 35-day period from September 25 to October 29, 2004, except in the West Central Goose Zone as provided in subpart 2.

Subp. 2. Open season; West Central Goose Zone. Canada geese may be taken in the West Central Goose Zone during the 25-day period from October 21 to November 14, 2004.

Subp. 3. Open season; Northwest Goose Zone. Canada geese may be taken in the Northwest Goose Zone during the 40-day period from September 25 to November 3, 2004.

Subp. 4. Daily limit. A person may not take more than one Canada goose in the West, West Central, and Northwest Goose Zone.

6240.1000 TAKING CANADA GEESE IN SOUTHEAST GOOSE ZONE.

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Expedited Emergency Rules

Subpart 1. **Zone.** The Southeast Goose Zone is comprised of Isanti, Chisago, Washington, Anoka, Hennepin, Carver, Scott, Ramsey, Dakota, Rice, Goodhue, Wabasha, Winona, Olmsted, Dodge, Steele, Freeborn, Mower, Fillmore, and Houston Counties that part of the state within the following described boundaries:

beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to U.S. Highway 14; thence along U.S. Highway 14 to County StateAid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the state; thence along the south and east boundaries of the state to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Subp. 2. **See repealer.**

6240.1100 TAKING CANADA GEESE IN REMAINDER OF STATE.

Subpart 1. **Zone and season.** The remainder of the state consists of all areas not within the ~~Southeast~~, Northwest, West Central, and West Goose Zones. ~~Canada and white-fronted geese and brant~~ may be taken in the remainder of the state during the 70-day period beginning the Saturday ~~on or nearest October 1, September 25, 2004.~~

Subp. 2. **Daily limit.** A person may not take more than two Canada geese each day in the remainder of the state.

6240.1150 TAKING SNOW, BLUE, ~~AND ROSS',~~ AND WHITEFRONTED GEESE AND BRANT.

Subpart 1. **Seasons.** ~~Snow, blue, and Ross', and white-fronted geese and brant~~ may be taken statewide during the ~~80-day~~ 86-day period beginning the Saturday ~~on or nearest October 1, except that the season in the Lac qui Parle Goose Zone will be closed when the season for Canada and white-fronted geese is closed, September 25.~~

Subp. 2. **Daily limit.** A person may not take more than 20 snow, blue, and Ross' geese in combination; two white-fronted geese; and one brant each day.

6240.1900 LATE SEASON FOR TAKING CANADA GEESE.

Subpart 1. **Daily limit.** A person may not take more than ~~two~~ five Canada geese per day during the late season, except that no more than two Canada geese per day may be taken in the Southeast Goose Zone.

For text of subp 2, see M.R.

Subp. 3. **Seasons.** Canada geese may be taken in the Twin Cities Metro Canada Goose Zone and the Fergus Falls/Alexandria Goose Zone and in Olmsted County during the ten-day period beginning the second Saturday in December statewide from December 4 to December 13, 2004, except for the Southeast Goose Zone where Canada geese may be taken from December 10 to December 19, 2004, and except for the West Central Goose Zone, which is closed to late season hunting of Canada geese. Taking Canada geese on or within 100 yards of all surface waters, excluding ice, is prohibited in the Twin Cities Metro Canada Goose Zone during the late season.

Subp. 4. **Special Canada goose license required.** The late seasons established in this part are special seasons for purposes of the special season Canada goose license required under *Minnesota Statutes*, section 97B.802.

REPEALER. *Minnesota Rules*, part 6240.1000, subpart 2, is repealed. The expedited emergency amendments to *Minnesota Rules*, part 6230.0400, subparts 5 and 21, published in the *State Register*, volume 29, page 218, August 23, 2004, are repealed.

EFFECTIVE PERIOD. The emergency amendments to *Minnesota Rules*, parts 6230.0400; 6234.0800; 6240.1000; 6240.1100; 6240.1150; and 6240.1900, and the repealer expire December 31, 2004. After the emergency amendments expire, the permanent rules as they read prior to those amendments again take effect, except as they may be amended by permanent rule. *Minnesota Rules*, parts 6240.0650 and 6240.0950, expire December 31, 2004.

Revenue Notices

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

Department of Revenue

Modification of Revenue Notice #96-10:

Revenue Notice #96-10: Sales and Use Tax – Capital Equipment – Lease Renewal or Buyout

Introduction

Minnesota Statutes, section 297A.68~~25~~, subdivision 5~~42~~ provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment ~~and replacement capital equipment~~ are found in *Minnesota Statutes*, section 297A.75~~15~~, subdivision 5. *Minnesota Statutes*, section 297A.68~~01~~, subdivisions ~~16 and 20~~, 5 defines capital equipment as machinery and equipment used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

Previous Position

In the past, the department's position on lease renewals or buyouts was that they were eligible for capital equipment refund only if the lease, as originally signed, included the option for renewal or purchase at the end of the lease term. If the original lease did not include the option for renewal or purchase at the end of the lease term, it qualified for the replacement capital equipment reduction.

New Department Position

If a lease qualified qualifies for the full capital equipment refund, the renewal or buyout of that lease will also be eligible for the full capital equipment refund. The definition of replacement capital equipment refers to, "... replacement (of) ... old equipment ...". Since there is no old equipment being replaced, the previous department position is no longer supported by statutory language.

Effective Date

The purpose of this notice is to reverse the long-standing position of the department with respect to a lease renewal or buyout that was not a condition of the original. This notice is effective for all lease renewals and buyouts of previously qualifying capital equipment made on or after July 1, 1998~~1994~~.

Dated: August 26, 1996
XXXXXX, 2004

Patricia A. Lien
Assistant Commissioner for Tax Policy

Department of Revenue

Modification of Revenue Notice #96-13:

Revenue Notice #96-13: Sales and Use Tax – Capital Equipment and Replacement Capital Equipment – Used by the Purchaser

Introduction

Minnesota Statutes, section 297A.68~~25~~, subdivision 5~~42~~ provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment ~~and replacement capital equipment~~ are found in *Minnesota Statutes*, section 297A.75~~15~~, subdivision 5. *Minnesota Statutes*, section 297A.68~~01~~, subdivisions ~~16 and 20~~, 5 defines capital equipment ~~and replacement capital equipment~~ as machinery and equipment used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

General Requirements

Generally, equipment and machinery must be used by the purchaser or lessee in a qualifying activity to qualify for a capital equipment ~~or replacement capital equipment~~ refund. However, the purchase or lease of equipment to be used by another party qualifies for the capital equipment ~~or replacement capital equipment~~ refund if there is a written agreement between the principal purchaser or lessee and a second party containing all the following elements:

1. The agreement must state that the principal manufacturer will purchase and provide the second party with machinery and equipment necessary to fulfill the agreement.
2. The agreement must include provisions for payment to the second party for manufacture of the principal's product.
3. There must be no payment by the second party for use of the machinery or equipment.
4. None of the capital equipment purchased or leased by the principal is used by the second party for its own use.

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5. The principal must purchase and pay for the capital equipment in its own name, and must include the equipment on its balance sheet as a depreciable asset.
6. The principal must hold title to the equipment or be the lessee of the equipment at all times, even at the end of the agreement between the principal and the second party.
7. The risks of ownership or leasehold for the capital equipment must remain with the principal at all times rather than with the second party.

Example

A snack manufacturer expands its product line and enters into an agreement with a second company to produce a specific snack line. The snacks will be sold and marketed under the manufacturer's label. Under the terms of the agreement, the manufacturer purchased and installed all equipment necessary to produce the new snack line in the second company's plant. The second company receives payment on a per-completed-case basis. The amount received per case is negotiable every six months.

The terms of the agreement require the equipment be used only for production of the new snack product. Title remains at all times with the snack manufacturer. At the end of the agreement, the equipment will be returned to the snack manufacturer. The equipment purchased by the snack manufacturer for the new snack line is eligible for the capital equipment refund.

Effective Date

This notice is effective for all periods open under the statute of limitations:

Dated: August 26, 1996
XXXXXX, 2004

Patricia A. Lien
Assistant Commissioner for Tax Policy

Department of Revenue

Modification of Revenue Notice #96-14:

Revenue Notice #96-14: Sales and Use Tax – Capital Equipment - Research, Development, and Design; Revocation of RN Revenue Notice #96-09

Introduction

Minnesota Statutes, section 297A.~~6825~~, subdivision ~~542~~ provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment and ~~replacement capital equipment~~ are found in *Minnesota Statutes*, section 297A.~~7515~~, subdivision ~~5~~. *Minnesota Statutes*, section 297A.~~6804~~, subdivisions ~~16 and 20~~, ~~5~~ defines capital equipment as machinery and equipment used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

General Requirements

Quality control, testing, design, and research and development activities are part of the integrated production process. Equipment used for quality control, testing, design, and research and development activities, qualifies for the capital equipment ~~or replacement capital equipment~~ refund if the equipment is used primarily (50 percent or more of its operating time) to develop tangible personal property intended to be sold at retail. This is true even if no tangible personal property is ultimately produced and sold at retail. Equipment used for similar activities done in conjunction with electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system also qualifies.

Examples:

A manufacturer hires a company to develop a treatment to extend the shelf life of an article of tangible personal property. The company purchases the equipment used in its general research and development activities. The equipment used by the company qualifies for the refund if it is used 50 percent or more of its operating time to develop tangible personal property that is intended to be sold at retail.

A retailer purchases computer equipment to be used exclusively to design packaging for a shirt that they intend to sell at retail. The retailer contracts with a manufacturer to produce the packaging and the item to be sold at retail. Since the package design is a part of the integrated production process, the retailer's computer equipment qualifies for the capital equipment ~~or replacement capital equipment~~ refund.

Effective Date

This notice is effective for purchases or leases of capital equipment or ~~replacement capital equipment~~ made on or after July 1, 1994.

Revenue Notice #96-09: Sales and Use Tax - Capital Equipment - Research, Development, and Design is hereby revoked.

Dated: September 9, 1996
XXXXXXXX, 2004

Patricia A. Lien
Assistant Commissioner for Tax Policy

Department of Revenue

Modification of Revenue Notice #96-15:

Revenue Notice #96-15: Sales and Use Tax – Capital Equipment and Replacement Capital Equipment - What Activities Qualify; Revocation of Revenue Notice #96-11

Introduction

Minnesota Statutes, section 297A.6825, subdivision 542 provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment and replacement capital equipment are found in *Minnesota Statutes*, section 297A.7515, subdivision 5. *Minnesota Statutes*, section 297A.6801, subdivisions 16 and 20 5, defines capital equipment as equipment and machinery used by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail, and for electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

Sold Ultimately at Retail

Although the tangible personal property produced must be intended to be sold at retail, the capital equipment refund extends to all machinery and equipment used in the integrated production process. Each processor that modifies the article of tangible personal property or makes a component of the final article of tangible personal property qualifies for the refund. The tangible personal property produced does not need to be a taxable item. In addition, this refund also extends to machinery and equipment used to electronically transmit results retrieved by a customer of an on-line computerized data retrieval system.

Tangible Personal Property Created vs. Business Activity

Previously, the capital equipment refund only applied to businesses that were primarily engaged in the manufacture, fabrication, mining, or refining of tangible personal property to be sold at retail. However, law changes made in 1994 expanded the eligibility for the refund. The refund now focuses on the purpose and use of the individual equipment and machinery, not on the principal activity of the business. The refund also applies to businesses that provide outside fabrication services that are part of the integrated production process. Equipment and machinery used 50% or more of its operating time to fabricate tangible personal property for other manufacturers is eligible for a refund. For example:

- A retailer selling lumber and other building materials, buys a saw and sander to cut and finish wood to its customers' specifications. While the primary business is that of a retailer, the saw and sander are used to fabricate the lumber that is sold at retail. The saw and sander are eligible for refund.
- A manufacturer contracts with an outside fabricator for precision drilling to be performed on its steel tubes. While the outside fabricator does not produce a tangible product that will be sold ultimately at retail, the precision drilling is essential to the integrated production process for the manufacturer. Any equipment and machinery used 50% or more of the time to fabricate tangible personal property for other manufacturers is eligible for a refund.

Effective Date

This notice is effective for purchases or leases of capital equipment or replacement capital equipment made on or after July 1, 1994.

Revenue Notice #96-11: Sales and Use Tax - Capital Equipment and Replacement Capital Equipment - What Activities Qualify is hereby revoked.

Dated: September 9, 1996
XXXXXXXX, 2004

Patricia A. Lien
Assistant Commissioner for Tax Policy

Department of Revenue

Modification of Revenue Notice #97-04:

Revenue Notice #97-04: Sales and Use Tax - Special Purpose Buildings

Introduction

Minnesota Statutes, section 297A.6801, subdivision 520, defines replacement capital equipment to include "materials used for ... special purpose buildings used in the production process." However, *Minnesota Statutes*, section 297A.6815, subdivision 5, requires that the sales or use tax must first be paid on purchases of replacement capital equipment and the purchaser must apply for a refund of the tax paid.

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General Requirements

For purposes of the ~~replacement~~ capital equipment refund a special purpose building is a structure that because of its size or method of installation is considered real property under *Minnesota Statutes*, section 297A, rather than tangible personal property. To be considered a special purpose building, the structure must serve or perform a function essential to the production process, and must be used in producing tangible personal property to be sold ultimately at retail. Purchases of building materials and supplies that become part of a special purpose building qualify for the ~~replacement~~ capital equipment refund.

Examples of Special Purpose Buildings:

- Clean-room facilities, independent flash-freeze tunnels, or self-enclosed paint booths.
- Research facilities such as wind tunnels or test stands used primarily for product development or testing.
- Tanks, bins or silos used primarily for temporary storage of work in process. Facilities used to receive or store raw materials prior to the production process or to store raw materials on the production floor do not qualify as special purpose buildings.

Building materials qualify for the ~~replacement~~ capital equipment refund if at least 67 percent of the total floor area of an addition, modification, or new building qualifies as a special purpose building.

To qualify for the ~~replacement~~ capital equipment refund, the building materials must be purchased by the owner. Building materials purchased by construction contractors for special purpose buildings qualify for the ~~replacement~~ capital equipment refund only if there is a valid purchasing agent relationship between the owner and the contractor. (Refer to Revenue Notice #96-08 for further information.) Equipment or machinery used to construct special purpose buildings do not qualify for the refund.

General purpose manufacturing, industrial, or commercial buildings are not special purpose buildings. Buildings designed to protect equipment from the elements, provide space heating or cooling, or that allow qualifying machinery or equipment to perform at optimal levels are not special purpose buildings. The installation of an assembly line or conveyance system does not convert a general purpose building into a special purpose building.

Materials used for foundations that are specifically designed and constructed to support equipment qualify for the ~~replacement~~ capital equipment refund. However, the fact that foundation materials qualify does not mean the building itself qualifies as a special purpose building. The building must meet the criteria outlined in this notice to qualify as a special purpose building.

Examples

A 10,000 square foot addition for a clean room is added to an existing production facility. About 2,000 square feet of the addition is used for an office and bathrooms. The building materials to construct the entire addition qualify for the ~~replacement~~ capital equipment refund since at least 67 percent of the total floor area of the addition qualifies as a special purpose building.

An asphalt mixing plant builds a new facility in Minnesota. A roof is built over the mixing plant equipment to protect it from the elements. The roof is not a special purpose building since it has no direct affect on the tangible personal property being produced.

A brewery builds a new plant in Minnesota. Large silos are needed for storage of the raw hops and barley and other silos are used to maintain constant temperatures of work in process during fermentation. The silos used for fermentation are special purpose buildings and qualify for the ~~replacement~~ capital equipment refund. The silos used to hold raw materials do not qualify since they are used for storage prior to the beginning of the production process.

Effective Date

~~This notice is effective for purchases or leases of replacement capital equipment made on or after July 1, 1994.~~

Dated: ~~April 14, 1997~~
~~XXXXX, 2004~~

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Department of Revenue

Modification of Revenue Notice #97-05:

Revenue Notice #97-05: Sales and Use Tax - Integrated Production Process for Tangible Personal Property

Introduction

Minnesota Statutes, section 297A.~~6825~~, subdivision ~~542~~, provides an exemption from sales and use tax for sales of capital equipment. Procedures for obtaining a refund of taxes paid on capital equipment and replacement capital equipment are found in *Minnesota Statutes*, section 297A.~~7515~~, subdivision ~~5~~. *Minnesota Statutes*, section 297A.~~6801~~, subdivision ~~516(a) and (b)~~, defines capital equipment to include all machinery and equipment that is essential to the integrated production process. However, not all activities in the integrated production process qualify under the capital equipment provisions because of statutory restrictions.

The purpose of this revenue notice is to differentiate between qualifying and non-qualifying activities within the integrated production process as they relate to capital equipment and replacement capital equipment refunds used to produce tangible personal property to be sold ultimately at retail. This revenue notice does not apply to the generation of electricity or steam, or to electronically transmitting results retrieved by a customer of an on-line computerized data retrieval system.

General Requirements

“**Essential**” means that the machinery or equipment must perform a necessary or indispensable step in the production process.

“**Integrated production process**” means the series of activities that result in the production of tangible personal property to be sold ultimately at retail, including the actual production process. The production process begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed, and also includes research and development and design of the tangible personal property.

Qualifying Activities. Equipment and machinery used primarily (50 percent or more of its operating time) in the following activities qualify for the capital equipment or replacement capital equipment refund:

1. Research, development and design of tangible personal property intended to be sold ultimately at retail, whether or not such activities actually result in the production of property. (Refer to Revenue Notice #96-14, “Research, Development, and Design”, for more information.)
2. Constructing, cleaning, maintaining, and repairing equipment, tools, or repair parts for equipment to be used in a qualifying activity.
3. Removal of materials from beginning inventory or temporary storage to begin the actual production process.
4. Direct production of the tangible personal property. This includes machinery and equipment that operate, control, or regulate production equipment.
5. Outside fabrication services contracted for by a manufacturer if those services are essential to the production of tangible personal property to be sold ultimately at retail.
6. Maintaining conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and a special requirement of the production process. This also includes maintaining finished goods inventory, but does not include general space heating or lighting.
7. Temporary storage of work-in-process, but not including temporary storage of raw materials on the production floor.
8. Quality control and testing activities done on the tangible personal property.
9. Packaging of the completed tangible personal property. This includes all packaging done prior to loading the completed tangible personal property for shipping, but does not include returnable items such as pallets used in shipping. Equipment used in activities such as addressing, applying postage, invoicing, etc., does not qualify as capital equipment.

Non-qualifying activities. *Minnesota Statutes*, section 297A.6804, subdivision 516(c), provides that equipment and machinery used in the following activities does not qualify for the capital equipment or replacement capital equipment refund:

1. Receiving or storing raw materials.
2. Plant security, fire prevention, first aid, and hospital stations.
3. Pollution control, prevention, or abatement.
4. Plant cleaning, disposal of scrap and waste, plant communications, space heating, lighting, or safety.
5. Any other activity that is not essential to the integrated production process of manufacturing, fabricating, mining, or refining.
6. Support operations or administrative purposes. “Support operations and administrative purposes” mean activities used to keep up or maintain the integrated production process including management, direction, and overseeing of a business. These activities, although essential to the business, are not actual production activities. Examples are:

- Cleaning, repair, or maintenance of the plant facilities
- General janitorial activities
- Inventory management, warehousing, internal product tracking, and sales and distribution activities
- Construction, maintenance, or alteration of real property
- Providing a safe work environment for employees
- General office administration including clerical, personnel, and accounting activities
- Customer service activities

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- Managerial functions such as business and production analysis, and supervision

Examples

A newspaper publisher purchases a computer system to permanently store completed news stories for future reference. The publisher also adds a number of devices that it considers to be used in quality control. Some of the devices are used to measure the quality of the ink flow and its color, while other devices are used for employee and job scheduling. The computer system and the devices used to measure the quality of the actual product qualify as capital equipment. The other devices used for employee and job scheduling do not qualify because they do not control or regulate the production equipment and do not have an affect on the product being produced.

A wood products fabricator uses equipment to package their wood products prior to placing them into finished goods inventory. The company also has boxing, shrink-wrapping, and palletizing equipment used by the shipping department to prepare products taken out of finished goods inventory. All of the equipment used to package the products qualifies as capital equipment.

A meat packer builds a new plant. Environmental control systems are installed throughout the plant, including beginning and finished goods inventory areas. These systems are used to maintain very cold temperatures to ensure that the meat products are not contaminated by bacteria. The system used for storage of the raw meat product does not qualify since capital equipment does not include machinery and equipment used to receive or store raw materials. However, the environmental control systems for actual production areas and for storage of the completed meat products qualify as capital equipment. The systems for support and administrative areas do not qualify.

A paper producer adds a lubrication system to existing production equipment. Previously, the lubrication was done manually. The lubrication systems qualifies for the ~~replacement~~ capital equipment ~~reduction~~ exemption because it is an accessory to the production equipment. ~~added after the equipment was placed into production.~~

A bakery installs a washing system to clean and sterilize baking pans and the production equipment. They also purchase pressure washers used to clean the floors and walls. The washing system to clean and sterilize baking pans qualifies as capital equipment because it affects the quality of the baked product. The pressure washers do not qualify since they are used in support operations for general plant maintenance and cleaning.

A foundry adds equipment used to construct and maintain special tooling. The equipment is used to assemble and maintain the production equipment, non-production equipment and general building repairs. Equipment used primarily (50 percent or more of its operating time) to create and maintain special tooling and production equipment qualifies as capital equipment. However, if the equipment is used more that 50 percent of its operating time for work on non-production equipment or in other non-qualifying activities, it does not qualify as capital equipment.

A plastics manufacturer adds heaters to the molding equipment on a production line currently in service. The primary function of the heaters is to maintain constant temperatures in the molding equipment; a function that will extend the life of the molding equipment. The heaters are accessories to the manufacturing equipment and qualify as ~~replacement~~ capital equipment since they are used to maintain the molds.

An industrial machinery manufacturer adds several pieces of equipment to its research and development shop. The equipment includes additional computer aided design (CAD) and computer aided manufacturing (CAM) systems, a blueprint machine, and an integrated communication system. The blueprint machine prepares blueprints for use by employees during the assembly process. The integrated communication system keeps track of costs and labor hours for each piece of machinery during the assembly process. The CAD system, the CAM system and the blueprint machine qualifies as capital equipment. ~~The CAM system qualifies as replacement capital equipment, unless it was placed into service to operate and control new production equipment.~~ The communication system does not qualify as capital equipment since it is used for plant communications.

A candy wholesaler buys bulk candies from manufacturers, blends various candies together, and packages the assortment into individual bags. The equipment used to package the candy into individual bags qualifies for the capital equipment exemption.

A wood products manufacturer expands operations by adding collection systems for wood waste, conveyors, a boiler, and equipment to generate electricity. This equipment is used collectively to generate electricity that powers the facility and the production equipment. The equipment qualifies for the capital equipment exemption.

An equipment manufacturer out-sources portions of their production process. The manufacturer contracts with separate companies to heat treat parts that become a part of the equipment and to paint the final product. While the outside companies do not produce a tangible product for sale at retail, the activities they perform are essential to the integrated production process for the manufacturer. Equipment and machinery used 50 percent or more of its operating time by the outside companies to fabricate tangible personal property for manufacturers is eligible for a refund. (Refer to Revenue Notice #96-15, "Capital Equipment and Replacement Capital Equipment - What Activities Qualify".)

Effective Date

~~This notice is effective for all periods open under the statute of limitations for purchases or leases of equipment that qualify as capital~~

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equipment under laws in effect prior to July 1, 1994. For purchases or leases of replacement capital equipment and certain capital equipment, this notice is effective July 1, 1994.

Dated: April 14, 1997
XXXXXX, 2004

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Official Notices

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

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

Minnesota Comprehensive Health Association

Notice of Meeting of Plan Directors to Elect New Industry Board Member

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA) plan directors to elect a new industry member to the Board, will be held by conference call at 9:00 a.m. on Wednesday, September 22, 2004. Those wishing to monitor the call can meet at the MCHA Executive Office, 5775 Wayzata Blvd., St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

Minnesota Department of Human Services

Child Safety and Permanency Division

Notice of Publication of State Title XX Post-Expenditure Report

Child Safety and Permanency Division of the Minnesota Department of Human Services has submitted a Title XX Post-Expenditure Report for the Federal Fiscal Year 2003 (October 1, 2002 through September 30, 2003) to the United States Department of Health and Human Services, Administration for Children and Families, Office of Community Services.

This report is intended to meet federal requirements for funds provided under Title XX of the Social Security Act.

The plan is available for public review and comment. A copy can be obtained by contacting:

Minnesota Department of Human Services
Child Safety and Permanency Division
444 Lafayette Road North
St. Paul, MN 55155-3832
Telephone Number (651) 215-1832

Department of Human Services

Chemical Health Division

Notice of Public Comment on the Federal Substance Abuse Prevention and Treatment Block Grant and the Availability of a Statement Describing the Intended Use of Funds for Federal Fiscal Year 2005

NOTICE IS HEREBY GIVEN that the Department of Human Services, Chemical Health Division, is seeking public comment on the use of the Federal Substance Abuse Prevention and Treatment Block Grant.

Notice is also given that the Department of Human Services has available a draft Description of Intended Use for funds available to the State of Minnesota from the Federal Fiscal Year 2005 Substance Abuse Prevention and Treatment Block Grant. This description is being made available to the public for comment in accord with Title XIX, Part B of the Public Health Services Act, Public Law 102-321.

Copies of the Alcohol and Drug Abuse Plan are available at:

http://www.dhs.state.mn.us/main/groups/disabilities/documents/pubDHS_id_000082.hcsp

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For further information about the Substance Abuse Prevention and Treatment Block Grant, contact Wayne Raske, Chemical Health Division, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3823, **phone** (651) 582-1849, **E-mail:** wayne.raske@state.mn.us.

All interested or affected persons and organizations are invited to submit comments. Comments on the proposed plan may be directed to the contact person listed above.

Metropolitan Council

Public Hearing on Amendment to Water Resources Management Policy Plan

Mears Park Centre, Metropolitan Council Chambers

230 E. Fifth St., St. Paul, Minnesota ~~Dakota County Extension and Conservation Center~~

Tuesday, October 26, 2004 - 3:00 p.m.

The Metropolitan Council will hold a public hearing on a proposed amendment to its Water Resources Management Policy Plan. The proposed amendment would include:

- **A new policy for rural growth centers** that recognizes the potential need for Metropolitan Council involvement in the acquisition, operation, and betterment of some of the wastewater treatment plants located in rural growth centers that are accommodating increased growth as forecast by the Metropolitan Council.
- **Criteria for Metropolitan Council acquisition** of wastewater treatment plants from rural growth centers, i.e. there must be feasible and economical options for expanding wastewater treatment, and the communities – as part of their comprehensive planning process – must agree to accept the Metropolitan Council's 2030 growth projections as well as preserve areas for growth post-2030.
- **A wastewater system plan amendment** that provides for staged expansion of the Empire Wastewater Treatment Plant service area. The first phase will be an interceptor extension to Elko-New Market by 2010.

Copies of the proposed amendment to the Water Resources Management Policy Plan are available for review at:

- **Anoka County Government Center**, 2100 Third Ave., Anoka
- **Carver County Government Center**, 600 E. Fourth St., Chaska
- **Dakota County Government Center**, 1590 Highway 55, Hastings
- **Dakota County Western Service Center**, 14955 Galaxie Ave., Apple Valley
- **Hennepin County Government Center**, 300 S. Sixth St., Minneapolis
- **Ramsey County Government Center**, 15 W. Kellogg Blvd., St. Paul
- **Scott County Government Center**, 200 Fourth Ave. W., Shakopee
- **Washington County Government Center**, 14949 N. 62nd St., Stillwater
- **Anoka County Library (Northtown Library)**, 711 County Rd. 10 N.E., Blaine
- **Carver County Library (Chaska Library)**, 3 City Hall Plaza, Chaska
- **Dakota County Library (Farmington Library)**, 508 Third St., Farmington
- **Dakota County Library (Wescott Library)**, 1340 Wescott Rd., Eagan
- **Hennepin County Library (Ridgedale Library)**, 12601 Ridgedale Dr., Minnetonka
- **Ramsey County Library (Maplewood Library)**, 1670 Beam Ave., Maplewood
- **Scott County Library (New Market Library)**, 50 Church St., New Market
- **Scott County Library (Savage Library)**, 13090 Alabama Ave. S., Savage
- **Washington County Library (R. H. Stafford Branch Library)**, 8595 Central Park Place, Woodbury
- **Apple Valley City Hall**, 7100 W. 147th St., Apple Valley
- **Elko City Hall**, 26518 France Ave., Elko
- **Empire Town Hall**, 3385 W. 197th St., Empire Township
- **Farmington City Hall**, 325 Oak St., Farmington
- **Lakeville City Hall**, 20195 Holyoke Ave., Lakeville
- **New Market City Hall**, 601 Main St., New Market
- **Rosemount City Hall**, 2875 145th St. W., Rosemount
- **Metropolitan Council's Data Center**, 230 E. Fifth St., St. Paul

The proposed amendment to the Water Resources Management Policy Plan also can be viewed on the Metropolitan Council's Web site at: <http://www.metrocouncil.org/planning/environment/wrtoc.htm>

All interested persons are encouraged to attend the hearing on October 26, 2004, and provide comments.

You also may submit comments, which must be *received* by the Metropolitan Council no later than November 8, 2004:

- Send written comments to: Tim O'Donnell at Metropolitan Council Environmental Services, 230 E. Fifth St., St. Paul, MN 55101
- Fax comments to: Tim O'Donnell at (651) 602-1477
- Record comments on: Metropolitan Council Public Comment Line at (651) 602-1500
- E-mail comments to: data.center@metc.state.mn.us
- Send TTY comments to (651) 291-0904

Upon request, the Council will provide reasonable accommodations to persons with disabilities. Please submit such requests to Tim O'Donnell via mail or fax (see above) or by phone at (651) 602-1269 before October 19, 2004.

Minnesota Department of Natural Resources

DECISION RECORD

Official Notice and Order: Designation of All-Terrain Vehicle Trails Within or Contiguous to Designated Wildlife Management Areas as Specified in *Minnesota Statutes, Section 97A.133, subd. 3.*

Designation of All-Terrain Vehicle Trails in Wildlife Management Areas on Lands Under the Authority of the Commissioner in Beltrami and Marshall Counties, Minnesota

NOTICE PUBLISHED: SEPTEMBER 20, 2004

EFFECTIVE DATE: NOVEMBER 1, 2004

NOTICE IS HEREBY GIVEN that the Commissioner of the Minnesota Department of Natural Resources orders the designation of all-terrain vehicle trails as identified in the "*Phase I Plan*", attached hereto and incorporated herein, for state lands under the authority of the commissioner located in Beltrami and Marshall Counties of Minnesota. Trail designations are made pursuant to *Minnesota Statutes, Section 97A.133, subd. 3.*

WHEREAS:

1. *Minnesota Statutes, Section 97A.133, subd. 3* directs the commissioner of natural resources to identify, designate and sign all-terrain vehicle trails in order to connect trails, forest roads and public highways to provide reasonable travel for all-terrain vehicles in areas of historic all-terrain vehicle use, including trails that are within or contiguous to designated Wildlife Management Areas.
2. The commissioner consulted with wildlife management area users, including both motorized and non-motorized trail users, in identifying and designating trails in accordance with procedures specified by *Minnesota Laws 2002*, Chapt. 353, Sect. 8.
3. The agency solicited and received written comments and submissions on the proposed trail designations and incorporated these as appropriate into the *Phase I Plan*.
4. All notice and procedural requirements in *Minnesota Statutes*, and other applicable rules and law have been complied with.
5. The all-terrain vehicle trail designations are both needed and reasonable.

NOW THEREFORE, IT IS ORDERED that the all-terrain vehicle trail segments, contained in the attached *Phase I Plan*, as noticed in the *State Register* and filed with the Secretary of State, are hereby designated pursuant to authority vested in me by Minnesota Law.

IT IS FURTHER ORDERED that the designation of said all-terrain vehicle trail segments shall become effective on NOVEMBER 1, 2004.

Dated: 23 August 2004

Gene Merriam, Commissioner
Department of Natural Resources

ATTACHED: Phase I ATV Trail Plan for Beltrami & Marshall Counties

PHASE I PLAN / ATV TRAILS / BELTRAMI COUNTY

Big Grass #1. Begins at the SW corner of Section 7-158-38, proceeds east 2.5 miles to the SE corner of SW Section 9-158-38, then proceeds north 0.5 miles to the NE corner of SW Section 9-158-38, then NW 0.75 miles to the SE corner of SE Section 5-158-38, then north 0.5 miles to the NE corner of SE Section 5-158-38 for a total of 4.25 miles. The trail is on State Wildlife Management Area (WMA) lands identified as Wapiti Wildlife Management Area.

Northwood #1. Begins at the SE corner of Section 12-157-38, proceeds north 1.4 miles. The trail is on WMA lands identified

Official Notices

as the 'Wapiti Wildlife Management Area'.

Northwood #2. Begins at the NW corner of Section 18-157-38, proceeds east 2.0 miles. There will be a seasonal closure in effect from March 15th to July 15th on this segment of trail because of nesting birds. The trail is on WMA lands identified as the Wapiti Wildlife Management Area.

Northwood #3. Begins at the SE corner of Section 8-157-38, proceeds north 1 mile The trail is on WMA lands identified as 'Wapiti Wildlife Management Area'.

Northwood-Benville #5. Begins at the NW corner of Section 4-156-38 and proceeds east 2.2 miles. The trail is adjacent/contiguous to WMA lands identified as Wapiti Wildlife Management Area.

Benville #1. Begins at the SW corner of NW ¼ Section 10-156-38 and proceeds north 0.5 mile to the SE corner of Section 4-156-38, then west 1.0 mile to the SW corner of Section 4-156-38, then north 0.8 miles for a total length of 2.3 miles. The trail is on WMA lands identified as the Moose River Wildlife Management Area.

Spruce Grove #1. Begins at the SE corner of NE ¼ Section 30-156-37 and then proceeds north 2.25 miles. The trail is on WMA lands identified as Moose River Wildlife Management Area.

Hamre #1. Begins at the SW corner of Section 11-155-37 and then proceeds north 1.0 mile. The trail is on or adjacent to WMA lands identified as Gun Dog Wildlife Management Area.

Hamre #2. Begins at the NW corner of Section 11-155-37 and proceeds east 1.0 mile. The trail is on or adjacent to WMA lands identified as the Gun Dog Wildlife Management Area.

Hamre #3. Begins at the NW corner of Section 16-155-37 and then proceeds east 4.0 miles along the north side of Sections, 16, 15, 14, and 13 -155-37. The trail is on or adjacent to WMA lands identified as Fireweed on the SE, Gun Dog on the north, and Wolf Trail on the SW.

Hamre #4. Begins at the SE corner of NE SE ¼ Section 20-155-37 and then proceeds north 1.75 miles. The trail is on or adjacent to state lands identified as Wolf Trail Wildlife Management Area.

Hamre #6. Begins at the SE corner of Section 18-155-37 and then proceeds north 1.25 miles. The trail is on or adjacent to WMA lands identified as the Wolf Trail Wildlife Management Area.

Hamre #7. Begins at the SE corner of NE SE ¼ Section 22-155-37 and proceeds north 0.25 mile. The trail is on or adjacent to WMA lands identified as the Fireweed Wildlife Management Area.

Hamre #9. Begins at the SE corner of Section 26-155-37 and then proceeds north 0.25 miles. The trail is on or adjacent to WMA lands identified as the Hamre Wildlife Management Area.

Hamre #10. Begins at the NW corner of Section 33-155-37 and proceeds west 0.1 mile, then south 0.5 miles to the SW corner of NW ¼ of Section 33-155-37, then east 1.0 mile for a total of 1.6 miles. The trail is on WMA lands identified as the Hamre Wildlife Management Area.

Hamre #11. Begins at the SE corner of NE ¼ of Section 33-155-37 and then proceeds north 1.0 mile. The trail is on or adjacent to WMA lands identified as the Hamre Wildlife Management Area.

Lee #1. Begins at the SE corner of the NE ¼ of Section 33-155-38, then proceeds north, then Northwesterly 1.5 miles. The trail is on or adjacent to WMA lands identified as the Carmelee Wildlife Management Area.

Lee #2a. Begins at the NW corner of Section 26-155-38 and then proceeds east 2.0 miles. The trail is on or adjacent to WMA lands identified as the Lee Wildlife Management Area.

Lee #2b. Begins at the NW corner of NE NW ¼ Section 28-155-38, then proceeds east 1.25 miles. The trail is on or adjacent to WMA lands, identified as Willow Run Wildlife Management Area.

Lee #3. Begins at the SE corner of SE SW ¼ Section 7-155-38, then proceeds east 1.25 miles. The trail is on or adjacent to WMA lands identified as the Willow Run Wildlife Management Area.

Lee #4. Begins at the NW corner of NE NW ¼ Section 7-155-38, then proceeds east 0.75 mile. The trail is on or adjacent to WMA lands identified as Willow Run Wildlife Management Area.

Lee #5. Begins at the SE corner of Section 22-155-38 then proceeds north 3.0 miles to the NE corner Section 10-155-38. The trail is on or adjacent to WMA lands identified as Wolf Trail and Willow Run Wildlife Management Areas.

PHASE I PLAN / ATV TRAILS / MARSHALL COUNTY

Huntly #6. Begins SE corner of SW SE ¼ Section 27-158-43, proceeds west 0.75 miles. The trail is on or adjacent to WMA lands, identified as the Huntly Wildlife Management Area.

Huntly #7 Begins at the SE corner of Section 28-158-43 proceeds north 0.75 mile. The trail is on or adjacent to WMA lands, identified as Huntly Wildlife Management Area.

Huntly #8 Begins at SW corner of Section 9-158N-43W, proceeds north 0.25 mile. The trail is on or adjacent to WMA lands, identified as Huntly Wildlife Management Area.

Como #2. Begins at the crossing of Marshall County Road 48 on the Section Line between 15/14-158-42, then proceeds south

approximately 0.25 miles. The trail is on or adjacent to WMA lands identified as the Thief Lake Wildlife Management Area.

Como #7. Begins at the SW corner of SE SW ¼ Section 31-158-42, then proceeds approximately 0.75 miles east. The trail is on or adjacent to WMA lands identified as the Thief Lake Wildlife Management Area.

Como #8. Begins at the Section line of SW corner of 32-158-42, then proceeds 0.25 mile north along the ditch grade. The trail is on or adjacent to WMA lands identified as the Thief Lake Wildlife Management Area.

Linsell #4. Begins at the NW corner of Section 22-158-39, then proceeds east 0.5 mile. The trail is on or adjacent to WMA lands identified as the Thief Lake Wildlife Management Area.

Linsell #7. Begins at the SE corner of NE NE ¼ Section 10-158-39, then proceeds north 0.5 miles. The trail is on or adjacent to WMA lands identified as the Thief Lake Wildlife Management Area.

Moylan/Eckvol #2. Begins at the SW corner of Section 34-156-40, then proceeds east 1.25 miles to the NE corner of NW NW ¼ Section 2-155-40. The trail is on or adjacent to WMA lands identified as the Moylan Wildlife Management Area.

Moylan/Eckvol #3. Begins at the NW corner of Section 1-155-40, then proceeds 0.5 miles east. The trail is on or adjacent to WMA lands, identified as the Moylan Wildlife Management Area.

Espelie #1. Begins at the SE corner of Section 6-155-39, then proceeds north 0.25 miles. The trail is on or adjacent to WMA lands, identified as the Espelie Wildlife Management Area.

Espelie-Valley #2. Begins at the SE corner of the NE NE ¼ Section 6-155-39, then proceeds north 0.75 mile. The trail is on or adjacent to WMA lands identified as the Espelie Wildlife Management Area.

Espelie #3. Begins at the SW corner of the SE SW ¼ Section 26-155-39, then proceeds east 0.75 miles to the SE corner of Section 26-155-39. The trail is on or adjacent to WMA lands identified as the Sem Wildlife Management Area.

Espelie #4. Begins at the NW corner of NE ¼ Section 33-155-39, then proceeds east 1.5 miles. The trail is on or adjacent to WMA lands identified as the Sem Wildlife Management Area.

Espelie #7. Begins at the SW corner of Section 11-155-39, then proceeds north 1.0 mile. The trail is on or adjacent to WMA lands identified as the Espelie Wildlife Management Area.

Espelie #8. Begins at the SW corner of Section 11-155-39, then proceeds east 0.5 miles. The trail is on or adjacent to WMA lands identified as the Espelie Wildlife Management Area.

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 Department of Health

Office of Rural Health and Primary Care

Community Clinic Grant Program, and

Rural Community Health Center Grant Program

Notice of Grant Opportunities to Improve Minnesota's Clinic-based Safety Net Providers

The Minnesota Department of Health (MDH) is seeking applications from eligible community clinics through the Community Clinic Grant Program. The purpose of these grants is to improve the ongoing viability of Minnesota's clinic-based safety net providers.

The level of funding for community clinic applications is \$317,000 for fiscal year 2005. An eligible community clinic means a clinic that provides services under conditions as defined in *Minnesota Rules*, part 9505.0255, and utilizes a sliding fee scale to determine eligibility for charity care; an Indian tribal government or Indian health service unit; or a consortium of clinics. The Office of Rural Health and Primary Care expects that successful applicants will be able to begin their grant projects by April 2005.

The Minnesota Department of Health (MDH) is also seeking applications from eligible community health centers through the Rural Community Health Center Grant Program. The purpose of these grants is to increase health care access for residents of rural Minnesota by creating new community health centers in areas where they are needed and maintaining essential rural health care services. The

State Grants & Loans

program is not intended to duplicate the work of current health care providers.

\$250,000 is available to fund rural community health center grant applications in this grant cycle. An eligible community health center means a nonprofit, governmental or tribal entity located in a rural shortage area outside the Twin Cities, Duluth, St. Cloud, East Grand Forks, Moorhead, Rochester or LaCrosse urbanized areas. The Office of Rural Health and Primary Care expects that successful applicants will be able to begin their grant projects by April 2005.

Because of limited funding, applicants for both programs will be required to submit pre-applications and only the strongest of these will be invited to submit a final application. Prospective applicants for both grants who have questions and/or would like a copy of the application forms may contact:

Debra Jahnke
Office of Rural Health and Primary Care
Division of Community Health
Minnesota Department of Health
P.O. Box 64882
St. Paul, MN 55164-0882

Or via courier:

85 East 7th Place, Suite 400
St. Paul, MN 55101
Phone: (651) 282-6334
Toll Free: 1-(800) 366-5424 (inside Minnesota only)

The joint pre-application forms and final application forms for both grants are also available on the Office of Rural Health and Primary Care web site at <http://www.health.state.mn.us/divs/chs/grants.htm>.

The required pre-applications for both programs are due to the address above by 4:00 P.M. on November 10, 2004. The strongest pre-applicants will be invited to submit a full application. Final applications for both programs are due by 4:00 P.M. on January 14, 2005 to the address above.

Department of Public Safety

Office of Justice Programs

Multi-Jurisdictional Narcotics Task Force Funding Submission Deadline Extended

Purpose: The purpose of this funding is to support multi-jurisdictional task force programs that integrate federal, state and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination and intelligence and facilitating multi-jurisdictional investigations.

Eligible Applicants: Local units of government, county sheriff's offices, county attorney offices and police departments are eligible to apply for funding.

Total Funding Available: There is \$2.6 million available for funded projects.

Match Requirement: There is a minimum cash match requirement of 25 percent of the total project cost.

Project Period: Funded projects will be for 12 months and will begin January 1, 2005.

Application Materials: Effective September 1, 2004, a full application description and materials may be accessed at www.ojp.state.mn.us or by contacting Sue Perkins at sue.perkins@state.mn.us or 651-284-3329.

Submission deadline: All proposals must be postmarked no later than Wednesday, ~~October 6, 2004~~ **October 13, 2004**. Delivered applications must be received by 4:30 p.m. that same day. Emailed, faxed and late applications will not be accepted.

Submission details: Mail or deliver an original, ten (10) copies and a copy on disk or CD-ROM of the completed proposal to:

Sue Perkins
Office of Justice Programs
444 Cedar Street, Suite 100
St. Paul, MN 55101-5100

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) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site 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.

Minnesota State Colleges and Universities

Minneapolis Community & Technical College

Notice of Intent to Request Proposals for Harmon Center – Phase II, BID PACK #1 at Minneapolis Community & Technical College

Project Scope: Demolition of 1303 Hennepin and 1324 Harmon Place Annex, site preparation for future Bid Pack #2, and the required repair of portions of the remaining buildings, including masonry infill, stucco, and miscellaneous civil work. Scheduled completion of all work associated with Bid Pack #1 is Fall 2004.

Pre-bid conference: There will be a **mandatory pre-bid conference** on **Thursday, September 30, 2004 at 10:00am**. Interested parties shall convene at the building entrance at 1300 Harmon Place. The Architects, Engineers, and Owner Representatives will review the bidding procedures, Bidding Documents, and other conditions with interested bidders and answer questions. Bidding Documents will be available for viewing only. Additional copies will not be available at this meeting.

Sealed Proposals to be submitted to:
Mary Prozeller
Minneapolis Community & Tech. College
Suite T.11
1501 Hennepin Avenue
Minneapolis, MN 55403
Telephone: (612) 659-6808

Due Date & Time: Public opening will take place **Tuesday, October 5, 2004 at 2:00 pm at 1300 Harmon Place**. Proposals must be received prior to opening. Proposal Guarantee (Proposal Bond) in the amount of 5% of the Proposal must accompany each proposal submitted.

To view a copy of the RFP and specifications contact: Bentz/Thompson/Reitow, Inc., 1123 IDS Center, Mpls., 55403, (612) 332-1234. A refundable deposit of \$75 is required for each set of Bid Documents requested. Requests for Bid Documents (complete sets only) to be mailed must include a separate \$25 payment (per set) payable to Bentz/Thompson/Rietow, Inc. for shipping and handling in addition to the \$75 deposit. Documents will be sent to street addresses only (no P.O. boxes).

Minnesota Department of Education

Notice of Request for Proposals to Provide Mediation, Facilitation, and Report Writing Services

The Department of Education, Special Education Policy Section is requesting proposals to acquire services to provide conflict resolution, mediation, facilitation and report writing services for various statewide federally funded and legislatively mandated advisory groups and committees. Additionally, documentation supplied by MDE will need to be compiled into reports and presentation materials. It is essential that the mediator/facilitator have extensive experience in working with diverse groups representing multiple state agencies. Previous experience working with groups dealing with the special education needs of students is preferred.

The Department has estimated that the cost of this project should not exceed **\$72,000** over the proposed contract period. The anticipated project period is **November 19, 2004** through **September 30, 2006**. During the contract period the number of conflict resolution, facilitation and mediation meetings is estimated to be approximately 60 full days and 10 days of report writing.

To request a copy of the Full Request for Proposals contact:
Robyn Widley, Supervisor
1500 Highway 36 West
Roseville, MN. 55113-4266
Phone: (651) 582-1143
E-mail: Robyn.Widley@state.mn.us

Proposals are due no later than 3:00 PM on Monday, October 11, 2004. Late proposals will not be considered. Faxed or emailed

State Contracts

proposals will not be accepted.

This request does not obligate the State to award a contract or complete the work contemplated in this notice. The State reserves the right to cancel this solicitation if it considered to be in its best interest. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Minnesota House of Representatives Public Information Services Office, and the Minnesota Senate Publications Office

Public Notice of Request for Bid for Printing the *Members Directory of the Minnesota Legislature* and the *Official Directory of the Minnesota Legislature*

NOTICE IS HEREBY GIVEN that the Minnesota House of Representatives Public Information Services Office and the Minnesota Senate Publications Office are seeking bids from qualified printers to provide printing services for the *Members Directory of the Minnesota Legislature* and the *Official Directory of the Minnesota Legislature*.

The size of the publications will be 4½ x 6½. The *Members Directory of the Minnesota Legislature* will contain approximately 196 pages plus cover, and the *Official Directory of the Minnesota Legislature* will contain approximately 400 pages plus cover.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to 100 Rev. Dr. Martin Luther King Jr. Blvd, Room 175, State Office Building, no later than Monday, October 4, 2004, at 2 p.m. Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling: Paul Battaglia, 175 State Office Building, St. Paul, Minnesota 55155-1298, (651) 296-8904, or Barry LaGrave, (651) 297-1338.

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

Department of Transportation Engineering Services Division

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 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 commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the 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.

Minnesota State Court, 4th Judicial District (Hennepin County)

Request for Proposal for Conversion of 4th Judicial District Case Tracking Data to MNCIS

The 4th Judicial District is seeking proposals from qualified vendors to provide data conversion services for three case tracking systems that will be migrated to the State Court MNCIS system. A qualified vendor will be able to provide end-to-end solutions (including project management, planning, analysis and design, programming and execution).

The Request for Proposals can be downloaded from the Minnesota State Court website at:

<http://www.courts.state.mn.us/news/postingList.aspx?category=news&pageID=130>

or is available by writing or calling Jim Wehri, 4th Judicial District, C-1251 Government Center, 300 So 6th St, Minneapolis, MN 55487.

Telephone: (612) 348 6060, or **E-mail:** jim.wehri@courts.state.mn.us.

A vendor conference is scheduled for October 6, 2004 at 1:30 PM in the Hennepin County Auditorium, A-Level, Hennepin County Government Center, 300 So 6th St., Minneapolis, MN.

Proposals must be received no later than 4:00 p.m. local (i.e., Minneapolis) time on October 25, 2004. Late proposals will not be accepted.

University of Minnesota

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

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at (612) 625-5534.

Request 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.



Admin MINNESOTA

Department of Administration

660 Olive Street • St. Paul, Minnesota 55155
 Metro Area 651-297-3000; FAX 651-297-8260
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