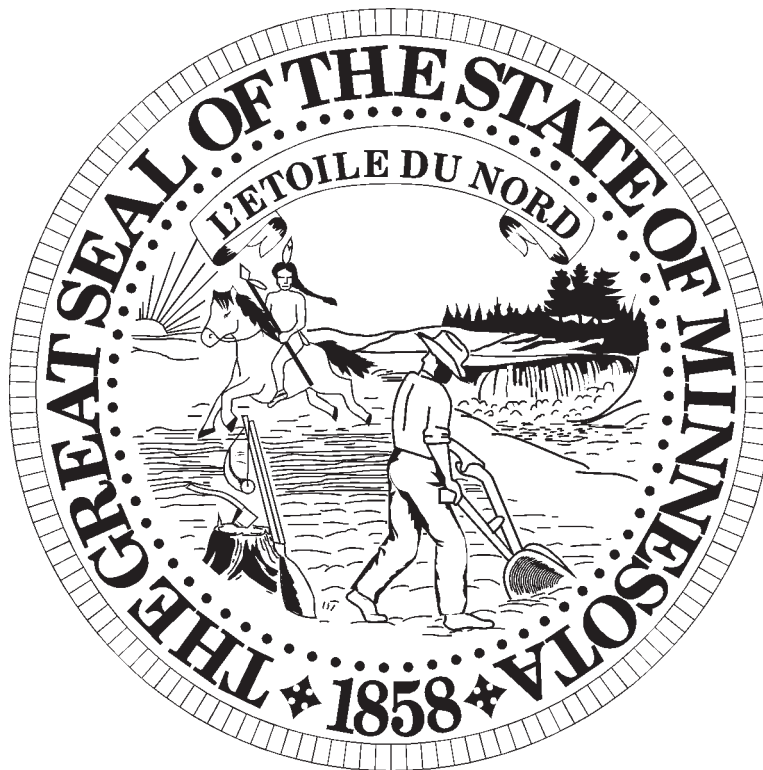


State of Minnesota

State Register



**Rules, Executive Orders, Appointments,
Commissioners' Orders, Revenue Notices, Official Notices, Grants,
State Contracts & Loans, Non-State Bids, Contracts & Grants**
Published every Monday (Tuesday when Monday is a holiday)

**Monday 30 April 2007
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State Register

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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
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# 44	Monday	30 April	Noon Tuesday	24 April	Noon Wednesday	18 April
# 45	Monday	7 May	Noon Tuesday	1 May	Noon Wednesday	25 April
# 46	Monday	14 May	Noon Tuesday	8 May	Noon Wednesday	2 May
# 47	Monday	21 May	Noon Tuesday	15 May	Noon Wednesday	9 May

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Minnesota Rules: Amendments and Additions

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

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

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

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

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), 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*.

KEY: Proposed Rules - 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** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Minnesota Department of Education

Division of Early Learning Services

Proposed Permanent Rules Relating to Infant and Toddler Intervention Services

NOTICE OF HEARING on Proposed Amendment to Rules Governing Infant and Toddler Intervention Services and Proposed Special Education Eligibility Criteria for Children Ages Three through Six, *Minnesota Rules*, 3525.1350 and 3525.1351

Public Hearing. The Department of Education intends to adopt rules after a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The agency will hold a public hearing on the aboveentitled rules in Mississippi Room, Minnesota Department of Health Snelling Office Park Building, 1645 Energy Park Drive, St. Paul, Minnesota 55108, starting at 10 a.m. on May 31, 2007, and continuing until the hearing is completed. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

Administrative Law Judge. The hearing will be conducted by Administrative Law Judge Barbara Neilson, who can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone** (612) 341-7604, and **FAX** (612) 349-2665. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

Subject of Rules, Statutory Authority, and Agency Contact Person. The proposed rules expand existing eligibility criteria for infant and toddler intervention services as required to comply with federal law; establish evaluation and transition procedures for infant and toddler intervention services; and move to an independent rule the special education eligibility criteria for children ages three through six. The proposed rules are authorized by *Minnesota Statutes*, section 125A.07(a). A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules is also available at the Department of Education's website:

<http://education.state.mn.us/mde/Legislation/Rulemaking/index.html>

or upon request from the agency contact person. The agency contact person is: Kathryn Olson, at Minnesota Department of Education, 1500 Hwy 36 West, Roseville, MN 55113; **phone:** (651) 582-8669; **FAX:** (651) 582-8248, and **e-mail:** Kathryn.A.Olson@state.mn.us. **TTY** users may call the Department of Education at (651) 582-8201.

Statement of Need and Reasonableness. A Statement of Need and Reasonableness is now available for review at the agency offices and at the Office of Administrative Hearings. A copy is also available on the Department of Education's website:

<http://education.state.mn.us/mde/Legislation/Rulemaking/index.html>

Proposed Rules

This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may be reviewed and copies obtained at the cost of reproduction from the agency.

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

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

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

Modifications. The proposed rules may be modified as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate.

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

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

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

Dated: April 20, 2007

Chas Anderson,
Deputy Commissioner

3525.1350 ~~EARLY CHILDHOOD: SPECIAL EDUCATION~~ INFANT AND TODDLER INTERVENTION SERVICES.

Subpart 1. **Definition Services required.** ~~Early childhood special education~~ Infant and toddler intervention services under *United States Code*, title 20, chapter 33, sections 1431, et seq., and *Code of Federal Regulations*, title 34, part 303, must be available to ~~pupils children~~ from birth to seven years of age who have a substantial delay or disorder in development or have an identifiable sensory, physical, mental, or social/emotional condition or impairment known to hinder normal development and need special education ~~through two years of age who meet the criteria described in subpart 2.~~

Subp. 2. **Criteria for birth through two years of age.** The team shall determine that a child from birth through the age of two years and 11 months is eligible for ~~early childhood special education~~ infant and toddler intervention services if:

A. the child meets the criteria of one of the disability categories in *United States Code*, title 20, chapter 33, sections 1400, et seq., as defined in *Minnesota Rules*; or

B. the child meets one of the criteria for developmental delay in subitem (1) ~~and~~ or the criteria in ~~subitems~~ subitem (2) ~~and (3):~~

~~(1) the child:~~

~~(a) has a medically diagnosed syndrome or condition that is known to hinder normal development, for example, cerebral palsy, chromosome abnormalities, fetal alcohol syndrome, maternal drug use, neural tube defects, neural muscular disorders, cytomegalovirus, grades III and IV intracranial hemorrhage, and bronchopulmonary dysplasia (BPD);~~

~~(b) has a delay in overall development demonstrated by a composite score of 1.5 standard deviations or more below the mean on an evaluation using at least one technically adequate, norm-referenced instrument that has been individually administered by an appropriately trained professional; or~~

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(c) is less than 18 months of age and has a delay in motor development demonstrated by a composite score of 2.0 standard deviations or more below the mean on an evaluation using technically adequate, norm-referenced instruments. These instruments must be individually administered by an appropriately trained professional;

(2) the child's need for instruction and services is supported by at least one documented, systematic observation in the child's daily routine setting by an appropriate professional. If observation in the daily routine setting is not possible, the alternative setting must be justified;

(3) corroboration of the developmental evaluation or the medical diagnosis with a developmental history and at least one other evaluation procedure that is conducted on a different day than the medical or norm-referenced evaluation. Other procedures may include parent report, language sample, criterion-referenced instruments, or developmental checklists.

(1) the child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay regardless of whether the child has a demonstrated need or delay; or

(2) the child is experiencing a developmental delay that is demonstrated by a score of 1.5 standard deviations or more below the mean, as measured by the appropriate diagnostic measures and procedures, in one or more of the following areas:

(a) cognitive development;

(b) physical development, including vision and hearing;

(c) communication development;

(d) social or emotional development; and

(e) adaptive development.

Subp. 3. Criteria for three through six years of age. The team shall determine that a child from the age of three years through the age of six years ~~and 11 months~~ is eligible for ~~early childhood~~ special education when:

A. the child meets the criteria of one of the categorical disabilities; or

B. the child meets one of the criteria for developmental delay in subitem (1) and the criteria in ~~subitems~~ subitem (2) ~~and (3)~~. Local school districts have the option of implementing these criteria for developmental delay. If a district chooses to implement these criteria, it may not modify them.

(1) The child:

(a) has a ~~medically diagnosed syndrome or condition that is known to hinder normal development including cerebral palsy, chromosome abnormalities, fetal alcohol syndrome, maternal drug use, neural tube defects, neural muscular disorders, cytomegalovirus, grades III and IV intracranial hemorrhage, and bronchopulmonary dysplasia (BPD)~~ physical or mental condition or disorder that has a high probability of resulting in developmental delay; or

(b) has a delay in each of two or more of the areas of cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development, that is verified by an evaluation using one or more technically adequate, norm-referenced instruments. ~~Subtests of instruments are not acceptable.~~ The instruments must be individually administered by appropriately trained professionals and the scores must be at least 1.5 standard deviations below the mean in each area;

(2) The child's need for special education is supported by:

(a) at least one documented, systematic observation in the child's daily routine setting by an appropriate professional; or, if observation in the daily routine setting is not possible, the alternative setting must be justified;

(3) ~~corroboration of the developmental evaluation or the medical diagnosis with~~

(b) a developmental history; and

(c) at least one other evaluation procedure in each area of identified delay that is conducted on a different day than the medical or norm-referenced evaluation;

~~Other procedures which may be used here include parent report, language sample, criterion-referenced instruments, language samples, or developmental checklists curriculum-based measures.~~

Subp. 4. Evaluation. The evaluation used to determine whether a child is eligible for infant and toddler intervention services must be based on informed clinical opinion; must be multidisciplinary in nature, involving two or more disciplines or professions; and must be conducted by personnel trained to utilize appropriate methods and procedures. The evaluation must include:

A. a review of the child's current records related to health status and medical history;

B. an evaluation of the child's levels of cognitive, physical, communication, social or emotional, and adaptive developmental functioning;

C. an assessment of the unique needs of the child in terms of each of the developmental areas in item B; and

D. at least one documented, systematic observation in the child's daily routine setting by an appropriate professional or, if observation in the daily setting is not possible, the alternative setting must be justified.

Subp. 5. Transition. The service coordinator must facilitate transition from infant and toddler intervention services before the child's third birthday. The IFSP must include steps to determine and document eligibility for early childhood special education, and steps to support the transition of the child to early childhood special education under *United States Code*, title 20, chapter 33, sections 1411 et seq.,

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and *Code of Federal Regulations*, title 34, part 300, or to other appropriate community-based services that may be available.

A. For a child who may be eligible for early childhood special education services under *United States Code*, title 20, chapter 33, sections 1411 et seq., and *Code of Federal Regulations*, title 34, part 300, the service coordinator must, with the approval of the family of the child, convene a conference between the family, the local educational agency, and community-based service providers to discuss services that the child may receive under *United States Code*, title 20, chapter 33, sections 1411 et seq., and *Code of Federal Regulations*, title 34, part 300. The conference must be held not less than 90 days, and, at the discretion of all the parties, not more than nine months, before the child is eligible for the preschool services.

B. For a child who may not be eligible for early childhood special education services under *United States Code*, title 20, chapter 33, sections 1411 et seq., and *Code of Federal Regulations*, title 34, part 300, the service coordinator must, with the approval of the family, take reasonable steps, to convene a conference between the family, the lead agency, and community-based service providers to discuss appropriate services that the child may receive after exiting infant and toddler intervention services.

RENUMBERING INSTRUCTION. In *Minnesota Rules*, the revisor of statutes must renumber *Minnesota Rules*, part 3525.1350, subpart 3, as *Minnesota Rules*, part 3525.1351, and make necessary cross-reference changes.

Minnesota Department of Natural Resources

Division of Ecological Services

Proposed Permanent Rules Relating to Ecological Services

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

Proposed Rules and Amendment to Rules Governing Ecological Services, *Minnesota Rules*, chapters 6133, 6136, 6216, 6238, and 6280; and Proposed Repeal of Rules Governing Ecological Services, *Minnesota Rules*, chapters 6136, 6216, and 6238.

Introduction. The Department of Natural Resources (DNR) 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*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on May 30, 2007, a public hearing will be held in the Vets Conference Room on the 5th floor of the Veteran's Building located at 20 West 12th St., St. Paul, Minnesota 55155, starting at 10:00 a.m. on June 19, 2007. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after May 30, 2007 and before June 19, 2007.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Steve Hirsch, at: DNR, 500 Lafayette Road, St. Paul, MN 55155-4025; **telephone number:** (651) 259-5106; **facsimile number:** (651) 296-1811; **e-mail:** Steve.Hirsch@dnr.state.mn.us. TTY users may call the Department of Natural Resources at (651) 296-5484 or 800-657-3929.

Subject of Rules and Statutory Authority. The proposed rules cover a variety of areas pertaining to ecological services including:

- restitution values for lake sturgeon;
- criteria and conditions for permits issued to conduct activities on SNAs;
- criteria for determining exceptions to prohibited activities on SNAs;
- restricted activities on SNAs;
- eligibility requirements for inclusion of land in the native prairie bank;
- designation of invasive species and infested waters;
- transporting, diverting, and appropriating water from infested waters;
- falconry and raptor propagation permits, facility standards, and reporting and marking requirements, and restrictions on taking raptors; and
- standards for black fly control permits.

The proposed rules also repeal *Minnesota Rules*, parts 6136.0300, subparts 3, 4, 5, and 10; 6136.0500; 6216.0500, subparts 1 and 4; 6238.0100, subpart 6; and 6238.0200, subpart 8.

The statutory authority to adopt or repeal the rules is *Minnesota Statutes*, sections 84.03; 86A.06; 84.96, subd. 9; 84D.12, subds. 1 and 2; 97A.345; 97A.401, subd. 7; 97A.418; and 103G.615, subd. 3.

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A copy of the proposed rules is published in the *State Register* and may be accessed at www.comm.media.state.mn.us/state_register.asp. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on May 30, 2007, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on May 30, 2007. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for June 19, 2007 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (651) 259-5106 after May 30, 2007 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Kathleen D. Sheehy is assigned to conduct the hearing. Judge Sheehy can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 341-7602 and **facsimile:** (612) 349-2665.

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

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

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

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

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

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

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

Dated: May 10, 2007

Mark Holsten, Commissioner
Department of Natural Resources

6133.0080 GAME FISH.

Subpart 1. **General.** Except for fish covered in ~~subparts 2 and subpart 3~~, the values in this subpart apply. For fish species that do not have a designated quality size, or for fish that have a total length equal to or less than the designated quality size, the restitution value is the base value shown in the following table. For fish that have a length that exceeds the designated quality size, the restitution value is the base value plus \$10 for every inch over the quality size.

	Base Value	Quality size in inches
A. Walleye	\$ 30	22
B. Sauger	30	15
C. Northern pike	30	32
D. Black bass (largemouth, smallmouth)	30	16
E. Sunfish (bluegill, pumpkinseed, green sunfish, orange spotted sunfish, longear sunfish, warmouth, hybrid sunfish)	5	8
F. White and black crappie	5	11
G. Yellow perch	10	10
H. Rock bass	5	8
I. White bass, yellow bass	5	9
J. Channel catfish	10	26
K. Flathead catfish	25	28
L. Chinook salmon	50	28
M. Coho, Atlantic salmon	30	20
N. Kokanee, pink, other salmon	30	17
O. Lake trout	50	22
P. Splake	50	15
Q. Brook trout	30	17
R. Brown trout	30	21
S. Rainbow (steelhead) trout	30	23
T. Paddlefish	500	
U. Lake sturgeon	500	
V. U. Shovelnose sturgeon	200	
W. V. Sturgeon hybrids	same value as	

morphologically
nearest parent

Subp. 2. **Muskellunge.** ~~Except as provided in subpart 3, item D,~~ The restitution values for muskellunge are as follows:

- A. 4 to less than 30 inches, \$40;
- B. 30 to less than 40 inches, \$200;
- C. 40 to less than 50 inches, \$500; and
- D. 50 inches and over, \$1,000 plus \$100 for each inch over 50 inches.

Subp. 3. **Game fish less than four inches.** The restitution values for fish that are less than four inches in length are as follows:

- A. green or orange spotted sunfish less than four inches in length, no value;
- B. yellow perch and members of the Centrarchidae family (bluegill, pumpkinseed, longear sunfish, warmouth, hybrid sunfish, black bass, rock bass, and crappie), except for green or orange spotted sunfish, that are less than four inches in length, ten cents per fish;
- C. walleye taken on Lake Superior or in St. Louis bay that are less than two inches in length, ten cents per fish; and
- D. all other game fish that are less than four inches in length and not included in items A to C, \$1 per fish.

Subp. 4. **Lake sturgeon.** The restitution values for lake sturgeon are as follows:

- A. four to less than 40 inches, \$500;
- B. 40 to less than 50 inches, \$1,000; and
- C. 50 inches and over, \$1,000 plus \$100 for each inch over 50 inches.

6136.0100 PURPOSES.

The legislature has provided for creation and establishment of scientific and natural areas for the purpose of preserving, protecting, and managing lands or waters possessing inherent natural values, including soils, waters, or sediments, sites of scientific value, habitats of rare or endangered species of plants and animals, places of historic or prehistoric interest and scenic beauty, and areas uniquely suitable for teaching natural history and conservation.

The purpose of parts 6136.0100 to 6136.0600 is to provide for the ~~use and protection~~ management of scientific and natural areas for public use, educational and research purposes in such manner and by such means as will leave them conserved for future generations.

6136.0200 POLICY.

~~The following rules~~ Notwithstanding parts 6136.0400 and 6136.0550, the commissioner of natural resources, the commissioner's agents and employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers may take such steps as may be necessary to enforce ~~these rules~~ this chapter and to establish, maintain, manage, and operate scientific and natural areas. ~~The following rules notwithstanding, the commissioner of natural resources also may suspend any one or more of such rules by written permit to a specific applicant or applicants for scientific or educational purposes.~~

6136.0300 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of ~~these parts, unless a different meaning is manifest from the context~~ this chapter, the terms defined in this section have the following meanings.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Natural Resources.

Subp. 3. See repealer.

Subp. 4. See repealer.

Subp. 5. See repealer.

Subp. 6. **Motor vehicle.** "Motor vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle including, but not ~~be~~ limited to, automobiles, trucks, dune buggies, mini_bikes, motorcycles, trail bikes, all terrain vehicles (ATV'S), and snowmobiles.

Subp. 7. **Person.** "Person" means any individual, partnership, corporation, or association.

Subp. 8. **Scientific and natural area.** "Scientific and natural area" means any area so designated by the commissioner of natural resources under the authority of *Minnesota Statutes*, section 84.033.

Subp. 9. **Watercraft.** "Watercraft" means any contrivance used or designed for navigation or travel on or under water, except a seaplane.

Subp. 10. See repealer.

6136.0400 USE OF SCIENTIFIC AND NATURAL AREAS.

Subpart 1. **Open to the public.** Each scientific and natural area designated as a public use unit as provided by *Minnesota Statutes*, section 86A.05, subdivision 5, is open to the public ~~under such restrictions or limitations as the commissioner may impose for the area for the purpose of protecting and preserving the area. These restrictions or limitations may include but are not limited to the following:~~

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restrictions on travel within an area, restrictions on hours of visitation, and limitations on numbers of persons within the area at any given time, through issuance of permits or other methods determined necessary by the commissioner. The commissioner may provide exceptions to the general rules in a specific scientific and natural area as may be necessary to the following: establishment, maintenance, management, or operation of the area; or authorize activities which are not inconsistent with the purpose for which an area is established. The commissioner shall impose such restrictions, limitations, or exceptions by commissioner's order, filed with the secretary of state and posted in conspicuous places at the scientific and natural area subject to the provisions of this part and part 6136.0550.

Subp. 2. **Environmental protection.** It is unlawful for any person to destroy, injure, damage, molest, or remove any natural resources within scientific and natural areas, including but not limited to, trees; vegetation; ruins; relics; birds, fish, or other animals; other wildlife; or geological formations, except as provided by a permit or designation order in part 6136.0550, subpart 5 or 6.

It is unlawful for any person, excepting state agents acting in their official capacity, to destroy, damage, deface, or remove any public property or private property belonging to another, including but not limited to, signs and research, testing, or monitoring equipment, within scientific and natural areas.

6136.0550 RESTRICTED USES AND ACTS.

Subpart 1. **General restrictions.** The following activities are prohibited in scientific and natural areas unless specifically authorized by written permit under subpart 5 or commissioner's designation order under subpart 6:

- A. camping and picnicking;
- B. burning of any kind;
- C. disposal of garbage, refuse, sewage, or trash;
- D. swimming, boating, or use of any type of watercraft;
- E. fishing;
- F. hunting, trapping, or possession of an uncased or loaded firearm, an uncased and strung bow, a trap, a slingshot, or explosives;
- G. operation of a bicycle or motorized vehicle, except in designated parking areas;
- H. landing aircraft;
- I. possession of horses or other pet animals or allowing entry of horses or other pet animals;
- J. consumption of alcoholic beverages;
- K. commercial activities, including peddling, soliciting, and advertising; and
- L. private events or group activities advertised or organized for purposes other than nature observation, education, or research, including orienteering, geo-caching, and athletic or social events.

Subp. 2. **Abandonment.** A person may not store or abandon property in a scientific and natural area.

Subp. 3. **Structures.** A person may not erect, construct, or maintain a dock, fence, stand, sign, post, blind, or other structure within a scientific and natural area, except stands as provided under subpart 4 and blinds in an authorized watercraft and except as provided by a permit issued under subpart 5.

Subp. 4. **Stands.** A person may use an elevated scaffold or stand if it is removed each day at the close of shooting hours and does no damage to trees or other vegetation. A person may not use a portable stand that is nailed, spiked, or screwed into a tree or that otherwise damages the bark of a tree. A person may not use spikes, nails, steps, or other devices that are driven or screwed into trees.

Subp. 5. **Permits.**

A. The commissioner may issue permits to conduct an activity otherwise prohibited, provided the activity would not harm the resources of a scientific and natural area. The permit application must be submitted on a form provided by the commissioner. The commissioner shall consider the following criteria to determine if a permit should be issued:

- (1) the activity will advance knowledge, understanding, interpretation, or management of scientific and natural areas;
- (2) alternative locations for carrying out the activity are not available or not in close proximity;
- (3) the activity will not substantially interfere with other public use, research, educational, or management activities;
- (4) there are no reasonable alternatives for conducting the activity; and
- (5) the applicant is qualified to conduct the activities authorized by the permit.

B. The commissioner may specify conditions for permits issued under this subpart to protect scientific and natural areas and enhance knowledge of scientific and natural areas, including, but not limited to:

- (1) limits on the number of people authorized by the permit;
- (2) restrictions on when authorized activities may be conducted, including seasonal, daily, or other time restrictions;
- (3) restrictions on where authorized activities may be conducted;
- (4) restrictions on how authorized activities are conducted, including specifying methods that may be used to collect data and plants, animals, relics, or other resources;
- (5) limits on the quantity or types of plants, animals, relics, or other resources that may be removed or collected; and
- (6) for permits involving collection of plants or animals, requirements to deposit at the University of Minnesota at least one voucher

specimen for each species collected in a time frame specified in the permit.

Subp. 6. Designation orders.

A. A designation order issued under the authority of *Minnesota Statutes*, section 84.033, subdivision 1; 86A.05, subdivision 5; or 86A.07, subdivision 3, must specify prohibited and allowed activities that are exceptions to this part and part 6136.0400.

B. A designation order may allow exceptions to prohibited activities to enhance public use of a scientific and natural area or surrounding areas, if the activities are compatible with the purposes for which the scientific and natural area was acquired. The following criteria shall be considered to determine if exceptions to the prohibited activities should be allowed:

- (1) the activity occurred prior to designation;
- (2) the designation of specific areas for activities will help prevent damage to more sensitive areas;
- (3) the activity is needed to use a preexisting travel corridor to access land adjacent to a scientific and natural area for a special purpose;
- (4) the activity will enhance access to or interpretation of the scientific and natural area;
- (5) allowing the activity will provide consistency with regulations of adjacent public lands; and
- (6) the activity will help achieve management objectives for the scientific and natural area.

C. A designation order may include restrictions in addition to those in this part and part 6136.0400 if necessary to protect the resources in a scientific and natural area. Restrictions may include, but are not limited to:

- (1) limits on the number of people that can engage in an authorized activity;
- (2) restrictions on when authorized activities may be conducted, including seasonal, daily, or other time restrictions;
- (3) restrictions on where authorized activities may be conducted; and
- (4) restrictions on how authorized activities are conducted.

6136.0600 PENALTIES.

~~Any A person who shall violate any of the provisions of these parts shall be~~ violates part 6136.0400 or 6136.0550 is guilty of a petty misdemeanor and be punished by a fine of not more than \$300, ~~or by imprisonment for not more than 90 days, or both per violation.~~

6136.0900 NATIVE PRAIRIE BANK ELIGIBILITY REQUIREMENTS.

The commissioner shall consider the following criteria to determine if a tract of land is eligible for inclusion in the native prairie bank:

- A. presence of native prairie habitat that has a diversity of native plant and wildlife species;
- B. known occurrence of or suitable habitat for rare species; and
- C. the tract is near other public land or part of a larger native prairie complex.

6216.0250 PROHIBITED INVASIVE SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 and any hybrids, cultivars, or varieties of the species are designated as prohibited invasive species.

Subp. 2. **Aquatic plants.** The following aquatic plants are designated as prohibited invasive species:

- A. African oxygen weed (*Lagarosiphon major*) (Ridley) Moss ex Wagner;
- B. aquarium watermoss or giant salvinia (*Salvinia molesta*) Mitchell;
- C. Australian stonecrop (*Crassula helmsii*) (Kirk) Cockayne;
- D. brittle naiad (*Najas minor*) Allioni;
- E. curlyleaf pondweed (*Potamogeton crispus*) Linnaeus;
- ~~E.~~ F. Eurasian water milfoil (*Myriophyllum spicatum*) Linnaeus;
- ~~F.~~ G. European frog-bit (*Hydrocharis morsus-ranae*) Linnaeus;
- ~~G.~~ H. flowering rush (*Butomus umbellatus*) Linnaeus;
- ~~H.~~ I. hydrilla (*Hydrilla verticillata*) (Carl von Linnaeus) Royle;
- ~~I.~~ J. Indian swampweed (*Hygrophila polysperma*) (Roxburgh) T. Anders;
- ~~J.~~ K. purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or any variety, hybrid, or cultivar thereof) Linnaeus;
- ~~K.~~ L. water aloe or water soldiers (*Stratiotes aloides*) Linnaeus; and
- ~~L.~~ M. water chestnut (*Trapa natans*) Linnaeus.

Subp. 2a. **Federal noxious weed list.** For purposes of this part, the aquatic plants listed in *Code of Federal Regulations*, title 7, section 360.200, are also designated as prohibited invasive species except for Chinese water spinach (*Ipomoea aquatica*) Forsskal.

Subp. 3. **Fish.** The following fish are designated as prohibited invasive species:

- A. bighead carp (*Hypophthalmichthys nobilis*) Richardson;
- B. black carp (*Mylopharyngodon piceus*) (Richardson) Peters;
- C. grass carp (*Ctenopharyngodon idella*) Valenciennes;
- D. northern snakehead fish (*Channa argus*);
- E. round goby (*Neogobius melanostomus*);

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- E. F. rudd (*Scardinius erythrophthalmus*) Linnaeus;
- F. G. ruffe (*Gymnocephalus cernuus*) Linnaeus;
- G. H. sea lamprey (*Petromyzon marinus*) Linnaeus;
- H. I. silver carp (*Hypophthalmichthys molitrix*) Valenciennes;
- J. tubenose goby (*Proterorhinus marmoratus*) Pallas;
- I. K. white perch (*Morone americana*) Gmelin; and
- J. L. zander (*Stizostedion lucioperca*) Linnaeus.

Subp. 4. **Invertebrates.** The following ~~invertebrate~~ invertebrates are designated as a prohibited invasive species:

- A. New Zealand mud snail (*Potamopyrgus antipodarum*) Gray; and
- B. zebra mussel (*Dreissena* spp.).

Subp. 5. **Mammals.** The following mammals are designated as prohibited invasive species:

- A. Asian raccoon dog, also known as finnraccoon (*Nyctereutes procyonoides*);
- B. Eurasian swine, European wild boar (*Sus scrofa scrofa*) Linnaeus;
- C. European rabbit (*Oryctolagus cuniculus*); and
- D. nutria, any strain (*Myocastor coypu*).

6216.0260 REGULATED INVASIVE SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 are designated as regulated invasive species.

Subp. 2. **Aquatic plants.** The following aquatic plants are designated as regulated invasive species:

- A. Brazilian waterweed (*Egeria densa*) Planchon;
- B. Carolina fanwort or fanwort (*Cabomba caroliniana*) A. Gray;
- C. Chinese water spinach (*Ipomoea aquatica*) Forsskal;
- ~~B. D. parrot's feather (*Myriophyllum aquaticum*) (da Conceicao Vellozo) Verdcourt;~~
- E. nonnative waterlilies (*Nymphaea* spp.) Linnaeus, or any variety, hybrid, or cultivar thereof. Native Minnesota waterlilies are: *Nymphaea odorata* Aiton subsp. *odorata* Aiton, *N. leibergii* Morong, and *N. odorata* Aiton subsp. *tuberosa* (Paine) Wiersema & Hellquist; and
- ~~D. E. yellow iris or yellow flag (*Iris pseudacoris pseudacorus*) Linnaeus.~~

Subp. 3. **Fish.** The following fish are designated as regulated invasive species:

- A. alewife (*Alosa pseudoharengus*) Wilson;
- B. common carp, koi (*Cyprinus carpio*) Linnaeus;
- C. goldfish (*Carassius auratus*) Linnaeus;
- D. rainbow smelt (*Osmerus mordax*) Mitchell; and
- E. tilapia (*Tilapia*, *Oneochromis*, *Sarotheradon* spp.).

Subp. 4. **Invertebrates.** The following invertebrates are designated as regulated invasive species:

- A. Chinese mystery snail, Japanese trap door snail (*Cipangopaludina* spp.) Hannibal;
- B. rusty crayfish (*Orconectes rusticus*) Girard; and
- C. spiny water flea (*Bythotrephes cederstroemi*) Schoedler.

Subp. 5. **Birds.** The following birds are designated as regulated invasive species:

- A. Egyptian goose (*Alopochen aegyptiaca*) Linne;
- B. mute swan (*Cygnus olor*) Gmelin; and
- C. Sichuan pheasant (*Phasianus colchicus strachi*).

6216.0350 DESIGNATED INFESTED WATERS.

Subpart 1. **Designation listings.** The water bodies listed in this part are designated as infested with the species indicated. Activities at these waters are subject to the invasive species rules in parts 6216.0100 to 6216.0600 and *Minnesota Statutes*, chapter 84D. A lake in more than one county is listed under the county corresponding to its protected waters inventory number, but the designation applies to the entire lake.

Subp. 2. **Listing of waters infested with brittle naiid.** The following water body is designated as infested with brittle naiad (*Najas minor*).

DNR Protected Waters	
Name	Inventory Number
Dakota County	
Lac Lavan	19-0446

Subp. 3. **Listing of waters infested with Eurasian water milfoil.** The following water bodies are designated by the commissioner

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as infested with Eurasian water milfoil (*Myriophyllum spicatum*) and its hybrids. Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters	
Name	Inventory Number
A. Anoka County	
(1) Cenaiko Lake	02-0654
(2) Centerville Lake	02-0006
(3) Coon Lake	02-0042
(3) (4) Crooked Lake	02-0084
(4) (5) Lake George	02-0091
(5) (6) Otter Lake	02-0003
(7) Peltier Lake	02-0004
(6) (8) Unnamed lake in Springbrook Nature Center	02-0688
B. Blue Earth County	
(1) Lura Lake	07-0079
B. C. Carver County	
(1) Ann Lake	10-0012
(2) Auburn Lake	10-0044
(3) Burandt	10-0084
(3) (4) Bavaria Lake	10-0019
(5) Eagle Lake	10-0121
(4) (6) Firemen's Lake	10-0226
(5) (7) Lotus Lake	10-0006
(6) (8) Lake Minnewashta	10-0009
(9) Parley Lake	10-0042
(7) (10) Pierson Lake	10-0053
(8) (11) Riley Lake	10-0002
(9) (12) Schutz Lake	10-0018
(13) Steiger Lake	10-0045
(10) (14) Stone Lake	10-0056
(15) Susan Lake	10-0013
(11) (16) Lake Virginia	10-0015
(12) (17) Lake Waconia	10-0059
(18) Wasserman Lake	10-0048
(13) (19) Lake Zumbra	10-0041
D. Cass County	
(1) Leech Lake	11-0203
C. E. Chisago County	
(1) Ellen Lake	13-0047
(2) Green Lake	13-0041
(3) North Lindstrom	13-0035
(3) (4) Rush Lake	13-0069
D. F. Crow Wing County	
(1) Bay Lake	18-0034
(2) Ossawinnamakee Lake	18-0352
(3) Ripple River, between Bay Lake and Tame Fish Lake	
(2) (4) Ruth Lake	18-0212

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E. G. Dakota County

(1) Crystal Lake	19-0027
(2) <u>Earley Lake</u>	19-0033
(3) <u>Keller Lake</u>	19-0025
(2) (4) Lac Lavon	19-0347 19-0446
(3) (5) Lake Marion	19-0026
(6) <u>Schultz Lake</u>	19-0075
(7) <u>Sunset Pond</u>	19-0451
(4) (8) Twin Lakes	19-0028
(9) <u>Unnamed pond in Valley Park</u>	19-0348

F. H. Douglas County

(1) Oscar Lake	21-0257
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G. I. Hennepin County

(1) <u>Arbor Lake located in the S1/2 of the SW1/4 of S23, T119N, R22W</u>	
(2) <u>Arbor Lake North located in the NW1/4 of the SW1/4 of S23, T119N, R22W</u>	
(3) <u>Arbor Lake West</u>	27-1130
(1) (4) Arrowhead Lake	27-0045
(2) (5) Bass Lake	27-0098
(3) (6) Brownie Lake	27-0038
(4) (7) Bryant Lake	27-0067
(5) (8) Bush Lake	27-0047
(6) (9) Lake Calhoun	27-0031
(7) (10) Cedar Lake	27-0039
(8) (11) Christmas Lake	27-0137
(9) (12) Dutch Lake	27-0181
(10) (13) Eagle Lake	27-0111
(11) (14) Fish Lake	27-0118
(12) (15) Forest Lake	27-0139
(16) <u>Galpin Lake</u>	27-0144
(13) (17) Gleason Lake	27-0095
(14) (18) Lake Harriet	27-0016
(15) (19) Hiawatha Lake	27-0018
(16) (20) Lake Independence	27-0176
(17) (21) Lake of the Isles	27-0040
(18) (22) Libbs Lake	27-0085
(19) (23) Little Long Lake	27-0179
(20) (24) Long Lake	27-0160
(21) (25) Medicine Lake	27-0104
(22) (26) Minnehaha Creek	27-0000
(23) (27) Lake Minnetonka	27-0133
(28) <u>Mitchell Lake</u>	27-0070
(24) (29) <u>Niccum's pond located in the NW1/4 of the SW1/4 of S10, T117N, R24W</u>	private
(25) (30) Lake Nokomis	27-0019
(26) (31) Parker's Lake	27-0107

(27) <u>(32)</u> Peavy Lake	27-0138
(28) <u>(33)</u> Lake Rebecca	27-0192
(29) <u>(34)</u> Rice Lake	27-0116
(30) <u>(35)</u> Round Lake	27-0071
(31) <u>(36)</u> Lake Sarah	27-0191
(32) <u>(37)</u> Schmidt Lake	27-0102
<u>(38)</u> Snelling Lake	<u>27-0001</u>
(33) <u>(39)</u> Swan Lake located in the NW1/4 of the NW1/4 of S4, T117N, R23W	<u>27-0000</u>
(34) <u>(40)</u> Tanager Lake	27-0141
<u>(41)</u> Unnamed wetland	<u>27-0900</u>
(35) <u>(42)</u> Whaletail Lake	27-0184
(36) <u>(43)</u> Wirth Lake	27-0037
<u>(44)</u> Wolfe Lake	<u>27-0664</u>

J. Isanti County

<u>(1)</u> Green Lake	<u>30-0136</u>
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H. K. Itasca County

(1) Ice Lake	31-0372
(2) McKinney Lake	31-0370
<u>(3)</u> North Twin Lake	<u>31-0190</u>

F. L. Kanabec County

(1) Knife Lake	33-0028
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M. Kandiyohi County

<u>(1)</u> Green Lake	<u>34-0079</u>
<u>(2)</u> Norway Lake	<u>34-0251</u>

N. Le Sueur County

<u>(1)</u> East Jefferson Lake	<u>40-0092</u>
<u>(2)</u> German Lake	<u>40-0063</u>

J. O. Meeker County

<u>(1)</u> Lake Manuella	<u>47-0050</u>
<u>(2)</u> Ripley Lake	<u>47-0134</u>
(4) <u>(3)</u> Stella Lake	47-0068
(2) <u>(4)</u> Lake Washington	47-0046
<u>(5)</u> Wolf Lake	<u>47-0016</u>

K. P. Mille Lacs County

(1) Lake Mille Lacs	48-0002
(2) from the mouths of each tributary of Lake Mille Lacs upstream to the first public road	48-0000

Q. Morrison County

<u>(1)</u> Lake Alexander	<u>49-0079</u>
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L. R. Olmsted County

(1) George Lake	55-0008
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S. Pine County

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<u>(1) Cross Lake</u>	<u>58-0119</u>
<u>(2) Pokegama Lake</u>	<u>58-0142</u>
<u>(3) Sand Lake</u>	<u>58-0081</u>
<u>(4) Snake River between Lake Pokegama and Cross Lake</u>	
<u>(5) Unnamed gravel pit located in S1/2 of S14, T41N, R21W</u>	
 M. T. <u>Pope County</u>	
<u>(1) Gilchrist Lake</u>	<u>61-0072</u>
<u>(2) Lake Minnewaska</u>	<u>61-0130</u>
 N. U. <u>Ramsey County</u>	
<u>(1) Bald Eagle Lake</u>	<u>62-0002</u>
<u>(2) Beaver Lake</u>	<u>62-0016</u>
<u>(3) Birch Lake</u>	<u>62-0024</u>
(2) <u>(4) Lake Gervais</u>	<u>62-0007</u>
(3) <u>(5) Island Lake</u>	<u>62-0075</u>
(4) <u>(6) Keller Lake</u>	<u>62-0010</u>
<u>(7) Kohlmans Lake</u>	<u>62-0006</u>
<u>(8) Loeb Lake</u>	<u>62-0231</u>
<u>(9) McCarron Lake</u>	<u>62-0054</u>
<u>(10) Lake Owasso</u>	<u>62-0056</u>
(5) <u>(11) Phalen Lake</u>	<u>62-0013</u>
<u>(12) Pond six</u>	<u>62-0271</u>
<u>(13) Pond three located in the SE1/4 of the NE1/4 of S4, T28N, R22W</u>	
(6) <u>(14) Round Lake</u>	<u>62-0012</u>
(7) <u>(15) Silver Lake</u>	<u>62-0001</u>
<u>(16) Snail Lake</u>	<u>62-0073</u>
(8) <u>(17) Spoon Creek, between Keller and Phalen Lakes</u>	<u>62-0000</u>
(9) <u>(18) Sucker Lake</u>	<u>62-0028</u>
<u>(19) Turtle Lake</u>	<u>62-0061</u>
(10) <u>(20) Lake Vadnais</u>	<u>62-0038</u>
(11) <u>(21) Lake Wabasso</u>	<u>62-0082</u>
 <u>V. Rice County</u>	
<u>(1) Cedar Lake</u>	<u>66-0052</u>
 Θ. W. <u>St. Louis County</u>	
<u>(1) Gilbert Pit Lake</u>	<u>69-1306</u>
<u>(2) Horseshoe Lake</u>	<u>69-0503</u>
 P. X. <u>Scott County</u>	
<u>(1) Lower Prior Lake</u>	<u>70-0026</u>
<u>(2) O'Dowd Lake</u>	<u>70-0095</u>
<u>(3) Thole Lake</u>	<u>70-0120</u>
<u>(4) Upper Prior Lake</u>	<u>70-0072</u>
 <u>Y. Sherburne County</u>	
<u>(1) Eagle</u>	<u>71-0067</u>
<u>(2) Little Elk Lake</u>	<u>71-0055</u>

Q: Z. Stearns County
 (1) unnamed wetland along
 Clearwater river 73-0312

R: AA. Todd County
 (1) Little Birch Lake 77-0089
 (+) (2) Sauk Lake 77-0150

BB. Waseca County
 (1) Clear Lake 81-0014

S: CC. Washington County
 (1) Big Marine Lake 82-0052
 (2) Lake Elmo 82-0106
 (3) Long Lake 82-0118
 (+) (4) Powers Lake 82-0092
 (2) White Bear Lake 82-0167
 (+) (5) St. Croix River 82-0001
 (6) Sunset Lake 82-0153
 (7) White Bear Lake 82-0167

T: DD. Wright County
 (1) Augusta Lake 86-0284
 (2) Beebe Lake 86-0023
 (3) Buffalo Lake 86-0090
 (4) Clearwater Lake 86-0252
 (5) Clearwater River,
 downstream of Clearwater Lake 86-0000
 (6) Deer Lake 86-0107
 (7) Fish Lake 86-0183
 (8) French Lake 86-0273
 (9) Goose Lake 86-0108
 (10) Howard Lake 86-0199
 (11) Indian Lake 86-0223
 (+) (12) Lake Mary 86-0156
 (+) (13) Little Waverly Lake 86-0106
 (14) Mink Lake 86-0088
 (+) (15) Lake Pulaski 86-0053
 (16) Ramsey Lake 86-0120
 (+) (17) Rock Lake 86-0182
 (+) (18) Sugar Lake 86-0233
 (+) (19) Waverly Lake 86-0114
 (+) (20) Weigand Lake 86-0242

U: EE. Multiple counties
 (1) Mississippi River,
 downstream of St. Anthony Falls

Subp. 4. **Listing of waters infested with flowering rush.** The following water bodies are designated as infested with flowering rush (*Butomus umbellatus*).

DNR Protected Waters

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<u>Name</u>	<u>Inventory Number</u>
<u>A. Anoka County</u>	
(1) <u>Unnamed wetland in the NE1/2 of the NE1/4 of S33, T31N, R22W</u>	
<u>B. Becker County</u>	
(1) <u>Detroit Lake</u>	<u>03-0381</u>
(2) <u>Curfman Lake</u>	
(3) <u>Deadshot Bay</u>	<u>03-0363</u>
(4) <u>Pelican River from Detroit Lake to Muskrat Lake</u>	
(5) <u>Muskrat Lake</u>	<u>03-0360</u>
(6) <u>Sallie Lake</u>	<u>03-0359</u>
(7) <u>Melissa Lake</u>	<u>03-0475</u>
<u>C. Dakota County</u>	
(1) <u>Unnamed lake</u>	<u>19-0064</u>
<u>D. Itasca County</u>	
(1) <u>North Twin Lake</u>	<u>31-0190</u>
(2) <u>South Twin Lake</u>	<u>31-0191</u>
(3) <u>Hart Lake</u>	<u>31-0020</u>
<u>E. Rice County</u>	
(1) <u>Cannon Lake</u>	<u>66-0008</u>
(2) <u>Cannon River from Wells Lake to the confluence with the Straight River</u>	
(3) <u>Wells Lake</u>	<u>66-0010</u>
<u>F. Todd County</u>	
(1) <u>Sauk River from Juergens Lake to Mud Lake</u>	
<u>G. Washington County</u>	
(1) <u>Forest Lake</u>	<u>82-0159</u>

Subp. 5. **Listing of waters infested with New Zealand mud snail.** The following water bodies are designated as infested with New Zealand mud snail.

<u>Name</u>	<u>DNR Protected Waters Inventory Number</u>
<u>Multiple counties</u>	
(1) <u>Lake Superior</u>	<u>16-0001</u>
(2) <u>St. Louis River, downstream of the Fond du Lac Dam</u>	

Subp. 2: **6. Listing of waters infested with round goby.** The following water bodies are designated by the commissioner as infested with round goby (*Neogobius melanostomus*). Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters

Name	Inventory Number
Multiple counties	
(1) Lake Superior	16-0001
(2) St. Louis River, downstream of the Fond du Lac Dam	

Subp. 3: **7. Listing of waters infested with ruffe.** The following water bodies are designated by the commissioner as infested with ruffe (*Gymnocephalus cernuus*). Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters	
Name	Inventory Number
Multiple counties	
(1) Lake Superior	16-0001
(2) St. Louis River, downstream of the Fond du Lac Dam	

Subp. 4: **8. Listing of waters infested with spiny water flea.** The following water bodies are designated by the commissioner as infested with spiny water flea (*Bythotrephes cederstroemi*). Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters	
Name	Inventory Number
<u>A. Cook County</u>	
(1) <u>Flour Lake</u>	<u>16-0147</u>
(2) <u>Greenwood Lake</u>	<u>16-0077</u>
(3) <u>McFarland Lake</u>	<u>16-0027</u>
(4) <u>Pine Lake</u>	<u>16-0041</u>
(5) <u>Lake Saganaga</u>	<u>16-0633</u>
A. B. <u>St. Louis County</u>	
(1) Fish Lake	69-0491
(2) Island Lake	69-0372
(3) <u>Rainy Lake</u>	<u>69-0694</u>
B. C. <u>Multiple counties</u>	
(1) Lake Superior	16-0001
(2) Cloquet River from Island Lake to the St. Louis River	
(3) St. Louis River, downstream of the Cloquet River	

Subp. 5: **9. Listing of waters infested with white perch.** The following water bodies are designated by the commissioner as infested with white perch (*Morone americana*). Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters	
Name	Inventory Number
Multiple counties	
(1) Lake Superior	16-0001
(2) St. Louis River, downstream of the Fond du Lac Dam	

Subp. 6: **10. Listing of waters infested with zebra mussels.** The following water bodies are designated by the commissioner as

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infested with zebra mussels (*Dreissena* spp.). Activities at these waters are subject to parts 6216.0100 to 6216.0600, *Minnesota Statutes*, section 84D.13, and other applicable laws.

DNR Protected Waters	
Name	Inventory Number
<u>A. Benton County</u>	
(1) <u>Little Rock Lake Channel</u>	<u>5-0012</u>
(2) <u>Little Rock Lake</u>	<u>5-0013</u>
<u>B. Crow Wing County</u>	
(1) <u>Black Bear Lake</u>	<u>18-0140</u>
(2) <u>Boom Lake</u>	<u>18-0529</u>
(3) <u>Half-Moon Lake</u>	<u>18-0238</u>
(4) <u>Little Rabbit Lake</u>	<u>18-0139</u>
(5) <u>Miller Lake</u>	<u>18-0133</u>
(6) <u>Ossawinnamakee Lake</u>	<u>18-0352</u>
(7) <u>Pelican Brook from the source at Ossawinnamakee Lake to the Pine River</u>	
(8) <u>Pickereel Lake</u>	<u>18-0232</u>
(9) <u>Pine River from the mouth of Pelican Brook to the Mississippi River</u>	
(10) <u>Rice Lake</u>	<u>18-0145</u>
(11) <u>Unnamed</u>	<u>18-0235</u>
(12) <u>Unnamed wetland located in the NE1/4 of the SW1/4 of S3, T135, R27</u>	
(13) <u>Unnamed wetland located in the NE1/4 of the SE1/4 of S2, T46, R30</u>	
(14) <u>Unnamed wetland located in the NE1/4 of the SW1/4 of S2, T46, R30</u>	
(15) <u>Unnamed wetland located in the NE1/4 of the NE1/4 of S33, T135, R27</u>	
(16) <u>Unnamed wetland located in the NW1/4 of the NE1/4 of S33, T46, R30</u>	
<u>C. Mille Lacs County</u>	
(1) <u>Lake Mille Lacs</u>	<u>48-0002</u>
(2) <u>All tributaries to Lake Mille Lacs from the mouth to the first public road</u>	
(3) <u>Ogechie Lake</u>	<u>48-0014</u>
(4) <u>Onamia Lake</u>	<u>48-0009</u>
(5) <u>Shakopee Lake</u>	<u>48-0012</u>
<u>D. Olmsted County</u>	
(1) <u>Lake Zumbro</u>	<u>55-0004</u>
<u>E. Washington County</u>	

(1) St. Croix River, downstream
of the St. Croix Boomsite
Recreation Area at river
mile 25.4

F. Wright County

(1) Fish Lake

86-0183

G. Multiple counties

(1) Lake Superior

16-0001

(2) Mississippi River,

downstream of St.

Anthony Falls

from the mouth of the Pine

River in Crow Wing County

to the Minnesota-Iowa border

(3) Rum River

(3) (4) St. Louis River,

downstream of the

Fond du Lac Dam

(5) Zumbro River, downstream

of Lake Zumbro

6216.0500 TRANSPORTATION AND APPROPRIATION OF WATER FROM INFESTED WATERS.

Subpart 1. See repealer.

Subp. 1a. Diversion, appropriation, and transportation.

A. Water from designated infested waters may not be diverted to other waters, transported on a public road, or transported or appropriated off property riparian to infested waters except:

(1) in emergencies that threaten human safety or property;

(2) as specified in a water appropriation or public waters work permit issued by the commissioner according to *Minnesota Statutes*, chapter 103G; or

(3) under a permit issued according to this part.

B. For newly designated infested waters or infested waters that are newly designated with an additional invasive species, the commissioner shall review active water appropriation or public waters work permits issued under *Minnesota Statutes*, chapter 103G, and may amend permits to include conditions that prevent the spread of invasive species.

C. The following conditions may be included in permits issued under this part or *Minnesota Statutes*, chapter 103G, to prevent the spread of invasive species:

(1) seasonal or other timing restrictions;

(2) requirements to treat water, including chemical, ultraviolet, heat, filtering, or other treatment; and

(3) requirements for discharge or disposal of water.

Subp. 2. **Disposition of water used to transport wild animals from infested waters.** Water used to transport wild animals from infested waters ~~pursuant to subpart 1~~, including water from waters or facilities permitted to hold fish from infested waters, may be disposed of only at sites approved in writing by the commissioner.

Subp. 3. **Persons leaving select infested waters.** A person leaving infested waters designated as having populations of zebra mussel or spiny water flea must drain bait containers, other boating-related equipment holding water excluding marine sanitary systems, and livewells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads.

Subp. 4. See repealer.

Subp. 5. Fish hatchery or aquatic farm operations in infested waters.

A. Natural lakes or wetland basins that are designated as infested waters will not be licensed by the department pursuant to *Minnesota Statutes*, section 17.4984, for aquatic farms or pursuant to *Minnesota Statutes*, section 97C.211, as private fish hatcheries.

B. Artificial water basins that have populations of prohibited or regulated invasive species may be used for aquatic farm or private hatcheries under license by the department. After notifying a licensee that an artificial water basin has a prohibited or regulated invasive species, the commissioner may require that nets, traps, buoys, stakes, and lines that have been used in such artificial water basins must be dried for a minimum of ten days, or frozen for a minimum of two days, before they are used in noninfested waters. All aquatic plants must

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be removed from nets and other equipment that are removed from the artificial water basins.

C. The commissioner may license aquatic farm or private fish hatchery facilities to use infested waters as a source for the facilities' water. The commissioner may require that the waters be treated to eliminate prohibited or regulated invasive species.

D. Fish raised in artificial water basins that have populations of prohibited or regulated invasive species, or in any facility using infested water as a source, must be sold directly to a wholesale buyer for processing, except:

(1) the commissioner may by permit allow the stocking or transport of such fish where the receiving waters contain populations of the same prohibited or regulated invasive species as the source facility's waters; or

(2) the commissioner may by permit allow the stocking or transport of such fish in water bodies that do not contain populations of prohibited or regulated invasive species if the source facility uses adequate treatment to remove the prohibited or regulated invasive species from the facility.

Subp. 6. **Infested waters diversion or transportation permits.** Applications for permits issued pursuant to this part, to divert or transport water from infested waters, shall be made on forms obtained from the commissioner and shall contain information as the commissioner may prescribe. The department shall act upon the application within 90 days of receipt. Failure on the part of the department to act upon the permit within the required time shall not be construed as approval of the application. Permits shall state all the conditions and limitations upon which they are based. A permit may be modified at any time by the department.

6238.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Bred in captivity or captive-bred.** "Bred in captivity" or "captive-bred" means raptors, including eggs, hatched or produced in captivity from parents that mated or otherwise transferred gametes in captivity.

Subp. 3. **Eyases.** "Eyases" means young raptors not yet capable of sustained flight.

Subp. 4. **Falconry.** "Falconry" means the taking of quarry by means of a trained raptor.

Subp. 4a. **Falconry permit.** "Falconry permit" means a permit issued under part 6238.0200, subpart 1, for residents to take, possess, transport, transfer, use, sell, purchase, barter, or offer to sell, purchase, or barter raptors.

Subp. 5. **Passage raptor.** "Passage raptor" means a juvenile raptor less than one year old that is capable of flight.

Subp. 6. See repealer.

Subp. 6a. **Propagation permit.** "Propagation permit" means a permit issued under part 6238.0200, subpart 1b, to breed and raise raptors in captivity.

Subp. 7. **Raptor.** "Raptor" means a live bird of the family Falconidae, or the great horned owl (*Bubo virginianus*), or of the family Accipitridae, other than the bald eagle (*Haliaeetus leucocephalus*) and the golden eagle (*Aquila chrysaetos*).

Subp. 7a. **Raptor permit.** "Raptor permit" means a permit issued under part 6238.0200, subpart 1a, for nonresidents to take, possess, and transport raptors.

Subp. 8. **Take.** "Take" means to trap, capture, or attempt to trap or capture for falconry purposes.

6238.0200 FALCONRY PERMIT, RAPTOR, AND PROPAGATION PERMITS.

Subpart 1. **Falconry permit requirements for residents.** ~~Unless a falconry permit has been obtained from the commissioner, a resident of this state~~ The commissioner may issue falconry permits to Minnesota residents. A person may not take, possess, transport, transfer, use, sell, purchase, barter, or offer to sell, purchase, or barter raptors or their eggs without a falconry permit from the commissioner, except as provided by subparts 1a, 1b, and 2.

Subp. 1a. **Raptor permit requirements.** The commissioner may issue raptor permits to nonresidents. A nonresident must have a valid permit or other written documentation that authorizes the person to practice falconry in the country, state, province, or territory of the person's residence to be eligible for a raptor permit. A nonresident may not take, possess, or transport raptors or their eggs without a raptor permit, except as provided by subpart 2. Raptor permits may include conditions to prevent depletion of wild bird populations, including, but not limited to:

A. limits on the number of raptors that may be taken;

B. restrictions on which species of raptors may be taken;

C. limits on the geographical area that raptors may be taken; and

D. restrictions on when raptors may be taken.

Subp. 1b. **Propagation permit requirements.** The commissioner may issue propagation permits to Minnesota residents. A person may not breed and raise raptors, or sell, barter, or transfer captive bred raptors or their eggs without a propagation permit. Propagation permits may include conditions that specify the location of the propagation facilities, restrictions on release of birds from captivity, and requirements for the disposition of dead raptors.

Subp. 2. **Permit Nonresident falconry requirements for nonresidents.** ~~Nonresidents~~ A nonresident who have has in possession a valid falconry permit or other written documentation that authorizes the person to practice falconry in the country, state, province, or

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territory of ~~their~~ the person's residence or who are lawfully entitled or permitted to practice falconry may transport, possess, and use raptors for falconry purposes in this state on a temporary basis for periods of up to 30 consecutive days without obtaining written permission from the commissioner a raptor permit. Nonresidents may acquire captive-bred raptors or their eggs for falconry purposes in this state from a person with a falconry or propagation permit, and possess and transport raptors so acquired, without obtaining a raptor permit. While in this state, nonresidents conducting activities under this subpart must comply with all applicable provisions of this chapter.

Subp. 3. **Permit application.** An ~~applicant application~~ for a falconry, raptor, or propagation permit must be a resident of this state and ~~must submit a fully completed application form to~~ submitted to the commissioner on a form provided by the commissioner.

Subp. 4. **Examination for falconry permit.** A ~~permit may not be issued until the applicant has obtained~~ person must obtain a score of at least 80 percent on a supervised examination provided by the commissioner ~~before receiving a falconry permit.~~ An applicant ~~A person~~ who fails to score at least 80 percent on the examination must wait a minimum of two weeks before retaking the examination.

Subp. 4a. **Qualifying for propagation permits.** ~~A person must meet one or more of the following criteria to qualify for a propagation permit:~~

- A. the person meets the requirements for a Class II falconry permit as provided by part 6238.0300;
- B. the person is conducting research for an educational or government institution;
- C. the person has been eligible for a permit to propagate raptors or its equivalent in another country, state, province, or territory; or
- D. the person can demonstrate through written or other documentation at least two years experience propagating raptors.

Subp. 5. **Inspection.** ~~Before a falconry permit is issued, the~~ A person's raptor housing facilities and falconry equipment must be inspected and approved by the commissioner ~~before the person receives an initial falconry or propagation permit.~~ The commissioner may inspect a person's raptor housing facilities or falconry equipment or require other documentation, such as photographs, prior to permit renewal or if the housing facilities or equipment are moved or changed. ~~If necessary, an inspection may be conducted prior to permit renewal.~~

Subp. 6. **Facility standards.** ~~Applicants~~ An applicant for a falconry permit must possess ~~the minimum~~ facilities that meet the requirements in items A and B, and C. An applicant for a propagation permit must possess facilities that meet the requirements in items A and C.

A. Indoor facilities (mews) must be large enough to allow easy access for care of the raptors housed in the facility. ~~Except for raptors housed for propagation,~~ if more than one raptor is to be kept in the mews, raptors must be tethered or separated by partitions and the area for each bird must be large enough to allow the bird to fully extend its wings. There must be a secure door that can be easily closed, and at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body. The floor of the mews must permit easy cleaning and must be well drained. Adequate perches must be provided. If tethers are used, they must be at least long enough to allow the birds to reach the floor ~~or a platform constructed as a base.~~

B. Outdoor facilities (weathering area) must be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators except that perches more than 6-1/2 feet high need not be covered or roofed. ~~Chicken wire may not be used to enclose birds unless measures are taken to prevent birds from directly contacting the chicken wire.~~ The enclosed area must be large enough to ensure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather must be provided for each bird. Adequate perches must be provided. If tethers are used, they must be at least long enough to allow the birds to reach the ground ~~or a platform constructed as a base.~~

C. Facilities used to hold raptors must be designed so that domesticated livestock or fowl cannot access the area occupied by the raptors.

Subp. 7. **Equipment standards.** An applicant ~~for a falconry or propagation permit~~ must possess the following ~~minimum~~ equipment:

A. at least one pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material, to be used when any raptor is flown free (traditional one-piece jesses may be used on raptors when not being flown);

B. at least one flexible, weather-resistant leash and one strong swivel of acceptable falconry design as specified in information provided by the ~~department~~ commissioner;

C. at least one suitable drinking and bathing container for each raptor, two to six inches deep and of a width and length each greater than the length of the raptor;

D. at least one weathering area perch of an acceptable design, as specified in information provided by the ~~department~~ commissioner, for each raptor; and

E. a reliable scale or balance suitable for weighing a raptor, graduated to increments of not more than one-half ounce (15 grams).

Subp. 8. See repealer.

6238.0300 FALCONRY PERMIT CLASSES.

Specifications for the three classes of falconry permits are contained in items A to C.

- A. A Class III (apprentice) permittee:

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- (1) must be at least 14 years old;
 - (2) must be sponsored during the first two years in which an apprentice permit is held, regardless of the age of the permittee. The sponsor must be the holder of a Class II (general) or Class I (master) falconry permit. A sponsor may not have more than three apprentices at any one time;
 - (3) may not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period;
 - (4) may possess only the following raptors, which must be taken from the wild: an American kestrel (*Falco sparverius*), or a red-tailed hawk (*Buteo jamaicensis*); and
 - (5) may only take an adult or passage kestrel or a passage red-tailed hawk from the wild.
- B. A Class II (general) permittee:
- (1) must be at least 18 years old;
 - (2) must have at least two years' experience in the practice of falconry at the Class III level or its equivalent;
 - (3) may not possess more than two raptors and may not obtain more than two raptors for replacement birds during any 12-month period; and
 - (4) may not take, transport, or possess ~~any owls or~~ any species listed as threatened or endangered under state or federal law.
- C. A Class I (master) permittee:
- (1) must have at least five years' experience in the practice of falconry at the Class II level or its equivalent;
 - (2) may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;
 - (3) may not take any species listed as endangered in state or federal regulations, but may transport or possess such species in accordance with applicable rules;
 - (4) may not take, transport, or possess any golden eagle for falconry purposes unless authorized in writing in accordance with appropriate federal regulations and approved by the commissioner; and
 - (5) may not take in any 12-month period, as a part of the three bird limitation, more than one raptor listed as threatened in state or federal regulations, and then only in accordance with applicable rules.

6238.0400 RESTRICTIONS ON TAKING RAPTORS.

Subpart 1. **Eyases.** Eyases may be taken from the wild ~~only by a Class II or Class I falconer~~ during the period of May 27 through July 14. ~~A person must be a Class I or Class II falconer or have the equivalent classification in the person's country, state, province, or territory of residence to take eyases from the wild.~~ No more than two eyases may be taken by the same permittee during the calendar year. In all cases at least one eyas must be left in a given nest.

Subp. 2. **Passage raptors.** Passage raptors may be taken from the wild only during the period of August 21 through December 29.

Subp. 3. **Escaped raptors.** An escaped, marked raptor may be retrapped at any time.

Subp. 4. **American kestrels and great horned owls.** ~~Only A person may not take raptors over one year old from the wild, except for American kestrels and great horned owls may be taken when over one year old, and~~ except that any raptor, other than state or federally listed endangered or threatened species, ~~may be~~ taken under a depredation or special purpose permit ~~may be and~~ used for falconry by Class II or Class I falconers.

Subp. 5. **Raptors taken in Minnesota.** Raptors taken from the wild for falconry purposes in this state are subject to the restrictions in items A ~~to D~~ and B.

A. ~~Raptors must be registered.~~ A person who takes a raptor must register the bird within five days by sending a completed Federal Form 3-186A to the commissioner.

B. ~~Title to raptors remains in the state of Minnesota.~~

C. ~~Raptors may not be sold, bartered, transferred, or transported out of the state except with prior authorization from the commissioner.~~

~~D.~~ Raptors may be transferred as gifts between holders of ~~Minnesota falconry, propagation, or raptor permits; but.~~ The recipient must report the transfer ~~must be reported by the recipient to the commissioner~~ within five working days ~~to the department regional headquarters where the bird was registered.~~

Subp. 6. **Raptors taken outside Minnesota.** Residents who obtain raptors ~~lawfully taken~~ outside this state ~~may possess and use them for falconry purposes in this state only with proof of lawful possession.~~ Raptors must be registered by submitting a Federal Form 3-186A (Migratory Bird Acquisition/Disposition Report) as provided by part 6238.0800 must provide proof of lawful possession by submitting Federal Form 3-186A to the commissioner.

Subp. 7. **Areas closed to taking raptors.** Raptors ~~to be used for falconry~~ may not be taken ~~under any circumstances~~ within state parks or scientific and natural areas, state wildlife management areas ~~without a permit from the regional wildlife manager, or~~ state game refuges ~~without a permit unless specifically authorized in a falconry, raptor, or other permit from the regional enforcement officer, or commissioner.~~ Raptors may not be taken from private property without permission from the owner.

Subp. 8. **Use of traps.** Traps used to capture raptors must be attended.

Subp. 9. **Peregrine falcon restrictions.** If the peregrine falcon is removed from listing in part 6134.0200, subpart 2, the commissioner may limit the number of this species that may be taken each year to prevent population depletion. These limits must be based on estimated population size and expected hatch and may be applied to a specific geographical area. A falconry or raptor permit may include conditions that specify where and when peregrine falcons may be taken.

6238.0800 REPORTING AND MARKING OF FALCONS RAPTORS.

Subpart 1. **Banding requirement.** All raptors taken, possessed, or transported for falconry or propagation purposes must be banded. Captive-bred raptors must be banded with a numbered, seamless band provided by the department regional office where the permittee's permit is issued, or by the United States Fish and Wildlife Service. Raptors taken from the wild must be banded with a permanent, nonreusable band.

Subp. 2. **Reporting of raptor acquisition or loss or removal of bands.** All acquisitions of raptors or loss or removal of any band must be reported within five working days by submitting a Federal Form 3-186A in accordance with the instructions on the form. The blue copy must be submitted to the department regional office where the permittee's permit is issued.

Subp. 3. **United States Fish and Wildlife Service band.** If the United States Fish and Wildlife Service band affixed to a raptor becomes illegible, the owner must notify the department regional office where the permit is issued.

6238.0900 REPORTING REQUIREMENTS.

Subpart 1. **Required reporting for each bird.** ~~A permittee may not take, purchase, receive, otherwise acquire, buy, sell, barter, transfer, or dispose~~ person who takes, purchases, receives, or otherwise acquires, buys, sells, barter, transfers, or disposes of any raptor, including death of the raptor, ~~unless the permittee submits~~ dead raptors, must submit, within five working days, a ~~completed~~ Federal Form 3-186A ~~completed, in accordance with the instructions on the form, for each bird to the commissioner. The blue copy must be submitted to the department regional office where the permit is issued.~~

Subp. 2. **Change of address.** ~~Changes~~ A person with a falconry or propagation permit must report a change of address ~~must be reported in writing~~ to the department office where the ~~falconry~~ permit is issued within ten days following the move if the change of address will exceed 30 days. ~~Facilities at the new address must be certified during the 30-day temporary holding period following a move to a new location.~~

Subp. 3. **Reports by permit holders.** Holders of ~~falconry and propagation~~ permits ~~issued for the taking, transportation, transfer, possession, and use of raptors for falconry purposes~~ must report to the commissioner, as requested, listing:

- A. all raptors in possession, by species, marker numbers, sex (if known), age (if known), date and where or from whom acquired;
- B. all raptors possessed or acquired at any time during the specified period, but no longer possessed, by species, marker numbers, sex (if known), age (if known), date and where or from whom acquired, date and to whom given, if applicable, or whether escaped, died, or released, and when the event occurred; and
- C. all unused markers in possession.

6238.1000 FALCONRY PERMIT DURATION AND RENEWAL.

Subpart 1. **Duration of permits.** Falconry and propagation permits may not exceed three years in duration and expire on September 30 of the year of expiration. Raptor permits may not exceed one year in duration and expire on December 31 of the year of expiration. Permits are not transferable.

Subp. 2. **Renewal of permits.** Falconry, ~~raptor, and~~ propagation permits are renewable. Request for renewal must be made at least 30 days prior to the permit expiration date.

6280.1300 STANDARDS FOR BLACK FLY CONTROL PERMITS.

The commissioner may issue a permit to control black fly larvae in streams subject to the following conditions:

A. the permit applicant must collect adult black fly specimens from the area adjacent to the stream requested for treatment and larval black fly specimens from the stream to be treated and provide species identification to the commissioner. Permit conditions may require an applicant to provide specimens to a qualified person to verify the species identification;

B. only *Bacillus thuringiensis* var. *israelensis* (Bti) may be approved for control of black fly larvae. Permit conditions may include specifications to minimize impacts to nontarget species, including, but not limited to, the location and timing of treatments;

C. a permit applicant must monitor the treated area before and after the treatment. Permit conditions may include specifications on the type and number of samplers to be used, the timing of placement and removal of samplers, and the data that needs to be recorded;

D. control of black fly larvae is prohibited in designated trout streams listed in part 6264.0050, subpart 4, and may be prohibited in other waters to prevent detrimental impacts to nontarget organisms;

E. the permittee must submit a report on forms provided by the commissioner no later than January 31 of the year following the

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treatment; and

F. if a permittee fails to comply with permit conditions, the commissioner may deny future permit applications from that permittee or the entity represented by that permittee.

REPEALER. *Minnesota Rules*, parts 6136.0300, subparts 3, 4, 5, and 10; 6136.0500; 6216.0500, subparts 1 and 4; 6238.0100, subpart 6; and 6238.0200, subpart 8, are repealed.

Minnesota Department of Public Safety

Division of Driver and Vehicle Services

Proposed Permanent Rules Relating to Driver's License Agents

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

Proposed Amendments to Rules Governing Driver's License Agents, *Minnesota Rules*, Chapter 7404

Introduction. The Department of Public Safety intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on May 30, 2007, a public hearing will be held in the Bremer Tower Conference Center, 445 Minnesota Street, Saint Paul, Minnesota 55101 starting at 9 a.m. on Wednesday, June 13, 2007. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after May 30, 2007, and before June 13, 2007.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is Joseph Bowler at Driver and Vehicle Services, 445 Minnesota Street, Suite 195, Saint Paul, Minnesota 55101, **Telephone number:** (651) 201-7583, **FAX number:** (651) 296-3141, **e-mail:** joe.bowler@state.mn.us. TTY users may call the Department of Public Safety at (651) 282-6555.

Subject of Rules and Statutory Authority. The proposed rules are about driver's license agents. The proposed rules amend various provisions including, but not limited to, those concerning the location of offices, the appointment procedure, reporting and depositing practices, general office practices, and create a limited licensing agent. The statutory authority to adopt the rules is *Minnesota Statutes*, 14.06, 171.061, subdivision 6, and 373.35. A copy of the proposed rules is published in the *State Register*. Contact the agency contact person listed above to obtain a copy of the proposed rules at no cost.

Comments. You have until 4:30 p.m. on Wednesday, May 30, 2007, to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, May 30, 2007. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

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

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

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not

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be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for June 13, 2007, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may call the agency contact person at (651) 201-7583 after May 30, 2007, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Kathleen D. Sheehy is assigned to conduct the hearing. Judge Sheehy can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, **telephone:** (612) 341-7602, and **FAX:** (612) 349-2665.

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

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

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

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

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

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

Dated: April 18, 2007

Michael Champion, Commissioner
Department of Public Safety

7404.0100 DEFINITIONS.

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

Subp. 2. **Agent.** "Agent" means an individual appointed under this chapter; and *Minnesota Statutes*, section 171.061; ~~and Laws, chapter 250, section 13.~~

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

Subp. 4. **Application.** "Application" has the meaning given in *Minnesota Statutes*, section 171.061, subdivision 1, clause (2).

A. An application must be in a paper, electronic, or other format as prescribed by the commissioner.

B. An application includes the supporting documents provided by the applicant.

[For text of subps 5 to 7, see M.R.]

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Subp. 8. **Collected or collection.** “Collected” or “collection” means:

- A. the receipt of application and reinstatement fees and other related fees paid by an applicant less the filing fee specified in *Minnesota Statutes*, section 171.061, subdivision 4, paragraph (c); and
- B. the receipt by the agent from the applicant of any required application or form.

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

Subp. 11. **Conviction of crime.** “Conviction of crime” means conviction of a felony, gross misdemeanor, or misdemeanor ~~for which a jail sentence may be imposed~~ reasonably related to the function of an agent.

[For text of subps 12 to 19, see M.R.]

Subp. 20. **Proposed office location.** “Proposed office location” means a location that has been submitted to the commissioner for consideration as an existing approved office location under part 7404.0300, or a move of an existing office location under part 7404.0330.

[For text of subps 21 and 22, see M.R.]

7404.0300 LOCATION OF AGENT OFFICE; PROPOSED BY THIRD PARTY.

Subpart 1. **General.** This part applies to:

- ~~A. the establishment of an agent office not in existence; and~~
- ~~B. the appointment of an agent when there has been a discontinuance of an agent or when the appointed agent resigns, discontinues service, retires, or dies when the location of the office is proposed by a party other than the commissioner.~~

Subp. 2. **See repealer.**

Subp. 3. **Hennepin and Ramsey Metropolitan counties.** The conditions listed in ~~items A to E~~ this subpart must be met before the commissioner considers a proposed office location for an agent ~~is approved or continued in either Ramsey or Hennepin in a metropolitan county.~~

A. The proposed office location must not be within a ~~five-mile~~ ten-mile radius of an existing office or a state-operated application site.

B. The estimated number of applications a proposed office location ~~will process~~ processes annually must be at least 12,000 within two years after the establishment of the office. The commissioner shall estimate the number of applications will be estimated as 30 percent of the applications processed within the preceding calendar year by existing offices and state-operated application sites located within a radius of the proposed office location of over ~~five~~ ten miles and less than ~~9-1/2~~ 19 miles.

C. The commissioner shall not consider the proposed office location ~~may not be established~~ if the use of the percentage of applications processed by an existing office or state-operated application site to establish a proposed office would reduce the number of applications to less than:

- (1) ~~12,000~~ 24,000 for an existing office or state-operated application site located in ~~either Hennepin or Ramsey~~ a metropolitan county;
- (2) ~~6,500~~ 13,000 for an existing office located in an area under subpart 4; or
- (3) ~~1,250~~ 2,500 for an existing office located in an area under subpart 5.

D. If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed.

E. The commissioner shall not consider a proposed office location ~~may not be considered~~ if the proposed office location is within a ~~ten-mile~~ 20-mile radius of an existing office ~~that was~~ or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed or the state-operated site was established.

Subp. 4. **~~Other metropolitan counties; Municipalities with over 50,000 population.~~** The conditions listed in ~~items A to E~~ this subpart must be met before a proposed office location is approved ~~considered by the commissioner in a metropolitan county, not including Hennepin and Ramsey Counties, or in a municipality with a population exceeding 50,000, not including municipalities in Hennepin and Ramsey counties a metropolitan county.~~

A. The proposed office location must not be located within a ~~five-mile~~ ten-mile radius of an existing office or state-operated application site.

B. A maximum of two licensing agent offices may exist in any municipality with a population exceeding 50,000.

C. The estimated number of applications a proposed office location ~~will process~~ processes annually must be at least 6,500 within two years after the establishment of the office. The commissioner shall estimate the number of applications will be estimated as the largest number computed in subitem (1), (2), or (3):

(1) 30 percent of the applications processed within the preceding calendar year by existing offices and state-operated application sites located within a radius of the proposed office location of over ~~five~~ ten miles but less than ~~6-1/2~~ 19 miles;

(2) 20 percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of at least ~~6-1/2~~ 8 miles but less than ~~eight~~ eight miles; or

(3) ten percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of at least ~~eight~~ eight miles but less than ~~9-1/2~~ 19 miles.

~~C. D.~~ The commissioner shall not consider a proposed office location ~~may not be established~~ if the use of a percentage of applications

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processed by an existing office or state-operated application site to establish a proposed office would reduce the number of applications to less than:

- (1) ~~12,000~~ 24,000 for an existing office or state-operated application site located in an area under subpart 3;
- (2) ~~6,500~~ 13,000 for an existing office or state-operated application site located in an area under this subpart; or
- (3) ~~1,250~~ 2,500 for an existing office or state-operated application site located in an area under subpart 5.

~~D. E.~~ If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed or the state-operated site was established.

~~E. F.~~ The commissioner shall not consider a proposed office location ~~may not be considered~~ if the proposed office location is within a ten-mile radius of ~~the an~~ existing office ~~that was~~ or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed or the state-operated site was established.

Subp. 5. **Other areas.** ~~In all other municipalities not included in subpart 3 or 4,~~ The conditions listed in ~~items A to E~~ this subpart must be met before a proposed office location is ~~approved~~ considered by the commissioner in all other municipalities not included in subpart 3 or 4.

A. The proposed office location must not be located within a 25-mile radius of an existing office; ~~except that:~~

~~(1) in municipalities having a population of 25,000 to 50,000, a maximum of two existing offices may be established and the proposed office location must not be located within a three-mile radius of an existing office in that municipality; and~~ or state-operated application site.

~~(2)~~

~~B.~~ The proposed office location must not be located in a municipality of less than 25,000 population if there is an existing office or state-operated application site in that municipality.

~~B. C.~~ The estimated number of applications that a proposed office location will process annually must be at least ~~1,250~~ 2,500 within two years after the establishment of the office. The number of applications must be estimated as follows:

(1) 20 percent of the applications processed within the preceding year by existing offices and state-operated application sites located within a ~~20-mile~~ 30-mile radius of the proposed office location; or

(2) if there is no existing office or state-operated application site located within a ~~20-mile~~ 30-mile radius of the proposed office location, ~~85~~ 25 percent of the population of the municipalities that are closer to the proposed office location than to other existing offices and state-operated application sites.

~~C. D.~~ The commissioner shall not consider a proposed office location ~~may not be established~~ if the use of the percentage of applications processed by an existing office or state-operated application site, to establish a proposed office, would reduce the number of transactions to less than:

- (1) ~~12,000~~ 24,000 for an existing office or state-operated application site located in an area under subpart 3;
- (2) ~~6,500~~ 13,000 for an existing office or state-operated application site located in an area under subpart 4; or
- (3) ~~1,250~~ 2,500 for an existing office or state-operated application site located in an area under this subpart.

~~D. E.~~ If a percentage of applications processed by an existing office or state-operated application site was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed or the state-operated site was established.

~~E. F.~~ The commissioner shall not consider a proposed office location ~~may not be considered~~ if the proposed office location is within a 30-mile radius of an existing office ~~that was~~ or state-operated application site established within the last two years. The two-year period starts from the date the agent was appointed.

Subp. 6. **Restriction on processing proposed office location.** When a request for a proposed office location is submitted to the commissioner, no other requests for a proposed office location ~~may be made~~ shall be considered for ~~that proposed office~~ any location or a location within a ~~25-mile~~ 30-mile radius of ~~that the~~ proposed office location until:

A. the commissioner ~~determines that the proposed office location does not meet the requirements of this part; or~~ either approves the proposed office location or all appeals associated with a disapproval have been resolved; and

B. the appointment of an agent for the approved office location under this chapter is completed.

7404.0305 ADDITIONAL OFFICE LOCATION CONSIDERATIONS.

Subpart 1. **Factors considered.** Before appointing an agent, the commissioner must approve a proposed location for an agent office. In addition to the information and conditions specified in part 7404.0300, the commissioner shall consider the factors described in this part when considering a proposed office location:

A. the accessibility of the office location to the public;

B. the cost to the state to audit, monitor, and train the agent and staff at the office; and

C. whether the office location will best serve the public convenience.

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Subp. 2. **Disapproval of proposed office location.** If a request for an office location is not approved, the commissioner shall notify the individual proposing the office location in writing and provide a statement of the reason for the disapproval. The statement must notify the individual that, within 30 days from the day the notice was mailed, the individual may appeal the disapproval to the Office of Administrative Hearings for a contested case hearing under *Minnesota Statutes*, chapter 14, if a factor in subpart 1 was cited for disapproval and disapproval was not due to a failure to meet the distance or transaction requirements for office location.

7404.0307 OFFICE LOCATION PROPOSED BY COMMISSIONER.

Subpart 1. **Commissioner's initiative; criteria.** Part 7404.0300 notwithstanding, the commissioner may propose an office location to be overseen by a licensing agent. The office location may be proposed to:

- A. meet an emerging or demonstrated application site need;
- B. address an emerging or demonstrated population need; or
- C. improve public access or service delivery.

Subp. 2. **Notice.** When the commissioner proposes an office location, notice of the proposed office location must be made to existing licensing agents.

A. If the proposed office location complies with the distance and projected application numbers in part 7404.0300, the commissioner shall publish notice of the proposed office location once in a qualified newspaper in the county where the proposed office is located. The notice must specify the:

- (1) site of the proposed office;
- (2) commissioner's intent to appoint an agent at that location and request applications;
- (3) responsibility of the agent to accept applications;
- (4) commissioner's authority under statute and rule to make the appointment;
- (5) name, address, telephone and facsimile numbers, and e-mail address of the individual to contact about the appointment; and
- (6) deadline, at least 14 days after the date the notice appears, for submitting the application to the commissioner.

B. The process for appointing an agent at the proposed office location shall follow the applicable procedures in parts 7404.0360 and 7404.0370.

C. If the commissioner's proposed office location is within the distances specified in part 7404.0300 from an existing licensing agent's office, the commissioner shall:

- (1) notify each existing licensing agent with an approved office within the distance radius that the commissioner has proposed to accept applications at the proposed office location; and
- (2) request the existing licensing agent to either operate the new office location or move to the site.

D. If more than one existing licensing agent is within the distance radius of the commissioner's proposed office location, the commissioner shall consider appointment of a licensing agent in order of the agent office closest to the proposed location.

E. If all agents within the distance radius decline the appointment to operate the new office location, then the commissioner shall proceed to appoint an agent for the office following the procedures in item A.

F. Nothing in this part prevents a state-operated application site from opening at a location for public convenience or the efficient and effective delivery of state services.

7404.0310 EXCEPTIONS.

Subpart 1. **One agent per county bureau.** Pursuant to *Minnesota Statutes*, sections 373.33 and 373.35, if the county board appoints designates the county license bureau director as a licensing agent, the license bureau director is responsible for all bureau sites where applications are accepted in the county. Each bureau site where applications are accepted must meet the criteria for establishment of an office as specified in part 7404.0300.

Subp. 2. **Low-volume existing office; county board decision.** Notwithstanding part 7404.0300, an agent may be appointed at an existing office location that upon the death, resignation, discontinuance, or retirement of an existing agent whose office does not comply with the application numbers for the establishment of an office specified in part 7404.0300, plus or minus two percent of the average application numbers in the preceding three years, only if:

A. the county board notifies the commissioner within one week of after the next regularly scheduled county board meeting or within 60 days after the death, resignation, discontinuance, or retirement of the existing agent, that the county board wants to reappoint designate an agent for appointment by the commissioner and maintain that existing office location;

B. the county board appoints designates a new agent for appointment by the commissioner and verifies to the commissioner that the individual meets the requirements for an agent specified in part 7404.0360 within 90 60 days from the time the notice was given to the state in item A vacancy occurred;

- C. there is not another existing office or state-operated application site located within the distances specified in part 7404.0300; and
- D. the county board or the new agent agrees to procure and maintain;

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- (1) the photo identification ~~and~~ equipment, unless the office was in existence on January 1, 2000;
- (2) the vision-testing equipment unless the office was in existence before January 5, 1999; and
- (3) any other equipment or inventory necessary to process applications.

Subp. 3. **Low-volume location; commissioner's appointment.** If the county board declines to ~~reappoint~~ designate an agent for appointment by the commissioner at the existing low-volume location described in subpart 2, the appointment of the agent and all state-provided inventory and equipment reverts to the commissioner.

A. The commissioner shall decide whether to appoint another agent at the existing low-volume office within six months after notice by the county board that it will not ~~appoint~~ designate another agent ~~or that an agent was not appointed within the deadline specified, whichever date comes first~~ for appointment by the commissioner.

B. The commissioner shall appoint an agent at the existing office with a low application volume and procure and maintain the photo identification ~~and~~, vision-testing equipment, and any other equipment or inventory necessary to process applications for the site only if the office is not in a metropolitan county and there is not another application site, including state-operated application sites, within 35 miles of the existing low-volume office.

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

7404.0330 MOVE OF EXISTING OFFICE LOCATION.

Subpart 1. **In general.** A move of an existing office must meet the requirements of part ~~7406.0300~~ 7404.0300, be within the same county, and be approved by the commissioner before the move. This part does not apply to the location of state-operated application or examination sites.

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

7404.0340 DEPUTY REGISTRAR AS LIMITED LICENSING AGENT.

Subpart 1. **Deputy registrar as limited licensing agent.** Notwithstanding part 7404.0300, as of the effective date of this part, all deputy registrars appointed by the commissioner under chapter 7406 and *Minnesota Statutes*, section 168.33, must also be appointed by the commissioner to assume the duties of a limited licensing agent as specified in this part.

Subp. 2. **Limited licensing agent.** A limited licensing agent shall accept applications only for a duplicate driver's license or duplicate Minnesota identification card.

A. The duties of a limited licensing agent must not require the use of equipment to capture the image or signature or to test the vision of an applicant.

B. A limited licensing agent shall accept an application for a duplicate driver's license or duplicate state identification card if:

- (1) the state document is lost, stolen, destroyed, illegible, or mutilated beyond recognition during the period of validation; or
- (2) the applicant is required to change the residence address on the state-issued document.

C. The procedures in part 7410.0450 for issuance of a duplicate driver's license or duplicate identification card apply.

D. The applicant's digital image and signature must be on file with the department and the technology to retrieve that information must be available at the application site.

E. No information on file with the department, except the applicant's residence address, may be changed when applying for a duplicate document under this part.

Subp. 3. **Designation of individual as agent.** Only an individual may be appointed as the limited licensing agent. If the deputy registrar is a corporation, the individual must be the corporate officer who executed the certificate of appointment under part 7406.0370, subpart 2.

Subp. 4. **Training.** The limited licensing agent must complete initial and ongoing training provided by the commissioner pertinent to the limited licensing agent's duties.

Subp. 5. **Financial responsibility.** A deputy registrar acting as a limited licensing agent shall pay all taxes and fees due and owed the state for applications made under this part.

7404.0345 DEPUTY REGISTRAR AS LICENSING AGENT.

Part 7404.0300 notwithstanding, as of the effective date of this part a deputy registrar appointed under chapter 7406 may apply to the commissioner for appointment also as a licensing agent under this chapter.

A. The applicant must be an individual and the office must meet the requirements specified in this chapter.

B. The appointment must be for licensing agent application duties that are not limited.

C. Any deputy registrar who is not a licensing agent as of the effective date of this part and who applies to be a licensing agent must complete initial and ongoing licensing agent training.

D. If the deputy registrar is not currently also an appointed licensing agent with image- and signature-capture and vision-testing equipment, the agent shall obtain the equipment necessary to accept and process applications from vendors approved by the commissioner.

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7404.0350 AGENT APPOINTED BY APPOINTMENT PROCEDURE; REFERRAL TO COUNTY; COMMISSIONER'S APPROVAL BOARD.

Subpart 1. **In general.** ~~Upon request by an individual that has met the office location requirements under part 7404.0300~~ When the commissioner approves a proposed office location, the commissioner shall begin the appointment process for ~~an~~ the approved office location.

A. The request for appointment must be referred by the commissioner first to the county board in the same county as the approved office location.

B. ~~The county board shall choose one of the options listed in subpart 2 regarding the appointment~~ This part does not apply to the move of an existing office.

Subp. 2. **County board appointment.** ~~When the commissioner refers the appointment of an agent to the county board in the county in which the approved office location is located~~ to the county board, the county board shall choose one of the options listed in items A to D ~~C.~~ The county board shall:

A. ~~appoint an employee or equivalent officer of the county to operate the approved office location and serve as the agent; If the county board has established a county licensing bureau under Minnesota Statutes, sections 373.33 to 373.38, the county board shall designate the director of the bureau to be appointed by the commissioner as the agent or, if the bureau director is already an agent, make the bureau director responsible for the administration of the approved office location.~~

B. ~~appoint~~ If the approved office location is a county-administered office but is not a county licensing bureau, the county board shall designate an employee or equivalent officer of a statutory or home rule charter city within the county to operate the approved office location and serve as the agent; be appointed by the commissioner.

C. ~~appoint any other individual to operate the approved office location and serve as the agent; or~~

~~D.~~ The county board shall decline to appoint designate an individual for appointment as an agent.

Subp. 3. **Notice to commissioner required.** ~~The county board shall notify the commissioner, in writing, of the option chosen under subpart 2 regarding the appointment of an agent for an approved office location. The notice must be received by the commissioner within 30 60 days of referral to the county board of the request for appointment of an individual as an agent and approval of an office location by the commissioner.~~

Subp. 4. **Failure to notify commissioner; consequences.** ~~If the county board declines to appoint an agent or fails to notify the commissioner within 30 60 days of referral of the request for appointment to the county board, the appointment of the agent must then be considered by the commissioner under part 7404.0360.~~

Subp. 5. See repealer.

Subp. 6. See repealer.

Subp. 7. See repealer.

7404.0360 COMMISSIONER'S APPOINTMENT PROCEDURE.

Subpart 1. **In general.** ~~An agent appointment may only be made for an approved office location that qualifies under part 7404.0300. The appointment procedures in this part apply to appointments made by a county board with the approval of the commissioner, and to appointments made by the commissioner cannot be transferred to another individual without following the procedure in part 7404.0350 or this part.~~

A. ~~The commissioner shall appoint an agent designated by a county board, as specified in part 7404.0350, if the individual meets the criteria of subparts 3 to 6.~~

B. ~~If the county board does not designate an individual for appointment, or fails to provide timely notice to the commissioner under part 7404.0350, the commissioner shall consider appointment of an agent at the approved office location as specified in this part.~~

Subp. 1a. **Municipally administered office.** ~~If the approved office location is a municipally administered office, the commissioner may refer the request for appointment to the municipality's governing authority.~~

A. ~~If the commissioner refers the designation of a municipal employee or official to the municipality, the municipality's governing authority, within 30 days of the date of the referral, shall either:~~

~~(1) designate an employee or equivalent officer of the municipality to be appointed by the commissioner; or~~

~~(2) decline to designate an individual for appointment.~~

B. ~~The municipality's governing authority shall notify the commissioner, in writing, of the option chosen under item A within 30 days of referral to the municipality.~~

C. ~~If the municipality's governing authority declines to designate an individual for appointment by the commissioner as an agent or fails to notify the commissioner of the municipality's chosen option under this subpart within 30 days of referral to the municipality, the commissioner shall consider the appointment of the agent under this part.~~

D. ~~When designating an individual for appointment, the municipality's governing authority shall follow the procedures in subparts 3 to 6.~~

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E. ~~The commissioner shall appoint the designee when the municipality's governing authority verifies to the commissioner that the individual meets the qualifications for an agent specified in subparts 3 to 6.~~

Subp. 2. **Publication of vacancy notice.** ~~After approval of an office location under part 7404.0300; If a county or municipal employee is not appointed, the commissioner shall publish notice of the agent vacancy for the approved office location must be published for two successive weeks in a qualified newspaper in the county where the approved office location is located.~~

A. ~~For an appointment being made by a county board with the approval of the commissioner; The notice must be published by the county board within 30 days after the date the county board notified the commissioner that the county board intends to make an appointment under part 7404.0350, subpart 2 once in a qualified newspaper in the county where the approved office location is located.~~

B. ~~For an appointment being made by the commissioner; The notice must be published within 30 days after notice of refusal of the county board to appoint an agent is received by the commissioner or the municipality declines to designate an individual for appointment or 30 days after the deadline for the county board or the municipality to respond to a referral for appointment of an individual to an approved office location the commissioner.~~

C. The notice of agent vacancy must specify the:

- (1) approved office location;
- (2) ~~county board's or~~ commissioner's intent to appoint an agent at that location;

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

(6) ~~deadline for submission of a request for appointment, which must be received by the entity publishing the notice no later than 4:30 p.m. on the deadline date via United States mail, facsimile transmission, or E-mail communication submitting the application to the commissioner, which must be 14 days after the date the notice appears.~~

Subp. 3. **Request for Appointment application.** ~~A request for appointment as an agent must be submitted by the individual seeking appointment The individual seeking appointment shall submit an appointment application to the entity publishing the notice for appointment commissioner in a paper, electronic, or other format as prescribed by the commissioner. The request application must specify:~~

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

C. whether the individual owns or is a partner, officer, or five-percent shareholder in an entity that:

- (1) operates a driver training program or driver improvement clinic; or
- (2) sells vehicle insurance;

D. the address of the ~~proposed~~ approved office location;

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

H. ~~whether the individual owes any delinquent taxes, penalties, or interest;~~

I. ~~whether the individual is currently the subject of bankruptcy proceedings;~~

F. ~~I. a certified copy of the individual's criminal history and, if the individual is a nonresident or if the individual has resided in Minnesota for less than five years, including a certified copy of a criminal records check of the national criminal records repository including the criminal justice data communications network; and~~

J. ~~K.~~ the signature of the individual verifying that the information on the application is true. The signature must be notarized.

Subp. 4. **Age of agent.** The agent ~~and the manager at each office~~ must be 18 years of age or older.

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

Subp. 6. **Change in agent application conditions.** An agent shall report to the commissioner changes or anticipated changes of the information in subpart 3.

A. The changes must be reported ~~to the commissioner within~~ ten calendar days ~~of before~~ the date the change is to occur or within ten calendar days of the the date the agent learns the changes will occur, whichever occurs first.

B. ~~Changes are subject to approval by the commissioner.~~

C. ~~A change may be is~~ cause for discontinuance of an appointment if the change violates this chapter or *Minnesota Statutes*, section ~~161.061~~ 171.061.

Subp. 7. **Reasons to deny agent appointment.** An agent appointment must be denied for any of the reasons listed in this subpart.

A. The ~~request for~~ appointment application or an item filed with the ~~request for~~ appointment application does not meet the requirements of subpart 3.

B. The individual ~~requesting an appointment applying~~ is a partner, officer, or fivepercent or greater shareholder in an entity that:

- (1) operates a driver ~~education, driver~~ training program, or driver improvement clinic; or
- (2) sells vehicle insurance.

C. ~~The individual has been convicted of a felony.~~

D. ~~The individual has been convicted of a crime in Minnesota or in another jurisdiction that, if committed in Minnesota, would be a violation of a Minnesota statute of the following type:~~

- (1) ~~affecting~~ affects a public officer or employee;

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- (2) ~~is~~ theft or a related crime;
- (3) ~~is~~ forgery or a related crime; or
- (4) ~~directly relating~~ is reasonably related to the position of an agent.

E. ~~D.~~ The ~~proposed~~ office ~~location~~ does not meet the requirements under part ~~7404.0300~~ or 7404.0400 and a variance has not been granted by the commissioner.

F. ~~E.~~ The commissioner of revenue notifies the commissioner, or the commissioner has sufficient cause to believe, that the individual owes delinquent taxes, penalties, or interest.

G. ~~F.~~ The individual is in the midst of bankruptcy proceedings.

H. ~~G.~~ The individual's request application for appointment is incomplete or contains a statement that is false, misleading, fraudulent, or otherwise constitutes misrepresentation.

7404.0370 APPOINTMENT OF AGENT.

Subpart 1. **In general.** An appointment must be based on information contained in the ~~request for~~ appointment application, an interview, an inspection of the ~~proposed~~ office ~~location~~ or review of a floor plan for compliance with ~~this chapter part 7404.0400~~, and other relevant information or documentation.

A. The individual must possess, and ensure that all employees of the agent who have contact with the public possess, communication and customer service skills.

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

C. The individual must indicate a willingness to successfully complete initial and annual training provided by the commissioner as specified in part 7404.0500, subpart 1a.

Subp. 2. **Certificate of appointment.** The commissioner shall execute and sign a certificate of appointment that specifies the individual appointed as an agent, the ~~location of the~~ approved office location, and the responsibility of the agent to accept applications.

A. The certificate of appointment must be signed by the individual appointed.

B. When an appointment is made by the ~~county board with the approval of the~~ commissioner of an individual designated by the county board or a municipal authority, the certificate must also be signed by the authorized representative of the county board or municipal authority.

C. The commissioner shall cancel a certificate of appointment if the appointed agent fails to provide an operational office that meets the requirements of this chapter within 12 months of the date of the initial appointment by the commissioner.

Subp. 3. **Bond.** If an agent appointed under this chapter is not an officer or employee of a county or ~~statutory or home rule charter city municipality~~, the agent shall give a surety bond to the state to cover the application receipts accepted on behalf of the commissioner, and equipment and inventory provided and maintained by the commissioner.

A. The bond must be conditioned upon the faithful discharge of duties as an agent.

B. If an agent is also a deputy registrar or a ~~registrar for the Minnesota Department of Natural Resources~~, the bond must be in addition to the bond required to be held to cover the deputy registrar vehicle title and registration or Department of Natural Resources transactions.

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

E. For an initial appointment, the bond shall be adjusted after the first 24 months of office operation.

F. The continuous bond must be adjusted every five years, starting with the date of initial issuance for an existing office, or starting with the date after the 24-month adjustment for a new office, to reflect the total annual application receipt amount and inventory value of the previous calendar year.

Subp. 4. **Change in agent designated by county or municipality.** An agent designated by a county board shall notify the county board and commissioner, in writing, no less than 30 days before the agent resigns, retires, or discontinues service. If the office is vacated upon the death or discontinuance of the agent, an official authorized by the county board or municipality must notify the commissioner within ten days of the vacancy.

Subp. 5. **Transfer of appointment.** An agent appointment may not be transferred to another individual or office without the approval of the commissioner.

7404.0400 AGENT OFFICE REQUIREMENTS.

Subpart 1. **In general.** ~~A proposed~~ An approved office location must comply with this part.

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

B. An existing agent ~~subject to reappointment by January 1, 1999~~, must have an office that complies with this part. ~~However a variance may be granted under subpart 2 from compliance with subpart 8.~~

Subp. 2. **Variance.** An existing agent ~~subject to appointment by January 1, 1999~~, may apply to the commissioner for a variance from compliance with subpart 8 ~~within six months of January 1, 1999~~ 5, if compliance constitutes a substantial hardship.

A. The agent may apply for a variance to the commissioner. The commissioner shall consider the following factors when reviewing the

variance request:

- (1) why the office does not meet the requirements ~~of subpart 8~~;
- (2) the options available to the agent to bring the office into compliance ~~with subpart 8~~;
- (3) the financial cost for meeting the options ~~listed in item B~~, estimated with reasonable efforts; and
- (4) other information requested by the commissioner or supplied by the agent.

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

Subp. 3. **Area for applications.** An agent:

A. must have an office that contains a separate and distinct area used exclusively for taking, processing, and storing ~~completed~~ applications;

B. may not use the application area for living space or for transacting any other business, except that a deputy registrar authorized by the commissioner may process vehicle title and registration transactions, Department of Natural Resources transactions, and additional county transactions as specified under *Minnesota Statutes*, section 373.33; ~~and~~

C. must install a counter or divider within the application area to separate the public from the secure application review and processing areas of the office; and

D. must position the application equipment so the applicant can review and verify in a private manner that the application information is correct.

Subp. 4. **Inventory and equipment.** Inventory and equipment must be maintained in a secure manner ~~so it is not accessible to the public either during or and~~ after business hours.

A. The agent shall procure and maintain a secure dedicated telephone line as specified by the commissioner for the transmission of license application data at each office site.

B. ~~An Any agent who does not, as of appointed after January 5, 1999, have dedicated vision-testing equipment provided by the commissioner, shall procure or lease and maintain at least one dedicated vision-testing machine per office from a vendor specified by the department commissioner. The agent is responsible for the maintenance of the vision-testing equipment in the agent's office.~~

C. ~~Pursuant to Minnesota Statutes, section 171.061, subdivision 4, paragraph (b), an agent appointed before January 1, 1999, who does not have photo identification equipment provided by the department and any new agent appointed after December 31, 1998, Any agent establishing an office that did not exist as of January 1, 2000, shall procure or lease, and maintain, photo identification equipment from a vendor specified by the department commissioner. This equipment includes a dedicated computer and all software and security features provided by the vendor, and signature-capture equipment.~~

D. For an agent appointed ~~before as of January 1, 1999~~ 2000, who has photo identification and signature-capture equipment provided by the ~~department commissioner~~, the ~~department commissioner~~ shall continue to provide and maintain the equipment.

E. ~~If the photo identification equipment or inventory is being provided and or maintained by the department commissioner at a county license bureau, county office, or municipal an existing office under Minnesota Statutes, section 171.061, subdivision 4, paragraph (b), and the agent dies, retires, or discontinues service, the equipment and inventory must revert to the department commissioner unless:~~

~~(1) the county board notifies the commissioner within one week after the next scheduled board meeting that the county board wants to maintain the office and reappoint an agent;~~

~~(2) within 90 days of the date of the notice in subitem (1), the county board appoints another agent for the office; and~~

~~(3) the office location or locations comply with the criteria for establishment of an office for a driver licensing agent in part 7404.0300 an agent is appointed to the existing office by the commissioner under parts 7404.0350 and 7404.0360. All offices operated by a county licensing bureau, county, or municipality, with the commissioner's written permission, may retain the equipment and remain in operation during the appointment process.~~

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

G. Where photo identification or vision-testing equipment provided by the ~~department commissioner~~ reverts back to the ~~department commissioner~~, the equipment must be distributed according to subitems (1) and (2).

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

H. The agent must be able to communicate electronically with the department using methods such as e-mail, instant messaging, or text messaging.

Subp. 5. **Size of office area.** The size of the office area includes the application area, the public service area, and the inventory storage area ~~of the office~~.

A. The size of the office area must contain a minimum of ~~100~~ 300 square feet of which no less than 100 square feet shall be dedicated as the public service area.

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

C. The agent office must be separate and distinct from any other business.

D. The office of a licensing agent that is also a deputy registrar office must contain no less than 500 square feet.

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

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Subp. 8. **Conflicting interests.** An agent may not be employed by, own, or have a financial interest as a partner, officer, or five percent shareholder in, an entity that sells vehicle insurance; or operates a driver education, driver training, program or driver improvement clinic.
[For text of items A to C, see M.R.]

7404.0450 REPORTING AND DEPOSITING PRACTICES.

Subpart 1. **Reporting applications; fees.** ~~An agent must report to the commissioner, on forms or electronically as prescribed by the commissioner, A summary report of the applications collected and all application and reinstatement fees due and owed the state must be transmitted by the agent to the commissioner each day the agent's office is open to the public, before the end of the next working day, in an electronic format or other means approved by the commissioner.~~

A. The ~~summary~~ report must contain:

(1) ~~indicate~~ the applicant's full name; and date of birth, or ~~state the applicant's Minnesota driver's license, permit, or state identification card number;~~

(2) ~~specify~~ the type of application;

(3) ~~list~~ the application and reinstatement fees collected; and

(4) ~~include~~ the completed applications and required information as specified by the commissioner; and

(5) a

B. ~~The report to the commissioner showing must contain a financial statement listing the total amount of application and reinstatement fees collected and deposited under subpart subparts 2 and 2a.~~

~~B. On the summary report submitted to the commissioner, the agent shall specify The day financial statement must provide the applications were made and fees collected and the date and office location where the fees were deposited in the state depository or by other approved method identification number, report number, report date, and total amount of the deposit for that report.~~

C. ~~The agent shall provide the validated bank deposit slip or other written verification by the bank of the time of deposit. The report must be transmitted or delivered to the commissioner, before the end of the next working day following the collection of any applications or fees, by electronic transfer or other alternative means approved by the commissioner.~~

D. All applications ~~taken~~ and fees collected in an agent's office must be included ~~with on~~ the summary report for the day the applications and fees were ~~taken at~~ collected in the office.

E. A minimum of one summary report must be completed for all applications ~~taken~~ and fees collected during a each working day.

F. More than one ~~summary~~ report may be submitted for ~~one~~ a working day with prior approval from the commissioner.

G. If an ~~agent agent's office~~ does not ~~take collect~~ any applications or fees on a working day the office is scheduled to be open, a ~~summary~~ report must still be filed with the commissioner indicating that no applications or fees were ~~taken collected~~ that day.

H. ~~The agent shall transmit the summary report to the commissioner before the end of the next working day following the receipt of the applications and application fees by Supporting documents for applications listed on the report must be delivered electronically or by other means approved by the commissioner such as:~~

[For text of subitems (1) to (5), see M.R.]

~~I. If the United States mail is used to transmit the summary report to the commissioner, the date of transmission by United States mail is the actual day on which the delivery is deposited in a United States mail receptacle, regardless of whether the date is the same as the date the summary report is postmarked.~~

Subp. 2. **Depositing application fees.** Before the end of each working day, ~~an each~~ agent shall deposit an amount equal to the total of all application and reinstatement fees collected the previous working day, excluding the filing fees collected under *Minnesota Statutes*, section 171.061, subdivision 4.

A. The agent shall make all deposits ~~in approved state depositories to the credit of the state according to the requirements in subpart 2a.~~

B. ~~The date of deposit is the actual day on which the deposit is made regardless of whether that date is the same as the date the deposit is recorded by the state depository. The amount listed for the total of all application and reinstatement fees collected must cover any shortages for any applications processed and stamped as paid.~~

C. ~~Deposit may be made by any method acceptable to the state depository, including wire transfer.~~

Subp. 2a. **Reporting deposits to commissioner.** ~~On the date the deposit of fees is due, the agent shall ensure that a financial statement of the deposits made is reported to the commissioner according to the procedures and in a format as specified in this part.~~

A. All deposits must be made in a depository that meets the requirements in this subpart.

B. The depository must be authorized by the agent to allow the state to electronically withdraw funds from the agent's account in an amount equal to the application and reinstatement fees reported to the state.

C. Any depository used for the deposit of fees due and owed the state must either:

(1) be a state-designated depository; or

(2) meet the depository and collateral requirements in *Minnesota Statutes*, section 9.031.

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D. Any funds collected on a working day in excess of the total fees listed on the report, minus filing fees and imprest cash, must be deposited as application or reinstatement fees.

Subp. 2b. **Reconciling reported excesses.** If any agent documents the need for a refund of a reported payment of excess funds, the commissioner shall refund or credit the reported excess funds if the submitted documentation substantiates the reported excess.

Subp. 3. **Maintaining records.** At the agent's office, the agent shall keep complete records for deposits made to approved state depositories and the daily ~~summary~~ reports prepared under subpart 1.

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

C. The application, ~~any attached documents, and the information and summary report information~~ contained on the application or documents may not be released by the agent without prior approval from the commissioner, except when authorized by statute for law enforcement personnel and by court order.

Subp. 3a. **Destroying private or confidential data.** Use, storage, or destruction of any media with private or confidential information must be done in such a way that the information is irretrievable and cannot be revealed to anyone not entitled to see it.

Subp. 4. **Late payment charge Warning notice.** On discovering a violation of ~~the depositing requirements specified in~~ subpart 2 or 2a, the commissioner shall send a warning notice, by certified mail, to the agent warning of the violation.

A. The warning notice must identify the violation and tell the agent that if the agent violates the depositing requirements in subpart 2 or 2a again in the following calendar month within 180 days of the date on the notice, a late payment charge will be imposed.

B.

Subp. 4a. **Late payment charge; calculation.** ~~For each calendar month immediately following a month for which the agent receives a notice or is issued a late payment charge, in which the agent violates subsequent violation of subpart 2 again or 2a, the commissioner shall impose a late payment charge of \$30 or an amount computed by the following formula, whichever is greater:~~

A. The number of calendar days for which payment is late begins on the date on the late payment charge notice. The late payment notice must be issued by certified mail and contain the information specified in subpart 5.

(1)

B. Calendar days late x delinquent amount x daily rate = late payment charge, where:

(a)

(1) calendar days late = actual number of calendar days each deposit is delinquent;

(b)

(2) delinquent amount = actual amount each deposit is delinquent; and

(c)

(3) daily rate = interest on all state funds without authority to be invested separately, as determined by the Minnesota Department of Finance, for the month the deposit was due, divided by 365 days.

(2)

C. In determining the number of calendar days a deposit or report is late, weekends and holidays ~~are~~ shall be included only if the deposit is determined by the commissioner to be already at least two calendar days late.

(3)

D. The commissioner shall continue to impose monthly late payment charges until the agent no longer is in violation of this part.

Subp. 5. **Notice of late payment charge.** ~~The commissioner shall send a written late payment charge notice of a late payment charge to the agent by certified mail; must:~~

A. ~~The notice must~~ identify the violations of subparts 2 and 2a and Minnesota Statutes, section 171.061 for which the late payment charge is imposed; ~~and~~

B. ~~The notice must also~~ inform the agent when the late payment charge is due, how the late payment charge must be paid, and how to obtain a review of the late payment charge.

Subp. 6. **Unpaid late payment charges.** If a late payment charge remains unpaid for 30 days from the date the commissioner mailed the notice of late payment charge and if no review is requested, the commissioner shall make a claim for payment against the agent's bond, or in the case of a public official or employee serving as an agent, the commissioner shall demand payment from the county treasurer or municipality.

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

7404.0475 AUDIT.

Subpart 1. **Biennial audit.** At the request of the commissioner, an agent shall make available for audit, for each office of an agent, all applications and fees due and owed the commissioner and records for all applications occurring during the state's biennial fiscal cycle. If the commissioner has reasonable cause to believe another audit is necessary in addition to the biennial audit, the commissioner may order that another audit be conducted at cost to the agent to address areas of the agent's biennial audit in which the commissioner was not able to determine compliance.

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Subp. 2. Scope of audit. The audit must cover the application and reinstatement fees collected by the agent for the previous two years. The audit report must include:

- A. the auditor's opinion as described in subpart 3;
- B. a report on internal controls as described in subpart 4;
- C. a verification of imprest cash as required by subpart 5;
- D. any material weakness as described in subpart 6;
- E. a response to the auditor's report by the agent; and
- F. other information as noted by the auditor.

Subp. 3. Auditor's opinion; compliance and corrective action; administrative sanctions. The auditor's opinion must describe areas of compliance, noncompliance, and corrective action and show a timetable for corrective action. Failure to undertake corrective action or to meet timelines is cause for subsequent administrative action, including suspension or revocation.

Subp. 4. Internal controls. The internal controls are the internal procedures of the agent designed to ensure compliance with the reporting and depositing requirements of this chapter. The audit of internal controls must assess whether:

- A. applications have been properly recorded and accounted for;
- B. reliable state reports have been prepared; and
- C. control measures are in place that assure that accountability over all application and reinstatement fees is maintained by the agent.

Subp. 5. Verify imprest cash. The audit must include a verification of the proper use of imprest cash as specified in part 7404.0500, subpart 8, and report any discrepancies.

Subp. 6. Material weakness. The audit report must state whether any material weaknesses were detected. Material weaknesses include:

- A. inadequate safeguarding of state inventory, fees, or other state assets;
- B. repeated overages or shortages;
- C. delinquent fees or reports due to the state;
- D. failure to maintain proper reports and records;
- E. material underreporting or overreporting of application or reinstatement fees;
- F. failure to report the loss of equipment, inventory, or fees due and owed the state; and
- G. inattention to or lack of correction to previously reported material weaknesses.

7404.0500 GENERAL OPERATING PRACTICES.

Subpart 1. Management of office. An agent shall manage the agent's office according to this part.

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

C. The manager must be an individual who is at least 18 years of age, actively participates in the acceptance of applications, and who is in the office on a full-time basis.

D. The manager shall act as a liaison between the commissioner and the agent's office to discuss and address problems or questions that may arise on a daily basis.

E. The agent shall ensure that only authorized employees of the agent have access to data on the application, supporting documents, and state records that are not public data. The agent shall ensure that a record of the authorized employees is kept in the office records on site.

Subp. 1a. Training.

A. Each agent or the agent's designated representative shall complete annual training when provided by the commissioner and any additional training deemed necessary by the commissioner to accept or process applications.

B. Each agent shall ensure that any staff in the agent's office who accept or process applications are subsequently trained by the agent or the agent's designated representative.

C. A record of all training to accept and process applications completed by the agent and agent's staff must be maintained for three years by the agent in the agent's office.

Subp. 1b. Customer service policy. The licensing agent must have a customer service policy approved by the commissioner that is applicable to each office operated by the agent.

A. The policy must ensure that all staff who accept or process applications are properly trained and competent to perform their duties.

B. The agent shall ensure that the public is treated with courtesy, consideration, and respect and that the customer's property is treated with respect.

C. The agent shall ensure that the public is provided with complete, current, and accurate information.

D. The agent shall ensure that the applicant's personal and private information is protected.

E. If an investigation by the commissioner in response to a complaint indicates customer service training is necessary, the agent or the agent's designated representative shall complete customer service training provided by or approved by the commissioner. The agent shall

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ensure that any staff who accept or process applications are subsequently trained by the agent or the agent's representative. A record of the subsequent customer service training must be maintained on site and indicate the date of training and all individuals who completed the training.

F. Each office operated by the agent must have a system to receive, investigate, and resolve customer complaints.

(1) The agent must provide for a mechanism for customer comment or feedback about service.

(2) The office policy must indicate whom to contact within the office with a complaint.

(3) When requested, the customer must be provided with the address and telephone number of an individual at the Minnesota Department of Public Safety to contact with a complaint.

(4) The customer must be assured there will be no retaliation for making a complaint.

(5) The customer must be assured there will be a timely written response made by the agent about a written complaint, if a written response is requested by the complainant or the state.

(6) A record of each written complaint and the licensing agent's response to it must be maintained by the agent at the office location for at least three years.

Subp. 2. **Days and hours of operation.** An agent's office must be open to the public at least 40 hours each week.

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

B. At the time of appointment, the agent shall provide the commissioner:

(1) with an accurate written schedule of the days and hours the office is open to the public; and

(2) the time of the daily close of office records.

C. A written request for a change in ~~office~~ the days and hours the office is open to the public must be made to the commissioner at least ten calendar days before ~~a change in hours~~ the change is expected to occur.

D. The commissioner must approve changes in the days and hours the office is open to the public before the ~~hours become~~ change becomes effective.

E. The time of the daily close of office records may not be changed without prior written notice to the commissioner at least 15 calendar days before the effective date of the change.

Subp. 3. **Closure of office; variance procedure.** An office must be open for at least 40 hours each week unless the commissioner grants a variance to allow an office to be closed for a specified period of time.

A. To request a variance for closure of an office for two working days or more, the agent must submit a written request to the commissioner.

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

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

Subp. 5. **Application fees.** An agent shall charge and receive the full application fees specified by *Minnesota Statutes*, chapter 171.

A. Rebates are prohibited.

B. No application fee or filing fees may be charged for a document returned for a refund or correction due to an error made by the department or an agent.

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

Subp. 7. **Cash register.** A separate cash register or cash receptacle must be maintained for application funds.

A. No other funds from other activities may be kept with application funds, except funds from deputy registrar vehicle title and registration transactions, Department of Natural Resources transactions, ~~or~~ county license bureau transactions, or other county or municipal transactions approved by the commissioner.

B. The agent must be able to determine at all times which funds are attributable to agent applications, deputy registrar vehicle transactions, Department of Natural Resources transactions, ~~and~~ county license bureau transactions, and other approved transactions.

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

[For text of subps 8 to 10, see M.R.]

Subp. 11. **Displays.** An agent shall exhibit, as directed by the commissioner, any displays, notices, or other information relating to applications that are provided by the commissioner.

7404.0800 ACTIONS FOR FAILURE TO COMPLY WITH LAWS OR RULES.

The failure of an agent or employee of an agent to comply with applicable laws or rules governing the appointment of an agent and the operation of an office is cause for discontinuance of the agent appointment using the grounds specified for a deputy registrar under parts 7406.0900 to 7406.1000 and following the procedures specified in parts 7406.1100 to 7406.2600. The commissioner may issue a correction order according to the procedures in part 7406.1000. The grounds for discontinuance of an agent appointment or issuance of a correction order as specified in part 7406.1000 also include:

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

C. grounds for denial of an appointment under part 7404.0360, subpart 7; ~~and~~

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- D. failure to successfully complete training required by the commissioner;
- E. loss of an appointment as a deputy registrar under chapter 7406 or Minnesota Statutes, section 168.33;
- F. conviction for a felony; and
- G. allowing unauthorized persons access to records, files, or data.

7404.0900 INDEMNIFICATION.

The agent and any agency or employee of the agent shall hold the commissioner harmless from any and all claims or causes of action against the agent or any employee or agency of the agent, including all attorney fees incurred, arising from performance or actions not in accordance with this chapter, Minnesota Statutes, or written instruction from the commissioner.

REPEALER. Minnesota Rules, parts 7404.0300, subpart 2; and 7404.0350, subparts 5, 6, and 7, are repealed.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule. If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed. If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

KEY: Proposed Rules - 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** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Public Safety

Adopted Permanent Rules Relating to 911 Emergency Communication Systems

The rules proposed and published at *State Register*, Volume 31, Number 15, pages 493-497, October 9, 2006 (31 SR 493), are adopted with the following modifications:

1215.0200 DEFINITIONS.

Subp. 4a. **911 service provider.** "911 service provider" means a 911 emergency telecommunications service provider that provides selective routing and ALI database services.

1215.0800 DESIGN STANDARDS.

Subp. 6. **Default routing.** The commissioner shall determine the number of trunked circuits and the designated default PSAP for routing 911 calls from each service provider.

B. In determining the number of trunked circuits and in designating a primary default PSAP for a service provider, the commissioner shall:

(3) if a primary service area can be identified for a service provider, require the primary default PSAP to be the PSAP jurisdiction where the service provider's primary service area is located; ~~and~~

(4) consider whether additional default routing may be provided to a PSAP if:

(b) the service provider has a substantial number of customers within the PSAP's jurisdiction; ~~and~~

(5) consider the PSAP's ability to deal with default calls originating for another jurisdiction.

1215.0900 OPERATIONAL REQUIREMENTS.

Subp. 11. ALI database standards.

A. A service provider shall provide accurate data to the 911 automatic location identification database with no more than 0.5 percent of all calls received by the 911 network during any calendar year resulting in a no record found (NRF) condition.

(2) Adjustments to the number of NRF 911 calls attributed to a service provider during a calendar year must be made:

(b) for 911 calls received from a telephone installed less than ~~one~~ two full business ~~day~~ days, which includes each weekday except a legal holiday, following the date of installation;

(e) for 911 calls received from a location that was referred to the PSAP jurisdiction for addressing while the addressing request is unresolved; ~~and~~

(f) if a telephone number generating the NRF call has been transferred to another service provider or entity, based upon reference to the Number Portability Administration Center, in which case the incident must be reassigned and reported as a NRF call to the appropriate service provider; ~~and~~

(g) for one unadjusted NRF 911 call per 911 service provider where the service provider has less than 400 total 911 calls per 911 service provider during the measured calendar year.

(3) A service provider ~~shall submit a claim for an adjustment to a NRF 911 call to the 911 service provider as part of its resolution of the incident and~~ shall submit a written claim for any adjustments to the commissioner within 30 days of the incident.

B. Every 911 service provider ~~shall~~:

(1) ~~shall~~ maintain a written procedure defining the 911 service provider's procedure for identifying, reporting, and resolving incidents of NRF, which provides for the timely reporting of each incident and the details of the incident, including the trunk group and trunk the call was received upon if available, to the responsible service provider; ~~and~~

(2) shall report the following information to the commissioner for each service provider within 30 days of the end of each calendar year:

(c) when requested by the commissioner for each any designated NRF 911 call or group of NRF 911 call calls:

(iii) the basis for any adjustment requested by the service provider, if known to the 911 service provider; and

(3) who provides reports monthly to the commissioner throughout the calendar year, is not required to submit a year-end report.

Subp. 12. **ALI database records.** Each 911 service provider shall report annually, within 30 days of the end of each calendar year, to the commissioner the following information:

(2) the total number of records maintained in the ALI database for each service provider based upon the National Emergency Number Association (NENA) company identification; ~~and~~

(3) upon request, the number of records associated with each PSAP based upon emergency service number or other appropriate index for ~~each service provider based upon the~~ National Emergency Number Association (NENA) company identification. A 911 service provider who provides reports monthly to the commissioner is not required to submit a year-end report.

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Exempt Rules

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

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

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

KEY: Proposed Rules - 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** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Department of Labor and Industry Occupational Safety and Health Division

Proposed Exempt Permanent Rules Relating to Occupational Safety and Health; Adopting Federal Standards by Reference Proposed Revisions to the Occupational Safety and Health Standards and Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* §182.655. This notice proposes the adoption by reference of amendments to Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

All interested or affected persons have 30 days from the date this notice is published in the *State Register* to submit, in writing, data and views on the proposed amendments to the rule. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any proposed change. Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* §182.655 and *Minnesota Rules* 5210.0020 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307.

M. Scott Brenner, Commissioner
Department of Labor and Industry

SUMMARY OF CHANGES

The following is a brief summary of the proposed amendments. The list of federal standards being proposed for adoption follows this summary. To review the complete *Federal Register* notices referenced below, visit www.osha.gov.

(A) **"Updating National Consensus Standards in OSHA's Standard for Fire Protection in Shipyard Employment; direct final rule."** On October 17, 2006, federal OSHA published in the *Federal Register*, a direct final rule for shipyards that updates 11 of the 19 National Fire Protection Association (NFPA) standards which were incorporated by reference on September 15, 2004. The direct final rule stated that the updates would become effective at the federal level on January 16, 2007, unless significant adverse comment was received.

(B) **"Updating National Consensus Standards in OSHA's Standard for Fire Protection in Shipyard Employment; final rule; confirmation of effective date."** Federal OSHA did not receive significant adverse comment to the October 17, 2006, direct final rule. Therefore, a final rule and confirmation of effective date was published in the *Federal Register* on January 3, 2007.

Exempt Rules

By this notice, Minnesota OSHA proposes to adopt the direct final rule as published in the *Federal Register* on October 17, 2006, and the final rule and confirmation of effective date as published in the *Federal Register* on January 3, 2007.

(C) **“Electrical Standard; final rule.”** On February 14, 2007, federal OSHA published in the *Federal Register*, a final rule for its updated electrical installation standard. This revision will provide the first update of the installation requirements in the general industry electrical installation standard since 1981. The final rule focuses on safety in the design and installation of electrical equipment in the workplace. The updated standard includes a new alternative method for classifying and installing equipment in Class I hazardous locations; new requirements for ground-fault circuit interrupters (GFCIs); and new provisions on wiring for carnivals and similar installations.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on February 14, 2007.

Rules as Proposed (Revisor’s Copy)

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

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

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes as follows:

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

DD. *Federal Register*, Vol. 72, No. 30, pages 7136-7221, dated February 14, 2007: “Electrical Standard; final rule.”

Subp. 3. **Part 1915.** Part 1915: Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982; all changes made prior to December 31, 1986, which consolidated Part 1915 and Part 1916; technical amendments and redesignations published in Volume 58, No. 125, of the *Federal Register* on July 1, 1993; and additional changes as follows:

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

EE. *Federal Register*, Volume 71:

(1) *Federal Register*, Vol. 71, No. 39, pages 10110-10385, dated February 28, 2006: “Occupational Exposure to Hexavalent Chromium; final rule.”

(2) *Federal Register*, Vol. 71, No. 164, pages 50122-50192, dated August 24, 2006: “Assigned Protection Factors; Final Rule.”

(3) *Federal Register*, Vol. 71, No. 200, pages 60843-60847, dated October 17, 2006: “Updating National Consensus Standards in OSHA’s Standard for Fire Protection in Shipyard Employment; direct final rule.”

FF. *Federal Register*, Vol. 72, No. 1, pages 78, dated January 3, 2007: “Updating National Consensus Standards in OSHA’s Standard for Fire Protection in Shipyard Employment; final rule; confirmation of effective date.”

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

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Commissioners' Orders

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

Department of Natural Resources

Designation of Wildlife Management Areas

Order No. WMA 07-002

Pursuant to the provisions of *Minnesota Statutes*, section 97A.135, subdivision 1 and *Minnesota Statutes*, section 97A.145, subdivision 1, the following described lands that will be under the jurisdiction of the Minnesota Department of Natural Resources meet the criteria as being suited for wildlife management areas:

Dalbo Wildlife Management Area, Isanti County

The Southwest Quarter (SW1/4) of Section Five (5) and the South Half of the Southeast Quarter (S1/2SE1/4) and the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section Six (6), all in Township Thirty-seven (37) North, Range Twenty-five (25) West.

Warsaw Wildlife Management Area, Goodhue County

The Southwest Quarter of the Southwest Quarter (SW1/4SW1/4) of Section Eight (8), Township One Hundred Eleven (111) North, Range Eighteen (18) West.

Pelican Lake Wildlife Management Area, Wright County

The East Half of the Northeast Quarter (E1/2NE1/4) of Section Three (3), Township One Hundred Twenty (120) North, Range Twenty-five (25) West and the West Half of the Northwest Quarter (W1/2NW1/4) and the Northeast Quarter of the Northwest Quarter (NE1/4NW1/4) all in Section Two (2), Township One Hundred Twenty (120) North, Range Twenty-five (25) West, EXCEPTING therefrom that part of the Northwest Quarter of the Northwest Quarter, Section 2, Township 120, Range 25, described as follows:

Beginning at the northwest corner of said NW1/4NW1/4, thence South 00 degrees 41 minutes 23 seconds East, assumed bearing, along the west line of said NW1/4NW1/4, a distance of 564.80 feet; thence South 89 degrees 45 minutes 23 seconds East, a distance of 772.00 feet; thence North 00 degrees 41 minutes 23 seconds West, a distance of 565.00 feet to the north line of said NW1/4NW1/4; thence westerly along said north line to the point of beginning.

Carlos Avery Wildlife Management Area, Anoka County

The West Half of the Northwest Quarter (W1/2NW1/4), the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4), and the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4) of Section Twenty-five (25), Township Thirty-three (33) North, Range Twenty-two (22) West.

Swamp River Wildlife Management Area, Cook County

The Northeast Quarter of the Northeast Quarter (NE1/4NE1/4) of Section Twenty-eight (28), Township Sixty-three (63) North, Range Four (4) East.

High Forest Wildlife Management Area, Olmsted County

All that part of Tracts A and B described below:

Tract A: The Southwest Quarter of the Southwest Quarter (SW1/4SW1/4), Section Fifteen (15), Township One Hundred and Five (105) North, Range Fifteen (15) West;

Tract B: The Southeast Quarter of the Southwest Quarter (SE1/4SW1/4), Section Fifteen (15), Township One Hundred and Five (105) North, Range Fifteen (15) West; excepting therefrom that part described as follows: Beginning at a point on the south line of said Section 15, distant 1642.42 feet easterly of the southwest corner thereof; thence run northerly at right angles to said south line for 560 feet; thence deflect to the right at an angle of 90 degrees 00 minutes 00 seconds for 820 feet; thence deflect to the right at an angle of 90 degrees 00 minutes 00 seconds for 560 feet to said south line; thence westerly along said south line for 820 feet to the point of beginning.

Commissioners' Orders

excepting therefrom all that part which lies southerly of a line 100 feet northerly of and parallel with Line 1 described below:

Line 1: From a point on the north and south quarter line of Section 21, Township 105 North, Range 15 West, distant 16 feet south of the north quarter corner thereof, run easterly at an angle of 90 degrees 46 minutes with said north and south quarter line (measured from south to east) 2058.1 feet; thence deflect to the right on a 0 degree 15 minute curve (delta angle 2 degrees 52 minutes) for 500 feet to the point of beginning of the line to be described; thence continue along last described curve for 646.7 feet; thence on tangent to said curve for 874.4 feet; thence deflect to the left on a 0 degree 15 minute curve (delta angle 4 degrees 03 minutes) for 1620 feet and there terminating;

Also excepting therefrom all that part which lies southerly of Line 2, described below:

Line 2: Beginning at a point on a line 75 feet northerly of and parallel with Line 1 described above, distant 100 feet easterly of its intersection with a line run parallel with and distant 33 feet easterly of the west line of said Section 15; thence run northwesterly to a point on said 33 foot parallel line, distant 100 feet northerly of its intersection with said 75 foot parallel line; thence run westerly parallel with said Line 1 to the west line of said Section 15, and there terminating.

North Fork Wildlife Management Area, Stearns County

That part of the South Half of the Southeast Quarter (S1/2SE1/4) and the Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Section Twenty-three (23) and that part of the Southwest Quarter (SW1/4) of Section Twenty-four (24), and that part of the Northwest Quarter (NW1/4) of Section Twenty-five (25), and that part of the Northeast Quarter (NE1/4) of Section 26, Township One Hundred and Twenty-four (124) North, Range Thirty-five (35) West, Stearns County, Minnesota described as follows:

Commencing at the southwest corner of said S1/2SE1/4; thence North 00 degrees 11 minutes 27 seconds East, (assumed bearing) along the west line of said S1/2SE1/4 a distance of 242.94 feet to the point of beginning of the land to be described; thence continue North 00 degrees 11 minutes 27 seconds East, along said west line a distance of 227.29 feet; thence North 22 degrees 50 minutes 34 seconds East, a distance of 923.29 feet to the north line of said S1/2SE1/4; thence North 89 degrees 57 minutes 47 seconds East, along said north line a distance of 969.37 feet to the southwest corner of said NE1/4SE1/4; thence North 00 degrees 09 minutes 46 seconds East, along the west line of said NE1/4SE1/4 a distance of 447.34 feet; thence South 66 degrees 19 minutes 19 seconds East, a distance of 1054.78 feet; thence South 89 degrees 50 minutes 24 seconds East, a distance of 524.83 feet; thence South 89 degrees 29 minutes 40 seconds East, a distance of 463.31 feet; thence South 36 degrees 18 minutes 40 seconds East, a distance of 450.14 feet; thence South 35 degrees 44 minutes 34 seconds East, a distance of 543.41 feet; thence South 35 degrees 56 minutes 05 seconds East, a distance of 738.19 feet to the northerly right of way line of the Stearns CountyCity of St. Cloud Rail Authority Corridor; thence South 49 degrees 06 minutes 39 seconds West, along said right of way line a distance of 2316.74 feet; thence North 00 degrees 09 minutes 17 seconds West, a distance of 880.27 feet; thence North 58 degrees 26 minutes 52 seconds West, a distance of 323.22 feet; thence North 57 degrees 20 minutes 17 seconds West, a distance of 517.42 feet; thence North 67 degrees 55 minutes 45 seconds West, a distance of 360.01 feet; thence North 67 degrees 03 minutes 28 seconds West, a distance of 420.65 feet; thence North 80 degrees 10 minutes 29 seconds West, a distance of 1131.97 feet to the point of beginning.

Four Corners WMA, Martin County

The Southeast Quarter of the Northwest Quarter (SE1/4NW1/4); the Southwest fractional Quarter of the Northwest Quarter (SW FR1/4 NW1/4), also known as Government Lot Seven (7); Government Lot Four (4); and Government Lot Eight (8), all in Section Thirty-One (31), Township One Hundred and Three (103) North, Range Thirty-two (32) West.

All that part of Sections 30 and 31, Township 103 North, Range 32 West, bounded by lines as follows:

Beginning Six chains and Six links North 70 degrees 21 minutes East of meander corner Seven; run thence North 14 degrees, 19 minutes West, 14 chains, 93 links; thence North 0 degrees, 10 minutes West, 4 chains, 72 links; thence South 87 degrees, 5 minutes East, 17 chains, 19.7 links; thence South 0 degrees, 4 and 1/2 minutes West, 6 chains, 88.5 links; thence South 60 degrees, 20 minutes East, 22 chains, 19.2 links; thence South 0 degrees, 52 minutes East, no chains, 3 and 1/2 links; thence South 34 degrees, 6 minutes West, 1 Chain, 9.3 links; thence South 72 degrees, 6 minutes West, 10 chains, 29.7 links; thence North 29 degrees, 24 minutes West, 7 chains, 2.2 links; thence North 48 degrees, 24 minutes West, 4 chains, 68 links; thence

Commissioners' Orders

South 70 degrees, 21 minutes West, 16 chains, 43.3 links to the place of beginning, containing 36.34 acres of land; the said tract of land being also known and designated as Tract "D" of the Subdivision of McGown's Lake, according to the original survey and plat thereof on file in the office of the Clerk of the District Court in and for Martin County Minnesota, a certified copy of which plat was filed in the office of the Register of Deeds in and for said County and State on December 5, 1935, and recorded in Book 12 of Miscellaneous Records on Page 459.

All that part of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of Section 31, Township 103 North, Range 32 West, bounded by lines as follows:

Beginning at the meander corner of Range Line 15 chains, 96.2 links South of the Northwest corner of Section 31 aforesaid; running thence North on Range Line 11 chains, 70.3 links to an iron stake; thence North 89 degrees, 10 minutes East, 3 chains, 22.7 links; thence South 14 degrees, 19 minutes East 10 chains and 1/2 link; thence South 70 degrees 16 minutes West, 6 chains and 6 links to place of beginning, containing 4.91 acres of land.

All that part of Sections 30 and 31, Township 103 North, Range 32 West, bounded by lines as follows:

Beginning at the Southwest corner of said Section 30, running thence North 5 chains, 37 links; thence South 87 degrees, 5 minutes East, 2 chains; thence South 0 degrees, 10 minutes East, 4 chains, 72 links; thence South 14 degrees, 19 minutes East, 4 chains, 92.5 links to a stone monument in the center of the public highway as now traveled; thence Westerly along the center line of said highway 3 chains, 22.7 links to an iron stake on Range Line; thence North 281.1 feet, more or less, to the place of beginning, containing a total area of 2.20 acres of land, of which said area 1.08 acres is in said Section 30 and 1.12 acres is in said section 31.

Cabinrock Wildlife Management Area, Kandiyohi County

The South Half of the Southwest Quarter (S1/2SW1/4) and the Northwest Quarter of the Southwest Quarter (SW1/4SW1/4) of Section Thirty-two (32), Township One Hundred Twenty-two (122) North, Range Thirty-six (36) West.

Lamberton Wildlife Management Area, Redwood County

The North Half of the Northwest Quarter of the Northeast Quarter (N1/2NW1/4NE1/4) and the North Half of the Northeast Quarter of the Northeast Quarter (N1/2NE1/4NE1/4) of Section Thirteen (13), Township One Hundred Nine (109) North, Range Thirty-seven (37) West.

Noordmans Wildlife Management Area, Pope County

All that portion of the BNSF Railway Company's (formerly Northern Pacific Railway Company) 150 foot wide Morris to Starbuck, Minnesota branch line right-of-way now discontinued, being 75 feet wide on each side of said Railway Company's Main Track centerline, as originally located and constructed upon, over and across the Northwest Quarter (NW1/4) of Section Twenty-eight (28), Township One Hundred Twenty-five (125) North, Range Forty (40) West, bounded on the East and West by the East and West lines of said NW1/4 of Section 28.

Devils' Dream Wildlife Management Area, Aitkin County

The Northwest Quarter of the Northeast Quarter (NW1/4NE1/4), the Southwest Quarter of the Northeast Quarter (SW1/4NE1/4), the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4), the East Half of the Southwest Quarter (E1/2SW1/4), the Southwest Quarter of the Southwest Quarter (SW1/4SW1/4), the West Half of the Southeast Quarter (W1/2SE1/4), all in Section Thirty-three (33), Township Forty-six (46) North, Range Twenty-three (23) West.

Wahpeton Prairie Wildlife Management Area, Redwood County

The South Half of the Northwest Quarter (S1/2NW1/4) of Section Twenty-nine (29), Township One Hundred Ten (110) North, Range Thirty-eight (38) West.

Buck Family Memorial Wildlife Management Area, Goodhue County

The Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) and the West Half of the Southeast Quarter (W1/2SE1/4) of Section Twenty-two (22) and the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Twenty-seven (27) in Township One Hundred Ten (110) North, Range Fifteen (15) West.

Commissioners' Orders

Harold William Miekle III Wildlife Management Area, Kandiyohi County

That part of the South Half of the Southeast Quarter (S1/2SE1/4) of Section 1 and that part of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Twelve (12), Township One Hundred Nineteen (119) North, Range Thirty-six (36) West, described as follows:

That part of the South Half of the Southeast Quarter (S1/2SE1/4) of Section 1 and that part of the North Half of the Northeast Quarter (N1/2NE1/4) of Section Twelve (12), Township One Hundred Nineteen (119) North, Range Thirty-six (36) West, described as follows:

Beginning at the northeast corner of the South Half of the Southeast Quarter of said Section 1; thence on a bearing based on the 1983 Kandiyohi County Coordinate System (1996 Adjustment), of North 88 degrees 20 minutes 24 seconds West 1626.00 feet along the north line of said South Half of the Southeast Quarter to a 3/4 inch rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON); thence South 01 degree 19 minutes 19 seconds East 2263.53 feet to the northerly right-of-way of the Burlington Northern Railroad and a DNR MON; thence South 69 degrees 58 minutes 20 seconds East 1216.00 feet along said right-of-way line to the south line of the North Half of the Northeast Quarter of said Section 12 and a DNR MON; thence South 88 degrees 24 minutes 52 seconds East 411.64 feet along the south line of said North Half of the Northeast Quarter to the southeast corner thereof and a DNR MON; thence North 00 degrees 23 minutes 09 seconds East 1320.70 feet along the east line of the said North Half of the Northeast Quarter to the northeast corner thereof and an in-place cast iron monument; thence North 00 degrees 26 minutes 39 seconds East 1320.04 feet along the east line of the South Half of the Southeast Quarter of said Section 1 to the point of beginning of said Section 1; thence on a bearing based on the 1983 Kandiyohi County Coordinate System (1996 Adjustment), of North 88 degrees 20 minutes 24 seconds West 1626.00 feet along the north line of said South Half of the Southeast Quarter to a 3/4 inch rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON); thence South 01 degree 19 minutes 19 seconds East 2263.53 feet to the northerly right-of-way of the Burlington Northern Railroad and a DNR MON; thence South 69 degrees 58 minutes 20 seconds East 1216.00 feet along said right-of-way line to the south line of the North Half of the Northeast Quarter of said Section 12 and a DNR MON; thence South 88 degrees 24 minutes 52 seconds East 411.64 feet along the south line of said North Half of the Northeast Quarter to the southeast corner thereof and a DNR MON; thence North 00 degrees 23 minutes 09 seconds East 1320.70 feet along the east line of the said North Half of the Northeast Quarter to the northeast corner thereof and an in-place cast iron monument; thence North 00 degrees 26 minutes 39 seconds East 1320.04 feet along the east line of the South Half of the Southeast Quarter of said Section 1 to the point of beginning

Dead Lake Wildlife Management Area, Otter Tail County

Government Lots Three (3) and Four (4), Section Twenty (20), Township One Hundred Thirty-five (135) North, Range Forty (40) West except the North 660 feet of said Government Lot 3, and Government Lot Two (2), Section Twenty-nine (29), Township One Hundred Thirty-five (135) North, Range Forty (40) West.

Peterson Wildlife Management Area, Nobles County

The West 40 acres of the Southeast Quarter (SE1/4) and the East 10 acres of the East Half of the Southwest Quarter (E1/2SW1/4), all in Section Twenty-two (22), Township One Hundred and One (101) North, Range Forty (40) West,

EXCEPT part of the SE1/4SW1/4 and part of the SW1/4SE1/4 of said Section 22 described as follows:

Beginning at an existing iron stake at the Southeast Corner of the SW1/4 of said Section 22; thence South 89 degrees 38 minutes 24 seconds West, bearings based on Nobles County Coordinate System, along the South line of said SW1/4 and along the centerline of County State Aid Highway No. 4, as exists, a distance of 201.99 feet; thence North 00 degrees 41 minutes 10 seconds East, parallel with the East line of said SW1/4, a distance of 1153.25 feet; thence North 89 degrees 38 minutes 24 seconds East, parallel with the South line of the SW1/4, a distance of 377.72 feet; thence South 00 degrees 41 minutes 10 seconds West, parallel with the West line of the SE1/4 of said Section 22, a distance of 1153.26 feet; thence South 89 degrees 38 minutes 42 seconds West, along the South line of said SE1/4 and along the centerline of said highway, a distance of 175.73 feet, to the point of beginning said excepted tract containing 10 acres more or less.

NOW THEREFORE, IT IS HEREBY ORDERED that the lands described above are designated as wildlife management areas upon acquisition.

Dated: 20 April 2007

Mark Holsten, Commissioner
Department of Natural Resources

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 270C.07.

KEY: Underlining indicates additions to existing language. ~~Strikeouts~~ indicate deletions from existing language.

Department of Revenue

Revenue Notice #07-08: Insurance Taxes – Fire Insurance Surcharge – Definitions

Introduction

The surcharge on fire safety premiums set forth in *Minnesota Statutes*, section 297I.06 is effective for policies written or renewed on or after July 1, 2007. This revenue notice is issued to provide guidance on how the department defines the premiums subject to the surcharge.

Department Position

“Commercial fire premiums” means all premiums required to be reported as “fire” line of business (currently on line 1 of the Minnesota State Page).

“Commercial nonliability premiums” means all premiums required to be reported as “commercial multiple peril – nonliability portion” line of business (currently on line 5.1 of the Minnesota State Page).

“Homeowner’s insurance premiums” means all premiums required to be reported as “homeowners multiple peril” line of business (currently on line 4 of the Minnesota State Page).

“Minnesota State Page” refers to the *Exhibit of Premiums and Losses* from the *Annual Statement* as filed with the National Association of Insurance Commissioners.

Publication Date: April 30, 2007

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations

Department of Revenue

Revenue Notice # 07-06: MinnesotaCare Tax and Sales Tax – Patient Services – Massage Therapy

This notice revokes Revenue Notices # 94-11 and # 03-09 and replaces them with the following notice. See also Revenue Notice # 02-08.

MinnesotaCare Tax

Patient services that are provided by a health care provider are subject to MinnesotaCare tax. Patient services are defined in *Minnesota Statutes*, section 295.50, subdivision 9b, to include: “...other diagnostic or therapeutic items or services...” provided to a patient or consumer. A health care provider is defined in *Minnesota Statutes*, section 295.50, subdivision 4, to include a person furnishing diagnostic or therapeutic services to a patient or consumer. Under this definition, a health care provider is a person whose health care occupation is licensed or registered, a person who is eligible for reimbursement under the medical assistance program, or an entity that employs such a person. All patient services provided by such an entity are taxable.

Massage therapy qualifies as therapeutic service and is subject to the MinnesotaCare tax if provided by a licensed or registered health care provider.

Sales Tax

Under *Minnesota Statutes*, section 297A.61, subdivision 3(g)(6)(vii), massage services are subject to sales tax unless they are provided for treatment of illness, injury or disease by, or upon written referral of, a licensed health care facility or professional. A licensed health care provider who provides only massage services for treatment of illness, injury or disease is not required to obtain a sales tax permit; licensed providers who administer massage for other reasons are required to obtain a sales tax permit.

Unlicensed massage therapists are subject to sales tax unless the massage is provided for the treatment of illness, injury or disease upon a written referral by a licensed health care facility or professional.

Massage Therapy by Health Care Providers

Massage therapy provided by licensed or registered health care providers is subject to the MinnesotaCare tax or the Minnesota sales tax. A massage therapist who is also a licensed or registered health care provider is required to collect the sales tax unless the massage is for the treatment of an illness, injury, or disease. If the massage is provided as treatment of an illness, injury, or disease, it is subject to the MinnesotaCare tax and is not subject to the sales tax. All massage services are presumed to be subject to sales tax unless the massage therapist can show that the service was for treatment of illness, injury or disease.

Massage therapy is considered to be for treatment of an illness, injury, or disease if:

- (1) it is provided upon written referral by a licensed health care provider or a licensed health care facility;
- (2) the massage is provided within the scope of the health care provider's license or registration; or
- (3) the massage is provided by an employee of a licensed or registered health care provider.

Examples

- A massage therapist, who is also a registered physical therapist, provides massage therapy upon a written referral from a physician. The service is provided for the treatment of illness, injury, or disease and is thus subject to the MinnesotaCare tax and not the sales tax.
- A nurse provides massage therapy services in his nursing practice (i.e., within the scope of his license). The service is subject to the MinnesotaCare tax and not the sales tax.
- A massage therapist who is also a nurse provides massage therapy services at a beauty salon. The service is not provided upon a written referral by a licensed health care provider and it is not provided within the scope of the nurse's license. The service is subject to sales tax and not the MinnesotaCare tax.
- A massage therapist who is a nurse is employed by an orthopedic physician. The service is subject to the MinnesotaCare tax because all patient services provided by a physician or a physician's employees are subject to the MinnesotaCare tax and not the sales tax.
- A self-employed massage therapist who is not licensed or registered as a health care provider provides massage services upon a written referral by a physician for the treatment of an injury. The service is neither subject to the MinnesotaCare tax, nor the sales tax.
- A self-employed massage therapist who is not licensed or registered as a health care provider provides massage services without written referral from a physician. The service is subject to sales tax.
- An unlicensed and unregistered massage therapist who is employed by a chiropractor pays the MinnesotaCare tax (the employer is responsible for the tax).

Revenue Notices # 94-11 and # 03-09 are revoked and replaced with this notice.

Publication Date: April 30, 2007

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations

Department of Revenue

Revenue Notice # 07-07: Sales and Use Tax – Direct Mail – Tax Rates and Delivery or Distribution Exemption

Purpose

The purpose of this Revenue Notice is to explain the department's position on determining the appropriate sales tax rate to be imposed on charges to print direct mail and to explain the types of activities that the department considers to be included within the exemption for the delivery or distribution of direct mail.

Revenue Notices

Sales Tax Rate to be Charged on Direct Mail Printing

Charges for printing direct mail pieces are taxable. The rate of sales tax charged is the rate imposed in the location from which the mail was shipped unless the purchaser provides either delivery information or a certificate of exemption (direct mail form) as explained below.

Statutory Authority

Minnesota Statutes, § 297A.668, subd. 7, provides, in part, that a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller, in conjunction with the purchase, either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients. Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. Upon receipt of the delivery information, the seller shall collect the tax according to the delivery information provided by the purchaser. If the purchaser who is not a direct pay permit holder does not provide either a direct mail form or delivery information to the seller, the seller must collect tax at the rate imposed at the location from which the direct mail was shipped.

Department position

- If the purchaser provides delivery information to the seller, the delivery information must show the taxing jurisdiction where the direct mail will be delivered. The seller must charge tax according to the delivery information provided and Minnesota tax must be charged and remitted on the portion of direct mail that the purchaser has indicated will be delivered in Minnesota. The fact that the seller has possession of a mailing list to perform the mailing service is not sufficient documentation to assume that the seller can properly source the direct mail, since most mailing lists are proprietary information that are not retained by the printer once the printing job is completed. The purchaser must provide the seller with some other form of documentation to identify the jurisdictions where the direct mail will be delivered. Purchasers must retain this information in their business records.
- If the purchaser provides a direct mail form, which is a fully completed Form ST3 Certificate of Exemption, claiming the direct mail exemption or provides a direct pay number issued by Minnesota Revenue, the seller does not charge any sales tax. It is then the purchaser's responsibility to pay use tax to the appropriate taxing jurisdiction.

Exemption for Charges for the Delivery or Distribution of Direct Mail

Charges for the delivery or distribution of direct mail are exempt. This section of the Revenue Notice sets out the department's position on how to determine when fees charged for the sale of printed material are part of the taxable charge for printing direct mail and when fees are exempt charges for the delivery or distribution of direct mail.

Statutory Authority

Minnesota Statutes, § 297A.68, subd. 36, exempts charges for the delivery or distribution of direct mail from the sales and use tax if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Minnesota Statutes § 297A.61, subd. 30, defines "delivery charges" to mean charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

Department Position

Separately stated fees for services that are performed primarily to prepare direct mail for delivery or distribution qualify for the exemption. The following services, sometimes referred to in the industry as "mail entry services," are examples of services that may be part of the nontaxable delivery charges for direct mail if they are separately stated. These charges are taxable if they are part of the production of the printed product.

- **affixing postage**
- **boxing** (putting in shipping boxes)
- **bursting** (separate at perforations, e.g., separating dividend checks to mail individually)
- **collating**
- **folding** (for mailing or distribution purposes)
- **gluing** (to hold the piece together during mailing)
- **inserting**
- **metering** (applying postage)
- **shrink wrapping**
- **tabbing** (affixing a tab to hold the piece together during mailing)

Example

The charge to fold an 11" x 17" printed page in half, so that the printed document is a four-page, 8 1/2" x 11" document is part of production of the printed material, and is taxable. However, the charge to fold this document so that it can be inserted into an envelope is not taxable if separately stated, because it is part of the delivery charge.

Publication Date: April 30, 2007

JOHN H. MANSUN, Assistant Commissioner
for Tax Policy and External Relations

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.

Changes to the Sturgeon River State Park, and More

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Minnesota Higher Education Facilities Authority

Notice of Public Hearing on Revenue Obligations on Behalf of Bethel University

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to the proposal to issue revenue bonds or other obligations on behalf of Bethel University (the "University"), as owner and operator of Bethel University, at the Authority's offices at 380 Jackson Street, Suite 450, St. Paul, Minnesota on Wednesday, May 16, 2007 at 2:00 p.m. Under the proposal, the Authority would issue its revenue bonds or other obligations in the maximum principal amount of \$20,000,000 to finance a portion of the costs of acquisition, construction, furnishing and equipping of an approximately 110,000 square foot University Commons, which will include dining facilities, campus store, offices, a casual student assembly and other meeting areas as well as appurtenant site improvements (the "Project"), to be owned and operated by the University and located on its main campus, the principal street address of which is 3900 Bethel Drive, St. Paul, Minnesota.

Official Notices

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

Dated: April 30, 2007

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

Minnesota Higher Education Facilities Authority Notice of Public Hearing on Revenue Obligations on Behalf of Concordia University, St. Paul

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to the proposal to issue revenue bonds or other obligations on behalf of Concordia University, St. Paul, a Minnesota nonprofit corporation (the "University"), as owner and operator of the Concordia University, St. Paul, an institution of higher education, at the Authority's offices at 380 Jackson Street, Suite 450, St. Paul, Minnesota on Wednesday, May 16, 2007, at 2:00 p.m. Under the proposal, the Authority would issue its revenue bonds or other obligations in an aggregate original principal amount of approximately \$20,000,000 to finance the construction, acquisition and equipping of an approximately 95,770 square foot, 296-bed residence hall with apartment-style units, a passageway to Wollaeger Hall and student life areas (the "Project"). The Project described in this notice will be owned and operated by the University and located on its main campus, the principal street address of which is 275 Syndicate Street North, St. Paul, Minnesota.

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

Dated: April 30, 2007

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

Minnesota Historical Society State Review Board Regular Meeting May 15, 2007

A meeting of the State Review Board of the Minnesota Historical Society to consider nominations to the National Register of Historic Places will be held on Tuesday, May 15, 2007 in the Cargill Commons, MacMillan Education Wing, Minnesota Historical Society History Center, St. Paul, Minnesota. The State Review Board will meet at 6:45 p.m. for an informational presentation on program activities made by the Preservation Office staff. The meeting will be called to order and consideration of the meeting's agenda will begin at 7:00 p.m. A sign language interpreter is available with two weeks notice, and auxiliary aids are available with two weeks notice. Call (651) 259-3450, or TTY (651) 282-6073. For further information contact the State Historic Preservation Office, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102, (651) 259-3450.

Department of Human Services State Operated Services Division Public Notices of Proposed Payment Rates for the State's Nursing Facility, Ah-Gwah-Ching Center

NOTICE IS HEREBY GIVEN to recipients, providers of services under the Medical Assistance (MA) Program, and to the public, of proposed changes concerning the MA payment rates for the State Nursing Facility (Ah-Gwah-Ching Center). This notice is published pursuant to 42 *United States Code* §1396a(a)(13)(A) (§1902(a)(13)(A) of the Social Security Act), which requires the Department to publish proposed payment rates for institutional providers, the methodologies underlying the establishment of such rates, and the justification of such rates.

In conjunction with the current state fiscal year's budget for Regional Treatment Centers and State Nursing Facilities, as appropriated by the legislature, payment rates are determined in accordance with *Minnesota Statutes*, §246.50, subdivision 5.

Official Notices

Due to legislative action, the following proposed MA payment rates are subject to change. Final rates for State Fiscal Year 2008 will be published prior to July 1, 2007.

Nursing Facility	Per Diem Rate	Medical Assistance Rate
Ah-Gwah-Ching	\$ 945	\$ 284

Questions and comments may be directed to Lynn Glancey, Minnesota Department of Human Services, State Operated Services Division, 444 Lafayette Road North, St. Paul, MN 55155-0979, **Phone** (651) 431-3690 or **E-mail:** Lynn.Glancey@state.mn.us.

Department of Human Services

Health Care Purchasing and Delivery Systems Division

Health Care Administration

Public Notice of Maximum Allowable Costs of Medical Assistance Outpatient Prescribed Drugs

NOTICE IS HEREBY GIVEN to recipients, providers of services, and to the public of additions to the state Medical Assistance maximum allowable cost (state MAC) list for certain outpatient prescribed drugs.

At least once each calendar year, the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services, publishes a federal upper limit (FUL) payment schedule for many commonly prescribed multiple-source drugs. The federal upper limit is set at a rate equal to 150 percent of the published price for the least costly therapeutic equivalent that can be purchased by pharmacists. This FUL payment schedule constitutes the federal MAC list. For many multiple-source drugs that are not on the federal MAC list, the Department establishes a state MAC list. Additionally, the Department imposes a state MAC for many multiple-source drugs that are on the federal MAC list, as long as the savings are at least as much as the savings would be using the federal MAC list. The Department requires Medical Assistance pharmacy providers to submit their usual and customary costs. Pharmacy providers are reimbursed at the lower of: 1) the federal or state MAC, plus a dispensing fee; 2) the submitted usual and customary charge to the general public; or 3) a discount off of average wholesale price, plus a dispensing fee.

On January 13, 2003 at 27 SR 1117-1130, the Department published the MAC list, listing the federal and state MACs. Additional changes to the state MAC list were published on February 18, 2003 (27 SR 1331-1334), March 3, 2003 (27 SR 1386-1393), April 21, 2003 (27 SR 1583-1584), August 4, 2003 (28 SR 102-103), October 13, 2003 (28 SR 505-506), October 20, 2003 (28 SR 528-529), December 15, 2003 (28 SR 784-785), January 26, 2004 (28 SR 934-935), March 8, 2004 (28 SR 1089-1090), April 5, 2004 (28 SR 1232), April 19, 2004 (28 SR 1313-1314), May 3, 2004 (28 SR 1367-1368), August 9, 2004 (29 SR 173), August 23, 2004 (29 SR 224-225), November 8, 2004 (29 SR 510), November 15, 2004 (29 SR 534-535), February 7, 2005 (29 SR 923-924), February 14, 2005 (29 SR 951-952), March 7, 2005 (29 SR 1038-1039), April 11, 2005 (29 SR 1174-1175), June 27, 2005 (29 SR 1607), July 18, 2005 (30 SR 49-50), August 15, 2005 (30 SR 147), August 29, 2005 (30 SR 226-227), October 17, 2005 (30 SR 402-403), November 14, 2005 (30 SR 511-512), December 12, 2005 (30 SR 617-618), January 9, 2006 (30 SR 770-771), January 30, 2006 (30 SR 833), February 13, 2006 (30 SR 884), February 27, 2006 (30 SR 926-927), March 20, 2006 (30 SR 1006-1007), April 10, 2006 (30 SR 1109), May 30, 2006 (30 SR 1249-1250), July 31, 2006 (31 SR 138-139), August 21, 2006 (31 SR 268), September 18, 2006 (31 SR 380 - 381), October 2, 2006 (31 SR 474-477), October 16, 2006 (31 SR 519-520), November 6, 2006 (31 SR 614), January 2, 2007 (31 SR 867-868), January 29, 2007 (31 SR 958-959), February 26, 2007 (31 SR 1169-1170) and April 23, 2007 (31SR 1444-1445).

Effective May 1, 2007 the Department will add the following outpatient prescribed drugs to the state MAC list:

<u>Drug Name</u>	<u>Strength</u>	<u>MAC Price</u>
ZOLPIDEM TARTRATE	5MG	\$3.23
ZOLPIDEM TARTRATE	10MG	\$3.11

These additions are made to bring Medical Assistance reimbursement to pharmacists more closely in line with the actual acquisition cost of the drugs listed above. The Department estimates that there will be a state savings of \$36,000 for State Fiscal Year 2006 (July 1, 2006 through June 30, 2007).

This notice is published pursuant to *Code of Federal Regulations*, Title 42, section 447.205, which requires publication of a notice when there is a rate change in the methods and standards for setting payment rates for Medical Assistance services.

Official Notices

Written comments and requests for information may be sent to Kristin Young, Pharmacy and Program Manager, Health Care Purchasing and Delivery Systems Division, Health Care Administration, Minnesota Department of Human Services, P.O. Box 64984, St. Paul, Minnesota 55164-0984; **phone:** (651) 431-2504 or **email:** kristen.c.young@state.mn.us

Minnesota Department of Natural Resources

Proposed Classification of the Sturgeon River State Forest and Changes to the Taconite State Trail Master Plan, with Respect to Motor Vehicle Use, in St. Louis County, Minnesota

NOTICE IS HEREBY GIVEN that the Commissioner of the Minnesota Department of Natural Resources (DNR) proposes to classify all State Forest Lands within the Sturgeon River State Forest in St. Louis County, and adjacent state forest lands under the authority of the DNR Commissioner, with respect to motor vehicle operation. The proposal is to assign all state lands under the authority of the Commissioner, to one of the following classes: (pursuant to *MN Rules Chapter 6100.1950*).

1. **"Managed"**, in which forest roads and trails are open for motor vehicle use unless posted closed;
2. **"Limited"**, in which forest roads are open to motor vehicle use unless posted closed, and forest trails are closed to motor vehicle use unless posted open, or
3. **"Closed"**, in which forest roads are open only to motor vehicles licensed for highway use. No off-highway vehicles are permitted, except for operation on frozen public waters. Snowmobiles may operate only on designated trails in closed forests.

This proposal covers the Sturgeon River State Forest, and scattered forest lands under the authority of the Commissioner located *outside* of State Forest boundaries in Northwest St. Louis County. In total, just over 61,000 acres of state forest land, and 180 miles of roads, trails and non-designated routes were evaluated with respect to motor vehicle use. In conjunction with the proposed classification, the DNR has developed a road and trail designation proposal that identifies those routes on state forest lands that will remain open to motorized vehicle use.

Along with forest classification, the DNR also proposes to amend the current Taconite State Trail Master Plan to permit motorized use of 4.7 miles of this existing 163-mile state snowmobile trail (Ely to Grand Rapids) in an effort to complete a nearly 24-mile trail loop in the forest. This plan amendment must be approved separately from the forest classification and route designation process currently underway based upon comments received during this shared 60-day public comment period.

The DNR will hold a public meeting on this proposal on Tuesday July 10 at the Ironworld Discovery Center which is located approximately 1.5 hours north of Duluth, and west of Virginia at 801 SW Highway 169 in Chisholm, Minnesota. The meeting will run from 6:00 p.m. to 8:30 p.m.

The first hour of the meeting will allow interested persons to informally review the plan, maps and other summary materials. DNR, USFS and St. Louis County Land Department representatives will be on hand to answer questions regarding motorized access planning for public forest lands in the county. During the remainder of the meeting, the DNR will present its proposal and respond to questions and comments. Written comments will also be accepted.

The DNR's Forest Classification & Route Designation Proposal, supporting maps and other materials, are available at www.dnr.state.mn.us. Copies of the documents may also be viewed at the DNR's Tower Area Office located at 650 Highway 169 in Tower, MN or are available upon request from:

Brian McCann, Planner
Minnesota Department of Natural Resources
Box 52, 500 Lafayette Road
St. Paul, MN 55155-4052
Phone: (651) 259-5627
Toll Free: 1-888-MINNDNR
E-mail: brian.mccann@dnr.state.mn.us

Written comments on both the forest classification proposal, and the plan to amend the Taconite State Trail Plan, will be accepted at the above address until 4:30 p.m. on Friday, July 20, 2007.

Laurie H. Martinson, Deputy Commissioner
Minnesota Department of Natural Resources

Teachers Retirement Association

Notice of Meeting of the Board of Trustees May 16, 2007

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Wednesday, May 16, 2007 at 9:30 a.m. in Suite 400, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board.

State Register Binders

Specially designed binders with the State Register logo for storing your State Registers. Two binders typically hold one-year's subscription. Order Stock # 91-8, \$12.00 + tax

State Grants & Loans

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

Department of Education

NOTICE OF REQUEST FOR PROPOSALS to Modify and Support an Evaluation System of Minnesota Charter School Sponsors

The Minnesota Department of Education (MDE) is requesting proposals from interested and qualified contractors to modify or create an evaluation/accreditation system of Minnesota charter school sponsors as part of the third year of the Federal Charter Schools Program Sponsor Accountability Project, of Minnesota's Federal Charter Schools Program Grant.

The anticipated project period is July 2007 to June 30, 2008. The Department has estimated the cost of this project should not exceed \$150,000.00 over this one year two month period.

For a copy of the complete Request for Proposal, please contact:

David Hartman
Minnesota Department of Education
1500 Highway 36 West
Roseville, Minnesota 55113-4567
Phone: (651) 582-8297
Fax: (651) 582-8291
E-mail: David.Hartman@state.mn.us

Proposals are due no later than 2:30 p.m. Central Daylight Time Friday, June 1, 2007. Late proposals will not be considered.

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

State Grants & Loans

Minnesota Department of Health

Office of Rural Health and Primary Care

Notice of Grant Availability for the Minnesota Rural Pharmacy Planning and Transition Grant Program

The Office of Rural Health and Primary Care, Minnesota Department of Health, is seeking grant applications from rural communities and health care providers (hospitals, clinics, pharmacies, long-term care institutions, or other health care facilities) for the Minnesota Rural Pharmacy Planning and Transition Grant Program. The program is intended to preserve access to prescription medication and the skills of a pharmacist in rural areas.

A total of \$180,000 is available and the maximum grant amount is \$50,000. Applications are due by 4:00 p.m. on Friday, March 2, 2007. Information is online at <http://www.health.state.mn.us/divs/chs/grants.htm>. For more information contact:

Doug Benson at (651) 201-3842,

E-mail: doug.benson@health.state.mn.us

By mail: P.O. Box 64882,

St. Paul, Minnesota 55164-0882

By courier: 85 E. Seventh Place, Suite 220,
St. Paul, Minnesota 55101

Minnesota Housing Finance Agency

Notice of Request for Proposals for Administrators for the Homeownership Education, Counseling and Training Fund (HECAT)

The Minnesota Housing Finance Agency (Minnesota Housing), along with the Minnesota Home Ownership Center (the Center), the Family Housing Fund and Greater Minnesota Housing Fund (GMHF) announces that it is accepting Proposals for an anticipated limited funds availability under the Homeownership Education, Counseling and Training Fund (HECAT) for pre- and post-purchase education, pre- and post purchase counseling, home equity conversion counseling, and foreclosure prevention assistance. The purpose of this RFP is to provide financial support to eligible non-profit organizations to deliver a variety of homebuyer/homeowner education, counseling and training services to Minnesotans.

Proposals are hereby solicited from community-based non-profit organizations as defined in *Minnesota Statutes* 1992, section 462A.03, subdivision 22.

The original application and all attachments plus **three (3) copies** of the application and all attachments must be *received by Minnesota Housing, 400 Sibley Street, Suite 300, St. Paul, Minnesota 55101-1998 on or before 5:00 p.m., Thursday, June 7th, 2007*. Faxed, emailed, or late applications will **not** be accepted. All proposals will be evaluated in accordance with documented threshold requirements and strategic selection priorities.

Interested applicants should obtain a proposal packet that contains specific information and instructions for proposal submission from Minnesota Housing's web site at www.mhfa.state.mn.us or by contacting Fran Gustafson at Minnesota Housing, (651) 296-8215 or 1-800-710-8871. The TDD number is (800) 297-2361. Proposal packets will be available on the web site in a PDF fillable format on approximately May 1st, 2007.

Minnesota Department of Human Services

CORRECTION TO Deadline Date: Request for Grant Proposals to Operate the Statewide Minnesota Problem Gambling Helpline

The Minnesota Department of Human Services is requesting proposals from qualified vendors interested in operating the established statewide 24 hour, toll-free confidential Helpline (1-800-333-HOPE) for compulsive/problem gambling issues.

The **date has changed** for proposals submitted in response to the Request for Proposals in the notice; and must be received at the address above no later than **4:00 p.m., Central Time, Friday, May 18, 2007. Late proposals will not be considered.** Fax or e-mailed proposals will **not** be considered.

For more information, or to obtain a copy of the Request for Proposal, contact:

Kathleen Porter

Department of Human Services

State Grants & Loans

Adult Mental Health Division
Compulsive/Problem Gambling Services Program
Mailing address: P.O. Box 64981,
St. Paul, MN 551640981
Site location: 540 Cedar Street,
St. Paul, MN 55101-2208
Phone: (651) 431-2250
Fax: (651) 431-7418
E-mail: Kathleen.porter@state.mn.us

This is the only person designated to answer questions by potential responders regarding this request.

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.

Requirements: There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements:

\$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600
\$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days;
\$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and
anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days

Subscribers Get FREE LINKS

Obtain MORE and FASTER information. You receive much more with a SUBSCRIPTION than viewing the *State Register* on our website. Subscribe and receive many LINKS to the *State Register*. Open the *State Register* and click on Bookmarks in the upper right corner. You will also receive ALL the current rules, with an INDEX, and previous years' indices. You also receive a summarized "Contracts & Grants" section to review. Subscriptions cost \$180 a year (normal cost \$260 - an \$80 savings). Here's what you receive:

- Word Search Capability
- LINKS, LINKS, LINKS
- Easy Access to *State Register* Archives
- Updates to Index to Vol. 31
- "Contracts & Grants" Open for Bid
- Early delivery, on Friday
- E-mailed to you . . . its so easy
- Indexes to Vols. 30, 29, 28 and 27

And it's all E-mailed to you, at end-of-day on Friday, instead of waiting for the non-subscriber's issue released on Monday. Contact Cathy Hoekstra, our subscriptions manager, at (651) 297-8777, or **Fax:** (651) 297-8260, or **E-mail:** cathy.hoekstra@state.mn.us

State Contracts

Minnesota State Colleges & Universities (MnSCU)

Century College

Request for Proposals for Access Control and Security Management System

NOTICE IS HEREBY GIVEN that Century College located in White Bear Lake, MN request proposals to provide an Integrated Security Management System that will form the bases for the college's physical security systems. System will provide access control and optional CCTV which must interface with the current security alarm system and future "one card system". The initial installation will be limited in scope with possible future incremental expansion to support the entire campus and long term goal of a one card system.

A mandatory meeting/walk through shall be held on Wednesday, May 16, 2007 at 1:00 p.m. Meet in the East Campus, South Entrance Lobby.

Proposals will be due no later than Thursday, June 7, 2007 at 3:00 p.m. CDT.

To receive the RFP, **e-mail:** dona.bettinger@century.edu.

Submitted by:

Dona K. Bettinger
Purchasing Supervisor
Century College
3300 Century Ave N
White Bear Lake MN 55110
Phone: (651) 779-3276
Fax: (651) 779-3418

Minnesota State Colleges and Universities (MnSCU)

Office of the Chancellor

Request for Bid: PRINT and FULFILLMENT of Go Places Publications

The Office of the Chancellor is requesting bids from qualified vendors for the printing and fulfillment of Go Places publications.

Specifications are available by visiting the website: www.mnscu.edu/goplacesrfb or by contacting Christine McGing, Minnesota State Colleges and Universities, Wells Fargo Place, 30 - 7th St. E., Suite 350, St. Paul, Minnesota 55101, **phone:** (651) 297-2720, or **e-mail:** christine.mcging@so.mnscu.edu. Sealed bids must be received by FRIDAY, MAY 4, 2007, 3:00 pm CST.

This request does not obligate Minnesota State Colleges and Universities to complete the proposed project, and the system reserves the right to cancel this solicitation if it is considered to be in its best interest.

The Minnesota State Colleges and Universities system is an Equal Opportunity employer and educator.

Minnesota State Colleges and Universities (MnSCU)

Metropolitan State University

Request for Proposals to Remodel Space in Founders Hall to Provide Three New Offices, a Conference Room and Updated Finishes

Sealed Bids for: Grants and Development Remodel
Metropolitan State University
700 East 7th Street
St Paul, MN 55106

will be received by: **Jean Alaspa**
Metropolitan State University
700 East 7th Street
Room 321 Founders Hall
St. Paul, Minnesota 55106
(651) 793-1700

State Contracts

Until **2:00 PM, Thursday May 17, 2007**, at which time the bids will be opened and publicly read aloud in Room 301.

Project Scope: The project consists of all work required to remodel approximately 3,800 square feet of existing second floor space in Founders Hall in order to provide 3 new offices, a conference room and updated finishes. The scope includes but is not limited to: selective interior demolition, new steel stud/gypsum board partitions, hollow metal frames, wood doors and hardware, new ceiling tile and grid, new carpet, painting, HVAC, electrical work, case work and polished plaster. The project schedule requires expedient coordination with Owner and cooperation with Owner's workforce which will occupy portions of the floor during construction.

A pre-bid meeting will be held at **2:00 PM, Wednesday, May 9, 2007. Interested parties should meet at Metropolitan State University, Founders Hall 301. The pre-bid meeting is mandatory for primary bidders.** The Architect/Engineer and Owner Representatives will review the bidding procedures, Bidding Documents and other conditions with interested Bidders, answer questions and tour the project site.

Bid Forms, Contract Documents, Drawings and Specifications as prepared by the Project Architect/Engineer, **LHB Inc., may be obtained on or after May 3, 2007** at the offices of the:

- 1) above named Project Architect.
- 2) following Builders Exchanges: St. Paul, Minneapolis, Duluth, and St. Cloud.
- 3) Construction Market Data Plan Room.
- 4) McGraw-Hill Construction Plan Room.
- 5) Minority Contractors of Upper Midwest National Association.

Complete sets only of bid forms and Drawings and Specifications for use by Bidders in submitting a bid may be obtained from:

Terza Kurki, Marketing Coordinator
LHB, Inc.
250 Third Ave North, Suite 450
Minneapolis, MN 55401

A refundable deposit of **\$50.00** is required for each set.

Prospective Bidders requesting that Bidding Documents (complete sets only) be mailed to them, shall send a separate non-refundable payment (check made out to the Architect) for **\$25.00** per set for shipping & handling (in addition to the **\$50.00** deposit) to the Architect. Such deposits and payments may be sent prior to **May 17, 2007**. Documents will be sent to street addresses only (P.O. Boxes not acceptable).

Each bid which totals over \$15,000.00 must be accompanied by a bid bond or other security described here as a proposal guarantee that the bidder will enter into a contract if its bid is accepted. This security may be either a certified check, payable to **Minnesota State Colleges and Universities**, in the sum of not less than five percent (5%) of the total base bid or a corporate surety bond for the same amount by a surety company authorized to do business in the State of Minnesota.

Minnesota State Colleges and Universities (MnSCU)

Metropolitan State University

Request for Proposals for Professional Management Services for the Operation and Management of Metropolitan State University's St. Paul Dayton's Bluff Campus Parking Lot(s)

Sealed Bids for: Parking Management Services
Saint Paul Campus
Metropolitan State University
700 East Seventh Street
Saint Paul, MN 55106

State Contracts

Will be received by: Jean Alaspa
Founders Hall Office 321
Metropolitan State University
Saint Paul, MN 55106

Until **3:00 PM, local time, May 15, 2007** at which time the bids will be opened. All bids need to be delivered to Founders Hall 321 attention Jean Alaspa. Late bids will not be accepted.

Project Scope:

Metropolitan State University is soliciting proposals for professional management services for the operation and management of Metropolitan State University's St. Paul Dayton's Bluff Campus parking lot(s) from managers and operators, hereinafter referred to as Managers, interested in potentially performing the operation and administrative services associated with the successful operation of Metropolitan State University's Saint Paul Campus parking lot(s). This work will include all services and personnel required to successfully manage and operate the parking lot(s) including recordkeeping and accounting functions, contracted service for monthly parkers as well as maintaining all parking lot access/control equipment and related facilities in an effective manner which are maintained in a clean, safe, secure condition at all times.

A mandatory Pre-Bid Meeting will be held at 1:00 PM local time, Wednesday, May 9th, 2007 in Room FH 301, Metropolitan State University, 700 East Seventh Street, Saint Paul, MN 55106. University Representatives will review the bidding procedures, Bidding Documents and other detail of operations at the "Pre-Bid" Meeting.

Minnesota State Colleges and Universities (MnSCU) Minneapolis Community & Technical College Request for Proposals for a Campus-Wide ID card and Transaction System

Description: Minneapolis Community and Technical College is requesting qualified vendors to submit proposals for a complete online one-card Campus-Wide ID Card and Transaction System that will include point-of-sale, food services and meal plans, prepaid services and credit accounts, and activity access and monitoring capabilities. This system must also be able to support video imaging ID Card production; vending, copying/printing, parking, door access, off-campus merchants; bookstore and online access to cardholder accounts including deposit capability via the Web.

Proposal Deadline: 2:00 p.m. – Tuesday May 15, 2007

Contact for proposal copies and to submit:

Michael Noble-Olson – Purchasing Manager
Minneapolis Community & Technical College
1501 Hennepin Avenue – Business Office
Minneapolis, MN 55403
Telephone: (612) 659-6866
E-mail: Michael.Noble-Olson@minneapolis.edu

Minnesota State Colleges and Universities (MnSCU) Southwest Minnesota State University Notice of Availability of Request for Proposal (RFP) for Designer Selection for 2009 Residence Hall

The State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of Southwest Minnesota State University, is soliciting proposals from interested, qualified consultants for architectural and engineering design services for the above referenced project.

State Contracts

A full Request for Proposals is available on the Minnesota State Colleges and Universities website: www.facilities.mnscu.edu, click on "Solicitation Announcements."

An information meeting is scheduled for **1:00 PM, Thursday, May 10, 2007** in the Student Center, Room 249 at Southwest Minnesota State University, 1501 State Street, Marshall, MN, 56258. All firms interested in this meeting should contact Cyndi Holm, holmcm@southwestmsu.edu, (507) 537-6577 to sign up to attend the meeting.

Proposals must be delivered at the following address, not later than **1:00 P.M., Monday, May 21, 2007**. Late responses will not be considered.

Proposals shall be delivered to:

Location: Southwest Minnesota State University
Name: Cyndi Holm
Title: Director of Facilities
Address: 1501 State Street, Marshall, MN 56258
Phone: (507) 537-7854
E-mail: holmcm@southwestmsu.edu

Minnesota State Colleges and Universities is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

Minnesota State Colleges and Universities (MnSCU) St. Cloud Technical College Advertisement for Bids for 2007 Pavement Rehabilitation and Site Drainage Improvements

Sealed Bids for: 2007 Pavement Rehabilitation and Site Drainage Improvements
St. Cloud Technical College
St. Cloud, Minnesota

will be received by: Paula Andrist, Business Office
Room 1-401H
St. Cloud Technical College
1540 Northway Drive
St. Cloud, MN 56303

Until **2 p.m., May 14, 2007**, at which time the bids will be opened and publicly read aloud.

A pre-bid meeting will be held at **10:00 a.m., May 2, 2007, in Room 1-258 at St. Cloud Technical College**. The Architect/Engineer and Owner Representatives will review the bidding procedures, Bidding Documents and other conditions with interested Bidders and answer questions.

Bid Forms, Contract Documents, Drawings and Specifications as prepared by the Project Architect/Engineer, **Inspec, Inc.**, are on file at the offices of the:

- 1.) above named Project Architect/Engineer
- 2.) following Builders Exchanges: **Minneapolis, St. Paul, St. Cloud**
- 3.) Reed Construction Data
- 4.) McGraw Construction Plan Room
- 5.) National Association of Minority Contractors of Upper Midwest

Complete sets only of bid forms and Drawings and Specifications for use by Bidders in submitting a bid may be obtained at the following

State Contracts

address without deposit:

Inspec, Inc.
5801 Duluth Street
Golden Valley, MN 55422
(763) 546-3434

Each bid which totals over \$15,000.00 must be accompanied by a bid bond or other security described here as a proposal guarantee that the bidder will enter into a contract if its bid is accepted. This security may be either a certified check, payable to **Minnesota State Colleges and Universities**, in the sum of not less than five percent (5%) of the total base bid or a corporate surety bond for the same amount by a surety company authorized to do business in the State of Minnesota.

Minnesota State Colleges and Universities (MnSCU) **Winona State University** **Request for Proposals for Residence Hall Internet Bandwidth and Telecommunications Contract**

NOTICE IS HEREBY GIVEN that Winona State University is seeking proposals for a Residence Hall Internet Bandwidth and other Telecommunications needs contract.

Proposal specifications will be available April 30, 2007 by contacting the Purchasing Department at PO Box 5838, 205 Somsen Hall, Winona, MN 55987, **e-mail:** sschmitt@winona.edu or by **calling** (507) 457-5067.

There will be a vendor conference on May 9, 2007 at 1:00 PM in Kryzsko Commons.

Sealed proposals must be received by Sandra Schmitt at PO Box 5838, or at 175 W. Mark St., Somsen 205G, Business Office, Winona State University, Winona, MN 55987 by 3:00 PM May 23, 2007.

Winona State University reserves the right to reject any or all proposals and to waive any irregularities or informalities in proposals received.

Minnesota Department of Transportation (Mn/DOT) **Request for Proposals (RFP) for Work Zone Safety Media Buying for Summer 2007**

Notice of availability of Contract to provide media buying services. Responses to this advertisement become public information under the Minnesota Government Data Practices Act. This request does not obligate Mn/DOT to complete the work contemplated in this notice, and Mn/DOT reserves the right to cancel this RFP. All expenses incurred in responding to this notice shall be borne by the responder.

Mn/DOT is seeking a media buyer who will develop and implement a statewide media plan, focused on radio, to publicize Mn/DOT work zone safety messages for the summer of 2007.

Mn/DOT creates a statewide work zone safety public awareness and educational campaign. The summer campaign begins in May and continues throughout summer and fall, to publicize Mn/DOT work zone safety messages. The campaign is designed to educate travelers statewide about the dangers in work zones and provide them with information they can use to protect themselves and workers against injury and death in work zone crashes.

It is the goal of this project to eliminate serious accidents and fatalities in work zones by changing driver attitudes and behavior as they approach a roadway work zone.

The full RFP can be viewed on the Consultant Services Web Page at www.dot.state.mn.us/consult under the P/T Notices Section.

If you have any questions regarding this advertisement, or are having problems viewing the RFP on the Consultant Services Web Page, you may contact:

Melissa McGinnis, Contract Administrator
E-mail: melissa.mcgininis@dot.state.mn.us
Telephone: (651) 366-4644

Note: RESPONSES WILL BE DUE ON MAY 14, 2007 AT 2:00PM CENTRAL DAYLIGHT TIME.

Department of Transportation (Mn/DOT)**Engineering Services Division****Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (“Consultant Pre-Qualification Program”)**

This document is available in alternative formats for persons with disabilities by calling Brad Hamilton at (651) 366-4626 for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop 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 awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to 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 for application. Applications are 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 applications forms are available on Mn/DOT's Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Brad Hamilton
Consultant Services
Office of Technical Support
Minnesota Department of Transportation
395 John Ireland Blvd. Mail Stop 680
St. Paul Minnesota 55155

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

Department of Transportation (Mn/DOT)**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.

State Register Binders

Specially designed binders with the State Register logo for storing your State Registers. Two binders typically hold one-year's subscription. Order Stock # 91-8, \$12.00 + tax

Non-State Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of 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.

Metropolitan Council

Notice of Request for Proposals (RFP) for Empire Overview Training for the Empire Treatment Facility

Reference Number 07P037

The Metropolitan Council is soliciting proposals to provide operational Overview Training for the Empire Treatment Facility. The successful proposer will provide training materials and conduct training sessions for nineteen (19) plant systems, which were modified or newly installed.

Issue Request for Proposals

April 30, 2007

Questions Due

May 8, 2007

Proposals Due

May 18, 2007

Award Contract

June 2007

All firms interested in submitting proposals for this contract and desiring to receive an RFP package are invited to make a written request either by e-mail, fax or mail to:

Sunny Jo Emerson
Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council
390 North Robert Street
St. Paul, MN 55101
Fax: (651) 602-1083
E-mail: sunnyjo.emerson@metc.state.mn.us

Metropolitan Council

Notice of Request for Proposals (RFP) for Investigative Services

Reference Number 07P023-A

The Metropolitan Council is soliciting proposals to provide Investigative Services. The successful proposer will provide Investigative Services for internal and external discrimination, harassment and inappropriate behavior complaints.

Issue Request for Proposals

April 30, 2007

Questions Due

May 4, 2007

Proposals Due

May 11, 2007

Award Contract

June 2007

All firms interested in submitting proposals for this contract and desiring to receive an RFP package are invited to make a request either by e-mail, fax, or mail to:

Sunny Jo Emerson
Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council
390 Robert Street
St. Paul, MN 55101
Fax: (651) 602-1083
E-mail: sunnyjo.emerson@metc.state.mn.us

Non-State Bids, Contracts & Grants

Metroopolitan Council - Metro Transit

Invitation for Bids for Upgrade Video Cameras at Metro Transit Light Rail Transit Station Platforms

Procurement #7426

Metro Transit, a division of the Metropolitan Council, is seeking sealed bids to supply and install pan/tilt/zoom cameras to replace fixed cameras on several Metro Transit light rail station platforms.

A Pre-Bid Conference will be held on May 9, 2007 at 10:00 AM at the Hiawatha Operations and Maintenance Facility, 3rd Floor Conference Room, 1810 E. Franklin Avenue, Minneapolis, MN. Interested bidders are encouraged to attend and participate in the Pre-Bid Conference.

Bids are due by 2:00 PM on May 24, 2007.

Firms interested in receiving an Invitation for Bids document should contact:

Candace Osiecki
Metro Transit Purchasing
515 N. Cleveland Avenue
St. Paul, MN 55114
Phone: (612) 349-5070
Fax: (612) 349-5069
E-mail: Candace.Osiecki@metc.state.mn.us

Todd County, Minnesota

Request for Proposals for Engineering Services for the North/South Corridor with Railroad Overpass in the City of Staples Project

NOTICE IS HEREBY GIVEN that Todd County, Minnesota is accepting proposals for engineering services for the North/South Corridor with Railroad Overpass Project in the City of Staples. Engineering services will include completing a scoping process of multiple design alternatives, environmental assessment/public hearing/study report process, permitting process, and final design process for the entire project. For a full copy of the Request for Proposals, please contact the contract administrator at:

Loren Fellbaum
Todd County Engineer
44 Riverside Drive
Long Prairie, MN 56347
Telephone: (320) 732-2722
Fax: (320) 732-4525
E-mail: loren.fellbaum@co.todd.mn.us

Proposals Due: 2:00 p.m. on May 17th, 2007

DBE Goal: 10%

University of Minnesota

Subscribe to Bid Information Service (BIS)

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

Request for Bids/Proposals are also available to the public each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Minneapolis, Minnesota 55454.

Source Code SR007