

State of Minnesota

# State Register



**Proposed, Adopted, & Expedited Rules; Executive Orders; Appointments;  
Commissioners' Orders; Revenue Notices; Official Notices;  
State Grants & Loans; State Contracts; Non-State Public Bids, Contracts & Grants**  
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# State Register

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

The *State Register* is the official publication of the State of Minnesota's Executive Branch of government, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes*, Chapter 14, and *Minnesota Rules*, Chapter 1400. The *State Register* contains:

- Proposed Rules
- Adopted Rules
- Exempt Rules
- Expedited Rules
- Withdrawn Rules
- Vetoed Rules
- Executive Orders of the Governor
- Appointments
- Proclamations
- Commissioners' Orders
- Revenue Notices
- Official Notices
- State Grants and Loans
- Contracts for Professional, Technical and Consulting Services
- Non-state Public Bids, Contracts and Grants

### Printing Schedule and Submission Deadlines

Vol. 37 Issue Number	PUBLISH DATE ( <b>BOLDFACE</b> shows altered publish date)	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Proposed, Adopted and Exempt RULES
# 23	Monday 3 December	Noon Tuesday 27 November	Noon Wednesday 21 November
# 24	Monday 10 December	Noon Tuesday 4 December	Noon Wednesday 28 November
# 25	Monday 17 December	Noon Tuesday 11 December	Noon Wednesday 5 December
# 26	Monday 24 December	Noon Tuesday 18 December	Noon Wednesday 12 December

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MN Judicial Center, Rm. 135,  
25 Rev. Dr. Martin Luther King Jr Blvd.,  
St. Paul, MN 55155 **Website:** [www.mncourts.gov](http://www.mncourts.gov)

**House Public Information Services** (651) 296-2146  
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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. 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, but 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.

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 #40-52 inclusive, with final index (#1-52, or 53 in some years). 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, phone: (612) 297-3000, or toll-free 1-800-657-3757. TTY relay service phone number: (800) 627-3529.

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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 Board of Dentistry

### Proposed Permanent Rules Relating to License to Practice as a Limited General Dentist

#### 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 Permanent Rules Relating to Limited General Dentists, Dentists, Dental Therapists, Dental Hygienists, and Licensed Dental Assistants, *Minnesota Rules*, Parts 3100.1130, 3100.1700, 3100.1750, 3100.1850, 3100.3600, 3100.5100, 3100.5300, 3100.7000, 3100.8400, 3100.8500, and 3100.9600

**Introduction.** The Minnesota Board of Dentistry intends to adopt rules without a public hearing following the procedures 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 Wednesday, December 26, 2012, the board will hold a public hearing in the 4<sup>th</sup> Floor Conference Room A, University Park Plaza, 2829 University Avenue SE, Minneapolis, Minnesota 55414, starting at 1:00 p.m. on Thursday, January 10, 2013. To find out whether the board will adopt the rules without a hearing or if the hearing will be held, you should contact the agency contact person after December 26, 2012 and before January 10, 2013.

**Agency Contact Person.** Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Kathy Johnson at Minnesota Board of Dentistry, University Park Plaza, 2829 University Avenue SE, Suite 450, Minneapolis, MN 55414-3249, **phone:** (612) 548-2134 or (888) 240-4762 (outside metro), **fax:** (612) 617-2260. **TTY** users may call the Board of Dentistry at (800) 627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about: licensure for the limited general dentist; the CPR requirement for licensure; an interview option when reinstating; expanding professional development elective activities; professional development portfolio audit fee; adding another recognized specialty area; assistants allowed to apply fluoride varnish; dental hygienists and licensed dental assistants allowed to complete preliminary charting, take photographs, and take vital signs; and for recordkeeping properly identify the collaborating dentist and transfer adequate radiographs.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 150A.04, subdivision 5. A copy of the proposed rules is published in the *State Register*. The proposed rules are also available on the board's website at: [www.dentalboard.state.mn.us](http://www.dentalboard.state.mn.us) or a free

# Proposed Rules

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copy of the entire proposed rules is available upon request from the agency contact person listed above.

**Comments.** You have until 4:30 p.m. on Wednesday, December 26, 2012, 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 that you desire. You must also make any comments about the legality of the proposed rules during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the board hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Wednesday, December 26, 2012. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the board cannot count that request when determining whether the board must hold a public hearing. 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, the board will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the board must give written notice of this to all persons who requested a hearing, explain the actions the board took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the board will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format/Accommodation.** Upon request, the board can make this Notice available in an alternative format, such as large print, Braille, or audio. 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 board may modify the proposed rules, 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 board or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the board encourages you to participate in the rulemaking process.

**Cancellation of Hearing.** The board will cancel the hearing scheduled for Thursday, January 10, 2013, if the board does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the board will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at (612) 548-2134 after December 26, 2012, 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, the board will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The board will hold the hearing 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 Jeanne M. Cochran is assigned to conduct the hearing. Judge Cochran can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, MN 55164-0620, telephone (651) 361-7838, and fax (651) 361-7936.

**Hearing Procedure.** If the board holds a hearing, 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 hearing record closes. 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. At the hearing, the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the board and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge 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. You may direct questions about the procedure to the Administrative Law Judge.

The board requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the

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# Proposed Rules

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.** The statement of need and reasonableness summarizes 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. A free copy of the statement is now available from the agency contact person, if requested, or available on the board's website at [www.dentalboard.state.mn.us](http://www.dentalboard.state.mn.us).

A copy of the Dual Notice and proposed rules shall be mailed by sending an electronic mailing to everyone who has registered to be on the Board of Dentistry's rulemaking mailing list under *Minnesota Statutes*, section 14.14, subdivision 1a; and

A copy of the Dual Notice, proposed rules, and the Statement of Need and Reasonableness shall be mailed to the Legislature according to *Minnesota Statutes*, section 14.116.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, **telephone:** (651) 2965148 or 1-800-657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the board may adopt the rules after the end of the comment period. The board will submit the rules and supporting documents 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 either to receive notice of this, to receive a copy of the adopted rules, or to register with the board 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 that 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 that the board adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by 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.

Signed by Executive Director Marshall Shragg, MPH on October 31, 2012

## **3100.1130 LICENSE TO PRACTICE DENTISTRY AS A LIMITED GENERAL DENTIST.**

**Subpart 1. Initial requirements for limited licensure.** A person who is a graduate of a nonaccredited dental program and desires to obtain a limited license to practice general dentistry within Minnesota shall comply with the requirements in items A to E.

**A.** The applicant must initially submit to a credential review by the board and pay the nonrefundable fee in *Minnesota Statutes*, section 150A.091, subdivision 9a. The applicant shall provide documentation such as:

- (1) a completed board-approved evaluation of all international education;
- (2) an original or notarized copy of passing board-approved language testing within the previous two years;
- (3) an original affidavit of licensure;
- (4) a completed dental questionnaire;
- (5) a personal letter/curriculum vitae/resume;
- (6) an original or notarized copy of dental diploma and, if necessary, professional translation;
- (7) proof of clinical practice in dentistry;

# Proposed Rules

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(8) an original or notarized copy of other credentials in dentistry and, if necessary, professional translation;

(9) completed board-approved infection control training; and

(10) an original or notarized copy of National Board Dental Examinations Report - Part I and Part II.

The applicant is allowed to submit to one credential review by the board.

B. Once a credential review has been completed by the board, the committee shall officially notify the applicant by letter as to whether permission to take the regional clinical examination has been denied or granted by the board. The board may also request that the applicant schedule an interview with the credential review committee, then notify the applicant by letter as to whether permission to take the regional clinical examination has been denied or granted by the committee. An applicant denied permission to take the regional clinical examination has the option to appeal the decision to the board within 60 days from the notification date.

C. If the applicant is granted permission by the board to take the regional clinical examination, the applicant must take a board-approved regional clinical examination, successfully pass the regional clinical examination, and submit evidence of the results of the regional clinical examination within 18 months from the receipt date of the board's notification letter granting permission to take the regional clinical examination.

D. When an applicant fails twice any part of a board-approved regional clinical examination, the applicant may not take it again until the applicant successfully completes additional education provided by an institution accredited by the Commission on Dental Accreditation. The education must cover all of the subject areas failed by the applicant in each of the two clinical examinations. The applicant may retake the examination only after the institution provides to the board information specifying the areas failed in the previous examinations and the instruction provided to address the areas failed, and certifies that the applicant has successfully completed the instruction. The applicant shall be allowed to retake the clinical examination one time following this additional educational instruction. If the applicant fails the clinical examination for a third time, the applicant is prohibited from retaking the clinical examination.

E. An applicant must complete and submit a limited license application for review by an appropriate committee of the board. The application must include:

(1) the initial and annual application fees in *Minnesota Statutes*, section 150A.091, subdivision 9b;

(2) evidence of having passed a board-approved regional clinical examination within five years preceding the limited license application;

(3) evidence of having passed an examination designed to test knowledge of Minnesota laws relating to the practice of dentistry and the rules of the board within five years preceding the limited license application;

(4) an acceptable written agreement between the applicant and a board-approved Minnesota licensed supervising dentist. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the applicant agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years;

(5) documentation of current CPR certification;

(6) a statement from a licensed physician attesting to the applicant's physical and mental condition completed within 12 months preceding the limited license application; and

(7) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity completed within 12 months preceding the limited license application.

**Subp. 2. Terms of limited licensure.** Throughout the three consecutive years while practicing general dentistry in Minnesota under the general supervision of a Minnesota licensed dentist, the limited license dentist must maintain and comply with the requirements in items A to F:



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# Proposed Rules

A. submit annual payment of the renewal fee in *Minnesota Statutes*, section 150A.091, subdivision 9b;

B. maintain a consecutive and current CPR certification as required to renew a limited license;

C. submit written correspondence and agreement to the board requesting approval of a subsequent supervising dentist and written agreement, within 14 days prior to employment start date with subsequent supervising dentist. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the limited license dentist agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years or any remaining portion thereof;

D. within seven business days of an unforeseen event, submit written correspondence for review by an appropriate committee of the board regarding the unforeseen circumstance that may interrupt the three consecutive years of supervision;

E. maintain with the board a correct and current mailing address and electronic mail address and properly notify the board within 30 days of any changes as described in *Minnesota Statutes*, section 150A.09, subdivision 3; and

F. maintain a professional development portfolio containing:

(1) acceptable documentation of required hours in professional development activities;

(2) a minimum of two different core subjects as part of the fundamental activities;

(3) one completed self-assessment examination; and

(4) a consecutive and current CPR certification.

The total required hours of professional development activities is 75 hours with a minimum of 45 hours in fundamental activities and a maximum of 30 hours in elective activities. Completing at least 25 hours each year towards the total of 75 hours is required for compliance.

**Subp. 3. Terms of supervising dentist.** A supervising dentist must be licensed in Minnesota and provide general supervision to a limited license dentist. The supervising dentist is not required to be present in the office or on the premises when supervising the limited license dentist, but does require the supervising dentist to have knowledge and authorize the procedures being performed by the limited license dentist. For the three consecutive years or any portion thereof, the supervising dentist must be eligible to participate and comply with the requirements in items A to I.

A. A supervising dentist must be a board-approved Minnesota licensed dentist for at least five consecutive years.

B. A supervising dentist's license shall not be subject to, or pending, corrective or disciplinary action within the previous five years according to *Minnesota Statutes*, sections 214.10 and 214.103.

C. A supervising dentist must have an acceptable written agreement between the limited license dentist and the supervising dentist, and the supervising dentist may only supervise one limited license dentist for the duration of the agreement. The written agreement shall include all information requested by the board. The written agreement shall also include any practice limitations, and an acknowledgment that the limited license dentist agrees to practice clinical dentistry at least 1,100 hours annually, for a period of three consecutive years.

D. No more than two limited license dentists are allowed to practice general dentistry under general supervision in one dental facility.

E. Any subsequent modifications to a written agreement must be submitted in writing to the board by the supervising dentist within seven business days of the modification.

F. A supervising dentist must inform the board in writing about the termination of a written agreement with a limited license dentist within seven business days of the termination.

G. A supervising dentist must inform the board in writing about any known disciplinary or malpractice proceedings involving the limited license dentist within seven business days of the proceeding.

# Proposed Rules

H. The supervising dentist must submit to the board a written performance evaluation of the limited license dentist in regards to employment including practicing clinical dentistry at least 1,100 hours annually, patient care, allied dental personnel, professionalism, billing practices, and make a general recommendation within 90 days preceding to seven business days after completing the three consecutive years or any portion thereof.

I. A supervising dentist who fails to comply with this subpart is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200, and *Minnesota Statutes*, section 150A.08, subdivision 1.

## Subp. 4. **Requirements for licensure.**

A. Upon completion of the three consecutive years, a dentist with a limited license to practice general dentistry in Minnesota shall be prohibited from practicing general dentistry in Minnesota due to expiration of the limited license. A dentist who has an expired or nearly expired limited license may apply for a dental license to practice general dentistry in Minnesota by presenting a license application to the board and meeting the following requirements in subitems (1) to (6). An applicant:

(1) must submit a completed application for a dental license in Minnesota no sooner than 90 days preceding the expiration date of the applicant's limited license or no later than one year after the expiration date of the applicant's limited license;

(2) must submit with the application the nonrefundable fees in *Minnesota Statutes*, section 150A.091, subdivisions 2 and 3;

(3) must submit required documentation of a consecutive and current CPR certification;

(4) shall provide a professional development portfolio for the three consecutive years preceding the license application date as described in subpart 2, item F;

(5) must submit a written performance evaluation from each supervising dentist regarding the applicant while practicing as a limited license dentist; and

(6) must not have been subject to corrective or disciplinary action by the board while holding a limited license during the three consecutive years.

B. An applicant whose license application has been denied may appeal the denial by initiating a contested case hearing pursuant to *Minnesota Statutes*, chapter 14.

## 3100.1700 TERMS AND RENEWAL OF LICENSE OR PERMIT; GENERAL.

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

Subp. 2. **Biennial renewal applications.** A dentist, dental hygienist, licensed dental assistant, or dental assistant with a permit under part 3100.8500, subpart 3, shall submit an application for biennial renewal of a license or permit together with the necessary fee no later than the last day of the licensee's birth month which is the application deadline. An application for renewal is deemed timely if received by the board or postmarked no later than the last day of the licensee's birth month. The application form must provide a place for the renewal applicant's signature certifying compliance with the applicable professional development requirements including holding maintaining a consecutive and current CPR certification and information including the applicant's office address or addresses, the license number, whether the licensee has been engaged in the active practice of dentistry during the two years preceding the period for which renewal is sought as a licensee, and if so, whether within or without the state, and any other information which that may be reasonably requested by the board.

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

## 3100.1750 TERMS AND RENEWAL OF LICENSURE; LIMITED FACULTY AND RESIDENT DENTISTS.

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

Subp. 4. **Application fees.** Each applicant for initial licensure as a limited faculty or resident dentist shall submit with a license application a the fee in the following amounts: in *Minnesota Statutes*, section 150A.091, subdivision 2.

A: limited faculty dentist, \$140; and

B: resident dentist, \$55.

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# Proposed Rules

Subp. 5. **Annual license fees.** Each limited faculty or resident dentist shall submit with an annual license renewal application a ~~the~~ fee established by the board not to exceed the following amounts: in *Minnesota Statutes*, section 150A.091, subdivision 4.

A. limited faculty dentist, \$168; and

B. resident dentist, \$59;

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

## 3100.1850 REINSTATEMENT OF LICENSE.

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

Subp. 3. **Expiration or voluntary termination of 24 months or more.** An applicant whose license has expired according to part 3100.1700, subpart 3, or who voluntarily terminated the license 24 months or more previous to the application for reinstatement must:

A. comply with subpart 2a; and

B. submit either:

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

(2) evidence of having successfully completed applicable board-approved coursework with minimal hour requirements directly relating to the practice of dentistry, dental hygiene, or dental assisting as indicated in the reinstatement application. The board-approved coursework must have been completed within 24 months prior to the board's receipt of the application. The coursework completed under this subpart may not be used to fulfill any of the applicable professional development requirements in part 3100.5100; and

C. be available for an interview with the appropriate board committee to determine the applicant's knowledge of dental subjects and ability to practice dentistry, dental therapy, dental hygiene, or dental assisting under this subpart.

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

## 3100.3600 ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, MODERATE SEDATION, MINIMAL SEDATION, AND NITROUS OXIDE INHALATION ANALGESIA.

[For text of subps 1 to 7, see M.R.]

Subp. 8. **Reporting of incidents required.** A dentist, dental hygienist, or licensed dental assistant must report to the board any incident that arises from the administration of nitrous oxide inhalation analgesia, general anesthesia, deep sedation, moderate sedation, local anesthesia, analgesia, or minimal sedation that results in:

A. a serious or unusual outcome that produces a temporary or permanent physiological injury, harm, or other detrimental effect to one or more of a patient's body systems; or

B. minimal sedation unintentionally becoming moderate sedation, deep sedation, or general anesthesia when the licensee does not have a certificate for administering general anesthesia or moderate sedation described in ~~subpart~~ subparts 9 and 9b.

The report must be submitted to the board on forms provided by the board within ten business days of the incident by the dentist, dental hygienist, or licensed dental assistant, even when another licensed health care professional who, under contract or employment with the dentist, was the actual person administering the analgesia or pharmacological or nonpharmacological method. A licensee who fails to comply with reporting of incidents is subject to disciplinary proceedings on grounds specified in parts 3100.6100 and 3100.6200 and *Minnesota Statutes*, section 150A.08, subdivision 1.

[For text of subps 9 to 11, see M.R.]

## 3100.5100 PROFESSIONAL DEVELOPMENT.

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

Subp. 3. **Professional development activities.** Professional development activities include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life. Professional development activities are categorized as fundamental or elective activities as described in items A and B.

A. Fundamental activities include, but are not limited to, clinical subjects, core subjects, CPR training, and the self-assessment examination. Examples of fundamental activities for an initial or biennial cycle are described in subitems (1) to (5).

# Proposed Rules

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

(3) A CPR certification course is mandatory for each licensee to maintain licensure. The CPR course must be equivalent to the American Heart Association healthcare provider course or the American Red Cross professional rescuer course. The licensee must ~~hold~~ maintain a consecutive and current CPR certificate when renewing a license or permit each biennial term.

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

B. Elective activities for an initial or biennial cycle include, but are not limited to, the examples described in subitems (1) to ~~(6)~~ (7):

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

(5) dental practice management courses include, but are not limited to, computer, insurance claims or billing, and Health Insurance Portability and Accountability Act (HIPAA) training; ~~or~~

(6) leadership or committee involvement with the board or a dental professional association for a maximum of three credit hours;  
or

~~(6)~~ (7) the board shall approve other additional elective activities if the board finds the contents of the activity to be directly related to, or supportive of, the practice of dentistry, dental hygiene, or dental assisting.

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

## 3100.5300 AUDIT PROCESS OF PORTFOLIO.

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

Subp. 6. **Audit fee.** The licensee shall submit to the board the nonrefundable fee in *Minnesota Statutes*, section 150A.091, subdivision 16, after failing two consecutive professional development portfolio audits and thereafter for each failed professional development portfolio audit.

## 3100.7000 ADVERTISING DENTAL SPECIALTY PRACTICE.

Subpart 1. **Specialty areas.** The following special areas of dentistry are recognized as suitable for the announcement of specialty dental practices:

A. endodontics (endodontist);

B. oral and maxillofacial radiology (oral and maxillofacial radiologist);

~~B.~~ C. oral and maxillofacial surgery (oral surgeon/oral maxillofacial surgeon);

~~C.~~ D. oral pathology (oral pathologist);

~~D.~~ E. orthodontics (orthodontist);

~~E.~~ F. pediatric dentistry (pediatric dentist);

~~F.~~ G. periodontics (periodontist);

~~G.~~ H. prosthodontics (prosthodontist); and

~~H.~~ I. public health.

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

## 3100.8400 ASSISTANTS WITHOUT A LICENSE OR PERMIT.

Subpart 1. **Permissible duties.** Assistants under this subpart may:

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

E. provide any assistance, including the placement of articles and topical medication in a patient's oral cavity, in response to a

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## Proposed Rules

specific direction by a licensed dentist who is physically engaged in performing a dental operation as defined in the act and who is physically in a position to give personal supervision to the assistant; ~~and~~

F. aid dental hygienists and licensed dental assistants in the performance of their duties as defined in parts 3100.8500 and 3100.8700; ~~and~~

G. apply fluoride varnish in a community setting under the authorization and direction of a licensed practitioner with prescribing authority such as a dentist or physician, as long as the licensed practitioner authorizing the service or the facility at which the fluoride varnish is administered maintains appropriate patient records of the treatment.

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

### **3100.8500 LICENSED DENTAL ASSISTANTS.**

Subpart 1. **Duties under general supervision.** A licensed dental assistant may perform the following procedures without the dentist being present in the dental office or on the premises if the procedures being performed are with prior knowledge and consent of the dentist:

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

H. deliver vacuum-formed orthodontic retainers; ~~and~~

I. place and remove elastic orthodontic separators;:

J. complete preliminary charting of the oral cavity and surrounding structures with the exception of periodontal probing and assessment of the periodontal structure;

K. take photographs extraorally or intraorally; and

L. take vital signs such as pulse rate and blood pressure as directed by a dentist.

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

### **3100.9600 RECORD KEEPING.**

[For text of subps 1 to 9, see M.R.]

Subp. 10. **Progress notes.** Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. The chronology must include:

A. all treatment provided; ~~and;~~

B. clearly identify the provider by name or initials; all medications used and materials placed;

C. identify all medications used and materials placed; the treatment provider by license number, name, or initials; and

D. when applicable, the identity of the collaborating dentist authorizing treatment by license number.

[For text of subps 11 and 12, see M.R.]

Subp. 13. **Transfer of records.** A patient's dental records must be transferred according to *Minnesota Statutes*, sections 144.291 to 144.298, irrespective of the status of the patient's account. Digital radiographs shall be transferred by compact or optical disc, electronic communication, or printing on high-quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures.

[For text of subp 14, see M.R.]

# Proposed Rules

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## Minnesota Racing Commission

### Proposed Amendment to Rules Governing Horse Racing, *Minnesota Rules*, 7890

#### Horse Medication

#### NOTICE OF HEARING

**Public Hearing.** The Minnesota Racing Commission intends to adopt rules after a public hearing following the procedures 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 above-named rules in The President's Suite, Canterbury Park, 1100 Canterbury Road, Shakopee, Minnesota 55379, starting at 10:00 AM on Tuesday, January 15, 2013, and continuing until the hearing is completed. The agency will schedule additional days of hearing 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.** Administrative Law Judge Manuel J. Cervantes will conduct the hearing. The judge can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, **telephone:** (651) 361-7945, and **fax:** (651) 361-7936. 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. You should direct questions about the rule hearing procedure to the administrative law judge.

**Subject of Rules, Statutory Authority, and Agency Contact Person.** The proposed rules are about lowering the permitted post race level of phenylbutazone in the horse's system from 5ug/ml of serum or plasma to 2ug/ml of serum or plasma. Part 2 deals with not permitting any post race level of any non steroidal anti-inflammatory drug (NSAID), with the exception of phenylbutazone, in the serum or plasma of a 2 year old race horse. The proposed rules are authorized by *Minnesota Statutes*, section 240.23. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. The agency contact person is: Marlene Swanson at The Minnesota Racing Commission, P. O. Box 630, Shakopee, MN 55379; **phone:** (952) 496-7950, **fax:** (952) 496-7954; or **e-mail at:** [marlene.swanson@state.mn.us](mailto:marlene.swanson@state.mn.us). **TTY** users may call the Racing Commission at 1-800-627-3529.

**Statement of Need and Reasonableness.** The statement of need and reasonableness 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. It is now available from the agency contact person or on the Commission's website at [www.mrc.state.mn.us](http://www.mrc.state.mn.us). You may review or obtain copies for the cost of reproduction by contacting the agency contact person.

**Public Comment.** You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. *The administrative law judge will accept your views* either orally at the hearing or in writing at any time before the close of the hearing record. Submit written comments **to the administrative law judge at the address above or to:** [rulecomments@state.mn.us](mailto:rulecomments@state.mn.us). All evidence that you present 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. At the hearing the administrative law judge may order this five-day comment period extended for a longer period but for no more than 20 calendar days. 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 one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the administrative law judge no later than 4:30 p.m. on the due date. All comments or responses received are public and 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 before 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 information can be made available in an alternative format, such as large print, braille, or audio. 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 agency may modify the proposed rules as a result of the rule hearing process. It must support modifications by data and views presented during the rule hearing process. The adopted rules may not be substantially different than these proposed rules,

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# Proposed Rules

unless the agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the agency encourages you 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 that the agency adopts the rules and files them with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings. You may 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. You should direct questions regarding this requirement 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: 2 November 2012

Marlene Swanson, Rulemaking Coordinator  
Minnesota Racing Commission

## 7890.0100 DEFINITIONS.

[For text of subps 1 to 12b, see M.R.]

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

A. Nonsteroidal anti-inflammatory drugs (NSAIDs):

(1) The use of one of the three approved NSAIDs shall be permitted under the following conditions, with the exception of two-year-old race horses where no concentration of any NSAIDs, other than bute, are allowed in the plasma or serum sample taken after racing:

(a) bute, provided that the test sample does not contain more than ~~five~~ two micrograms of the substance or metabolite(s) thereof per milliliter of blood plasma or serum;

[For text of units (b) and (c), see M.R.]

[For text of subitems (2) to (4), see M.R.]

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

[For text of subps 13a to 21, see M.R.]

# 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.

## Environmental Quality Board (EQB) Adopted Exempt Permanent Rules Relating to Environmental Review

### 4410.0200 DEFINITIONS AND ABBREVIATIONS.

[For text of subs 1 to 33, see M.R.]

Subp. 34. **Governmental unit.** "Governmental unit" means any state agency and any general or special purpose unit of government in the state, including watershed districts organized under *Minnesota Statutes*, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council, but not including courts, school districts, the Iron Range Resources and Rehabilitation Board, and regional development commissions.

[For text of subs 35 to 96, see M.R.]

### 4410.1100 PETITION PROCESS.

Subpart 1. **Petition.** Any person may request the preparation of an EAW on a project by filing a petition that contains the signatures and mailing addresses of at least ~~25~~ 100 individuals who reside or own property in the state.

[For text of subs 2 to 9, see M.R.]

### 4410.1500 PUBLICATION AND DISTRIBUTION OF AN EAW.

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

B. The RGU shall promptly publish notice of the completion of an EAW by:

- (1) publishing the notice in at least one newspaper of general circulation in the geographic area where the project is proposed; or
- (2) posting the notice on a Web site that has been designated as the official publication site for publication of proceedings, public notices, and summaries of a political subdivision in which the project is proposed.

B.C. Within five days of the date of submission of the EAW to the EQB staff, the RGU shall provide a press release, containing notice of the availability of the EAW for public review, to at least one newspaper of general circulation within the area where the project is proposed. The press release shall include the name and location of the project, a brief description of the project, the location at which copies of the EAW are available for review, the date the comment period expires, and the procedures for commenting. The RGU shall publish legal notice or advertisement of the availability of the EAW if the proposer requests and agrees to pay for the notice or advertisement. The notice or advertisement shall contain the information required in the press release.

C.D. The EQB staff shall maintain an official EAW distribution list containing the names and addresses of agencies designated to receive EAW's.



## **4410.2550 PRELIMINARY DRAFT EIS OPTION.**

The proposer of a specific action may include in the information submitted to the RGU a preliminary draft EIS on that action for review, modification, and determination of completeness and adequacy by the RGU. A preliminary draft EIS prepared by the project proposer and submitted to the RGU shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft EIS. The RGU shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the RGU to perform its responsibility to review, modify, and determine the completeness and adequacy of the EIS.

## **4410.2900 PERMIT DECISIONS IN CASES REQUIRING EIS.**

Within ~~90~~ 30 days after the determination of adequacy of a final EIS, final decisions shall be made by the appropriate governmental units on those permits which were identified as required in the scoping process and for which information was developed concurrently with the preparation of the EIS. The ~~90-day~~ 30-day period may be extended with the consent of the permit applicant or, where a longer period is required by federal law or state statute, or where a longer period is permitted by *Minnesota Statutes*, section 15.99.

At the time of its permit decision, for those permits that were identified during the scoping process as requiring a record of decision, each permitting unit of government shall prepare a concise public record of how it considered the EIS in its decision. That record shall be supplied to the EQB for the purpose of monitoring the effectiveness of the process created by parts 4410.0200 to 4410.6500 and to any other person requesting the information. The record may be integrated into any other record prepared by the permitting unit of government.

The RGU or other governmental unit shall, upon request, inform commenting governmental units and interested parties on the progress in carrying out mitigation measures which the commenting governmental units have proposed and which were adopted by the RGU making the decision.

## **4410.6000 PROJECTS REQUIRING AN ASSESSMENT OF EIS PREPARATION COST.**

The RGU shall assess the project proposer for its reasonable costs of ~~of that the RGU incurs in~~ preparing, reviewing, and distributing ~~an~~ the EIS in accord with parts 4410.6100 to 4410.6500.

### **4410.6100 DETERMINING EIS ASSESSED COST.**

Subpart 1. **Proposer and RGU agreement.** Within 30 days after the RGU's scoping decision has been issued, the RGU shall submit to the proposer a draft cost agreement. The agreement shall include the EIS estimated cost and a brief description of the tasks and the cost of each task to be performed by each party in preparing, reviewing, and distributing the EIS. Those items identified in part 4410.6200 may be used as a guideline in determining the EIS estimated cost. The proposer may request changes in the cost agreement. If, within 30 days after the proposer receives the draft cost agreement, the RGU and proposer have not signed a cost agreement, either party may refer the matter to the EQB according to part 4410.6410. If the RGU and proposer sign the cost agreement, the RGU shall submit a copy to the EQB.

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

### **4410.6200 DETERMINING EIS COST.**

Subpart 1. **EIS cost inclusions.** In determining the reasonable cost of preparing, reviewing, and distributing ~~an~~ the EIS, the following items shall be included:

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

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

Subp. 3. **EIS scoping costs.** The cost of any items specified in subpart 1 incurred by the RGU during the scoping of ~~an~~ the EIS are part of the reasonable costs of preparing, reviewing, and distributing ~~an~~ the EIS and are to be assessed to the project proposer by the RGU.

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

# 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 # 12-12: Sales and Use Tax – Warranty and Maintenance Contracts – Optional Contracts on Equipment

#### Purpose

The purpose of this revenue notice is to explain the department's position that sales and use tax applies to charges for optional maintenance contracts on equipment but not to charges for optional warranty contracts on equipment. This revenue notice does not apply to optional maintenance contracts on computer software (governed by *Minnesota Rules* part 8130.9910).

#### Background

The department's long-standing position had been that optional maintenance contracts and optional warranty contracts were exempt from sales tax and that the service provider was responsible for paying sales or use tax on any taxable items used under the contract. This position no longer applies to optional maintenance contracts due to changes in Minnesota statutes concerning bundled transactions. The department's position that optional warranty contracts are not subject to sales and use tax is unchanged.

#### Maintenance Contracts

For purposes of this revenue notice, a maintenance contract means a contract under which the specific repair and replacement parts and consumable items needed to maintain the equipment are provided at no additional cost. The maintenance contract is sold for a lump-sum amount and the taxable items provided under the contract are more than *de minimis* compared to the cost of the contract. Both the customer and the service provider are aware at the time the contract is entered that consumable items will be replaced under the contract and that these items are more than a *de minimis* amount compared to the cost of the contract. An example is a maintenance contract for copy machines, where parts and consumable items that require regular replacement for the copier to perform (such as drums, toner, fuser, developer, etc.) are replaced at no additional cost along with incidental repair parts that may need to be replaced due to unforeseen circumstances.

For purposes of this revenue notice, consumable items means items that are depleted, disposable, get used up, or items that need to be replaced after they have been used for a period of time.

#### Department Position

Maintenance contracts generally meet the definition of bundled transactions under *Minnesota Statutes*, section 297A.61, subd. 38. They include two or more distinct and identifiable products. They include repair labor as well as replacement parts, consumable items, and general services such as cleaning, inspecting, etc. that are provided on a periodic basis. The consumable items, which are necessary for the proper functioning and use of the equipment, are not provided exclusively with and are not essential to the general maintenance service portion of the contract. The repair parts and consumable items provided under the maintenance contract are more than insignificant compared to the total cost of the contract. Therefore, under current *Minnesota Statutes* optional maintenance contracts are subject to sales and use tax.

#### Warranty Contracts

For purposes of this revenue notice, a warranty contract means a contract that acts like insurance against future unexpected repair costs. Under a warranty contract, neither the customer nor the seller knows at the time the contract is signed whether anything will be provided under the contract. The replacement of consumable items is not included under a warranty contract.

#### Department Position

The department's position on optional warranty contracts is not affected by the bundled transaction provisions in *Minnesota Statutes* since they do not meet the definition of a bundled transaction. The sale does not include the sale of two or more products since under the warranty contract there may never be any parts or services provided to the customer. Optional warranty contracts remain exempt from sales and use tax. The provider of the service must pay sales or use tax on the cost of all taxable items used under the contract. If the service

provider charges a separate amount for parts or other taxable items, the provider should buy the items exempt for resale and charge sales tax to the customer.

Publication Date: 26 November 2012

Susan Von Mosch, Assistant Commissioner  
for Tax Policy  
Department of Revenue

## Department of Revenue

### **Modification of Revenue Notice # 93-03: Sales and Use Tax - Application of Tax to the Printing Industry**

The following technical information generally applies to persons who, in the normal course of business, are engaged in printing or in a step in the printing process. The printing process includes graphic design work and preparing print files, preparing copy, artwork and photographs, film assembly, platemaking, actual printing or presswork, binding, and other finishing operations.

#### **Sales**

**1. Taxable sales.** The following sales are taxable:

- Sales of tangible personal property. This includes charges for printing, lithography, photolithography, gravure, rotogravure, screen printing, electronic and jet printing, copying and duplicating, imprinting, multilithing, multigraphing, mimeographing, photostats, steel die engraving, and similar operations.
- Sales of services. Sales tax applies to the total retail charge for services that are a part of the sale of printed material. For example, die cutting, slitting, embossing, and other binding and finishing operations, including scoring, folding, collating, stitching, and trimming are taxable.
- Labor charges. Sales tax applies to charges that result in the alteration, modification or assembly of raw materials.

**2. Exempt sales.** Certain sales made by a printer may be exempt if the purchaser provides the printer with a properly fully completed exemption certificate. For example, sales of identification labels or name plates to a person who will affix them to a product intended for sale are exempt from sales tax if the purchaser provides you the printer with a properly fully completed exemption certificate. Likewise, sales of direction sheets, instruction books, warranties, and other printed matter packaged with or available only with the purchase of products held for sale are not taxable. Again, the purchaser must provide a properly fully completed exemption certificate.

Other sales made by a printer are exempt from sales tax under specific provisions of the law. For example, advertising circulars, catalogs and newsletters distributed to the general public are exempt publications if regularly issued at intervals of three months or less.

#### **Purchases**

**1. Taxable purchases.** Items that are not used in the production process are taxable. For example, items used in administrative functions, utilities used in non-production functions, and cleaning solvents used to clean equipment and accessories while the production process is shut down are taxable.

**2. Exempt purchases.** Items purchased by a printer that are used or consumed in the production of tangible personal property intended to be sold at retail are exempt from sales and use tax. For example, cleaning solvents such as blanket and roller wash, dampener cleaner, plate cleaner, and copper wash are exempt as being consumed in industrial production if these products are used during the actual production process. But note that these items are taxable if the property is being produced for the printer's own use rather than for sale.

**3. Maintenance contracts** for equipment that provide repair and replacement parts and consumable items to maintain the equipment at no additional cost are subject to sales tax. Warranty contracts that cover future unexpected repair costs and do not include consumable items needed to maintain the equipment are exempt from sales and use tax. ~~represent charges for services and are exempt from sales and use tax provided the charges are stated separately on the invoice.~~ If the maintenance-warranty contract for equipment covers the entire cost of

# Revenue Notices

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parts to ~~maintain~~ repair the item covered by the contract, the company providing the service is responsible for paying the sales or use tax on their cost of parts used in repairing the equipment. If there is a charge to the customer for repair parts used under the contract, the charges for those parts are taxable. See Revenue Notice # 12-12: Sales and Use Tax Warranty and Maintenance Contracts – Optional Contracts on Equipment for additional information.

**4. Installation, Fabrication, and Repair.** Charges for installation and fabrication labor are taxable. Repair labor is not subject to sales tax when separately stated, but Charges for labor that do not result in a new or changed product are not taxable provided they are stated separately from charges for taxable items on the customer's invoice. This includes charges for travel expenses and repair and installation labor. Any parts or materials used to repair tangible personal property are taxable. See Revenue Notice # 06-11: Sales and Use Tax – Sales Price – Labor Charges; Revocation of Revenue Notice # 91-20 for additional information on the taxability of installation, fabrication, and repair labor.

## PRINTING INDUSTRY GUIDELIST

### Composition - Text Copy/Art Preparation

**Taxable items include:** canned prewritten computer software; computer/data storage equipment; floppy/rigid disks, magnetic tape; foundry type (re-usable); line-up tables, chairs, desks; linotype/intertype magazines; matrices; personal computers; phototypesetting machines and parts, imaging systems (printout devices), input devices, editing equipment; reusable press lock-up parts for metal composition (chase, furniture, quoins, etc.); saws; telecommunications modems and equipment; T-squares, rules and composing sticks; type gauge; typesetting machinery and parts (hot or cold type); word processors.

**Exempt items include:** custom software; exposure chemicals; film negatives; film positives; ink; lubricating oils and greases; masking tape; phototypesetter supplies (photographic paper, film, offset paper plate); process lettering and photodisplay tape; purchased author alterations; purchased compositions (machine or hand set); purchased phototypesetting; TTS tapes; utilities used in production (electricity, gas, water, steam, etc.)

### Composition - Commercial Art Department

**Taxable items include:** air brushes; brushes; cameras, parts and attachments; dispensers for tape, ink, etc. (when purchased separately from supply item); drawing boards; enlargers; photo processing equipment; scissors; T-squares.

**Exempt items include:** art board; blow-ups; ink paste; marking pencils; mat service; paper, film, acetate; photo prints and photostats; photographic supplies (film, exposure chemicals, etc.); screen tints; strip type; spray, such as fixative; tape; tissue overlay; utilities used in production (electricity, gas, water, steam, etc.).

### Graphic Arts Photography and Film Assembly

**Taxable items include:** air brushes; anti-static devices; automatic plate processor; copyboard; densitometer; diffusion transfer system; dispensers for supply items (when purchased separately from supply items); electronic pre-press system and parts; electronic scanning equipment and parts; film dryer equipment; film processors; film punch; glass screens; graphic arts cameras, parts and attachments; knives and scissors; laser imaging devices; light fixtures; light tables; off-press color proofing system and parts; photo composing machines; pin register devices; projection system equipment and parts for automated stripping; proof presses and parts; roller coater; sinks; step and repeat machines and parts; whirlers.

**Exempt items include:** acids, developers, fix, chemicals; anti-halation backing; carbon tissue (drawings, keylines, photographs); color filter; color separations; contacts and duplicate prints or films; diazo coatings; electrotypes; exposure light bulbs and arcs; goldenrod paper; gum, ink, masks; litho wipes (like Webril); masking tape; metal toner; mylar; opaque, film, process paper; photographic materials (paper, plastic film desensitizer, emulsion); photopolymer coatings; plastic plates; platemaking (see below); proofing paper and process printing supplies (color key); purchased paste-up and keylines; purchased stripping; repro proofs; rubber plates; stereotype mats and mat service; utilities used in production (electricity, gas, water, steam, etc.).

### Platemaking

An exemption is provided for accessory tools equipment and other short lived items that meet the following criteria: 1) separate detachable unit; 2) produces a direct effect on the product; and 3) has an ordinary useful life of less than 12 months. The Department of Revenue considers all printing plates to meet the criteria in #1 and #2, so the test for taxability or exemption is based on 'ordinary useful

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## Revenue Notices

life' in #3. **Ordinary useful life is measured by the length of time an item would last if used continuously in production under the normal conditions of the user.** Platemaking-related exempt items and services include: contact negatives/positives; continuous tone separations; creative art; dot etching; halftone negatives/positives; line negatives/positives; masking paper; opaquing; proof press plates; proof processes such as opaquing, proof press plates, proof processes such as blue prints, color key, cromalin, dry key, ozalid, photostats, poly proofs, silver prints, technifax; repro proofs; stripping; tape.

Pressroom

**Taxable items include:** coating machines; drum and pail pumps; electronic printers; hand cleaner; ink curing equipment; offset duplicators; pail rack; press machinery and parts (all processes) including calendar rolls, grippers, feeders, guides, cylinders, rollers, bearers, ink fountains, sheet detectors; quality control equipment and instruments including densitometers, paper hygrosopes, gauges, magnifying glasses, control targets (reusable), inkometers, tackoscopes, fadometer, psychrometer; roller metal core (shafts); scissors, knives, tools; tables, desks.

**Exempt items include:** acids and glues; anti-static spray, blanket coating; blanket saver; blankets; bronze powder; custom die-cutting materials; dampener sleeves; dampening solution; disposal gloves; etch solutions; flying pasters, inks and varnishes: reducers, toners, driers, additives, conditioners, and concentrates; lubricating oils and greases; non-offset spray; padding compound; paper roller cores; paper stock; PH indicator sticks (used once); plates (see Platemaking under Graphic Arts Photography); press wash (used during production only); presspack; pumice powder; roller covering, including molletron which has a direct effect on the product (covering for rollers that feed or transport the product during production and do not modify or change the product is taxable); types, including splicing tape; tympan and drawsheets; utilities used in production (electricity, gas, water steam, etc.).

### **Bindery, Mailing Rooms & Shipping Rooms**

**Taxable items include:** banding machinery (excluding metal bands used); clipboards; collators; cutters and trimmers (including original knife); due cutting jackets; folding machines; glue brushes, pots; labeling plates; Mullen tester; staplers (dispenser); stitchers; tape dispensers; trucks and handling equipment.

**Exempt items include:** back lining; cartons (non-returnable) packaging bindery and mailing materials; cartons, wrapping paper, chipboard; knives, dies, punches, cutting rules, press punches, perforating rules, blades, etc. used in cutting, scoring, slitting, perforating, collating and stitching, which 1) are separate detachable tools, 2) produce a direct effect on product, and 3) have an ordinary useful life of less than 12 months when used continuously in production; labeling mats and supplies; lubricating oils and greases; metal banding; paste and glue used in production; rubberbands, tapes (including carton sealing tape), suction cups used in production; signature boards; skids and tops shipped with job (non-returnable); staples and refills; stitching and tying wire, cord, string; utilities (electric power) used in production; wire, cording and string used in production.

Michael E. Boekhaus  
Director, Appeals, Legal Services &  
Criminal Investigation Division  
Dated: 4 January 1993

Publication Date: November 26, 2012

Susan Von Mosch, Assistant Commissioner  
for Tax Policy  
Department of Revenue

# Commissioners' Orders

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

## Minnesota Department of Natural Resources (DNR) Commissioner's Order on Motorized Watercraft Restriction on Pelican Lake in Wright County for 2013

**Date:** October 25, 2012

**Statutory authority:** *Minnesota Statutes, 97A.101, subd. 4*

### BACKGROUND

For the purposes of enhancing the use and value of Pelican Lake (DOW #86003100) in Wright County (a Wildlife Management Lake designated pursuant to *Minnesota Statutes*, section 97A.101) for migratory waterfowl, and to limit the disturbance of migratory waterfowl that are feeding and resting during the spring migration particularly Lesser and Greater Scaup, Canvasbacks, Redheads, Ringnecks, and Ruddy ducks the following motorized watercraft restrictions are effective March 15, 2013 thru May 15, 2013 as authorized by *Minnesota Statutes*, section 97A.101 subdivision 4. The statutory requirements in *Minnesota Statutes*, section 97A.101 subdivision 4 have been met.

### ORDER

**NOW, THEREFORE, IT IS HEREBY ORDERED**, pursuant to authority vested in me by law, including but not limited to *Minnesota Statutes*, section 97A.101 subdivision 4, that:

1. Portions of the surface waters of Pelican Lake in Wright County (DOW# 86003100) are closed to all motorized watercraft, from March 15, 2013 to May 15, 2013 except as otherwise provided by this notice or special permit. The closed zone is described as the portion of Pelican Lake located in Section 12, NE, SE of Township 120 N, Range 25 W and Sections 5, 6, 7, 8, 17, 18 of Township 120 N, Range 24 W, Wright County, Minnesota.

2. Motorized watercraft use by agents of the Commissioner of the Department of Natural Resources (DNR), the United States Fish and Wildlife Service or local law enforcement agencies are authorized in the closed zone as described in #1 except that airboats used during non emergency situations by agencies other than DNR must be authorized by a special permit from its Director of the Division of Fish and Wildlife.

3. Special permits may be issued by the DNR to riparian resident landowners and their immediate family members or tenants to operate motorized watercraft in the closed zone.

Date signed: 6 November 2012

Tom Landwehr, Commissioner  
Department of Natural Resources

## 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.

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## Minnesota Board of Animal Health Notice of Quarterly Meeting of the Board

**NOTICE IS HEREBY GIVEN** that the Minnesota Board of Animal Health will hold its quarterly meeting on Wednesday, December 5, 2012. The meeting will take place in room B144 of the Orville Freeman Building, 625 Robert Street North, St. Paul, Minnesota at 9:30 a.m.

## Minnesota Comprehensive Health Association (MCHA) Notice of Board of Director's Meeting 10 December 2012

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association's (MCHA) Board of Directors will be held at 1:00 p.m. on Monday, December 10, 2012, at the MCHA Executive Office, 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Mary McCaffrey at (952) 593-9609.

## Plumbing Board Notice of Final Interpretation on Oil and Flammable Liquid Separator

This Final Interpretation replaces the interpretation that was issued on September 11, 2012 and published in the *State Register* on September 17, 2012. On November 19, 2012, the Minnesota Plumbing Board issued a Final Interpretation, which is printed below, pursuant to *Minnesota Statutes* §§ 326B.435, subdivision 2(a)(4), and 326B.127, subdivision 5. Any person aggrieved by this Final Interpretation may appeal it by filing a petition for a writ of certiorari with the Minnesota Court of Appeals pursuant to *Minnesota Statutes* § 14.63.

Questions may be directed to Patricia Munkel-Olson, **phone:** (651) 284-5128, **e-mail:** [patricia.munkel-olson@state.mn.us](mailto:patricia.munkel-olson@state.mn.us). **TTY** users may call (651) 297-4198.

# Official Notices

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## FINAL INTERPRETATION

**Inquiry:** PB0068  
**Subject:** Oil and Flammable Liquid Separator  
**Code Reference:** Minnesota Plumbing Code, *Minnesota Rules* Part 4715.1120 (2009)

**Submitted by:** Mr. Joel Dahlgren  
United Grain Systems, LLC  
705 East Fourth Street  
Winthrop, MN 55396

**Approved by:** John Parizek, Chair, Minnesota Plumbing Board  
**Date Received:** August 17, 2012  
**Issue Date:** November 19, 2012

**Background:** The Board considered en banc information describing the building that surrounds and covers two semi-truck scales in separate enclosures. The buildings house a semi-truck scale for the purpose of weighing grain. Each semi-truck scale area includes four pit drains that are piped to a 20-24 inch vertical pipe that is approximately 12 feet long and installed about 8 feet below grade. The piping also serves as the collection point for the drain tile that surrounds the pits. A sump pump may be used to drain the vertical pipe to a man-made unlined water pond. Entry and egress for each scale occurs through semi-truck sized entry doors.

The Board and Submitter agree that for the purpose of this Request for Interpretation the structure surrounding and covering the semi-truck scale is a building.

All parties were heard and had fair opportunity to present facts, thoughts, opinions, and challenges to the questions presented below. The Board heard from Mr. Dahlgren, Mr. Jeff Neilson, Department of Labor and Industry staff, and other persons present at the Board's October 16, 2012 meeting.

As required by *Minnesota Statutes* § 326B.127, subd. 5, the Plumbing Board will consider this Final Interpretation for adoption as part of the Code.

**Question One:** Is the structure an enclosed garage of over 1,000 square feet?

**Answer One:** No.

**Commentary:** All parties were heard and had fair opportunity to present facts, thoughts, opinions, and challenges pertaining to Question One. The Board also reviewed and considered the definition of garage, the Request for Interpretation, and handouts provided by Mssrs. Dahlgren and Neilson.

**Question Two:** Does the structure house more than four motor vehicles, repair garages, gasoline stations with grease racks, work or wash racks, and auto washes?

**Answer Two:** No.

**Commentary:** All parties were heard and had fair opportunity to present facts, thoughts, opinions, and challenges pertaining to Question Two. The Board also reviewed and considered the definition of garage, the Request for Interpretation, and handouts provided by Mssrs. Dahlgren and Neilson.

**Question Three:** Is the structure a building where oil or flammable liquid wastes are produced?

**Answer Three:** No.

**Commentary:** All parties were heard and had fair opportunity to present facts, thoughts, opinions, and challenges pertaining to Question Three. The Board reviewed and considered the Merriam-Webster online definition of "produced" and the phrase "are produced." Further discussion related to the active versus passive nature of words, and the distinction between intentional and accidental production. The Board also reviewed and considered the Request for Interpretation, and handouts provided by Mssrs. Dahlgren and Neilson.

**Question Four:** Is a flammable liquid separator required in this installation?

**Answer Four:** No.



**Commentary:** All parties were heard and had fair opportunity to present facts, thoughts, opinions, and challenges pertaining to Question Four.

Dated: 19 November 2012

John Parizek, Chair  
Minnesota Plumbing Board

### Office of Secretary of State

#### NOTICE OF PUBLICATION of the Fiscal Year 2012 Open Appointments Annual Compilation and Statistical Report

The Office of the Secretary of State has published the *Fiscal Year 2012 Open Appointments Annual Compilation and Statistical Report*.

The full publication is available on the OSS website at: <http://www.sos.state.mn.us/index.aspx?page=360>.

Vacancies are published one time per month. Current vacancies can be found on the OSS website at:  
<http://www.sos.state.mn.us/index.aspx?page=308>.

You may join our e-mail list-serve by submitting your e-mail address to: [open.appointments@state.mn.us](mailto:open.appointments@state.mn.us).

For further information please contact Nancy Breems at (651) 297-5845.

### Teachers Retirement Association (TRA)

#### Notice of Meeting of the Board of Trustees 12 December 2012

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Wednesday, December 12, 2012 at 9:30 a.m. in Suite 400, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board. Board members may participate by telephone.

### Department of Transportation (Mn/DOT)

#### Engineering Services Division, Office of Construction and Innovative Contracting Notices of Suspension and Debarment

##### NOTICE OF SUSPENSION

**NOTICE IS HEREBY GIVEN** that the Department of Transportation ("MnDOT") has ordered that the following vendors be suspended for a period of sixty (60) days, effective October 3, 2012 until December 2, 2012:

- Marlon Louis Danner and his affiliates, South St. Paul, MN
- Danner, Inc. and its affiliates, South St. Paul, MN
- Bull Dog Leasing, Inc. and its affiliates, Inver Grove Heights, MN
- Danner Family Limited Partnership and its affiliates, South St. Paul, MN
- Ell-Z Trucking, Inc. and its affiliates, South St. Paul, MN
- Danner Environmental, Inc. and its affiliates, South St. Paul, MN

# Official Notices

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## NOTICE OF DEBARMENT

**NOTICE IS HEREBY GIVEN** that the Department of Transportation (“MnDOT”) has ordered that the following vendors be debarred for a period of three (3) years, effective February 24, 2010 until February 24, 2013:

- Joseph Edward Riley, Morris, MN
- John Thomas Riley, Morris, MN

**NOTICE IS HEREBY GIVEN** that the Department of Transportation (“MnDOT”) has ordered that the following vendors be debarred for a period of three (3) years, effective March 25, 2011 until March 25, 2014:

- Philip Joseph Franklin, Leesburg, VA
- Franklin Drywall, Inc. and its affiliates, Little Canada, MN
- Master Drywall, Inc. and its affiliates, Little Canada, MN

*Minnesota Statute* section 161.315 prohibits the Commissioner, counties, towns, or home rule or statutory cities from awarding or approving the award of a contract for goods or services to a person who is suspended or debarred, including:

- 1) any contract under which a debarred or suspended person will serve as a subcontractor or material supplier,
- 2) any business or affiliate which the debarred or suspended person exercises substantial influence or control, and
- 3) any business or entity, which is sold or transferred by a debarred person to a relative or any other party over whose actions the debarred person exercises substantial influence or control, remains ineligible during the duration of the seller’s or transfer’s debarment.

## 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](http://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.

## On-going State Contracts

The state spends \$2-3 billion a year on contracts. The *State Register* is one of the best ways to advertise your contracts - it’s a required read for public works projects. And it’s cost is one of the least expensive legal advertising rates in Minnesota. At \$10.20 each 1/10 of a page, you cannot go wrong.

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## Minnesota State Colleges and Universities (MnSCU) Metropolitan State University Notice of Availability of Request for Proposal (RFP) for Owner Representative Selection for Parking Ramp and Student Center at Metropolitan State University

The Minnesota State Colleges and Universities, acting as the owner for the State of Minnesota, is soliciting proposals from interested, qualified consultants for Owner Representative services for the above referenced projects.

A full Request for Proposal is available by November 28, 2012 at:

[http://www.metrostate.edu/msweb/resources/depts\\_services/bldg\\_services/RFP.html](http://www.metrostate.edu/msweb/resources/depts_services/bldg_services/RFP.html)

A **MANDATORY** project informational meeting has been scheduled for **10 a.m. CST on Dec 4, 2012 at the Metropolitan State's Saint Paul Campus in the Founders Hall Auditorium.**

Proposals must be delivered to: Metropolitan State University, Diana McCollum, Suite 329 Founders Hall, 700 East Seventh Street, Saint Paul, MN 55106, not later than **10:00 a.m. CST Dec. 12, 2012.**

Late responses will not be considered.

Minnesota State Colleges and Universities System 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.

## Department of Public Safety (DPS) Bureau of Criminal Apprehension (BCA) Notice of Availability of Request for Information for the Feasibility Study to Replace All or a Portion of the BCA's Computerized Criminal History (CCH) System

The Minnesota Department of Public Safety, Bureau of Criminal Apprehension is requesting information for the purpose of gathering budget information from qualified vendors, for a feasibility study to replace all or a portion of the BCA's Computerized Criminal History (CCH) with more modern technology and architecture.

The Request for Information will be available by mail from this office through January 15, 2013. **A written request (by direct mail or email) is required to receive the Request for Information** to ensure all interested parties will be included on additional information should it become available.

# State Contracts

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The Request for Information can be obtained from:

Maureen Janke  
Bureau of Criminal Apprehension, MNJIS Contracting Office  
1430 Maryland Avenue East  
St. Paul, MN 55106  
**E-mail:** *Maureen.janke@state.mn.us*

Information submitted in response to the Request for Information in this advertisement must be received at the address above no later than January 22, 2013. **Late submissions will NOT be considered.** FAX or emailed proposals will **NOT** be considered.

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

## **Minnesota 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 Kelly Arneson at (651) 366-4774; 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 are 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:

Kelly Arneson  
Consultant Services  
Office of Technical Support  
Minnesota Department of Transportation  
395 John Ireland Blvd. Mail Stop 680  
St. Paul, MN 55155

**Minnesota Department of Transportation (Mn/DOT)****Engineering Services Division****Notice Concerning Professional/Technical Contract Opportunities and Taxpayers' Transportation Accountability Act Notices**

**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](http://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. Mn/DOT is also posting notices as required by the Taxpayers' Transportation Accountability Act on the above referenced website.

**Minnesota Zoo****Notice of Request for Proposals for Design Services for Renovation of the Snow Monkey Exhibit**

The Minnesota Zoo requests proposals for Design Services as they relate to the renovation of the snow monkey exhibit and off exhibit space. The current exhibit and surrounding areas will be renovated and redesigned as part of the Facility Master Plan.

Details are included in the complete Request for Proposals which is available by e-mailing Angie Guggisberg, Minnesota Zoo Project Manager at [angie.guggisberg@state.mn.us](mailto:angie.guggisberg@state.mn.us) . The deadline for submitting a proposal is 11:00AM., CST, Monday, December 3, 2012.

This Request for Proposals does not obligate the State of Minnesota or the Minnesota Zoo to complete the work contemplated in this notice and the State reserves the right to cancel this solicitation. All expenses incurred in response to this notice are solely the responsibility of the responder.

# Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of 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.

## Vendors Sought for these Projects

Check up on all the “active” state grants in the “Contracts & Grants” section, available only to *State Register* subscribers. Open the *State Register* and click on Bookmarks on the left. You will also see a list of all the current rules, a growing index, and previous years’ indices. Subscribers also receive LINKS to the *State Register*. Subscriptions cost \$180 a year (an \$80 savings).

## Brown’s Creek Watershed District Request for Qualifications for Accounting Services for Calendar Years 2013-2014

### 1. Introduction

The Brown’s Creek Watershed District (BCWD) is the governmental unit with primary responsibility for protecting the water resources of the Brown’s Creek Watershed. The District was established in 1997 under the Minnesota Watershed District Act.

The District covers approximately 18,000 acres that drain into Brown’s Creek, which then enters the St. Croix River. The watershed includes Brown’s Creek; a DNR designated trout stream and several small tributaries. The watershed includes twelve major lakes and numerous wetlands. The District includes portions of the Cities of Oak Park Heights, Grant, Hugo, Lake Elmo, and Stillwater along with May and Stillwater Townships.

### 2. Solicitation

*Minnesota Statutes*, Section 103B.277, Subdivision 5, require BCWD to solicit proposals every two years to provide consulting services. The current accounting services provided to the district include, but are not limited to; 1) preparing monthly checks and financial statements using Peachtree Complete Accounting software; 2) assist District auditor in preparation of certified audit; 3) preparing other financial reports as the District may require.

### 3. General Instructions

Firms interested in providing services to BCWD shall submit eight (8) written copies of their qualifications. The Brown’s Creek Watershed District on or before 3:00 P.M., December 31, 2012, will accept qualification statements.

Submittals should be sent to: Brown’s Creek Watershed District  
Attention: Karen Kill  
1380 West Frontage Road, Hwy 36  
Stillwater, MN 55082

Qualification statements received after this time will not be considered. Prospective responders who have any questions regarding this “Request for Qualifications”, may contact Jay Riggs, (651) 275-1136 ext 20.

### 4. Qualification Statement Content

Firms are requested to include in their qualification statement, the following information in the order listed:

- a. A brief summary of the firm’s qualifications.
- b. Name and phone number of the person designated to answer questions about the qualification statement.
- c. A specific list of the individuals who would be assigned to work and manage BCWD projects, their proposed responsibilities, background, years of experience, and their previous experience in servicing watersheds.
- d. Fee schedules

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# Non-State Public Bids, Contracts & Grants

e. Submittals may not exceed 10 pages in length. Submittals that exceed 10 pages in length may not be considered.

## 5. Selection Process

The BCWD Board of Managers anticipates making a decision, within 30 days, based upon the submittals. However, at their discretion, they may choose to conduct interviews after reviewing the proposals.

Dated: 19 November 2012

## Brown's Creek Watershed District Request for Qualifications for Auditing Services for Calendar Years 2013-2014

### 1. Introduction

The Brown's Creek Watershed District (BCWD) is the governmental unit with primary responsibility for protecting the water resources of the Brown's Creek Watershed. The District was established in 1997 under the Minnesota Watershed District Act.

The District covers approximately 18,000 acres that drain into Brown's Creek, which then enters the St. Croix River. The watershed includes Brown's Creek; a DNR designated trout stream and several small tributaries. The watershed includes twelve major lakes and numerous wetlands. The District includes portions of the Cities of Oak Park Heights, Grant, Hugo, Lake Elmo, and Stillwater along with May and Stillwater Townships.

### 2. Solicitation

*Minnesota Statutes*, Section 103B.227, Subdivision 5, require BCWD to solicit proposals every two years to provide consulting services. The current auditing services provided to the district include, but are not limited to; 1) auditing the annual financial statements of the BCWD with the result of these audit to be a certified audit in accordance with generally accepted governmental audit standards.

### 3. General Instructions

Firms interested in providing services to BCWD shall submit eight (8) written copies of their qualifications. The Brown's Creek Watershed District on or before 3:00 P.M., December 31, 2012, will accept qualification statements.

Submittals should be sent to:           Brown's Creek Watershed District  
  Attention: Karen Kill  
  1380 West Frontage Road, Hwy 36  
  Stillwater, MN 55082

Qualification statements received after this time will not be considered. Prospective responders who have any questions regarding this "Request for Qualifications", may contact Jay Riggs, (651) 275-1136 ext 20.

### 4. Qualification Statement Content

Firms are requested to include in their qualification statement, the following information in the order listed:

- a. A brief summary of the firm's qualifications.
- b. Name and phone number of the person designated to answer questions about the qualification statement.
- c. A specific list of the individuals who would be assigned to work and manage BCWD projects, their proposed responsibilities, background, years of experience, and their previous experience in servicing watersheds.
- d. Fee schedules
- e. Submittals may not exceed 10 pages in length. Submittals that exceed 10 pages in length may not be considered.

### 5. Selection Process

The BCWD Board of Managers anticipates making a decision, within 30 days, based upon the submittals. However, at their discretion, they may choose to conduct interviews after reviewing the proposals.

Dated: November 19, 2012

# Non-State Public Bids, Contracts & Grants

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## Brown's Creek Watershed District

### Request for Qualifications for Engineering Consulting Services for Calendar Years 2013-2014

#### 1. Introduction

The Brown's Creek Watershed District (BCWD) is the governmental unit with primary responsibility for protecting the water resources of the Brown's Creek Watershed. The District was established in 1997 under the Minnesota Watershed District Act.

The District covers approximately 18,000 acres that drain into Brown's Creek, which then enters the St. Croix River. The watershed includes Brown's Creek; a DNR designated trout stream and several small tributaries. The watershed includes twelve major lakes and numerous wetlands. The District includes portions of the Cities of Oak Park Heights, Grant, Hugo, Lake Elmo, and Stillwater along with May and Stillwater Townships.

#### 2. Solicitation

*Minnesota Statutes*, Section 103B.227, Subdivision 5, require BCWD to solicit proposals every two years to provide consulting services. The current engineering consulting services include, but are not limited to; 1) assistance with the completion of a second generation plan, 2) assistance with the implementation of a permitting and plan review program and, 3) advising managers of technical options and various projects and studies as requested by the managers.

#### 3. General Instructions

Firms interested in providing services to BCWD shall submit eight (8) written copies of their qualifications. The Brown's Creek Watershed District on or before 3:00 P.M., December 31, 2012, will accept qualification statements.

Submittals should be sent to:           Brown's Creek Watershed District  
  Attention: Karen Kill  
  1380 West Frontage Road, Hwy 36  
  Stillwater, MN 55082

Qualification statements received after this time will not be considered. Prospective responders who have any questions regarding this "Request for Qualifications", may contact Jay Riggs, (651) 275-1136 ext 20.

#### 4. Qualification Statement Content

Firms are requested to include in their qualification statement, the following information in the order listed:

- a. A brief summary of the firms qualifications.
- b. Name and phone number of the person designated to answer questions about the qualification statement.
- c. A specific list of the individuals who would be assigned to work and manage BCWD projects, their proposed responsibilities, technical background, years of experience, and their previous experience in servicing watersheds.
- d. Hourly fee schedules by labor category and an estimated monthly blended retainer fee based upon 66 hours of typical services.
- e. Submittals may not exceed 10 pages in length. Submittals that exceed 10 pages in length may not be considered.

#### 5. Selection Process

Because the BCWD is charged with managing a DNR Designated Trout Stream and many other unique resources, selection will emphasize criteria that indicate a firm's experience and knowledge of integrated resource management approaches to watershed management.

Qualification statements will be evaluated by the Board of Managers and ranked based on the following criteria:

1. Experience with watershed management organizations within the metropolitan area.
2. Experience with innovative and alternative watershed management approaches that integrate water resources engineering with natural resource management.
3. Engineering design and timely construction management and inspection.
4. Locally based firm with the ability to respond to emergency situations in the watershed or situations that would require immediate attention.



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# Non-State Public Bids, Contracts & Grants

5. Ability to work with the public, regulatory agencies (including DNR) and other stakeholders and the ability to communicate effectively with the BCWD Board of Managers, Watershed District Attorney and SWCD staff.
6. Experience with innovative, second generation Watershed Plans that stress an integrated approach to watershed management.
7. Permitting, plan review and environmental assessment experience.
8. Interdisciplinary group of water resources professionals that can provide full range of services to the watershed (i.e., surface water, ground water, natural resources, water quality, engineering, etc.)
9. The BCWD Board of Managers anticipates making a decision, within 30 days, based upon the submittals. However, at their discretion, they may choose to conduct interviews after reviewing the proposals.

Dated: 19 November 2012

## Brown's Creek Watershed District Request for Qualifications for Legal Services for Calendar Years 2013-2014

### 1. Introduction

The Brown's Creek Watershed District (BCWD) is the governmental unit with primary responsibility for protecting the water resources of the Brown's Creek Watershed. The District was established in 1997 under the Minnesota Watershed District Act.

The District covers approximately 18,000 acres that drain into Brown's Creek, which then enters the St. Croix River. The watershed includes Brown's Creek; a DNR designated trout stream and several small tributaries. The watershed includes twelve major lakes and numerous wetlands. The District includes portions of the Cities of Oak Park Heights, Grant, Hugo, Lake Elmo, and Stillwater along with May and Stillwater Townships.

### 2. Solicitation

*Minnesota Statutes*, Section 103B.227, Subdivision 5, require BCWD to solicit proposals every two years to provide consulting services. The current legal services provided to the district include, but are not limited to; 1) assistance with the completion of a second generation plan, 2) assistance with the implementation of a permitting and plan review program and, 3) advising managers of legal options for various projects and studies as requested by the managers.

### 3. General Instructions

Firms interested in providing services to BCWD shall submit eight (8) written copies of their qualifications. The Brown's Creek Watershed District on or before 3:00 P.M., December 31, 2012, will accept qualification statements.

Submittals should be sent to:           Brown's Creek Watershed District  
  Attention: Karen Kill  
  1380 West Frontage Road, Hwy 36  
  Stillwater, MN 55082

Qualification statements received after this time will not be considered. Prospective responders who have any questions regarding this "Request for Qualifications", may contact Jay Riggs, (651) 275-1136 ext 20.

### 4. Qualification Statement Content

Firms are requested to include in their qualification statement, the following information in the order listed:

- a. A brief summary of the firm's qualifications.
- b. Name and phone number of the person designated to answer questions about the qualification statement.
- c. A specific list of the individuals who would be assigned to work and manage BCWD projects, their proposed responsibilities, background, years of experience, and their previous experience in servicing watersheds.
- d. Hourly fee schedules by labor category and an estimated monthly blended retainer fee based upon 7 hours of typical services per month.
- e. Submittals may not exceed 10 pages in length. Submittals that exceed 10 pages in length may not be considered.

# Non-State Public Bids, Contracts & Grants

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## 5. Selection Process

Because the BCWD is charged with managing a DNR Designated Trout Stream and many other unique resources, selection will emphasize criteria that indicate a firm's experience and knowledge of integrated resource management approaches to watershed management.

Qualification statements will be evaluated by the Board of Managers and ranked based on the following criteria:

1. Experience with watershed management organization law.
2. Ability to work with the public, regulatory agencies (including DNR) and other stakeholders and the ability to communicate effectively with the BCWD Board of Managers, Watershed District Attorney and SWCD staff.
3. Permitting, plan review and environmental assessment experience.
4. Locally based firm with the ability to respond to emergency situations in the watershed or situations that would require immediate attention.
5. Experience with watershed management organizations within the metropolitan area.
6. The BCWD Board of Managers anticipates making a decision, within 30 days, based upon the submittals. However, at their discretion, they may choose to conduct interviews after reviewing the proposals.

Dated: November 19, 2012

## Metropolitan Airports Commission (MAC) Minneapolis-St. Paul International Airport Notice of Call for Bids for 2013 Electrical Infrastructure Rehab

MAC Contract No.: 106-2-667  
Bids Close At: 2:00 p.m. December 18, 2012

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040 - 28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. The work includes the building of a new shell space that in a future phase of the Electrical Infrastructure project will house switchgear that will be redundant to the existing East Switch Gear room.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 6%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Architectural Alliance; at the Minneapolis and Saint Paul Builders Exchanges; McGraw-Hill Construction/Dodge and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from Franz Reprographics; 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; **phone:** (763) 503-3401; **fax:** (763) 503-3409. Make checks payable to: Architectural Alliance. Deposit per set (refundable): \$150. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on November 26, 2012, at MAC's web address of: <http://www.metroairports.org/business/solicitations> (construction bids).

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# Non-State Public Bids, Contracts & Grants

## Metropolitan Airports Commission (MAC)

### Minneapolis-St. Paul International Airport

#### Notice of Call for Bids for 2013 EMERGENCY POWER UPGRADES

MAC Contract No.:

106-2-668

Bids Close At:

2:00 p.m. December 18, 2012

**Notice to Contractors:** Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040 - 28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. The work includes but is not limited to installing close transition/isolation bypass switches to serve jet bridge power on C Concourse and for emergency power distribution on the south end of the main terminal to aid in the separation of emergency (life safety) and optional critical loads.

**Targeted Group Businesses (TGB):** The goal of the MAC for the utilization of TGB on this project is 5%.

**Bid Security:** Each bid shall be accompanied by a "Bid Security" in the form of a certified check made payable to the MAC in the amount of not less than five percent (5%) of the total bid, or a surety bond in the same amount, running to the MAC, with the surety company thereon duly authorized to do business in the State of Minnesota. discrepancies.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the office of Architectural Alliance; at the Minneapolis and Saint Paul Builders Exchanges, McGraw Hill Construction/Dodge and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from Franz Reprographics; 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; **phone:** (763) 503-3401; **fax:** (763) 503-3409. Make checks payable to: Architectural Alliance. Deposit per set (refundable): \$150. Requests for mailing sets will be invoiced for mailing charges. Deposit will be refunded upon return of bidding documents in good condition within 10 days of opening of bids.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on November 26, 2012, at MAC's web address of: <http://www.metroairports.org/business/solicitations> (construction bids).

## Minnesota's Bookstore

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<i>Hard-Water World</i>	Stock Number 766	\$24.95
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<i>Lost in the Woods</i>	Stock Number 1099	\$19.95
<i>Historic Photos of St. Paul</i>	Stock Number 13660	\$39.95
<i>State Fair</i>	Stock Number 13667	\$24.95



**Several convenient ways to order:**

- ♦ **Retail store** Open 8 a.m. - 5 p.m. Monday - Friday, 660 Olive Street, St. Paul
- ♦ **Phone** (credit cards): 8 a.m. - 5 p.m. Monday - Friday, 651.297.3000 (Twin Cities) or 1.800.657.3757 (nationwide toll-free)
- ♦ **On-line orders:** www.minnesotasbookstore.com
- ♦ **Minnesota Relay Service:** 8 a.m. - 5 p.m. Monday - Friday, 1.800.627.3529 (nationwide toll-free)
- ♦ **Fax** (credit cards): 651.215.5733 (fax line available 24 hours/day)
- ♦ **Mail orders:** Orders can be sent to Minnesota's Bookstore, 660 Olive Street, St. Paul, MN 55155

**PREPAYMENT REQUIRED. Prices and availability subject to change.**

**Fax and phone orders:** Credit card purchases ONLY (American Express/Discover/MasterCard/VISA). Please allow 1-2 weeks for delivery. **Mail orders:** Complete order blank and send to address above. Enclose check or include credit card information. Please allow 4-6 weeks for delivery. Please make checks payable to "Minnesota's Bookstore." A \$20.00 fee will be charged for returned checks.

Stock No.	Title	Quantity	Unit Price	Total

Send my order to:

Company \_\_\_\_\_

Name \_\_\_\_\_

Street Address (Not deliverable to P.O. boxes) \_\_\_\_\_

City ( ) State Zip

Daytime phone (In case we have a question about your order) \_\_\_\_\_

Credit card number: \_\_\_\_\_

Expiration date: \_\_\_\_\_ Signature: \_\_\_\_\_

**Shipping Charges**

<i>If Product</i>	<i>Please</i>
<i>Subtotal is:</i>	<i>Add:</i>
Up to \$15.00	\$ 5.00
\$15.01-\$25.00	\$ 6.00
\$25.01-\$50.00	\$ 9.00
\$50.01-\$100.00	\$ 14.00
\$100.01-\$1,000	\$ 17.00*
<small>*\$17 to an address in MN, WI, SD, ND, IA. If delivered to an address in other states, Canada or internationally, we will contact you if there are additional charges.</small>	
More than \$1,000	Call

Product Subtotal \_\_\_\_\_

Shipping \_\_\_\_\_

Subtotal \_\_\_\_\_

Sales tax \_\_\_\_\_

*(6.875% sales tax if shipped to MN address, 7.625% if shipped to St. Paul address. 7.125% MN transit tax or other local sales tax if applicable)*

**TOTAL** \_\_\_\_\_

If tax exempt, please provide ES number or completed exemption form.  
ES# \_\_\_\_\_