Minnesota

State Register

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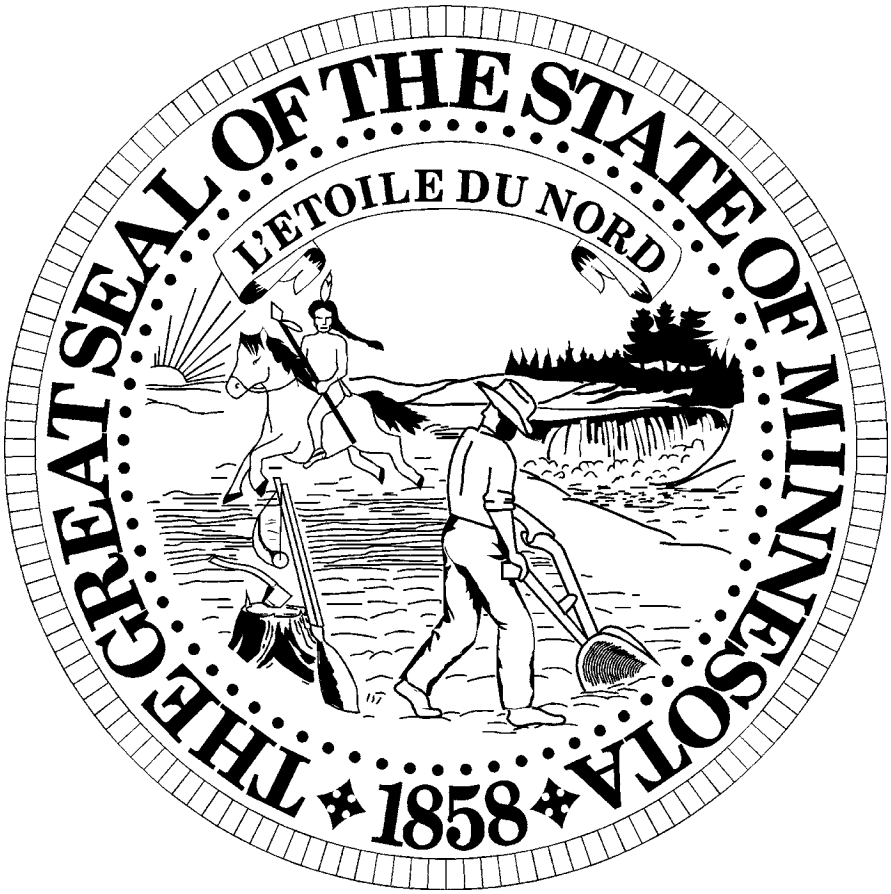

Proposed, Adopted, Emergency, Expedited, Withdrawn, Vetoed Rules; Executive Orders; Appointments; Commissioners' Orders; Revenue Notices; Official Notices; State Grants & Loans; State Contracts; Non-State Public Bids, Contracts and Grants

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Minnesota State Register

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

The *Minnesota 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. It contains:

- **Proposed Rules**
- **Adopted Rules**
- **Exempt Rules**
- **Expedited Rules**
- **Withdrawn Rules**
- **Executive Orders of the Governor**
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- **State Grants and Loans**
- **Contracts for Professional, Technical and Consulting Services**
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Printing Schedule and Submission Deadlines

Vol. 41 Issue Number	PUBLISH DATE (**BOLDFACE** shows altered publish date)	Deadline for: all Short Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for LONG, Complicated Rules (contact the editor to negotiate a deadline)
# 28	Monday 9 January	Noon Tuesday 3 January	Noon Thursday 29 December
# 29	Tuesday 17 January	Noon Tuesday 10 January	Noon Thursday 5 January
# 30	Monday 23 January	Noon Tuesday 17 January	Noon Thursday 12 January
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Contents

Minnesota Rules: Amendments and Additions 828

Adopted Rules

Department of Health
Adopted Permanent Rules Relating to Communicable Disease Reporting 829

Official Notices

Office of Administrative Hearings
Decision Regarding the Matter of the Petition of the Property Casualty Insurers Association of America, Inc. 830

Minnesota Pollution Control Agency
Thirty Day EXTENSION of the Public Notice Period for the Draft Osakis Area Lake Excess Nutrients Total Maximum Daily Load (TMDL) Report and Request for Comment 838
EXTENSION of Public Notice Period of the Draft Lake Winona Phosphorus Total Maximum Daily Load Report and Request for Comment 839

Minnesota Department of Transportation
Notice of Petition of Non-Compliance and Request for Action under Minn. Stat. § 218.041 841
Notice of Petition of Non-Compliance and Request for Action under Minn. Stat. § 218.041 841

Board of Water and Soil Resources (BWSR)
Local Road Wetland Replacement Program: Notification of Wetland Bank Service Area Closure 842

State Grants & Loans

Minnesota Department of Human Services
Notice of Request for Proposals to Develop and/or Provide Services for Older Minnesotans to Live in the Community - Live Well at Home Grants 844
Request for Proposals for a Qualified Grantee to Provide 24/7 Consultation Services to Mobile Crisis Responders in the context of Providing Crisis Services to Individuals with an Intellectual/ Developmental Disorder (I/DD)/Traumatic Brain Injury (TBI) and/or a Co-occurring Mental Illness 844

Department of Labor and Industry
Notice of Safety Grants for Employers 845

State Contracts

Minnesota Department of Agriculture (MDA)
Notice of Availability of Request for Proposals (RFP) for Research to Quantify Agricultural Contributions to Impaired Waters and for Development and Evaluation of Best Management Practices to Protect and Restore Water Resources 846

Minnesota State Colleges and Universities (MnSCU)
Alexandria Technical & Community College
Advertisement for Bids for 2016 Domestic Water Main Replacement 847

Minnesota Housing Finance Agency
Notice of Intent to Award a Single Source Contract 848

Minnesota State Lottery
Request for Proposals for Sponsorship Agreements 848

Minnesota Department of Transportation (Mn/DOT)
Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities ("Consultant Pre-Qualification Program") 850
Notice Concerning Professional/Technical Contract Opportunities and Taxpayers' Transportation Accountability Act Notices 850

Non-State Public Bids, Contracts & Grants

MacDonald & Mack Architects
Request for Bids for Christ Church Lutheran Courtyard Restoration, 3244 34th Avenue South, Minneapolis, MN 55406 851

Metropolitan Airports Commission (MAC)
Notice of Call for Bids for 2017 Noise Mitigation Consent Decree Amendment 851
Notice of Call for Bids for 2017 Terminal 1-Lindbergh Passenger Boarding Bridge Replacement 852

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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.

Volume 41 - Minnesota Rules

(Rules Appearing in Vol. 41 Issues #1-26 are in Vol 41, #26 - Tuesday 27 December 2016)

Volume 41, #27

Tuesday 3 January -

Department of Health

4605.7000; .7030; .7040; .7060; .7075; .7090; .7400; .7700; .7900 (adopted) 829

Adopted Rules

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

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

Department of Health

Adopted Permanent Rules Relating to Communicable Disease Reporting

The rules proposed and published at State Register, Volume 41, Number 3, pages 51-59, July 18, 2016 (41 SR 51), are adopted with the following modifications:

4605.7000 DEFINITIONS.

Subp. 7. **Infection ~~control practitioner~~ preventionist.** "Infection ~~control practitioner~~ preventionist" means a person designated by a hospital, nursing home, medical clinic, or other health care facility as having responsibility for prevention, detection, reporting, and control of infections within the facility.

4605.7030 PERSONS REQUIRED TO REPORT DISEASE.

Subp. 2. **Health care facilities.** Hospitals, nursing homes, medical clinics, or other health care facilities shall designate that all individual health care practitioners report as specified in subpart 1; or the health care facility shall designate an infection ~~control practitioner~~ preventionist or other person as responsible to report to the commissioner, according to part 4605.7040 or 4605.7044, knowledge of a case, suspected case, carrier, or death from any of the diseases and syndromes in part 4605.7040 or a pregnancy under part 4605.7044, and the information specified in part 4605.7090.

4605.7040 DISEASE AND REPORTS; CLINICAL MATERIALS SUBMISSIONS.

Cases, suspected cases, carriers, and deaths due to the following diseases and infectious agents shall be reported. When submission of clinical materials is required under this part, submissions shall be made to the Minnesota Department of Health, Public Health Laboratory.

B. Diseases reportable within one working day:

(13) Cronobacter sakazakii in infants under one year of age. Submit clinical materials;

~~(13)~~ (14) cryptosporidiosis (Cryptosporidium spp.). Submit clinical materials;

~~(14)~~ (15) cyclosporiasis (Cyclospora spp.). Submit clinical materials;

~~(15)~~ (16) dengue virus infection;

~~(16)~~ (17) Diphyllobothrium latum infection;

~~(17)~~ (18) ehrlichiosis (Ehrlichia spp.);

~~(18)~~ (19) encephalitis (caused by viral agents);

~~(19)~~ (20) enteric Escherichia coli infection (E. coli O157:H7, other Shiga toxin-producing (enterohemorrhagic) E. coli, enteropathogenic E. coli, enteroinvasive E. coli, enteroaggregative E. coli, enterotoxigenic E. coli, or other pathogenic E. coli). Submit clinical materials;

~~(20) Enterobacter sakazakii in infants under one year of age. Submit clinical materials;~~

(56) varicella (chickenpox). Submit clinical materials~~.~~;

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.

Office of Administrative Hearings

Decision Regarding the Matter of the Petition of the Property Casualty Insurers Association of America, Inc.

This matter came before Administrative Law Judge Eric L. Lipman on October 28, 2016, for an oral argument.

On September 2, 2016, the Property Casualty Insurers Association of America, Incorporated, petitioned the Office of Administrative Hearings for an Order under Minn. Stat. § 14.381 (2016). It asks the tribunal to determine that the Minnesota Department of Commerce is enforcing a requirement that certain large insurers disclose sensitive recruitment, hiring and vendor detail, as though it were a duly adopted rule.

Michael J. Ahern, Dorsey & Whitney LLP, appeared on behalf of the Petitioner, Property Casualty Insurers Association of America, Inc. (PCI). Sarah L. Krans, Assistant Attorney General, appeared on behalf of Minnesota Department of Commerce (Department).

Based upon submissions of the parties and the hearing record, and for the reasons set out in the Memorandum below,

IT IS HEREBY ORDERED THAT:

1. Until such time as the Department is authorized by a statute or a rule to collect and disclose recruitment and contracting data, the Department may not require Minnesota insurers to respond to the Multistate Insurance Diversity Survey.

2. The Department shall publish this decision in the *State Register*.

3. The Department shall bear the costs of this proceeding.

Dated: December 7, 2016

ERIC L. LIPMAN
Administrative Law Judge

NOTICE

This decision is the final administrative decision under Minn. Stat. § 14.381. It may be appealed to the Minnesota Court of Appeals under Minn. Stat. §§ 14.44-.45.

MEMORANDUM

Factual and Regulatory Background

In 2012, the California Legislature enacted new reporting requirements for insurers with written premiums of more than $100 million within the State of California.[1] These larger insurance companies were directed by statute to make disclosures regarding the companies' efforts to seek out, certify and contract with vendors that are owned by minorities, women or disabled veterans.[2] The reporting detail from each of these companies would then be hosted on the website of the California Department of Insurance.[3] The California law provided that if any covered company did not make the required reporting it could face a civil penalty.

1 *See* Cal. Ins. Code § 972.2 (2012).
2 Cal. Ins. Code § 972.2(a) (2016).
3 Cal. Ins. Code § 972.2(f) (2016).

The statute authorized penalties of up to $5,000 for negligent failures to report and penalties of up to $10,000 for a willful failure to complete the reporting.[4]

Based upon the program's success, the California Department of Insurance was able to persuade insurance commissioners in four other states (Minnesota, New York, Oregon and Washington) and the District of Columbia, to work collaboratively on a still broader program of public disclosures.[5] The broader program would have both a wider geographic reach, covering the new jurisdictions, and would include detail on a wider array of corporate hiring and purchasing practices.[6]

On May 2, 2016, the Commissioner of the Minnesota Department of Commerce (Commissioner), Michael Rothman, jointly, with the Insurance Commissioners of the other collaborating jurisdictions, issued a letter relating to the new program. The program was denominated as the Multistate Insurance Diversity Survey (MIDS). The announcement letter instructed that all insurance companies with written national premiums of $300 million or more, and that are licensed in one of the six participating jurisdictions, were required to submit responses to the 2016 MIDS by September 1, 2016.[7] The reporting requirements were aimed at encouraging "increased procurement from the nation's diverse suppliers and greater diversity on insurer governing boards."[8] As the announcement letter explained:

The survey questions are focused on two diversity issues: supplier diversity and governing board diversity. The survey questions seek information about each company's supplier diversity program, outreach efforts, and procurement data with diverse suppliers, and are intended to facilitate supplier relationships between insurers and the nation's diverse businesses. Diverse businesses include: Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Disabled Veteran Business Enterprises (DVBEs), and LGBT Business Enterprises (LGBTBEs). The second part of the survey focuses on the demographics of each governing board, as well as the company's outreach efforts to diversify, in order to examine the state of leadership diversity within the insurance industry.[9]

Lastly, the announcement letter instructed that the replies to the survey's questions would be available (in some form) to the public on December 1, 2016.[10]

The survey questions cover a wide-range of operational matters, including:

(a) the mission statements of the company's board of directors and board committees on increasing the diversity of the board of directors;
(b) "all outreach and communication practices" to diversify the company's board of directors;
(c) how diversity "strategies and practices have been successful in establishing relationships with diverse candidates for board positions";
(d) a timeline and "any other details available at this time" relating to a supplier diversity program and efforts to implement supplier diversity policy statements of the company;
(e) "all company … outreach and communication strategies that are conducted specifically to diverse businesses";
(f) "any outreach and communication strategies and practices about supplier diversity conducted internally to company … employees";
(g) explanation of the company's efforts to encourage and track the procurements of the company's primary suppliers to subcontract with diverse businesses; and,
(h) detailed descriptions of the company progress and best practices "with regards to supplier diversity …."[11]

Moreover, the survey likewise sought detail as to the dollar amounts of contracts that were routed from each insurance company in favor of Women-owned Business Enterprises, Minority-owned Business Enterprises, Disabled Veteran-owned Business Enterprises and Lesbian, Gay, Bisexual, Transgender-owned Business Enterprises.[12] The disclosures as to the dollar amount of the contracting opportunities awarded to each category of vendors was to be further segmented into one of 14 different reporting classifications:

4 Cal. Ins. Code § 972.2(d) (2016).
5 *See* Petition (Pet.), Exhibit (Ex.) Exhibit A.
6 *Id*.
7 *Id*.
8 *Id*.
9 *Id*.
10 *Id*.
11 Pet., Ex. A, 2016 Multistate Insurance Diversity Survey.
12 *Id*.

Advertising / Marketing	Information Technology	Real Estate
Financial Services	Office Supplies	Travel / Entertainment
Claims Services	Print Services	Legal Services
Facilities	Professional Services	Other[13]
Human Resources	Telecommunications	

PCI has 359 members licensed to issue insurance in the State of Minnesota.[14] PCI is a trade association of nearly 1,000 insurance companies and advocates for its members' policy positions in the legislatures of all 50 states and in Washington, D.C.[15]

PCI asserts that its members will be harmed if they are required to complete the survey and have the substance of those replies placed into the public domain. First, it maintains that the staff time, resources and effort necessary to assemble accurate replies to the survey questions is considerable.[16] Second, it argues that the planned placement of these disclosures into the public domain makes valuable and confidential business information freely accessible to those who compete in the insurance market with its members.[17]

By way of a letter dated June 14, 2016, PCI and three other trade associations inquired as to the legal basis for insisting upon responses to the MIDS. In a letter dated August 10, 2016, the insurance commissioners from the six participating jurisdictions made a joint response. As to insurers licensed in Minnesota, the commissioners maintained that the statutory authority to "require insurers to respond to the survey" and for survey responses to be "shared among the participating states," was found in Minn. Stat. §§ 45.027, subd. 1a, 60A.03 (2016).[18]

Minn. Stat. § 45.027 (2016), reads in relevant part:

Subdivision 1. **General powers.** In connection with the duties and responsibilities entrusted to the commissioner, and Laws 1993, chapter 361, section 2, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;
(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;
(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the duties and responsibilities entrusted to the commissioner;
(4) conduct investigations and hold hearings for the purpose of compiling information related to the duties and responsibilities entrusted to the commissioner;
(5) examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;
(6) publish information which is contained in any order issued by the commissioner;
(7) require any person subject to duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction; and
(8) assess a natural person or entity subject to the jurisdiction of the commissioner the necessary expenses of the investigation performed by the department when an investigation is made by order of the commissioner. The cost of the investigation shall be determined by the commissioner and is based on the salary cost of investigators or assistants and at an average rate per day

13 *Id.*
14 Affidavit (Aff.) of Paul C. Blume at ¶ 4 (Sept. 1, 2016).
15 *Id.* at ¶ 3.
16 *Id.* at ¶¶ 17-18.
17 *See id.* at ¶¶ 9, 17.
18 Pet., Ex. C at 3.

or fraction thereof so as to provide for the total cost of the investigation. All money collected must be deposited into the general fund. A natural person or entity licensed under chapter 60K, 82, or 82B shall not be charged costs of an investigation if the investigation results in no finding of a violation. This clause does not apply to a natural person or entity already subject to the assessment provisions of sections 60A.03 and 60A.031.

Subd. 1a. **Response to department requests**. An applicant, registrant, certificate holder, licensee, or other person subject to the jurisdiction of the commissioner shall comply with requests for information, documents, or other requests from the department within the time specified in the request, or, if no time is specified, within 30 days of the mailing of the request by the department. Applicants, registrants, certificate holders, licensees, or other persons subject to the jurisdiction of the commissioner shall appear before the commissioner or the commissioner's representative when requested to do so and shall bring all documents or materials that the commissioner or the commissioner's representative has requested.

Minn. Stat. § 60A.03 reads in relevant part:

Subd. 2. **Powers of commissioner**. The commissioner shall have and exercise the power to enforce all the laws of this state relating to insurance, and shall enforce all the provisions of the laws of this state relating to insurance in the manner provided by the laws defining the powers and duties of the commissioner of commerce, or, in the absence of any law prescribing the procedure, by any reasonable procedure the commissioner prescribes

.....

Subd. 9. **Confidentiality of information**. The commissioner may not be required to divulge any information obtained in the course of the supervision of insurance companies, or the examination of insurance companies, including examination related correspondence and work papers, until the examination report is finally accepted and issued by the commissioner, and then only in the form of the final public report of examinations. Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of this information to the insurance department of another state, the National Association of Insurance Commissioners, the National Association of Securities Dealers, or any national securities association registered under the Securities Exchange Act of 1934, if the recipient of the information agrees in writing to hold it as nonpublic data as defined in section 13.02, in a manner consistent with this subdivision. This subdivision does not apply to the extent the commissioner is required or permitted by law, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding. For purposes of this subdivision, a subpoena is not an order of a court of law.

On September 2, 2016, PCI petitioned for an order under Minn. Stat. § 14.381. PCI asks this tribunal to direct the Department to cease enforcement of the requirement that the covered insurers complete the MIDS.[19] PCI maintains that the requirement that these insurers complete the MIDS is not based upon any Minnesota statute or rule, and is beyond the Commissioner's authority under Minn. Stat. §§ 45.027 and 60A.03. It insists that the directive to complete the survey amounts to an unpromulgated rule, in violation of the Minnesota Administrative Procedure Act.

On September 16, 2016, the Department filed a response to PCI's petition. The Department maintained that PCI did not have standing to request any relief under Minn. Stat. § 14.381; the relief requested by PCI could not be granted; and the Commissioner's request for information about the hiring and contracting practices of Minnesota insurers was not a "rule," as that term is used in the Minnesota Administrative Procedure Act.[20] It requested dismissal of PCI's petition.[21]

On October 28, 2016, counsel for PCI and the Department participated in an oral argument on the claims made in the petition and the Department's response.[22] During the argument, the Department maintained that while it was likely that there was a limit on the Commissioner's authority to demand information from Minnesota insurers, it could not identify any particular data that the Commissioner could not demand.[23]

On November 21, 2016, by way of a letter from counsel, the Department asserted that it "will not take any enforcement action against insurers for not responding to the 2016 Multistate Insurance Diversity Survey."[24] Because the Department maintains that this declaration moots the dispute between the parties, it requested both that PCI withdraw its petition, and that the Administrative Law Judge refrain from acting upon PCI's claims until, at the earliest, PCI could submit a response to the November 21 letter.

19 Pet. at 1-2; Minn. Stat. § 14.381, subd. 1(a).
20 Department's Response at 1 (Sept. 16, 2016).
21 *Id.* at 3.
22 *See* Second Prehearing Order (Sept. 27, 2016).
23 Digital Recording (Sept. 16, 2016) (on file with the Minn. Office Admin. Hearings).
24 Letter from Counsel (Nov. 21, 2016).

The Department also argued that to the extent that PCI did not voluntarily withdraw its petition, PCI's claims should be dismissed on the grounds of mootness.[25]

PCI asserts that, notwithstanding the November 21 declaration, it has active and viable claims for relief.[26]

Analysis

1. Are PCI's Claims Moot?

PCI maintains that the Department's pledge to refrain from any enforcement action against insurers for not responding to the 2016 survey leaves unanswered the question of whether the Commissioner still claims the authority to require the disclosure of insurer hiring and vendor data and the power to penalize any future failure to make these disclosures. PCI argues that if the Department can insist upon dismissal of the petition at this stage of the proceedings, its claims are "capable of repetition, yet evade review."[27]

The Administrative Law Judge agrees. In the case of *Kahn v. Griffin*,[28] the Minnesota Supreme Court detailed the legal standards for applying the mootness doctrine. As Justice Paul H. Anderson explained:

The [United States] Supreme Court has determined that in the absence of a class action, the 'capable of repetition, yet evading review' doctrine is 'limited to the situation where two elements are combined: (1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.' Additionally, we will not deem a case moot, and thus will retain jurisdiction, if the case is 'functionally justiciable' and is an important public issue "of statewide significance that should be decided immediately.'[29]

In the view of the Administrative Law Judge, all three factors cited by the *Kahn* court weigh in favor of resolving PCI claims. After development of the hearing record and the submission of detailed arguments, this case is "functionally justiciable." Further, given the multi-year nature of the survey program, and the express goal of the commissioners to "build upon" the successes obtained by California between 2012 and 2015, there is a reasonable expectation that the insurers would be subjected to similar actions in future years.[30] Lastly, the breadth of the commissioner's authority to demand detailed business information from insurers is an important public issue, of statewide significance, that should be decided immediately. PCI's claims for relief are not moot.

2. **Does PCI Have Standing to Seek Relief?**

Under Minn. Stat. § 14.381, subd. 1(a), a person may petition the Office of Administrative Hearings seeking an order of an administrative law judge determining that "an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule."[31]

The Department argues that PCI does not have the requisite legal standing to request a declaratory order, because the Commissioner has not sought any disclosures from PCI. PCI counters that on this, and other regulatory matters, its corporate purpose is to advocate on behalf of its member-companies.

In the case of *Warth v. Seldin*,[32] the U.S. Supreme Court addressed the circumstances in which an association may have standing in court to seek relief on behalf of its members. In that case, the Home Builders Association challenged a township's zoning practices on the grounds that those practices prevented their members from building lower-cost housing and earning additional profit. The township countered that the association did not suffer injury-in-fact from the zoning rules. As Justice Powell explained:

Even in the absence of injury to itself, an association may have standing solely as the representative of its members. . . . The association must allege that its members, or any one of them, are suffering immediate or threatened injury as a result of

25 *Id*.
26 Letter from Counsel (Nov. 23, 2016).
27 *Id*. at 2-3.
28 *Kahn v. Griffin*, 701 N.W.2d 815 (Minn. 2005).
29 *Kahn*, 701 N.W.2d at 821-22 (quoting *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975) and *State v. Brooks*, 604 N.W.2d 345, 347-48 (Minn.2000)).
30 Pet., Ex. A at 1.
31 Minn. Stat. § 14.381, subd. 1(a).
32 *Warth v. Seldin*, 422 U.S. 490 (1975).

the challenged action of the sort that would make out a justiciable case had the members themselves brought suit. . . . So long as this can be established, and so long as the nature of the claim and of the relief sought does not make the individual participation of each injured party indispensable to proper resolution of the cause, the association may be an appropriate representative of its members, entitled to invoke the court's jurisdiction.

….

[W]hether an association has standing to invoke the court's remedial powers on behalf of its members depends in substantial measure on the nature of the relief sought. If in a proper case the association seeks a declaration, injunction, or some other form of prospective relief, it can reasonably be supposed that the remedy, if granted, will inure to the benefit of those members of the association actually injured. Indeed, in all cases in which we have expressly recognized standing in associations to represent their members, the relief sought has been of this kind.[33]

In this case, PCI has alleged that developing complete responses to the survey questions will require some of its member-insurance companies to incur substantial expenses and make public valuable business information that is now kept confidential.[34]

Applying the factors from *Warth v. Seldin* in this case, it is clear that: PCI's member companies would have standing to sue in their own right; the regulatory and competitive interests that PCI seeks to protect are germane to the trade association's purpose; and, neither the claim that is asserted, nor the relief that is requested, requires the participation of any specific member covered by the disclosure requirements. PCI has standing to challenge the directive on behalf of its members.[35]

3. Does the Commissioner's Disclosure Directive Qualify as a Rule?

The Minnesota Administrative Procedure Act (MAPA) defines a "rule" as:

every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure.[36]

Further, interpretations of existing rules which "make specific the law enforced or administered by the agency," and are not either long-standing positions of the agency or within the plain meaning of the statute, are deemed to be "interpretative rules."[37]

With limited exceptions, that are not applicable in this case, an agency's interpretative rules are valid only if they are promulgated in accordance with MAPA.[38]

The Department's statement that the covered insurers are required to "respond to the survey" and that "[p]articipating Commissioners have the discretion to require any licensed insurer, even those that collect less than $300 million in written national premiums, to complete the survey," are "statements of general applicability."[39] Moreover, as to insurers with $300 million in written national premiums, the declaration makes clear that no policy will be developed later, on an individualized, case-by-case basis. Every Minnesota insurer that exceeds this sales threshold must make the disclosures.[40]

The Department's May 2, 2016 directive that "[t]he deadline to submit the survey is September 1, 2016" was also a

33 *Warth,* 422 U.S. at 511, 515 (citations omitted); *see also, Hunt v. Washington State Apple Advert. Comm'n*, 432 U.S. 333, 342–43 (1977); *Red River Freethinkers v. City of Fargo*, 679 F.3d 1015, 1022 (8th Cir. 2012).

34 *See* Blume Aff. at ¶¶ 17-18.

35 *See United Food & Commercial Workers Union Local 751 v. Brown Grp., Inc.*, 517 U.S. 544, 553 (1996); *Hunt v. Washington State Apple Advert. Comm'n*, 432 U.S. 333, 342–43 (1977); *accord, Builders Ass'n of Minnesota v. City of St. Paul*, 819 N.W.2d 172, 176–77 (Minn. Ct. App. 2012); *Rukavina v. Pawlenty*, 684 N.W.2d 525, 532–33 (Minn. Ct. App. 2004).

36 Minn. Stat. § 14.02, subd. 4 (2016).

37 *See, e.g., Mapleton Community Home, Inc. v. Minnesota Dep't of Human Services,* 391 N.W.2d 798, 801 (Minn. 1986) ("[a]n agency interpretation that 'make[s] specific the law enforced or administered by the agency' is an interpretive rule that is valid only if promulgated in accordance with the [Minnesota Administrative Procedures Act]") (quoting *Minnesota-Dakotas Retail Hardware Ass'n v. State*, 279 N.W.2d 360, 364 (Minn. 1979)).

38 *See* Minn. Stat. § 14.03, subd. 3(b) (2016); *In re Application of Q Petroleum*, 498 N.W.2d 772, 780 (Minn. Ct. App.), *review denied* (Minn. 1993) (citing *Mapleton Community Home,* and *Minnesota-Dakotas Retail Hardware Ass'n, supra*).

39 Pet., Ex. C. at 3.

40 *Compare Reserve Life Insurance Co. v. Commissioner of Commerce,* 402 N.W.2d 631 (Minn. Ct. App.) *review denied* (Minn. 1987) (it was reasonable for the Commissioner to assess the validity of insurance policy provisions on a case-by-case basis where it would be "nearly impossible" to state in advance all of the possible applications of the statutory terms "unfair, inequitable, misleading (and) deceptive").

"statement of future effect."[41]

For these reasons, unless some exception to the requirement to promulgate an interpretative rule applies, the disclosure directive is an administrative "rule."

4. Does the Agency's Pronouncement Follow Directly from the Plain Meaning of the Statute?

The Department does not point to any administrative rule obliging disclosure of data to the MIDS program. Instead, the Department asserts that the demand for data is part of the Commissioner's powers to conduct investigations under Minn. Stat. §§ 45.027 and 60A.03.

It is important to note that when an agency's interpretation of the law directly follows from the plain meaning of a statute, the agency is not deemed to have engaged in rulemaking.[42] Here, however, the Department's disclosure directive does not result from a plain reading of either statute.

It cannot be that the Commissioner is carrying out a statutory duty to make these inquiries, because none of the key words of the MIDS program appear in the underlying statutes. The terms "supplier," "veteran," "lesbian," "gay," "bisexual," "transgender" or "minority" do not appear in either Chapters 45 or 60A (2016) of Minnesota Statutes. The word "procurement" does appear twice in Chapter 60A, but in a very different context – the unlawful sale of insurance;[43] not the kind of third-party vendor and subcontracting arrangements scrutinized by the survey.

In fact, to the extent that MIDS initiative obliges confidential business data to be disclosed to the public, it contravenes the protections in these same statutes. Minn. Stat. § 45.027, subd. 9, makes clear that confidential business information collected by the Department is ordinarily disclosed only to an "appropriate person or agency" following a determination that the disclosures will "aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest."[44] Even in those rare circumstances, the planned disclosure must be first approved by the Attorney General with a notice sent to the "chairs of the senate and house of representatives judiciary committees" describing "the disclosure and the basis for it."[45]

Similarly, Minn. Stat. § 60A.031 provides that the Commissioner's inquiries under Chapter 60A follow from a formal examination process that is "related to the enforcement of the insurance laws, or to ensure that companies are being operated in a safe and sound manner …."[46] In those circumstances, the Commissioner issues a written order "stating the scope of the examination and designating the person responsible for conducting the examination";[47] which culminates in the production of a formal report that is verified by the examiner;[48] and the adoption of written findings and conclusions by the Commissioner.[49] Moreover, the "working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination," are to be maintained as confidential records and shielded from public disclosure.[50] Yet, none of these statutory protections are afforded to Minnesota insurers under the MIDS initiative.

For these reasons, the disclosures sought by the Commissioner do not implement a particular statutory directive.

5. Does the Directive to Disclose Exceed the Commissioner's Authority Under Minn. Stat. § 45.027, subd. 1a?

Minn. Stat. § 45.027, subd. 1(1), provides that "in connection with the duties and responsibilities entrusted to the commissioner," the Commissioner of Commerce may:

make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate any law, rule, or order related to the duties and responsibilities entrusted to

41 Pet., Ex. A at 1.

42 *See, e.g., Cable Communications Bd. v. Nor-West Cable Communications P'ship*, 356 N.W.2d 658, 667 (Minn. 1984) ("Generally, if the agency's interpretation of a rule corresponds with its plain meaning, or if the rule is ambiguous and the agency interpretation is a long-standing one, the agency is not deemed to have promulgated a new rule").

43 *See* Minn. Stat. § 60A.209, subds. 2, 6.

44 Minn. Stat. § 45.027, subd. 7(b)(f).

45 *Id*.

46 Minn. Stat. § 60A.031, subd. 1.

47 Minn. Stat. § 60A.031, subd. 2a.

48 Minn. Stat. § 60A.031, subd. 4(a).

49 Minn. Stat. § 60A.031, subd. 4(d)(1).

50 Minn. Stat. § 60A.031, subd. 4(f); *see also,* Minn. Stat. § 60A.03, subd. 9.

the commissioner;

….

examine the books, accounts, records, and files of every licensee, and of every person who is engaged in any activity regulated; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business ….[51]

Further, Minn. Stat. § 45.027, subd. 2, provides:

For the purpose of any investigation, hearing, proceeding, or inquiry related to the duties and responsibilities entrusted to the commissioner, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.[52]

The dispute in this case centers on the meaning of the phrase "related to the duties and responsibilities entrusted to the commissioner" – which is repeated three times in the statutes above. PCI argues that the recruiting and vendor selection practices of its members have nothing to do with the sale of insurance products in Minnesota. It maintains that the Commissioner's inquiries are not "related to the duties and responsibilities entrusted to the commissioner." The Department disagrees. It asserts that to the extent a company holds an insurance license, any activity that the company later engages in is "related to the duties and responsibilities entrusted to the commissioner."

In the view of the Administrative Law Judge, the suggestion that an insurance company does not undertake any activity that is beyond the reach of the Commissioner to inquire upon, as much as the Commissioner wishes, and as often as he wishes, is very troubling. It inverts the entire statutory scheme. Particular *duties* are entrusted to the Commissioner; not particular companies.

Moreover, to the extent that any connection is drawn between Minnesota's regulatory standards for insurance sales, and the requested data, that connection is disclaimed by the commissioners themselves. They wrote: "In response to your concern about 'financial data,' we would like to clarify – *we are not collecting data that is central to an insurer's level of solvency*; instead the survey looks only at data that reflects the procurement practices of the insurer as it relates to supplier diversity."[53]

Without a clear linkage to either a duty or a responsibility that has been entrusted to the Commissioner, by a law, the Commissioner's demand for survey responses exceeds his authority under Minn. Stat. § 45.027.

6. Does the Directive to Disclose Exceed the Commissioner's Authority Under Minn. Stat. § 60A.03?

Minn. Stat. § 60A.03, subd. 2, provides that the Commissioner of Commerce:

shall have and exercise the power to enforce all the laws of this state relating to insurance, and shall enforce all the provisions of the laws of this state relating to insurance in the manner provided by the laws defining the powers and duties of the commissioner of commerce ….[54]

As it was with section 45.027, cited above, to say that the Commissioner has the power to enforce all state laws relating to insurance, does not permit the Commissioner to make any demand he wishes from those who sell insurance. The authority to act, under Minn. Stat. § 60A.03, comes first from some other required standard for insurers.

Yet, the Department does not point to any requirement in state law requiring insurers to pursue particular diversity or contracting goals. Undertaking such programs, or reporting on their progress, is not required by "the laws of this state relating to insurance …."[55] Without a clear linkage to the enforcement of a law "relating to insurance," the Commissioner's demand for survey responses exceeds his authority under Minn. Stat. § 60A.03.

For all of these reasons, PCI is entitled to a determination that the Department is unlawfully enforcing, or attempting to enforce a policy or similar pronouncement as though it were a duly adopted rule.

E. L. L.

51 Minn. Stat. § 45.027, subd. 1(1), (5).
52 Minn. Stat. § 45.027, subd. 2.
53 Pet., Ex. C at 2 (emphasis added).
54 Minn. Stat. § 60A.03, subd. 2.
55 *Id*.

Official Notices

Minnesota Pollution Control Agency

Watershed Division

Thirty Day EXTENSION of the Public Notice Period for the Draft Osakis Area Lake Excess Nutrients Total Maximum Daily Load (TMDL) Report and Request for Comment

Notice of Extension of the Osakis Lake Area Excess Nutrients Total Maximum Daily Load (TMDL) and Request for Comment

Public Comment Period Began: December 5, 2016
Extended Public Comment Period Ends: February 3, 2017

The Minnesota Pollution Control Agency (MPCA) is requesting comments on the Draft Osakis Lake Area Excess Nutrients Total Maximum Daily Load (TMDL). The draft TMDL is available for review at: ***https://www.pca.state.mn.us/water/tmdl/lake-osakis-watershed-excess-nutrients-tmdl-project***. Written comments on the draft TMDL must be sent to the MPCA contact person listed below by 4:30 p.m. on the end date. The MPCA will prepare responses to comments received and make any necessary revisions of the document. Subsequent to the revision(s), the draft TMDL will be submitted to the U.S. Environmental Protection Agency (EPA) for approval.

Required by the federal Clean Water Act, a TMDL is a scientific study that calculates the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards for that pollutant. It is a process that identifies all the sources of the pollutant causing an impairment and allocates necessary reductions among them.

This TMDL study addresses nutrient impairments in Osakis, Smith, and Faille lakes, located in the Sauk River Watershed in the upper Mississippi River Basin.

Agency Contact Person: Written comments and requests for more information should be directed to:

Scott Lucas
MPCA – Baxter Office
7678 College Road, Suite 105
Baxter, Minnesota 56425
Telephone: 218-316-3874
Fax: 218-828-2594
Email: ***scott.lucas@state.mn.us***

TTY users may call the MPCA teletypewriter at 651-282-5332 or 800-657-3864.

Preliminary Determination on the draft TMDL Report: The MPCA Commissioner has made a preliminary determination to approve this TMDL and will submit this TMDL Report to the EPA for final approval. A draft TMDL Report and factsheet are available for review at the MPCA office at the address listed below and at the MPCA Website: ***https://www.pca.state.mn.us/water/tmdl/lake-osakis-watershed-excess-nutrients-tmdl-project***. Suggested changes will be considered before the documents are finalized and the TMDL Report is sent to the EPA for approval.

Written Comments: You may submit written comments on the conditions of the draft TMDL Report or on the Commissioner's preliminary determination. Written comments must include the following:

1. A statement of your interest in the draft TMDL Report;
2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft document that you believe should be changed; and
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

Petition for Public Informational Meeting: You also may request that the MPCA Commissioner hold a public informational meeting. A public informational meeting is an informal meeting that may be held to solicit public comment and statements on matters before the MPCA, and help clarify parts of the document and resolve issues. A petition requesting a public informational meeting must include the following information:

1. A statement identifying the matter of concern;
2. The information required under items 1 through 3 of "Written Comments," identified above;
3. A statement of the reasons for holding a public informational meeting; and
4. The issues that you would like addressed at the public informational meeting.

Petition for Contested Case Hearing: You also may submit a petition for a contested case hearing. A contested case hearing is a formal hearing before an administrative law judge that provides evidence on issues requested to be change. In accordance with Minn. R. 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the or draft TMDL Report; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft TMDL Report. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision. A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above; and
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition, and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and
3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Decision:

The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on the TMDL Report. If the MPCA does not receive written comments, requests, or petitions during the public comment period, MPCA staff as authorized by the Commissioner, will make the final decision on the draft TMDL Report.

Minnesota Pollution Control Agency

Watershed Division

EXTENSION of Public Notice Period of the Draft Lake Winona Phosphorus Total Maximum Daily Load Report and Request for Comment

The Minnesota Pollution Control Agency (MPCA) is extending the public comment period that began on December 5, 2016, for the Lake Winona Phosphorus Total Maximum Daily Load (TMDL) Report (Report) (previously scheduled to end on January 4, 2017) for an additional 30 days. **The new deadline to submit comments is Monday, February 3, 2017 by 4:30 p.m.**

The MPCA is requesting comments on the draft Lake Winona Phosphorus TMDL Report. The draft TMDL Report is available on the MPCA website at ***https://www.pca.state.mn.us/water/tmdl/lake-winona-%E2%80%94-excess-nutrients-tmdl-project***.

Comments on the draft Report should be addressed to the MPCA contact person listed below and must be received by the MPCA by **4:30 p.m. on February 3, 2017**. The MPCA will review all comments received, determine possible revision to the draft TMDL Report and prepare written responses to the comments. The MPCA will then submit the report to the U. S. Environmental Protection Agency (EPA) for approval.

Lake Winona was listed as impaired for nutrients, pursuant to Section 303(d) of the Clean Water Act, because of excessive levels of phosphorus, Chlorophyll-A, and decreased clarity.

Agency Contact Person. Written comments and requests for more information should be directed to:

Denise Oakes, P.G.
Minnesota Pollution Control Agency
714 Lake Avenue, Suite 220
Detroit Lakes, Minnesota 56501
Phone: 218-846-8119
Toll Free: 800-657-3864
Fax: 218-846-0719
Email: ***denise.oakes@state.mn.us***

TTY users may call the MPCA teletypewriter at 651-282-5332 or 800-657-3864

Preliminary Determination on the Draft TMDL Report. The MPCA Commissioner has made the preliminary determination to submit this TMDL Report to the EPA for final approval. A draft TMDL Report is available for review at the MPCA office at the address listed above and on the MPCA website at:
https://www.pca.state.mn.us/water/tmdl/lake-winona-%E2%80%94-excess-nutrients-tmdl-project

Suggested changes will be considered before the TMDL Report is sent to the EPA for approval.

Written Comments. You may submit written comments on the conditions of the draft TMDL Report or on the Commissioner's preliminary determination. Written comments must include the following:

1. A statement of your interest in the draft TMDL Report;
2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft TMDL Report that you believe should be changed; and
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

Public Information Meeting. A public information meeting was held at 2:00 PM, Friday, December 16, 2016, at the Douglas County Public Works Building located at 526 Willow Drive, Alexandria, Minnesota. This meeting was noticed in the original public notice published on December 5th, 2016. A public information meeting is an informal meeting the MPCA will hold to solicit public comment and statements on matters pertaining to the TMDL study and process, and to help clarify and resolve issues.

Petition for Contested Case Hearing. A petition for a contested case hearing may be submitted. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with Minn. R. 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the draft TMDL Report; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft TMDL Report. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision.

A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above; and
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition, and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and
3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Decision: The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on this TMDL Report. If the MPCA does not receive written comments, requests, or petitions during the public comment period, MPCA staff as authorized by the Commissioner, will make the final decision on the draft TMDL Report.

Minnesota Department of Transportation

Notice of Petition of Non-Compliance and Request for Action under Minn. Stat. § 218.041

In accordance with Minnesota Statute §218.041 Subd. 4(b), notice is hereby given that the United Transportation Union-Sheet Metal, Air, Rail and Transportation- Transportation Division (UTU-SMART-TD) has filed a petition with the State of Minnesota Commissioner of Transportation alleging that BNSF Railway placed non-compliant road ballast on portions of the "north receiver" and "north runner" railroad tracks, located in the BNSF Northtown Yard in Minnesota. The petition alleges that the ballast fails to satisfy the requirements contained in Minn. Stat. §219.501. Minn. Stat. §219.501 Subd. 2 contains a requirement that rail carriers provide walkways adjacent to tracks where rail carrier employees frequent and general requirements for such walkways. The petition alleges ballast on portions of walkways next to the "north receiver" and "north runner" railroad tracks present unsafe conditions in violation of the statute.

Interested parties are invited to participate in these proceedings by submitting objections, data or comments regarding the UTU-SMART-TD petition. If any objections are made to the UTU-SMART-TD petition within twenty (20) days of publication of this notice, Minn. Stat. §218.041 requires the Commissioner to hold a contested hearing prior to making a determination on the petition's merits.

All communications concerning this proceeding should reference UTU-SMART-TD-2016-1 and must be submitted to Maureen Jensen, Assistant Office Director, Office of Freight and Commercial Vehicle Operations, Minnesota Department of Transportation, 395 John Ireland Boulevard, St. Paul, MN 55155. UTU-SMART-TD'S petition is available for examination during regular business hours (8 a.m. to 5 p.m.) at the Front Service Desk of the MnDOT Library, Minnesota Department of Transportation, 395 John Ireland Boulevard, St. Paul, MN 55155.

Minnesota Department of Transportation

Notice of Petition of Non-Compliance and Request for Action under Minn. Stat. § 218.041

In accordance with Minnesota Statute §218.041 Subd. 4(b), notice is hereby given that the United Transportation Union-Sheet Metal, Air, Rail and Transportation- Transportation Division (UTU-SMART-TD) has filed a petition with the State of Minnesota Commissioner of Transportation alleging that BNSF Railway placed and retains certain non-compliant hump-track retarder housings within the regulated trackside clearance zone in the Northtown Rail Yard in Minnesota. The petition alleges that the hump-track retarder housings fail to satisfy the requirements contained in Minn. Stat. §§ 219.45-53. Minn. Stat. §§ 219.45-53 regulate walkways, structures and/or obstructions adjacent to and between railroad tracks, specifically defining clearance requirements, providing a prohibition against the obstruction of space by foreign obstacles and requiring that the space between and beside tracks is "kept in a condition as to permit the employees to pass over or between the tracks or to use the space day or night and under all weather conditions without unnecessary hazard." Minn. Stat. § 219.50. The petition alleges that the hump-track retarder housings located in the trackside clearance zone present unnecessary hazards in violation of the statutes.

Interested parties are invited to participate in these proceedings by submitting objections, data or comments regarding the UTU-SMART-TD petition. If any objections are made to the UTU-SMART-TD petition within twenty (20) days of publication of this notice, Minn. Stat. §218.041 requires the Commissioner to hold a contested hearing prior to making a determination on the petition's merits.

All communications concerning this proceeding should reference UTU-SMART-TD-2016-2 and be submitted to Maureen Jensen, Assistant Office Director, Office of Freight and Commercial Vehicle Operations, Minnesota Department of Transportation, 395 John Ireland Boulevard, St. Paul, MN 55155. UTU-SMART-TD'S petition is available for examination during regular business hours (8 a.m. to 5 p.m.) at the Front Service Desk of the MnDOT Library, Minnesota Department of Transportation, 395 John Ireland Boulevard, St. Paul, MN 55155.

Official Notices

Board of Water and Soil Resources (BWSR)

Local Road Wetland Replacement Program: Notification of Wetland Bank Service Area Closure

Effective February 2, 2017, the following Wetland Bank Service Area will be closed and until further notice, the Board of Water and Soil Resources (BWSR) will not provide wetland replacement for Local Road Wetland Replacement Program (LRWRP) eligible road projects due to a lack of available wetland replacement credits:

- Bank Service Area 9 – Minnesota River

The closure of Wetland Bank Service Area 9 is in addition to the closure of the following Wetland Bank Service Areas that went into effect December 2, 2016:

- Bank Service Area 4 – Upper Red River
- Bank Service Area 6 – St. Croix River

BWSR is closing Wetland Bank Service Area 9 and issuing this notice pursuant to the Local Road Wetland Replacement Program: Status and Management Plan that was adopted under Board Resolution 16-86 on October 25, 2016.

Wetland replacement through BWSR's LRWRP is provided to eligible county, city and township road projects on a watershed basis using Wetland Bank Service Area (BSA) boundaries (see attached figure) to manage the allocation of replacement credits. BSAs 4, 6 and 9 have a zero credit balance, and therefore BWSR will not be able to provide wetland replacement credits at the time an eligibility determination is approved by a Technical Evaluation Panel (TEP) or a permit application is submitted to the U.S. Army Corps of Engineers (Corps). The Corps requires that the source of wetland replacement credits be identified during their review of a permit application, and that Corps approved wetland credits be debited from a wetland bank account prior to or concurrent with the wetland impacts of a project. The LRWRP cannot be a source of wetland credits for wetland impacts in BSAs with a zero credit balance.

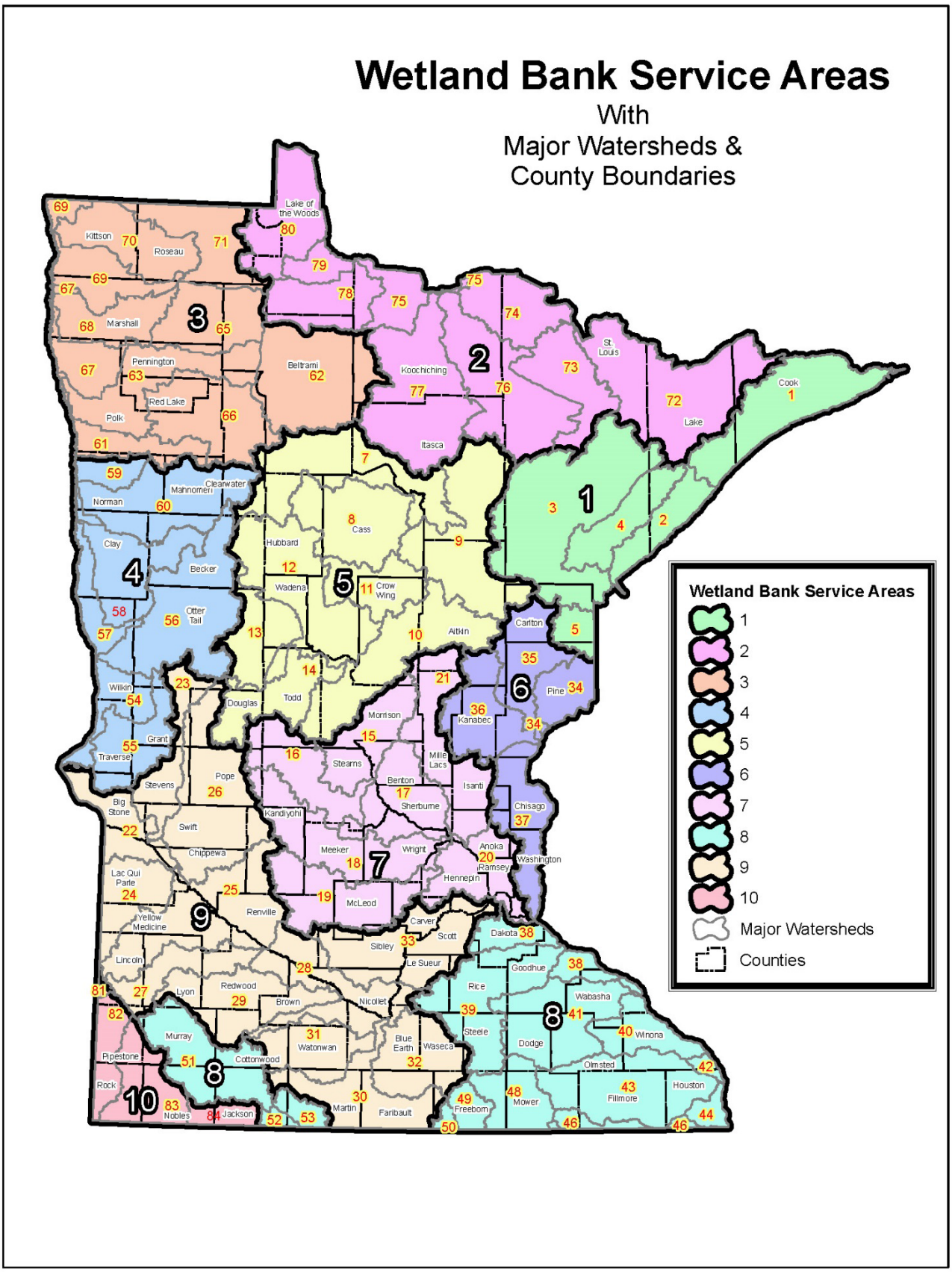
BWSR is identifying BSAs with a zero credit balance as "closed" since there are no credits available, and no funding available to develop new credits, that can be used to offset wetland impacts from eligible projects in those BSAs.

Note that closure of BSAs to the use of BWSR-supplied wetland credits does not affect the process by which local road authorities apply and report qualifying impacts to BWSR according to MN Rule 8420.0544, the process for TEP review, or the exemption for qualifying projects from the replacement plan requirements of State law under the LRWRP. However, because of the lack of LRWRP credits in these BSAs, local road authorities in these areas will have to work directly with the Corps to identify and obtain appropriate wetland replacement credits to satisfy Corps' permit requirements. Replacement could be required under other State programs as well, such as the Public Waters Permit Program administered by the Department of Natural Resources.

BWSR will continually evaluate the availability of wetland credits in each BSA and will take action to open and/or close BSAs in response to changing levels of credit availability in the LRWRP. County, city, and township transportation authorities, as well as other state and federal agencies, will be notified of any future action to open or close BSAs.

Additional information on the status of the LRWRP is available on the BWSR website at ***http://www.bwsr.state.mn.us/wetlands/wetlandbanking/road_replacement.html***.

Please contact Tim Smith, BWSR Wetland Bank Coordinator, at 651-600-7554 or ***tim.j.smith@state.mn.us*** for more information.


Wetland Bank Service Areas
With
Major Watersheds &
County Boundaries
Wetland Bank Service Areas
1
2
3
4
5
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7
8
9
10
Major Watersheds
Counties
Lake of the Woods
Kittson
Roseau
Marshall
Pennington
Red Lake
Polk
Beltrami
Koochiching
St. Louis
Cook
Lake
Itasca
Clearwater
Mahnomen
Norman
Clay
Becker
Hubbard
Cass
Wadena
Crow Wing
Otter Tail
Carlton
Aitkin
Wilkin
Douglas
Todd
Morrison
Kanabec
Pine
Grant
Traverse
Stevens
Pope
Stearns
Mille Lacs
Benton
Isanti
Sherburne
Big Stone
Swift
Kandiyohi
Chisago
Chippewa
Meeker
Wright
Anoka
Ramsey
Washington
Hennepin
Lac Qui Parle
McLeod
Yellow Medicine
Renville
Carver
Scott
Dakota
Sibley
Lincoln
Le Sueur
Goodhue
Rice
Lyon
Redwood
Brown
Nicollet
Wabasha
Steele
Dodge
Winona
Murray
Watonwan
Blue Earth
Waseca
Olmsted
Pipestone
Cottonwood
Rock
Nobles
Jackson
Martin
Faribault
Freeborn
Mower
Fillmore
Houston

State Grants & Loans

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

SEE ALSO: Office of Grants Management (OGM) at: *http://www.grants.state.mn.us/public/*

Minnesota Department of Human Services

Aging and Adult Services Division

Notice of Request for Proposals to Develop and/or Provide Services for Older Minnesotans to Live in the Community - Live Well at Home Grants

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services is requesting proposals from qualified responders for state fiscal year 2018, July 1, 2017-June 30, 2018, to improve their community's capacity to develop, strengthen, integrate and maintain home and community-based services for individuals' age 65 and older, at-risk of long-term nursing home use and/or spending down into Medical Assistance, as directed by Minnesota Statutes, sections 256.9754 and 256B.0917, subd.1a, 1b, 6, 7a and 13.

Work is proposed to start July 1, 2017. For more information, or to obtain a copy of the Request for Proposal, contact:

Jacqueline S.B. Peichel
Department of Human Services
Aging and Adult Services Division
Phone: (651) 431.2583
Jacqueline.s.peichel@state.mn.us

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

Proposals submitted in response to this Request for Proposals must be received electronically through the online grant portal no later than **4:00 p.m., Central Time, February 24, 2017. Late proposals will not be considered.** Hand-delivered, faxed or e-mailed proposals will **not** be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services RFP web site: ***http://www.mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/***. The complete Request for Proposal including online application and directions is available online on the DHS Live Well at Home Grants Website at ***http://www.mn.gov/dhs/live-well***.

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

Minnesota Department of Human Services

Mental Health Division

Request for Proposals for a Qualified Grantee to Provide 24/7 Consultation Services to Mobile Crisis Responders in the context of Providing Crisis Services to Individuals with an Intellectual/ Developmental Disorder (I/DD)/Traumatic Brain Injury (TBI) and/or a Co-occurring Mental Illness

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services is requesting proposals to provide 24/7 consultation services for mobile crisis response providers across the state. Consultation is specific to working with individuals with Intellectual/ Developmental Disorders (IDD) and/or Traumatic Brain Injuries (TBI) or who may have a co-occurring Mental Health Disorder and experiencing a mental health crisis.

Work is proposed to start April 1, 2017 for more information, or to obtain a copy of the Request for Proposal, contact:

Niambi Shakir
Department of Human Services
Mental Health Division
P.O. Box 64981
444 Lafayette Road North, St. Paul, MN 55155-0981
Phone: (651) 431-4083 Fax: (651)431-7418
Niambi.Shakir@state.mn.us

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

Proposals submitted in response to this Request for Proposals must be received at the address above no later than **4:00 p.m., Central Time, February 24, 2017. Late proposals will not be considered.** Faxed or e-mailed proposals will **not** be considered.

All grant RFPs are required to be put on the DHS Grants and RFP web site. See Section D: Posting Grant RFPs on the DHS Public Web Site in the Contracts Manual for more details

The RFP can be viewed by visiting the Minnesota Department of Human Services RFP web site:
http://www.dhs.state.mn.us/id_000102

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

Department of Labor and Industry

Workplace Safety Consultation Unit

Notice of Safety Grants for Employers

The Department of Labor and Industry (DLI) announces continuation of its safety hazard abatement matching grant program under *Minnesota Statutes*, section 79.253, and *Minnesota Rules*, parts 5203.0010 through 5203.0070. Employers covered by workers' compensation insurance, and those approved as self-insured employers, are eligible to apply for safety/health matching grants to abate safety hazards in their workplace. The safety/health hazards must have been identified in an on-site survey conducted by one of the following:

1) MNOSHA safety/health investigator,
2) DLI Workplace Safety Consultation safety/health consultant,
3) in-house employee safety/health committee,
4) workers' compensation underwriter,
5) private safety/health consultant or
6) a person under contract with the Assigned Risk Plan.

The on-site safety/health survey must have resulted in specifically recommended safety and/or health practices or equipment, training for purchased equipment, and/or tuition reimbursement designed to reduce the risk of injury to employees. Costs eligible for program participation are all or part of the cost of purchasing and installing recommended safety/health equipment, training for purchased equipment, tuition reimbursement, the cost of operating or maintaining safety/health equipment, and/or the cost of purchasing or renting real property, if necessary, to meet criteria established by the on-site safety/health survey. Automobiles, weapons, or personnel costs, such as salary and benefits, will not be covered by these grants.

Whether we approve your grant application or not, does not diminish, delay, or absolve you of any obligation to abate hazards as required by law. No state funds will be distributed until all grant documents are signed by all parties and the safety grant project is completed, including payments for all items in the project. Costs incurred before all parties have signed the grant document must not rely on grant approval. Invoices dated prior to your fully executed grant agreement are not eligible for this program.

Grants are limited to a total maximum match of up to $10,000 per project. The employer must provide at least $1.00 (one dollar) in project costs for every dollar awarded. No grant will be awarded for more than half the amount of the approved project. Grant applications submitted by the application deadlines of **February 15, 2017, April 15, 2017, June 15, 2017, August 15, 2017, October 15, 2017, and December 15, 2017**, respectively, will be evaluated and processed so that grant contracts or denial

letters will be issued within the two months following each application deadline.

Projects will be judged according to the criteria established by law. Priority will also be given to projects in areas that are a current focus of Minnesota OSHA. Go on-line at ***http://www.dli.mn.gov/WSC/GrantsPI.asp*** to view the current list of priority industries.

An employer that has received a grant for a particular worksite will not be eligible to receive another grant for that worksite during the two years after the date of the award. All applicable information requested on the grant application form is required for grant approval. Missing information will result in your application being returned to you. Less than the requested amount may be awarded if program resources are insufficient to provide full assistance to all approved applicants and if the reduced grant could still achieve safety objectives.

Applicants can submit a safety grant application using the on-line application form that is accessed at: ***http://www.dli.mn.gov/WSC/Grants.asp***. For further information, please contact the Safety Grants Administrator at: (651) 284-5162, 1-800-731-7232 or e-mail at ***dli.grants@state.MN.US***.

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 Website at *www.mmd.admin.state.mn.us* for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over $50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

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.

Minnesota Department of Agriculture (MDA)

Pesticide and Fertilizer Management Division

Notice of Availability of Request for Proposals (RFP) for Research to Quantify Agricultural Contributions to Impaired Waters and for Development and Evaluation of Best Management Practices to Protect and Restore Water Resources

NOTICE IS HEREBY GIVEN of availability of contracts to select scientists and researchers to conduct research related to impaired waters in agricultural watersheds.

Project Priorities

Proposals should quantify agricultural conservation practice effectiveness related to nutrient source reduction, off-site movement, and treatment in the State of Minnesota. Proposals should focus on the water quality effects of individual conservation practices and/or the cumulative effects of multiple conservation practices. Proposals must include a cost effectiveness component, as well as an education and outreach plan to benefit the people of Minnesota. MDA Impaired Waters Research Priorities are:

1. Address research gaps identified in the 2012 Minnesota Agricultural Best Management Practice (BMP) Handbook available at ***http://www.mda.state.mn.us/protecting/cleanwaterfund/research/agbmphandbook.aspx*** for common agricultural drainage water management practices, including one or more of the following: the sediment, nitrogen and phosphorus reduction effectiveness, associated biogeochemical processes, resulting hydrologic impacts, or construction design criteria. This can include the continuation of currently funded projects to encourage long-term data assessment or linking multiple practices to determine the effectiveness of a treatment-train approach.

2. Evaluate and quantify using field plots, the impact and effects of agricultural fertilizer BMPs and/or soil health principles on sub-surface drainage water quality, specifically the movement and loss of nitrates, phosphorus, and other contaminants.

3. Conduct an assessment of whether agricultural conservation practices (management, vegetative, and structural) remain and are effective after the expiration of their contract and design life expectations; although LiDAR data may be critical in the assessment, the proposal must also include an onsite field walkover survey of Minnesota farms coordinated with a partnering Soil and Water Conservation District or other local government unit. Evaluate whether the conservation practice is functioning, its age, and to what extent maintenance contributed to the functionality or life expectancy of the practice. Determine the reason(s) why or why not a practice has been maintained by the operator. Additional considerations may include:

• Evaluation of the expected remaining effectiveness of each practice based on NRCS Standards and Specification and Operation and Maintenance plans.

• Evaluation of the practicality and cost effectiveness for these practices to be modified to provide added, alternative, or longer-lasting water quality benefits.

The contract period begins in April of 2017 and may extend through fiscal year 2020.

Contact Information: Applications must be submitted using the format prescribed in the proposal instructions. To request proposal instruction and to receive application materials, please e-mail for the full RFP, which will be sent free of charge to interested parties.

Minnesota Department of Agriculture
Heidi Peterson, Impaired Waters Technical Coordinator
625 Robert Street North
St. Paul, MN 55155-2538
E-mail: ***Heidi.Peterson@state.mn.us***
Phone: 651-201-6014

Other Minnesota Department of Agriculture personnel are not authorized to discuss this request for proposal with responders before the proposal submission deadline nor should they be listed as a collaborator or partner anywhere within the proposal. Contact regarding this RFP with any personnel not listed above could result in disqualification. Questions must be received in writing (e-mails permitted) by January 20, 2017.

Submission Deadline: Project proposals must be received no later than **3:00 p.m. Central Daylight Savings Time, February 10, 2017.** Late responses will not be considered. Fax and e-mail responses will not be considered.

This request for proposal does not obligate the State to award a contract or complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

Completed and Current funded Projects
For a list of research projects supported by the Minnesota Department of Agriculture please see the following web link:
http://www.mda.state.mn.us/cleanwaterfund/research.aspx

Minnesota State Colleges and Universities (MnSCU)

Alexandria Technical & Community College

Advertisement for Bids for 2016 Domestic Water Main Replacement

Sealed Bids for: 2016 Domestic Water Main Replacement
Main Building
Alexandria Technical & Community College
Alexandria, Minnesota

will be received by: Joel Seela, Director of Facilities and Security
Main Building, Room 108
Alexandria Technical & Community College
Alexandria, Minnesota

Until **2:00 pm, local time, January 19, 2017** at which time the bids will be opened and publicly read aloud at the Main Building, Conference Room 203.

Project Scope: Project will consist of replacement of the domestic water mains and branch lines required to feed all existing plumbing fixtures in the 100, 200, 300, 400 and 600 Wings of the main building. Existing domestic water mains located in the tunnels will be abandoned. All new domestic water piping will be run overhead and routed to existing plumbing fixtures. New chase walls, access panels, soffits, ceiling, etc will be provided as required for installation of new piping. Existing bathroom walls will be removed and replaced for installation of new piping in select areas.

A Pre-Bid Meeting will be held at 10:00 am, Wednesday, January 4, 2017, in Conference Room 203, Main Building, Alexandria Technical & Community College. The Architect/Engineer and/or College/University Representatives will review the bidding procedures, Bidding Documents and other conditions with interested Bidders and answer questions.

Bidding Documents are as prepared by the Project Architect/Engineer of Record; **Obermiller Nelson Engineering.**

Interested parties may view the Bidding Documents at no cost on the website: ***http://www.finance.mnscu.edu/facilities/design-construction/announcements/index.html*** and then click on "Advertisement for Bids (***E-Plan Room***)". Project # **4772114**. Bidding Documents can be downloaded for a non-refundable charge of $10.00. Plan holders are parties that have downloaded the Drawings and specifications. Plan holders will be notified via email as addenda are issued. Parties that download the Drawings and specifications and need to have them printed elsewhere are solely responsible for those printing costs. The sales of paper copies for projects listed on this site are not available. Contact ***QuestCDN.com*** at 952-233-1632 or ***info@questcdn.com*** for assistance in viewing or downloading with this digital project information.

Minnesota Housing Finance Agency

Notice of Intent to Award a Single Source Contract

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to award a contract to Cohen Mohr for the project outlined below.

PROJECT NAME: Respond to Rebid Invitation for Section 8 Performance Based Contract Administration

NATURE OF CONTRACT: Minnesota Housing is in need of a consultant with extensive knowledge and experience with the federal statutes and regulations that govern federal procurement to assist Minnesota Housing in submitting an application in response to the U.S. Department of Housing and Urban Development's (HUD) forthcoming invitation to rebid its contract work for oversight of the Section 8 Performance Based Contract (PBCA) rental housing portfolio. The contractor will be required to have extensive experience complying with Federal Acquisition Regulations and HUD Acquisition Regulations in accordance with the Competition in Contracting Act, as well as substantial knowledge and experience with the PBCA program. The contractor will be required to respond quickly upon the issuance of a rebid by HUD.

LENGTH OF CONTRACT: Work is anticipated to start after January 10, 2017 with an anticipated six month term.

VALUE OF CONTRACT: Not to exceed $20,000.

Questions concerning this single source contract should be referred to Ashley Oliver at 651-284-3173 or via e-mail: ***Ashley.Oliver@state.mn.us***

Minnesota State Lottery

Request for Proposals for Sponsorship Agreements

Description of Opportunity

The Minnesota State Lottery develops sponsorship agreements throughout the year with organizations, events, and sports teams to create excitement for lottery players, to interest new players and increase the visibility of lottery games. The Lottery encourages and continually seeks new sponsorship agreements to help achieve current Lottery marketing goals.

Proposal Content

A sponsorship proposal presented to the Lottery should meet the following three criteria:

1. **Maximize Lottery Visibility** – the event, sports or tie-in proposal should draw a large number of desired participants (typically 50,000 or more) whose demographics match the Lottery player profile. The Lottery is interested in effectively delivering its

message of fun and entertainment to Minnesota adults whose demographics skew primarily towards those aged 25-64, with a household income of $35,000-$75,000, and having an educational background of some college or higher. The Lottery does not market to those under the age of 18, and family events with high levels of children present are generally not accepted. Attendance, on-site signage visibility and paid media exposure will be critical components that will be evaluated.

2. **Enhance Lottery Image- –** the event, sports or tie-in proposal should inherently project the attitude that the Lottery is a fun and socially acceptable part of the community. The Lottery's presence should fit well within the lineup of other sponsors. The Lottery is interested in creating opportunities whereby the sponsorship can translate into sales revenue, either via on-site sales from a Lottery booth, from sales-generating promotions with Lottery retailers or from joint programs with the sponsor's media partners.

3. **Provide Promotional Extensions** – the event, sports or tie-in proposal should offer exciting, value-added ways to interact with our players and have opportunities to motivate attendees, listeners and viewers to participate in and purchase Lottery games. The proposal must include proper staffing availability or other considerations to help the Lottery implement any appropriate promotional extension ideas.

Proposals should address all pertinent elements of the sponsorship and how the Lottery criteria as stated above and on the Evaluation Form are to be met. To view or print copies of the Request for Proposal go to
http://www.mnlottery.com/vendorops.html

This Solicitation does not obligate the state to award a contract or pursue a proposed sponsorship opportunity, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Questions

Questions concerning this Solicitation should be directed to:

Jason LaFrenz, Marketing Director
Minnesota State Lottery
2645 Long Lake Road
Roseville, MN 55113
Telephone: (651) 635-8230
Toll-free: 1-888-568-8379 ext. 230
Fax: (651) 297-7496
TTY: (651) 635-8268
E-mail: ***jasonla@mnlottery.com***

Other personnel are not authorized to answer questions regarding this Solicitation.

Response Delivery

All responses must be in writing and delivered to the contact noted above. Proposals will be accepted on an ongoing basis.

State Contracts

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 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***

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.

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.

Besides the following listing, readers are advised to check: *http://www.mmd.admin.state.mn.us/solicitations.htm* as well as the Office of Grants Management (OGM) at: *http://www.grants.state.mn.us/public/*.

MacDonald & Mack Architects

Request for Bids for Christ Church Lutheran Courtyard Restoration, 3244 34th Avenue South, Minneapolis, MN 55406

MacDonald & Mack Architects is seeking bids from qualified firms to provide all labor, materials, equipment, and supplies to complete courtyard repairs at Christ Church Lutheran, 3244 34th Avenue South, Minneapolis, MN 55406-3493. The work consists of, but is not limited to, replacement of existing concrete paving and planters in the central courtyard, as well as repairs to stone veneer columns and the central pool feature, installation of vegetation, and excavation for installation of waterproofing over sub-grade tunnels. All work must be done in accordance with the Drawings, Project Manual, and the Contract, as well as this Request for Bids.

Availability of Bidding Documents: Bidders desiring bidding documents may secure a complete set from the Franz Reprographics Public Plan Room, available via ***http://www.franzrepro.com/***. Sets will be available there for electronic download free of charge. Franz Reprographics is located at 2781 Freeway Boulevard, Suite 100; Brooklyn Center, MN 55430; phone: (763) 503-3401; fax: (763) 503-3409.

Documents will be available after **January 3, 2017.**

There will be a mandatory pre-bid meeting for all interested parties on **Tuesday, January 17, 2017 at 9 am**, at the site. The meeting shall take place at Christ Church Lutheran located at 3244 34th Avenue South, Minneapolis, MN 55406.

Questions may be directed to Angela Wolf Scott at MacDonald & Mack Architects; phone: (612) 341- 4051; email: ***AngelaWS@mmarchltd.com***.

All bids must be received by MacDonald & Mack Architects, Suite 712, 400 South Fourth Street, Minneapolis, MN 55415 no later than **2:00 pm Thursday, February 9, 2017.** Proposals will be opened privately and evaluated based on all aspects of the proposal. A portion of this project is funded by the State of Minnesota. Proposers must comply with Minnesota prevailing wage laws for this project. The construction schedule will be June 1- August 31, 2017.

Metropolitan Airports Commission (MAC)

Notice of Call for Bids for 2017 Noise Mitigation Consent Decree Amendment

Airport Location:	**Proximate to Minneapolis-St. Paul International Airport**
Project Name:	**2017 Noise Mitigation Consent Decree Amendment**
MAC Contract No.:	**106-6-370 / 371 / 372**
Bids Close At:	**2:00 p.m. on January 17, 2017**

Notice to Contractors: Sealed Bid Proposals for the project referenced above will be received by the Metropolitan Airports Commission (MAC), a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour. This project includes general, mechanical, electrical, asbestos, and insulation work.

Note: You can sign up on our Web site (***www.metroairports.org***) to receive email notifications of new business opportunities or go directly to ***https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?gsp-CODE_RED*** and choose this and other topics about which you are interested.

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 Miller Dunwiddie Architecture, Inc.; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: Franz Reprographics; 2781 Freeway Blvd.; Brooklyn Center, MN 55430; PH: 763-503-3401; FX: 763-503-3409; ***www.franzrepro.com***. Make checks payable to: Miller Dunwiddie Architecture, Inc. Deposit per set (refundable): $100.00. 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 December 27, 2016, at MAC's web address of
http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx (construction bids).

Metropolitan Airports Commission (MAC)

Notice of Call for Bids for 2017 Terminal 1-Lindbergh Passenger Boarding Bridge Replacement

Project Location:	**Minneapolis-St. Paul International Airport**
Project Name:	**2017 Terminal 1-Lindbergh Passenger Boarding Bridge Replacement**
MAC Contract No.	**106-2-825**
Bids Close At:	**2:00 PM on January 24, 2017**

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. This project provides for the replacement of three (3) passenger boarding bridges, new boarding bridge fixed walkways, and all associated controls, equipment, accessories, and foundations.

Note: You can sign up on our Web site ***www.metroairports.org*** to receive email notifications of new business opportunities or go directly to ***https://public.govdelivery.com/accounts/MNORGMAC/subscriber/topics?qsp=CODE_RED*** and choose this and other topics about which you are interested.

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 TKDA, the Minnesota Builders Exchange, Dodge Data and Analytics, and NAMC-UM Plan Room. Bidders desiring bidding documents may secure a complete set from: TKDA; 444 Cedar Street, Suite 1500; St. Paul, MN 55101; PH: (651) 292-4400; FX: (651) 292-0083. Make checks payable to: TKDA. Deposit per set (refundable): $100.00. 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 December 27, 2016, at MAC's web address of
http://www.metroairports.org/Airport-Authority/Business-Opportunities/Solicitations.aspx (construction bids).