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- Withdrawn Rules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
- Appointments
- Proclamations
- Vetoed Rules
- Commissioners’ Orders
- Revenue Notices
- Official Notices
- State Grants and Loans
- Contracts for Professional, Technical and Consulting Services
- Non-State Public Bids, Contracts and Grants
- Commissioners’ Orders
- Revenue Notices
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- State Grants and Loans
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<td>#20</td>
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<td></td>
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</tbody>
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PUBLISHING NOTICES: We need to receive your submission ELECTRONICALLY in Microsoft WORD format. Submit ONE COPY of your notice via e-mail to: sean.plemmons@state.mn.us. State agency submissions must include a “State Register Printing Order” form, and, with contracts, a “Contract Certification” form. Non-State Agencies should submit ELECTRONICALLY in Microsoft WORD, with a letter on your letterhead stationery requesting publication and date to be published. Costs are $13.50 per tenth of a page (columns are seven inches wide). One typewritten, double-spaced page = 6/10s of a page in the State Register, or $81. About 1.5 pages typed, double-spaced, on 8-1/2”x11” paper = one typeset page in the State Register. Contact editor with questions (651) 201-3204, or e-mail: sean.plemmons@state.mn.us.

SUBSCRIPTION SERVICES: E-mail subscriptions are available by contacting the editor at sean.plemmons@state.mn.us. Send address changes to the editor or at the Minnesota State Register, 50 Sherburne Avenue, Suite 309, Saint Paul, MN 55155.

SEE THE Minnesota State Register free at website: http://www.mn.gov/admin/bookstore/register.jsp

- Minnesota State Register: Online subscription – $180, includes links, index, special section “CONTRACTS & GRANTS,” with Sidebar Table of Contents, Early View after 4:00 pm Friday (instead of waiting for early Monday), and it’s sent to you via E-mail.
- Single issues are available electronically via PDF for free.
- “Affidavit of Publication” includes a notarized “Affidavit” and a copy of the issue: $15.00.
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NOTICE: How to Follow State Agency Rulermaking 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 #1-26 inclusive (issue #26 cumulative for issues #1-26); issues #27-52 inclusive (issue #52, cumulative for issues #27-52 or #53 in some years). A subject matter index is updated weekly and is available upon request from the editor. For copies or subscriptions to the State Register, contact the editor at 651-201-3204 or email at sean.plennons@state.mn.us
Proposed Rules

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

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

Rules to be Adopted Without a Hearing. Pursuant to Minnesota Statutes § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the State Register. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.1414.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the State Register.

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

Minnesota Pollution Control Agency
Environmental Analysis and Outcomes Division

Proposed Permanent Rules: Air Quality Housekeeping Amendments; Notice of Intent to Adopt Rules without a Public Hearing

Proposed Amendments to Rules Governing Air Quality; Minnesota Rules Chapter 7002 (Permit Fees), Chapter 7005 (Definitions and Abbreviations), Chapter 7007 (Air Emission Permits), Chapter 7009 (Ambient Air Quality Standards), Chapter 7011 (Standards for Stationary Sources), Chapter 7017 (Monitoring and Testing Requirements), and Chapter 7019 (Emission Inventory Requirements); and Repeal of Minnesota Rules, parts 7007.0100, subparts 3, 9b, 9c, 9d, 9e, and 9f; 7007.1102; 7007.1105; 7007.1107; 7009.1010, subpart 4a; 7011.1210; 7011.1235, subpart 3; 7011.3525; and 7019.1000, subpart 6; Revisor’s ID Number R-4678.

Plain English Summary. This notice is the Minnesota Pollution Control Agency’s (MPCA) legal notice of its intent to adopt amended air quality rules. The proposed rule amendments, known as the air quality housekeeping rules, are part of an ongoing effort to update and improve the MPCA’s existing air quality rules. The rule amendments are also a means of incorporating by reference new federal rules to ensure consistency with applicable federal and state rules.

This notice provides an opportunity for the public to comment on the proposed rules. Anyone who would like to comment on the proposed rule language must submit written comment or a written request for a hearing on the proposed rules by the deadline identified below. The Subject of Rules section provides additional information about the proposed...
Proposed Rules

rules. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Introduction. The MPCA intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may submit a written request that MPCA hold a hearing on the proposed rules until 4:30 p.m. on Monday, December 6, 2021.

Public Information Meeting. The MPCA has scheduled a public information meeting on the proposed rules. The meeting will be held via WebEx on Thursday, November 18, 2021, starting at 1:30 p.m. and continues until all persons present are heard or until the end time of 3:00 p.m., whichever occurs first. The purpose of the meeting is to provide an overview of the proposed rules so that interested persons are able to provide written comment on the proposed rules and this rulemaking. Information about the public information meeting will be available on the rulemaking website at https://www.pca.state.mn.us/air/rulemaking-air-quality-housekeeping.

Availability of Rules. The proposed rules are published in the State Register after this notice, and are available on the rulemaking website at https://www.pca.state.mn.us/air/rulemaking-air-quality-housekeeping. One free copy of the proposed rules is also available upon request by contacting the MPCA contact person identified below.

Statement of Need and Reasonableness. The Statement of Need and Reasonableness (SONAR) provides the MPCA’s justification for the proposed rules, including a description of who is expected to be affected and an estimate of the probable cost of the proposed rules. The SONAR is available at https://www.pca.state.mn.us/air/rulemaking-air-quality-housekeeping. You may also request a copy from the MPCA contact person identified below for the cost of reproduction.

Subject of Rules. The MPCA proposes to amend multiple chapters of Minnesota’s air quality rules. The main purpose of this “housekeeping” rulemaking is to keep the air quality rules current, ensure consistency with applicable state and federal regulations, clarify ambiguous rule language, and correct gaps or errors identified while administering the rules. In general, this includes clarifying definitions, limited changes to permitting and performance testing rules, and incorporating by reference new federal rules. The proposed rules are needed to maintain the delegation from the U.S. Environmental Protection Agency (EPA) to implement and enforce certain provisions of the Clean Air Act in Minnesota, including the Title V operating permit program. The proposed rules are also needed to implement the legislative ban on the use of trichloroethylene (TCE).

1. Housekeeping rules. Proposed rule amendments relate to updates to the listed rule chapters and are needed to account for changes in federal rules, to clarify existing language, correct or delete outdated rules, and ease overall understanding of the rules. These include:

- Chapter 7002. Proposed amendments to align with the 2019 updated Minnesota Environmental Quality Board rules to clarify the environmental assessment worksheet mandatory rule categories. The Environmental Quality Board rules at Minn. R. 4410.4300 included new rule subparts and items; proposed amendments to Minn. R. 7002.0019 correspond to those changes. The proposed rule amendments do not change air emission permit fees.
- Chapter 7005. Minor housekeeping changes to clarify definitions used in the air pollution control rules and administration of the air quality permitting program.
- Chapter 7007. Proposed amendments to update and clarify the air quality program administration rules. These include amendments that primarily affect:
  - Applicable requirements for emissions units in a stationary source;
  - Which waste combustors are required to obtain a state permit;
  - Requirements for Part 70 permit application notice and comment;
  - Procedures to petition for EPA review of state and Part 70 permits; and
  - Modification of general requirements for Option B, C, and D registration permits and capped permits to
Proposed Rules

improve permit administration:

- Clarifying and standardizing instructions when calculating emissions to better account for “wasting,” “reuse” and/or “recycling.”
- Adding response deadlines to existing rules requiring emission point inventories when registration permits are identified as nearby sources in dispersion modeling.

- **Chapter 7009.** Minor housekeeping changes to clarify definitions and existing incorporation by reference of federal rules.
- **Chapter 7011.** Proposed amendments to incorporate by reference federal standards of performance to ensure consistency with applicable federal programs, maintain delegation, and simplify air emissions permit development:
  - Federal plan requirements for small municipal waste combustor units constructed on or before August 30, 1999. (40 CFR part 62, subpart JJJ).
  - Federal plan requirements for municipal solid waste landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014 (40 CFR part 62, subpart OOO).
  - Adopt standards of performance for calciners and dryers in the mineral industry (40 CFR part 60, subpart UUU).

- **Chapter 7017.** Minor housekeeping changes to clarify existing incorporation by reference of federal rule and precertification test requirements.
- **Chapter 7019.** Minor housekeeping changes relate to facility notification of deviations, which endanger human health or the environment, or breakdown or shutdown of any pollution control or process equipment; and changes in calculating and reporting emissions data.

2. **New TCE rule.** The 2020 Minnesota Legislature enacted a ban on the use of TCE; the “White Bear Area Neighborhood Concerned Citizen Group Ban TCE” Act, is named for the residents that worked to get the legislation passed. TCE is categorized as a “hazardous air pollutant” by the federal Clean Air Act and a “volatile organic compound” by federal regulations. The law bans the use of TCE on or after June 1, 2022, in any facility that is required to have a state permit, including manufacturing, processing, and cleaning processes. The MPCA intends to adopt a new rule to implement the ban on the use of TCE through the air quality permitting program.

Additional information about the proposed rules is available on the rulemaking website at [https://www.pca.state.mn.us/air/rulemaking-air-quality-housekeeping](https://www.pca.state.mn.us/air/rulemaking-air-quality-housekeeping).

**Modifications.** The MPCA may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the MPCA, and the adopted rules may not be substantially different than these proposed rules, unless the MPCA follows the procedure under Minnesota Rules, part 1400.2110.

**Statutory Authority.** *Minnesota Statutes,* section 116.07 authorizes the MPCA to adopt rules for the prevention, abatement, and control of air pollution.

**Public Comment.** You have until 4:30 p.m. on Monday, December 6, 2021, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the deadline. Submit written comments to the Office of Administrative Hearings, Rulemaking eComments website at [https://minnesotaoah.granicusideas.com](https://minnesotaoah.granicusideas.com). If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to Administrative Law Judge Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments via the eComments website should be
Proposed Rules

directed to Denise Collins, Office of Administrative Hearings; telephone 651-361-7875 and denise.collins@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings, and on the rulemaking website at https://www.pca.state.mn.us/air/rulemaking-incorporation-reference.

Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You must make any comments that you have about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the MPCA hold a hearing on the proposed rules. You have until 4:30 p.m. on Monday, December 6, 2021, to submit your written request for a hearing to the Office of Administrative Hearings, Rulemaking eComments website at https://minnesotaoah.granicusidease.com. If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to Administrative Law Judge Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Your written request for a public hearing must include your name and postal address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the MPCA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the MPCA will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in Minnesota Statutes, sections 14.131 to 14.20. The MPCA reserves the option to remove any section of the rule that may be controversial and to proceed without a hearing on the noncontroversial parts of the proposed rules.

MPCA Contact Person. The MPCA contact person is Mary H. Lynn at the MPCA, 520 Lafayette Road North, Saint Paul, MN 55155-4194; telephone 651-757-2439; and mary.lynn@state.mn.us. You may also call the MPCA at 651-296-6300 or 800-657-3864 or use your preferred relay service info.pca@state.mn.us.

Alternative Format/Accommodation. Upon request, the information in this notice can be made available in an alternative format, such as large print, braille, or audio. To make such a request please contact the MPCA contact person at the address or telephone number identified above.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at 190 Centennial Building, 658 Cedar Street, Saint Paul, Minnesota 55155, telephone 651-539-1180 or 1-800-657-3889.

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

Date: October 1, 2021

Peter Tester, Commissioner
Minnesota Pollution Control Agency
## Proposed Rules

### 7002.0019 AIR QUALITY PERMIT APPLICATION FEES AND ADDITIONAL FEES.

Subpart 1. **Application points.** The points assessed for permit application types designated in this subpart shall be multiplied by the dollar per point value as determined in part 7002.0018 to calculate the application fee.

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative amendment or administrative change of name, ownership, or control</td>
<td>1</td>
</tr>
<tr>
<td>One point shall be assessed for a request for an administrative amendment or a request for change in name, ownership, or control of a stationary source as addressed in part 7007.1100, subpart 8; 7007.1110, subpart 15; 7007.1110, subpart 15a; 7007.1142, subpart 5; or 7007.1400.</td>
<td>2</td>
</tr>
<tr>
<td>Registration permit</td>
<td>3</td>
</tr>
<tr>
<td>State general permit</td>
<td>4</td>
</tr>
<tr>
<td>Part 70 general permit</td>
<td>4</td>
</tr>
<tr>
<td>Minor amendment</td>
<td>4</td>
</tr>
<tr>
<td>Capped permit</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Applicability requests</td>
</tr>
<tr>
<td>These points shall be applied to each request received for determination of determining the applicability of rules in advance of receipt of receiving a permit application. If multiple requests for reviews are submitted to the Pollution Control Agency over time, each request is subject to the fee.</td>
<td>15</td>
</tr>
<tr>
<td>Moderate amendment</td>
<td>25</td>
</tr>
<tr>
<td>Major amendment</td>
<td>50</td>
</tr>
<tr>
<td>Individual state permit</td>
<td>75</td>
</tr>
<tr>
<td>Individual Part 70 permit</td>
<td>75</td>
</tr>
</tbody>
</table>

Subp. 2. **Additional points.** The points assessed for activities designated in this subpart shall be multiplied by the dollar per point value as determined in part 7002.0018 to calculate the additional fee.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modeling review</td>
<td>15</td>
</tr>
<tr>
<td>The points for modeling review shall are not be assessed for screening modeling or CAPS modeling.</td>
<td>15</td>
</tr>
<tr>
<td>Best available control technology (BACT) review</td>
<td>15</td>
</tr>
<tr>
<td>BACT points shall be applied for each prevention of significant deterioration (PSD) pollutant analyzed.</td>
<td>15</td>
</tr>
<tr>
<td>Lowest achievable emission rate (LAER) review</td>
<td>15</td>
</tr>
<tr>
<td>LAER points shall be applied for each nonattainment new source review (NSR) pollutant analyzed.</td>
<td>15</td>
</tr>
<tr>
<td>Clean Air Act, section 110(a)(2)(D)(i)(I) review</td>
<td>10</td>
</tr>
<tr>
<td>Points shall be applied for a review of any standard or other requirement related to interstate transport of pollutants established under section 110(a)(2)(D)(i)(I).</td>
<td>10</td>
</tr>
<tr>
<td>Part 75 continuous emission monitoring analysis</td>
<td>10</td>
</tr>
<tr>
<td>New source performance standard (NSPS) review</td>
<td>10</td>
</tr>
<tr>
<td>Points shall be applied for each applicable standard but do not apply to registration, capped, or general permit applications.</td>
<td>10</td>
</tr>
<tr>
<td>National emission standards for hazardous air pollutants (NESHAP) review</td>
<td>10</td>
</tr>
<tr>
<td>Points shall be applied for each applicable standard but do not apply to registration, capped, or general permit applications.</td>
<td>10</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Activity</th>
<th>Points</th>
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<tr>
<td>H. Case-by-case maximum achievable control technology (MACT) review</td>
<td>20</td>
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<tr>
<td>Points shall be applied for each applicable source category reviewed.</td>
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<tr>
<td>I. Netting</td>
<td>10</td>
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<tr>
<td>Points shall be applied for each prevention of significant deterioration (PSD) pollutant for which a netting analysis is performed.</td>
<td></td>
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<td>J. Limit to remain below programmatic regulatory threshold</td>
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<tr>
<td>Points shall be applied, if applicable, to each of the following regulatory programs: Part 70, NESHAP, EAW, AERA, NSPS, PSD, and nonattainment NSR</td>
<td></td>
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<tr>
<td>K. Plantwide applicability limit (PAL)</td>
<td>20</td>
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<tr>
<td>Points shall be applied for each prevention of significant deterioration (PSD) pollutant for which a plantwide applicability limit is established.</td>
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<td>L. Air emission risk analysis (AERA) review</td>
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<td>M. Variance request under part 7000.7000</td>
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<td>N. Confidentiality request under part 7000.1300</td>
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<td>O. Environmental assessment worksheet (EAW) review</td>
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<tr>
<td>Points shall be assigned as follows:</td>
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<tr>
<td>Part 4410.4300, subparts 18, item items A and B; and 29</td>
<td>15</td>
</tr>
<tr>
<td>Part 4410.4300, subparts 8, items A and B; 10, items A, B, and F, C, and D; 16, items A and D; 17, items A to C and E to G; and 18, items C, D, and F</td>
<td>35</td>
</tr>
<tr>
<td>Part 4410.4300, subparts 4; 5, item A, subitems (1) and (2); 13; 15; 16, items B and C; and 17, item D</td>
<td>70</td>
</tr>
<tr>
<td>A fee for EAW review shall be charged only if the project falls into a mandatory category specified in part 4410.4300, the agency is the designated responsible governmental unit (RGU), and an air or water permit is required for the project. If a facility requires both an air and water permit, the points for an EAW review shall be charged only once and multiplied by the lower of the dollar per point value for an air or water permit.</td>
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</table>

7002.0025 ANNUAL EMISSION FEE RATES.

Subpart 1. Calculation of fee.

A. Owners or operators of emission reporting facilities shall must be assessed an annual emission fee for each ton of a chargeable pollutant emitted to the air by the facility. Emission reporting facilities shall must be assessed a fee of $X for each ton of any chargeable pollutant as established in the most recently available emission inventory.

B. Notwithstanding item A, the owner or operator of any emission reporting facility or any facility issued an option B registration permit under part 7007.1120 that chooses to be assessed a fee under item C, subitem (1), with less than one ton of total actual emissions shall must be assessed an annual fee of $25.

C. As described in subitems (1) and (2), the owner or operator of a facility issued an option B registration permit under part 7007.1120 shall must be assessed an annual emission fee based on either the reported quantity of VOC-containing materials purchased or used (whichever was stated in the facility’s permit application) or the actual emissions from the use of VOC-containing materials.

(1) If the owner or operator chooses to be assessed the fee based on the actual emissions from the use of VOC-containing materials, the facility’s actual emissions shall be is determined in accordance with parts 7019.3000 to 7019.3090. The assessed fee shall be is determined in accordance with item A.

(2) If the owner or operator chooses to be assessed the fee based on the quantity of VOC-containing materials...
purchased or used (whichever was stated in the facility’s permit application), the fee shall be is:

(a) $50 if the quantity of VOC-containing materials is less than or equal to 1,000 gallons; or

(b) $140 if the quantity of VOC-containing materials is more than 1,000 and less than 2,000 gallons.

[For text of subparts 2 to 3, see Minnesota Rules]

7002.0045 COMPUTATION OF THE DOLLAR PER TON FIGURE.
The dollar per ton figure “$X” used in part 7002.0025 shall be is computed as follows:

\[ X = \frac{F - [P + R + (25 \times N)]}{T - L} \]

where:

$X = $Dollar amount per ton figure.

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

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

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

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

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

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

7005.0100 DEFINITIONS. [For text of subparts 1 to 9a, see Minnesota Rules]

Subp. 9b. Efficiency factor. “Efficiency factor” means:

A. the control efficiency listed in part 7011.0070, subpart 1a, table A;

B. notwithstanding item A, where no control efficiency is listed for a control equipment type in part 7011.0070, subpart 1a, table A, or where the commissioner has determined that a more representative control efficiency is available under this item, efficiency factor means a control efficiency developed or approved by the commissioner and derived from the following sources:

(1) EPA publications including, but not limited to, Locating and Estimating documents, Control Technology Center documents, the preamble and background information documents for New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants, and Compilation of Air Pollutant Emission Emissions Factors (AP-42), United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, July 1993, which (January 1995 and as subsequently amended). AP-42 is
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incorporated by reference and, is available through the State Law Library. This publication at https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors, and is subject to frequent change;

[For text of subitems (2) to (5), see Minnesota Rules]
[For text of item C, see Minnesota Rules]
[For text of subparts 10 and 10a, see Minnesota Rules]

Subp. 10a. Emission factor. “Emission factor” means the most accurate and representative emission data available from one of the following sources:

A. The emission factor listed in the Compilation of Air Pollutant Emission Factors (AP-42), fifth edition, United States Environmental Protection Agency, Technical Support Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; (January 1995, and as subsequently amended, which) The document is incorporated by reference and, is available at the EPA Internet site www.epa.gov/ttn/chief/ap42/index.html. It is subject to frequent change. Where more than one emission factor is listed in AP-42, “emission factor” means the one approved by the commissioner using best engineering judgment and based on one or more of the considerations in item C, subitem (2).

B. The emission factor listed in Factor Information Retrieval (FIRE) Data System, Version 6.25, United States Environmental Protection Agency, Technical Support Division, Office of Air Quality Planning and Standards, as amended, which. The data system is incorporated by reference and, is available at the EPA Internet site www.epa.gov/ttnchie1/software/fire/index.html https://cfpub.epa.gov/webfire, and is subject to frequent change. Where more than one emission factor is listed, emission factor means the one approved by the commissioner using best engineering judgment and based on one or more of the considerations in item C, subitem (2). It is subject to frequent change.

[For text of item C, see Minnesota Rules]
[For text of subparts 10b to 31, see Minnesota Rules]


[For text of subparts 32 to 44a, see Minnesota Rules]

Subp. 45. Volatile organic compound or VOC. “Volatile organic compound” or “VOC” means any organic compound that participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds:

[For text of items A to HHH, see Minnesota Rules]

III. any other compound listed in table 1, as amended, of the United States Environmental Protection Agency’s Recommended Policy on Control of Volatile Organic Compounds, Federal Register, volume 42, page 35314, July 8, 1977 Complete List of VOC Exemption rules, as amended. The list is incorporated by reference, is available at www.epa.gov/ground-level-ozone-pollution/complete-list-voc-exemption-rules, and is subject to frequent change; or

[For text of item JJJ, see Minnesota Rules]

7007.0100 DEFINITIONS.

Subpart 1. Scope.

A. Except as provided in item B, the definitions in this part apply to the terms used in parts 7007.0050 to 7007.1850. The definitions and in parts 7000.0100 and 7005.0100 apply to the terms used in parts 7007.0050 to 7007.1800 this chapter unless the terms are otherwise defined in this part.

B. The definitions in this part do not apply to parts 7007.4000 to 7007.4030.

[For text of subpart 2, see Minnesota Rules]
Subp. 3. [See repealer.]

Subp. 7. Applicable requirement. “Applicable requirement” means all the following as they apply to emissions units in a stationary source (including requirements that have been promulgated or approved by the EPA or the commissioner through rulemaking at the time of issuance but have future effective compliance dates):

V. any standard or other requirement established under section 169A (Visibility Protection for Federal Class I Areas) or 169B (Visibility) of the act including emission limits established in the determination of best available retrofit technology; and

W. any standard or other requirement established under section 110(a)(2)(D)(i)(I) of the Clean Air Act that regulates interstate transport of pollutants; and

X. any standard or other requirement of Minnesota Statutes, section 116.385, the White Bear Area Neighborhood Concerned Citizens Group Ban TCE Act, banning the use of trichloroethylene (TCE) on or after June 1, 2022, and prohibiting the commissioner from issuing a permit after January 1, 2022, that authorizes the use of TCE.

Subp. 9b. [See repealer.]

Subp. 9c. [See repealer.]

Subp. 9d. [See repealer.]

Subp. 9e. [See repealer.]

Subp. 9f. [See repealer.]

Subp. 9g. [See repealer.]

Subp. 9h. [See repealer.]

Subp. 9i. [See repealer.]

Subp. 29. Written record. “Written record” means a record that is maintained in electronic or paper format.

7007.0250 SOURCES REQUIRED TO OBTAIN STATE PERMIT.

Subp. 6. Waste combustors.

A. Owners and operators of a waste combustor, as defined in part 7011.1201, must obtain a permit under this part unless the waste combustor is:

A. a Class IV waste combustor located at a hospital; or

B. a waste combustor subject to the exemptions in part 7011.1215, subpart 3.

B. Notwithstanding the exemptions in items item A and B, owners and operators of a Class IV waste combustor that does not comply with the stack height requirements of part 7011.1235, subpart 1, but uses alternative techniques to achieve equivalent ambient pollution concentrations, must obtain a permit under this part. The permit obtained shall must not be a registration permit under parts 7007.1110 to 7007.1130.

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7007.0500 CONTENT OF PERMIT APPLICATION.

Subpart 1. Application requirements.

A. The applicant shall submit an application on a standard application form provided by the agency. The agency may create different forms for different types of stationary sources. Regardless of whether the particular information is required by a form, an applicant must include all information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the emission fee amount required by chapter 7002.

B. For complicated stationary sources, the agency recommends but does not require that the applicant arrange for a preapplication meeting with the agency's air quality division. Small business stationary sources, as defined in Minnesota Statutes, section 116.96, subdivision 6, may seek assistance in preparing permit applications under the small business air quality compliance assistance act in Minnesota Statutes, sections 116.95 to 116.99.

[For text of items C to F, see Minnesota Rules]
[For text of subparts 2 to 5, see Minnesota Rules]

7007.0800 PERMIT CONTENT.

[For text of subparts 1 to 4, see Minnesota Rules]

Subp. 5. Record keeping. The permit must incorporate all applicable requirements related to record keeping and require the permittee to maintain adequate records, including at least the following:

A. a requirement that the permittee maintain written records adequate to document compliance at the stationary source, including at a minimum:

[For text of subitems (1) to (6), see Minnesota Rules]

B. a requirement that the permittee maintain written records describing any modification made at the stationary source under parts 7007.1250 and 7007.1350, as required by those provisions, but not otherwise regulated under the permit, and the emissions resulting from those changes modifications;

C. a requirement that the permittee retain written records of all monitoring data and support information for five years, or longer as specified by the commissioner, from the date of the monitoring sample, measurement, or report. Support information includes all calibration and maintenance records, all original recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Records must be kept at the stationary source unless the permit allows otherwise; and

[For text of item D, see Minnesota Rules]
[For text of subparts 6 to 16, see Minnesota Rules]

7007.0850 PERMIT APPLICATION NOTICE AND COMMENT.

Subpart 1. Technical support document. For part 70 permits, the agency shall develop a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The agency shall send this statement to the EPA and to any other person who requests it.

Subp. 2. Public notice and comment.

A. The agency must comply with the following procedures before issuing, reissuing, or making a major amendment to any part 70 permit.

(1) The agency must give notice:

(a) by electronically posting the notice for the duration of the comment period on the agency's website for public notices;
(b) in a list provided to the public by the *agency commissioner* upon request;

(c) to persons on a mailing list developed by the *agency commissioner*, including those who request in writing to be on the list; and

(d) by other means if necessary to ensure adequate notice to the affected public.

(2) The notice must include, at a minimum:

(a) the name and location of the facility to be permitted;

(b) the name and address of the permittee;

(c) the name and address of the agency;

(d) the activity or activities involved in the permit action;

(e) the emissions change involved in any permit amendment;

(f) a copy of the draft permit and the technical support document required under subpart 1;

(g) a statement of whether the facility has filed a pollution prevention progress report to the commissioner as required by Minnesota Statutes, section 115D.08;

(h) the name, address, and telephone number of a person; e-mail address of a person; or Web site website address from which interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the *agency commissioner* that are relevant to the permit decision;

(i) a brief description of the comment procedures required by this part; and

(j) the time and place of any meeting or hearing that may be held, including a statement of procedures to request a meeting or hearing under subpart 3, unless a meeting or hearing has already been scheduled.

(3) The *agency commissioner* must provide at least 30 days for public comment and must give notice of any public informational meeting or contested case hearing at least 30 days in advance of the meeting or hearing. Part 7001.0110 applies to public comments received under this part.

(4) The agency must keep a record of the commenters and also of the issues raised during the public participation process, so that the administrator can determine whether a citizen petition may be granted. The records must be available to the public.

(4) The commissioner must respond in writing to all comments that raise issues and must develop a record of the public participation process, including any public meeting, that contains:

(a) a record of the commenters;

(b) issues raised by the commenters;

(c) a record of written comments received; and

(d) the commissioner’s written responses to the comments.
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B. Before issuing or reissuing a state permit, the agency commissioner must comply with the procedures in item A, subitems (1) to (3). This item also applies to any major amendment to a state permit described in part 7007.1500, subpart 1, items C and D, if authorized or required by the administrator.

C. If the agency commissioner determines that a proposed major amendment to a state permit not described in item B involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed amendment or related issues, the agency commissioner must comply with the procedures of item A, subitems (1) to (3), before issuing the amendment.

D. (1) If the agency commissioner determines that a proposed minor or moderate amendment to a permit involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed amendment or related issues, the agency commissioner must comply with the procedures of item A, subitems (1) to (3), before issuing the amendment.

(2) A proposed minor permit amendment may be made subject to the public notice and comment procedures only if the agency commissioner notifies the permittee of the agency’s commissioner’s determination within 15 working days of receiving the minor amendment application. If the permittee properly proceeded with a modification under part 7007.1450, subpart 7, before receiving the agency’s commissioner’s determination, the permittee is not subject to enforcement action for proceeding, but must cease construction and operation of the modification within a reasonable period. The agency commissioner must consult with the permittee on when it is reasonable to cease construction and operation. A proposed moderate permit amendment may be made subject to the public notice and comment procedures any time before the agency commissioner issues a letter of approval authorizing construction under part 7007.1450, subpart 7.

E. The agency commissioner must upon request provide a list that summarizes current activities involving permit applications, minor, moderate, and major amendment applications, and requests for administrative amendments. The agency commissioner may use an electronic bulletin board the agency website in lieu of a written list.

Subp. 3. Petitions for meetings and hearings.

A. During the public comment period, a person may, in regard to any draft permit or amendment subject to public notice under subpart 2, items A to D, petition for:

(1) a public informational meeting pursuant to parts 7000.0650, subpart 4, and 7001.0110, subpart 3; or

(2) a contested case hearing pursuant to part 7000.1800.

B. The decision to grant or deny the petition for a public informational meeting must be based on the criteria in part 7001.0120, and any meeting held must be in accordance with subpart 2 and part 7001.0120. The commissioner must also give notice of the public informational meeting by posting the notice on the agency website for public notices. The decision to grant or deny the petition for a contested case hearing must be based on the criteria in part 7001.1900, and any hearing held must be in accordance with parts 7000.1750 to 7000.2200 and 7001.0130.

Subp. 4. Additional procedures for permits containing Title I conditions. In addition to the requirements of this part, the agency shall comply with all other federal requirements for public participation applicable to permits and permit amendments which include Title I conditions, including requirements in Code of Federal Regulations, title 40, sections 51.102, 51.161, and 51.166(Q), as amended, to the extent applicable.

7007.0950 EPA REVIEW AND OBJECTION.

Subpart 1. Review by EPA.

A. The commissioner must provide to the administrator a copy of the following documents, unless the administrator agrees to accept a summary of the documents:
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(1) for part 70 permits, each application for a permit or permit amendment, each proposed permit or permit amendment, and each final permit or permit amendment; the technical support document required under part 7007.0850, subpart 1; and the record of public participation developed as required under part 7007.0850, subpart 2, item A, subitem (4); and

[For text of subitem (2), see Minnesota Rules]
[For text of items B and C, see Minnesota Rules]

Subp. 2. EPA objection.

A. In the case of a part 70 permit, the agency shall commissioner must not issue a permit or permit amendment if the administrator objects to its issuance in writing within 45 days of receipt of receiving the proposed permit or permit amendment and any necessary required supporting information.

B. In the case of a state permit, the agency shall commissioner must not issue a permit, or an amendment for which EPA review is provided under subpart 1, if the administrator objects to its issuance in writing within 30 days of receipt of receiving the draft permit or amendment and any necessary required supporting information.

Subp. 3. Public petitions to administrator regarding part 70 permits.

A. If the administrator does not object in writing to a part 70 permit or a major amendment to a part 70 permit under subpart 2, any person may petition the administrator within 60 days after the expiration of the administrator’s 45-day review period to make such objection; if:

(1) the petitioner provides a copy of the petition to the commissioner;

(2) the petitioner includes the elements required in Code of Federal Regulations, title 40, section 70.12(a);

(3) the petitioner submits the petition to the administrator according to the procedures required in Code of Federal Regulations, title 40, section 70.14; and

(4) Any such the petition shall be is based only on objections to the part 70 permit or the amendment that were raised with reasonable specificity during the public comment period provided in part 7007.0850, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless grounds for such objection arose after such period.

B. If the administrator objects to the part 70 permit or the amendment as a result of a petition filed under this subpart prior to agency issuance before the commissioner issues the permit or amendment, the agency shall commissioner must not issue the permit or the amendment until the administrator’s objection has been resolved. If the permit or the amendment was issued prior to before the administrator’s objection but after the end of the EPA's 45-day review period, the agency shall commissioner must reopen or revoke the permit or the amendment under part 7007.1600 or 7007.1700 to satisfy the EPA’s objection.

C. Until amended or revoked, the permit shall remain remains in effect. In any case, the owners and operators of the stationary source are will not be in violation of the requirement to have submitted a timely and complete application. The administrator may also amend, terminate, or revoke a part 70 permit under the administrator’s authority under Code of Federal Regulations, title 40, section 70.8(d), as amended.

Subp. 4. Additional procedures for permits containing Title I conditions. In addition to the requirements in subparts 1 to 3, The agency shall commissioner must also comply with all other federal requirements for EPA review applicable to permits and permit amendments which include Title I conditions.

7007.1110 REGISTRATION PERMIT; GENERAL REQUIREMENTS.

[For text of subparts 1 to 2a, see Minnesota Rules]
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Subp. 2b. **Additional limitations on stationary source eligibility for registration permit.** A stationary source may not obtain an option B, C, or D registration permit if:

A. the source qualifies for a sector-based state general permit available under part 7007.1100, unless specifically allowed under the general permit; or

B. the commissioner determines that site-specific permit requirements are needed to ensure compliance with applicable requirements or to protect human health or the environment.

Owners and operators of a stationary source that hold a registration permit and are eligible for a sector-based general permit that is available on or before January 1, 2007, shall apply for the general permit on or before December 31, 2008.

[For text of subparts 3 to 15, see Minnesota Rules]

Subp. 15a. **Relocating.**

A. This subpart does not apply if the registration permit already authorizes operation in more than one location under subpart 20 and the proposed relocation is within the scope of that authorization. This subpart applies only to a stationary source that has been issued a registration permit under parts 7007.1110 to 7007.1130 and that:

A. is relocating within or to an area that is classified as attainment with respect to the National Ambient Air Quality Standards;

B. does not trigger the need for air dispersion modeling for the relocated source;

C. will qualify for the same type of registration permit at the new location; and

D. will not operate a stationary source in both the existing and new locations at the same time for any period of time.

Prior to a change in the location of a stationary source that meets the criteria in items A to D, the owner or operator must provide 45 days advance written notice to the commissioner, stating the exact location where the source will operate. If any of items A to D are not met, the owner or operator must obtain a new permit for the new location prior to operation in the new location.

B. Before changing the location of the stationary source, the owners and operators must submit a request for change of location on a form provided by the commissioner. The commissioner must reissue the registration permit to the owners and operators with the changed location if:

1. the stationary source is being relocated within or to an area that is classified as attainment with respect to the national ambient air quality standards;

2. relocating the stationary source does not trigger the need for air dispersion modeling for the relocated source;

3. the stationary source will qualify for the same type of registration permit at the new location; and

4. the owners or operators will not operate a stationary source in both the existing and new locations at the same time for any period.

C. Issuing a registration permit with a new location voids and supersedes the previously issued registration permit.

[For text of subparts 16 to 20, see Minnesota Rules]
Subp. 21. **Registration permit: general conditions.** Registration permits issued by the commissioner under parts 7007.1110 to 7007.1130 must include the general conditions in items A to O, which are included in the permit by reference to part 7007.1110 as a whole.

[For text of items A to N, see Minnesota Rules]

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state, the agency, and the commissioner assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state, the agency, and the commissioner may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, sections 3.376 3.736.

[For text of subpart 22, see Minnesota Rules]

7007.1120 **REGISTRATION PERMIT OPTION B.**

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. **Compliance requirements.** The owner or operator of a stationary source issued a registration permit under this part must:

A. calculate according to subpart 4 and record by April 1 of each calendar year the total amount of VOC-containing materials purchased or used (whichever was stated in the permit application) during the previous calendar year;

[For text of items B to F, see Minnesota Rules]

Subp. 4. **Calculation method: definitions.** The owner or operator of a stationary source must maintain a record of the gallons of VOC-containing material purchased or used. The amount of VOC-containing material recovered for reuse or recycling, including VOC-containing material shipped off-site for recycling, may be subtracted from the amount of VOC-containing material used or purchased. If the owner or operator ships VOC-containing material off-site for recycling, the owner or operator must keep records of the amount of material shipped off-site for recycling and the calculations done to determine the amount to subtract. Records may be MSDS, invoices, shipping papers, or hazardous waste manifests. For purposes of this part, the following terms have the meanings given.

A. “VOC-containing materials” means materials containing VOC whether or not the VOCs are hazardous air pollutant-containing VOC. Under this part, pollutants.

Gallons of VOC equals volume percentage of VOC multiplied by the gallons of VOC-containing material, except that if the owner or operator ships VOC off-site for recycling, the amount recycled may be subtracted from the amount of VOC used:

B. “Reuse” has the meaning given under part 7045.0020.

C. “Recycling” means the reclamation or reuse, as defined in part 7045.0020, of a VOC VOC-containing material. If the owner or operator ships VOC off-site for recycling, the owner or operator shall keep records of the amount of material shipped off-site for recycling and the calculations done to determine the amount to subtract. Records may be MSDS, invoices, shipping papers, or hazardous waste manifests.

7007.1125 **REGISTRATION PERMIT OPTION C.**

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. **Compliance requirements.** Unless a stationary source is eligible under subpart 3a, the owners and operators of a stationary source issued a registration permit under this part shall comply with all of the requirements in items A to K.

[For text of items A to E, see Minnesota Rules]
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F. The 12-month rolling sum determined by the calculation in item D, the eligibility number, shall must not exceed 50.

[For text of items G to I, see Minnesota Rules]

J. The owner or operator shall must keep the following information on site in subitems (1) to (3) on-site for emission points venting emission units included in subpart 4, calculation 1, which that burn coal, coke, wood, bark, number 5 or 6 residual oil, or number 4 distillate oil. If the commissioner requests any of the information in subitems (1) to (3), the owner or operator must submit the information within 21 days of the request on a form provided by the commissioner:

[For text of subitems (1) to (3), see Minnesota Rules]
[For text of item K, see Minnesota Rules]
[For text of subpart 3a, see Minnesota Rules]

Subp. 4. Tables and calculations. The tables and calculations in this subpart shall must be used to determine whether a stationary source is eligible for a registration permit under this part. For the purposes for fuel specifications listed in calculations 1 and 2A, the Annual Book of American Society for Testing and Materials Standards (ASTM), 100 Barr Harbor Drive, West Conshohocken Conshohocken, PA 19428-2959, volumes 4.05, 5.01, 5.03, and 5.05 (1993 and as subsequently amended) are incorporated by reference. ASTM is the author and publisher. These publications are available through the Minitex interlibrary loan system (University of Minnesota Library). These documents, and are subject to frequent change.

A. Calculation 1. Indirect Heating Emissions Units. For stationary sources with indirect heating emissions units, multiply the 12-month rolling sum of each fuel used by the multiplication factor (MF) listed in Table 1. Add the results of all the calculations to arrive at the calculation 1 total. The following formula determines the calculation 1 total:

STEP 1: fuel type used (in units specified) x MF = fuel type total

STEP 2: fuel type 1 total + fuel type 2 total + ... fuel type n total = Calculation 1 total

| TABLE 1 |
|--------------------------|--------------------------|--------------------------|
| FUEL USED (units burned/year)-[specification] | SULFUR LIMIT | MULTIPLI-CATION FACTOR (MF) |
| anthracite coal (tons)-[ASTM D 388(Vol 05.05)] | 2.38% | 4.64E-02 |
| bituminous coal (tons)-[ASTM D 388(Vol 05.05)] | 2.10% | 4.10E-02 |
| sub bituminous coal (tons)-[ASTM D 388 (Vol 05.05)] | 1.66% | 2.91E-02 |
| lignite A coal (tons)-[ASTM D 388(Vol 05.05)] | 1.26% | 1.89E-02 |
| petroleum coke (tons)-[ASTM C 1160(Vol 04.05)] | 2.33% | 4.55E-02 |
| untreated domestic wood and bark (tons)-[ASTM D 1165(Vol 04.09)] | n/a | 8.40E-03 |
| kerosene (gallons)-[ASTM D 3699(Vol 05.03)] | 0.50% | 3.59E-05 |
| No. 1 and No. 2 distillate (gallons)-[ASTM D 396(Vol 05.01)] | 0.50% | 3.59E-05 |
| No. 4 distillate (gallons)-[ASTM D 396(Vol 05.01)] | 1.80% | 1.40E-04 |
| No. 5 and No. 6 residual (gallons)-[ASTM D 396(Vol 05.01)] | 1.80% | 1.46E-04 |
| liquefied petroleum gas (LPG) (gallons)-[ASTM D 1835(Vol 05.01 and 05.05)] | n/a | 1.05E-05 |
| dry or commercial pipeline natural gas (cubic feet)-this must be a mixture of ethane, methane, not more than five percent propane and not more than one percent butane | n/a | 1.40E-07 |

B. Calculation 2. Reciprocating Internal Combustion Engine Emission Units. A stationary source with one or more reciprocating internal combustion (RIC) engines shall must, for each RIC engine, use either calculation 2A or 2B. Stationary sources with RIC engine emission units burning fuels not listed in Table 2, however, must use calculation 2B.
C. Calculation 2A. RIC Engine Fuel Usage Calculation. For stationary sources with one or more RIC engines, multiply the 12-month rolling sum of each fuel used by the multiplication factor (MF) from Table 2. Add the results of each calculation to determine the total for that RIC engine. The following formula determines the calculation 2A total:

STEP 1: fuel type used (in specified units) x MF = fuel type total

STEP 2: fuel type 1 total + fuel type 2 total + ... fuel type n total = Calculation 2A total

| TABLE 2 |
|---------------------------------|-------|--------------|
| FUEL USED (units burned/year)   | SULFUR LIMIT | MULTIPLI-CATION FACTOR (MF) |
| No. 1 and No. 2 diesel, and kerosene (gallons)-[ASTM 975(Vol 05.01)] | 0.5% | 3.09E-04 |
| liquefied petroleum gas (LPG) (gallons)-[ASTM D 1835(Vol 05.01 and 05.05)] | n/a | 6.95E-05 |
| dry or commercial pipeline natural gas (cubic feet)-[as defined in Table 1] | n/a | 1.70E-06 |

D. Calculation 2B. RIC Engine Operating Hours Calculation. For stationary sources with one or more RIC engines, multiply the design capacity of the engine in horsepower by the 12-month rolling sum of hours operated and by the multiplication factor 1.22E-05. The owner or operator shall must perform this calculation for each RIC engine, then add the results of all the calculations to arrive at the calculation 2B total. The following formula determines the calculation 2B total:

STEP 1: engine horsepower design capacity x hours operated x 1.22E-05 = RIC engine total

STEP 2: RIC engine 1 total + RIC engine 2 total + ... RIC engine n total = Calculation 2B total

E. Calculation 3. VOC Emissions Units. An owner or operator of a stationary source which that purchases or uses VOC-containing materials shall must, for each material purchased or used which that contains VOC, multiply a factor of ten by the weight factor (WF) of the VOC in the material (weight of VOC per weight of VOC-containing material) by the density of the material (in pounds per gallon) by the 12-month rolling sum of gallons of that material purchased or used. The owner or operator shall must perform this calculation for each material purchased or used which that contains VOC (including VOC purchased or used for cleaning) and add the results of the calculations to arrive at the calculation 3 total. In determining the WF and the density, the owner or operator shall must use the maximum listed in the material safety data sheets (MSDS) or a signed statement from the supplier for each VOC-containing material. The following formula determines the calculation 3 total:

STEP 1: 10 [WF x density of the material (lb/gal) x (1 ton/2,000 lb) x the 12-month rolling sum of material purchased or used (gallons)] = material total

STEP 2: material 1 + material 2 + ... material n total = Calculation 3 total

[For text of subpart 5, see Minnesota Rules]
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(4) if the owner or operator assumes a reduction of emissions in using the materials balance method under subpart 4, item D, due to recycling or disposal of material off-site, keep records of the amount of material, the amount of material shipped off-site for recycling or disposal, and the calculations done to determine the amount to subtract. Acceptable records include the material safety data sheets, invoices, shipping papers, and hazardous waste manifests.

A stationary source in which the only hazardous air pollutant (HAP) emissions are VOC emissions and that has actual VOC emissions less than five tons per year is not required to maintain records and perform the calculations of HAP emissions under subitems (1) to (3).

[For text of items B to E, see Minnesota Rules]

F. If the stationary source qualified in the permit application, in whole or in part, by using control equipment efficiencies for:

(1) listed control equipment determined under part 7011.0070, the owner or operator shall comply with parts 7011.0060 to 7011.0080, except that the owner or operator of a hot mix asphalt plant shall comply instead with part 7011.0917. If the calculations required by subpart 4 used control equipment efficiencies based on an alternative control efficiency under part 7011.0070, subpart 2, the owner or operator shall also comply with the operating parameters of the performance test that established the alternative control efficiency; or

(2) control equipment that is not listed in part 7011.0070, the owner or operator shall comply with subpart 6 and with the operating parameters of the performance test that established the emission factor. The owner or operator may operate this control equipment before conducting a performance test and establishing an emission factor, but the owner or operator must calculate actual emissions assuming an uncontrolled emission factor for the period of operation prior to the date the performance test is conducted.

G. F. The 12-month rolling sum of actual emissions from the stationary source determined pursuant to subpart 4 must not exceed the thresholds in subpart 5 for any pollutant.

H. Comply with part 7017.1110.

I. Comply with all applicable requirements including new source performance standards.

J. If the calculation of actual emissions required by subpart 2, item E, for the application or by subpart 3, item E, for compliance verification exceeds five tons per year of sulfur dioxide or particulate matter less than ten microns, the owner or operator shall keep the following at the stationary source for all emission units venting to these emission points:

(1) the location of the emission points;

(2) the potential emissions, as defined in part 7007.0150, subpart 4, in pounds per hour of sulfur dioxide and PM-10; and

(3) the gas flow rate and temperature, stack height, and diameter.

K. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel sulfur data in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the amount of each fuel burned for each batch of fuel for the previous month;

(2) maintain a record of the fuel sulfur content verified by vendor certification or measured by an independent laboratory using ASTM methods for each batch of fuel received; and
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(3) recalculate and record by the last day of each month the 12-month rolling sum of SO₂ emissions for the previous 12 months, the date the calculation was made, and the calculation itself using the calculation method in subpart 4.

471 If the stationary source determined eligibility in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the hours operated for each emissions unit, rounded to the nearest hour for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions as CO₂e of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride, purchased or used (whichever was stated in the permit application), the owner or operator must:

(1) record, by the last day of each month, the amount purchased or used (whichever was stated in the permit application) of each material containing hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride and the mass content of these pollutants for the previous calendar month;

(2) maintain a record of the material safety data sheet (MSDS) or a signed statement from the supplier stating the maximum content of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride in each material containing hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride purchased or used (whichever was stated in the permit application);

(3) calculate and record, by the last day of each month, the 12-month rolling sum of actual emissions as CO₂e of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride purchased or used (whichever was stated in the permit application) for the previous 12 months, the date the calculation was made, and the calculation itself; and

(4) if the owner or operator assumes a reduction of emissions in using the material balance method under subpart 4, item D, due to recycling or disposal of material off-site, keep records of the amount of material shipped off-site for recycling or disposal and the calculations done to determine the amount to subtract. Acceptable records include monitoring records, material safety data sheets, invoices, shipping papers, and hazardous waste manifests.

If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions as CO₂e of carbon dioxide, nitrous oxide, or methane resulting from a chemical process such as fermentation, wastewater treatment, or decomposition, the owner or operator must:

(1) record, by the last day of each month, the amount of carbon dioxide, nitrous oxide, or methane generated by the chemical processes for the previous calendar month;

(2) calculate and record, by the last day of each month, the 12-month rolling sum of actual emissions as CO₂e of carbon dioxide, nitrous oxide, or methane for the previous 12 months, the date the calculation was made, and the calculation itself; and

(3) if the owner or operator assumes a reduction of emissions in using the material balance method under subpart 4, item D, due to the collection and reuse, recycling, or disposal of carbon dioxide, nitrous oxide, or methane on-or off-site, keep records of the amount of carbon dioxide, nitrous oxide, or methane used or shipped off-site and the calculations done to determine the amount to subtract. Acceptable records include monitoring records, invoices, shipping papers, operating data for air pollution control equipment, or process equipment.

Subp. 3a. Compliance requirements for low-emitting sources. If the actual emissions for the previous calendar year
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of each pollutant are less than the emission eligibility limits for each pollutant listed in Table 3A item F, then the owner or operator shall must comply with all of the requirements in items A to H and subparts 6 to 9.

For text of items A to D, see Minnesota Rules]

E. By April 1 of each calendar year, the owner or operator must calculate and record, pursuant to subpart 4, the sum of actual emissions from the stationary source, and the calculation itself for the previous calendar year. This calculation must include all emissions units at the stationary source, except for insignificant activities under part 7007.1300, subparts 2 and 3, and the information required by subpart 4, item B, subitem (3), if continuous emissions monitor (CEM) data is used in the calculation. The sum of actual emissions for each pollutant from the stationary source must not exceed the emission eligibility limits in Table 3A item F for any pollutant. If the emission eligibility limit in Table 3A item F is exceeded for any pollutant, then the stationary source is no longer eligible under this subpart and must comply with subpart 3 and have actual emissions for each pollutant below the eligibility limits in Table 3A item F for two consecutive calendar years before eligibility for this subpart is reinstated.

F. The owners and operators must comply with subpart 3, items F and H to J.

TABLE 3A

OPTION D EMISSION ELIGIBILITY LIMITS FOR REDUCED RECORD KEEPING

<table>
<thead>
<tr>
<th>POLLUTANT</th>
<th>ELIGIBILITY LIMIT FOR REDUCED RECORD KEEPING</th>
</tr>
</thead>
<tbody>
<tr>
<td>HAP</td>
<td>2.5 tons/year for a single HAP</td>
</tr>
<tr>
<td></td>
<td>6.25 tons/year total for all HAPs</td>
</tr>
<tr>
<td>PM</td>
<td>25 tons/year</td>
</tr>
<tr>
<td>PM-10</td>
<td>25 tons/year for an Attainment Area</td>
</tr>
<tr>
<td></td>
<td>0 tons/year for a Nonattainment Area</td>
</tr>
<tr>
<td>VOC</td>
<td>25 tons/year</td>
</tr>
<tr>
<td>SO₂</td>
<td>25 tons/year</td>
</tr>
<tr>
<td>NO₂</td>
<td>25 tons/year</td>
</tr>
<tr>
<td>CO</td>
<td>25 tons/year</td>
</tr>
<tr>
<td>Pb</td>
<td>0.05 tons/year</td>
</tr>
<tr>
<td>CO₂e</td>
<td>25,000 tons/year</td>
</tr>
</tbody>
</table>

F. The emission eligibility limits for reduced record keeping under this part are:

1. single HAP emissions, 2.5 tons per year;

2. total for all HAP emissions, 6.25 tons per year;

3. PM emissions, 25 tons per year;

4. PM-10 emissions, 25 tons per year for an attainment area and 0 tons per year for a nonattainment area;

5. VOC emissions, 25 tons per year;

6. SO₂ emissions, 25 tons per year;

7. NO₂ emissions, 25 tons per year;

8. CO emissions, 25 tons per year;
(9) Pb emissions, 0.05 tons per year; and

(10) CO\textsubscript{2} emissions, 25,000 tons per year.

[For text of items G and H, see Minnesota Rules]

Subp. 4. Calculating actual emissions. The owner or operator of a stationary source may use a calculation worksheet provided by the commissioner for calculating actual emissions under this part, or may use the calculation methods under items A to E. The owner or operator must calculate actual emissions for each emissions unit, except that similar emissions units may be aggregated for emission calculation purposes. The owner or operator of a stationary source shall use the calculation method in item B instead of the calculation method in item A if the data described in item B are available for the stationary source. The alternative methods described in items C, D, and E may be used by the owner or operator without advance notification to the commissioner. The commissioner shall reject data submitted using the methods described in items B to E if the conditions set forth for the method are not fully met. To prevent double counting of emissions, the owners and operators must select one calculation method under this subpart for each emissions unit at the stationary source. Fugitive dust emissions must be included in the calculations under this subpart only if the stationary source is in a category listed in part 7007.0200, subpart 2, item B, subitems (1) to (27).

D. A material balance method may be used to calculate greenhouse gases as CO\textsubscript{2}e and VOC actual emissions. The owner or operator of a stationary source that uses material balance to calculate greenhouse gases as CO\textsubscript{2}e and VOC actual emissions shall determine total greenhouse gases as CO\textsubscript{2}e and VOC actual emissions (E) using the equation in this item. A separate calculation must be made for each individual gas comprising the pollutant greenhouse gases and the results converted to CO\textsubscript{2}e. The amount of CO\textsubscript{2}e from each individual gas comprising the pollutant greenhouse gases must be added together for the total tons per year of CO\textsubscript{2}e.

\[ E = (a - b - c) \times (1 - d), \] where

\begin{align*}
a &= \text{the amount of VOC or each individual gas comprising the pollutant greenhouse gases entering the process or the amount of carbon dioxide, nitrous oxide, or methane generated, plus any VOC or greenhouse gas that is recycled or reused in the process. A signed statement from the supplier or the material safety data sheet must be submitted stating the maximum amount of VOC or each individual gas comprising the pollutant greenhouse gases in any material that was used in the process. A VOC or greenhouse gas that is recycled or reused means a VOC or greenhouse gas that undergoes reclamation or reuse, as defined in part 7045.0020.} \\
b &= \text{the amount of VOC or each individual gas comprising the pollutant greenhouse gases incorporated permanently into the product. This includes VOCs or each individual gas comprising the pollutant greenhouse gases chemically transformed in production. It does not include latent VOC or each individual gas comprising the pollutant greenhouse gases remaining in the product that will at some time be released to the atmosphere. An explanation of this calculation must also be submitted.} \\
c &= \text{the amount of VOC or each individual gas comprising the pollutant greenhouse gases, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air.} \\
d &= \text{the control efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070.} 
\end{align*}

[For text of item E, see Minnesota Rules]

Subp. 6. General requirements; control equipment not listed in part 7011.0070.

A. The owner or operator may operate control equipment not listed in part 7011.0070 before conducting a performance test and establishing an emission factor, but the owner or operator must calculate actual emissions assuming an uncontrolled emission factor for the period of operation before the date the performance test is conducted.

B. If the stationary source qualified in the permit application, in whole or in part, or demonstrates compliance,
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in whole or in part, by using an emission factor determined through a performance test that reflects the use of control equipment that is not listed in part 7011.0070, the owner or operator shall must:

A. (1) operate the control equipment whenever the emission units controlled by the control equipment in compliance with this item. The control equipment shall must at all times be operated in the range established by the control equipment manufacturer’s specifications for each control equipment parameter that is required to be monitored by the approved test plan during the performance test, or within the operating parameters set by the commissioner as the result of the most recent performance test conducted under parts 7017.2001 to 7017.2060, if those are more restrictive. The control equipment must have been manufactured by a control equipment manufacturer as defined in part 7011.0060, subpart 3. The monitoring parameters shall must indicate that the control equipment is operating under the same conditions as during the performance test. If the commissioner determines such monitoring parameters do not exist, then an emission factor may not be established through a performance test under this part;

B. (2) maintain the control equipment according to the requirements of part 7011.0075, subpart 2;

C. (3) operate the monitoring equipment for each parameter required to be monitored as part of the approved test at all times the control equipment is required to operate;

D. (4) record each parameter required to be monitored at least every 24 hours when in operation or more frequently, if the commissioner determines that more frequent monitoring is required to determine the control equipment is operating under the same conditions as during the performance test;

E. (5) report to the commissioner any recorded reading outside the specification or range of specification of any monitored parameter required by the approved test plan in accordance with the deadlines in part 7007.0800, subpart 6, item B, subitem (2), except that owners or operators shall must make this report only if a deviation occurred in the reporting period;

F. (6) conduct additional performance tests, upon request of the commissioner or the administrator, to verify the accuracy of the emission factor or for any of the reasons specified in part 7017.2020, subpart 1;

G. (7) in the event of a shutdown or breakdown of control or process equipment or deviations which that would endanger human health or the environment, comply with part 7019.1000;

H. (8) recalculate the actual emissions if the owner or operator becomes aware of information indicating that the emission factor determined through the performance test is no longer representative; and

I. (9) if the emissions are discharged to the control equipment through a hood, maintain at the stationary source the evaluation of each hood; and record each month the fan rotation speed, fan power draw, or face velocity of each hood, or other comparable air flow indication method.

Subp. 7. General requirements; control equipment listed in part 7011.0070. If the stationary source qualified in the permit application, in whole or in part, by using control equipment efficiencies for control equipment listed under part 7011.0070, the owner or operator must comply with parts 7011.0060 to 7011.0080, except that the owner or operator of a hot mix asphalt plant must comply instead with part 7011.0917. If the calculations required by subpart 4 used control equipment efficiencies based on an alternative control efficiency under part 7011.0070, subpart 2, the owner or operator must also comply with the operating parameters of the performance test that established the alternative control efficiency.

Subp. 8. Inventory of emission points. If the calculation of actual emissions required by subpart 2, item E, for the application: by subpart 3, item E; or by subpart 3a, item E, for compliance verification exceeds five tons per year of sulfur dioxide or particulate matter less than ten microns, the owner or operator must maintain the information under items A to C at the stationary source for all emission units. If the commissioner requests any of the information in items A to C, the owner or operator must submit the information within 45 days of the request on a form provided by the commissioner:
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A. the location of the emission points;

B. the potential emissions, as defined in part 7007.0150, subpart 4, in pounds per hour of sulfur dioxide and PM-10; and

C. the gas flow rate and temperature, stack height, and diameter.

Subp. 9. Complying with registration permit general conditions. An owner or operator operating under this part must:

A. comply with the requirements of part 7007.1110; and

B. comply with all other applicable requirements, including new source performance standards.

7007.1143 CAPPED PERMIT; GENERAL REQUIREMENTS.

[For text of subparts 1 to 5, see Minnesota Rules]

Subp. 6. Operating in more than one location. If requested by the owner or operator in the permit application, the owner or operator shall include in the application an identification of all geographic areas where the stationary source is authorized to operate during the course of the permit.

[For text of subparts 7 to 9, see Minnesota Rules]

7007.1144 CAPPED PERMIT; PUBLIC PARTICIPATION.

Subpart 1. Notice of applications received. The agency shall electronically post notice of receipt of receiving an application for a capped permit on the agency website for air permits at the Minnesota Pollution Control Agency Internet site www.pca.state.mn.us/air/permits/capped.html www.pca.state.mn.us/air/capped-air-emission-state-permit. A person may request to receive notification from the agency of applications received.

[For text of subparts 2 to 5, see Minnesota Rules]

7007.1146 CAPPED PERMIT; COMPLIANCE REQUIREMENTS.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Record-keeping requirements. The owners and operators of a stationary source issued a capped permit shall comply with all of the requirements relevant to the stationary source in items A to G. The owners and operators of a stationary source issued a capped permit shall comply with items H and I at all times.

A. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using a material balance that relies on the content of materials in the calculations in part 7007.1147, the owner or operator must:

[For text of subitems (1) and (2), see Minnesota Rules]

(3) if the owner or operator assumes a reduction of emissions in using the materials balance method under part 7007.1147, subpart 5, due to recycling or disposal of material off-site, keep records of the amount of disposed material, the amount of material shipped off-site for recycling, and the calculations done to determine the amount to subtract. Acceptable records include the material safety data sheets, invoices, shipping papers, and hazardous waste manifests; and

[For text of subitem (4), see Minnesota Rules]
[For text of items B to I, see Minnesota Rules]
[For text of subparts 3 to 5, see Minnesota Rules]
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7007.1147 CAPPED PERMIT; CALCULATING ACTUAL EMISSIONS.
[For text of subparts 1 to 4, see Minnesota Rules]

Subp. 5. Material balance method. A material balance method may be used to calculate actual emissions. The owner or operator of a stationary source that uses material balance to calculate actual emissions must determine total actual emissions (E) using the following equation:

\[ E = (a-b-c) \times (1-d) \]

where:

- \( a \) = the amount of the relevant pollutant, such as VOC, particulate matter, or HAP, entering the process, plus any relevant pollutant recycled and reused in the process. A signed statement from the supplier or the material safety data sheet (MSDS) must be submitted stating the maximum amount of the pollutant in any material that was used in the process. If a material content range is given on the MSDS or by the supplier, the highest number in the range must be used for this calculation. A VOC that is recycled and reused means a VOC that undergoes reclamation or reuse, as defined in part 7045.0020.

- \( b \) = the amount of the relevant pollutant incorporated permanently into the product. This includes VOCs chemically transformed in production. It does not include latent VOC remaining in the product that will at some time be released to the atmosphere. It also includes any solids transferred to the product during a coating operation. Technical justification for this calculation must also be submitted.

- \( c \) = the amount of the relevant pollutant, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air and the technical justification for this calculation. If the actual amount of the relevant pollutant in the waste is unknown, then \( c = 0 \).

- \( d \) = the control efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070.

[For text of subpart 6, see Minnesota Rules]

7007.1148 AMBIENT AIR QUALITY ASSESSMENT.
[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. SCREEN3 method.
[For text of item A, see Minnesota Rules]

B. EPA’s screen model is described in SCREEN3 Model User’s Guide, EPA-454/B-95-004, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1995, which is incorporated by reference and is not subject to frequent change. This publication and copies of the SCREEN3 model are available from the Pollution Control Agency library through the Minnetex interlibrary loan system, through the National Technical Information Service (NTIS), Springfield, VA, 1-800-553-6847, or at the Environmental Protection Agency Internet site www.epa.gov/scram001/tt22.htm#screen3 at https://nepis.epa.gov and is not subject to frequent change.
[For text of items C and D, see Minnesota Rules]

7007.1300 INSIGNIFICANT ACTIVITIES LIST.
[For text of subparts 1 to 4, see Minnesota Rules]

Subp. 5. Threshold table; hazardous air pollutants. The thresholds for hazardous air pollutants listed in the following table are for determining if an emissions unit qualifies as an insignificant activity under subpart 4, item C, subitem (1):

<table>
<thead>
<tr>
<th>CAS#</th>
<th>Chemical Name</th>
<th>De Minimis Level (tons/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>57147</td>
<td>1,1-Dimethyl hydrazine</td>
<td>0.008</td>
</tr>
<tr>
<td>79005</td>
<td>1,1,2-Trichloroethane</td>
<td>1</td>
</tr>
<tr>
<td>79345</td>
<td>1,1,2,2-Tetrachloroethane</td>
<td>0.3</td>
</tr>
<tr>
<td>96128</td>
<td>1,2-Dibromo-3-chloropropene</td>
<td>0.01</td>
</tr>
<tr>
<td>CAS#</td>
<td>Chemical Name</td>
<td>De Minimis Level (tons/year)</td>
</tr>
<tr>
<td>--------</td>
<td>---------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>122667</td>
<td>1,2-Diphenylhydrazine</td>
<td>0.09</td>
</tr>
<tr>
<td>106887</td>
<td>1,2-Epoxymethane</td>
<td>1</td>
</tr>
<tr>
<td>75558</td>
<td>1,2-Propylenimine (2-Methyl aziridine)</td>
<td>0.003</td>
</tr>
<tr>
<td>120821</td>
<td>1,2,4-Trichlorobenzene</td>
<td>10</td>
</tr>
<tr>
<td>106990</td>
<td>1,3-Butadiene</td>
<td>0.07</td>
</tr>
<tr>
<td>542756</td>
<td>1,3-Dichloropropene</td>
<td>1</td>
</tr>
<tr>
<td>1120714</td>
<td>1,3-Propane sultone</td>
<td>0.03</td>
</tr>
<tr>
<td>106467</td>
<td>1,4-Dichlorobenzene(p)</td>
<td>3</td>
</tr>
<tr>
<td>123911</td>
<td>1,4-Dioxane (1,4-Diethyleneoxide)</td>
<td>6</td>
</tr>
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<td>- Cyanide compounds (except those specifically listed)*</td>
<td>5</td>
</tr>
<tr>
<td>143339</td>
<td>Sodium cyanide</td>
<td>0.1</td>
</tr>
<tr>
<td>151508</td>
<td>Potassium cyanide</td>
<td>0.1</td>
</tr>
<tr>
<td></td>
<td>- Glycol ethers (except those specifically listed)*</td>
<td>5</td>
</tr>
<tr>
<td>110805</td>
<td>2-Ethoxy ethanol</td>
<td>10</td>
</tr>
<tr>
<td>111762</td>
<td>Ethylene glycol monobutyl ether</td>
<td>10</td>
</tr>
<tr>
<td>108864</td>
<td>2-Methoxy ethanol</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>- Lead and compounds (except those specifically listed)*</td>
<td>0.01</td>
</tr>
<tr>
<td>75741</td>
<td>Tetrathyl lead</td>
<td>0.01</td>
</tr>
<tr>
<td>78002</td>
<td>Tetraethyl lead</td>
<td>0.01</td>
</tr>
<tr>
<td>7439965</td>
<td>Manganese and compounds (except those specifically listed)*</td>
<td>0.8</td>
</tr>
<tr>
<td>12108133</td>
<td>Methyleneoctadienyl manganese</td>
<td>0.1</td>
</tr>
<tr>
<td></td>
<td>- Mercury compounds (except those specifically listed)*</td>
<td>0.01</td>
</tr>
<tr>
<td>10045940</td>
<td>Mercuric nitrate</td>
<td>0.01</td>
</tr>
<tr>
<td>748794</td>
<td>Mercuric chloride</td>
<td>0.01</td>
</tr>
<tr>
<td>62384</td>
<td>Phenyl mercuric acetate</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>- Elemental Mercury</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>- Mineral fiber compounds (except those specifically listed)*</td>
<td>a</td>
</tr>
<tr>
<td>1332214</td>
<td>Asbestos</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Erionite</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Silica (crystalline)</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Talc (containing asbestos from fibers)</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Glass wool</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Rock wool</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>- Slag wool</td>
<td>a</td>
</tr>
</tbody>
</table>
## Proposed Rules

<table>
<thead>
<tr>
<th>CAS#</th>
<th>Chemical Name</th>
<th>De Minimis Level (tons/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ceramic fibers</td>
<td>a</td>
</tr>
<tr>
<td></td>
<td>Nickel compounds (except those specifically listed)*</td>
<td>1</td>
</tr>
<tr>
<td>13463393</td>
<td>Nickel Carbonyl</td>
<td>0.1</td>
</tr>
<tr>
<td>12035722</td>
<td>Nickel refinery dust</td>
<td>0.08</td>
</tr>
<tr>
<td></td>
<td>Nickel subsulfide</td>
<td>0.04</td>
</tr>
<tr>
<td></td>
<td>Polycyclic organic matter-POM (except those specifically listed)*</td>
<td>0.01</td>
</tr>
<tr>
<td>56553</td>
<td>Benz(a)anthracene</td>
<td>0.01</td>
</tr>
<tr>
<td>50328</td>
<td>Benzo(a)pyrene</td>
<td>0.01</td>
</tr>
<tr>
<td>205992</td>
<td>Benzo(b)fluoranthene</td>
<td>0.01</td>
</tr>
<tr>
<td>57976</td>
<td>7,12-Dimethylbenz(a)anthracene</td>
<td>0.01</td>
</tr>
<tr>
<td>225514</td>
<td>Benzo(c)acridine</td>
<td>0.01</td>
</tr>
<tr>
<td>218019</td>
<td>Chrysene</td>
<td>0.01</td>
</tr>
<tr>
<td>53703</td>
<td>Dibenzo(ah)anthracene</td>
<td>0.01</td>
</tr>
<tr>
<td>189559</td>
<td>1,2:7,8-Dibenzopyrene</td>
<td>0.01</td>
</tr>
<tr>
<td>193395</td>
<td>Indeno(1,2,3-cd)pyrene</td>
<td>0.01</td>
</tr>
<tr>
<td></td>
<td>Dioxins &amp; Furans (TCDD equivalent)**</td>
<td>-</td>
</tr>
<tr>
<td>7782492</td>
<td>Selenium and compounds (except those specifically listed)*</td>
<td>0.1</td>
</tr>
<tr>
<td>7488564</td>
<td>Selenium sulfide (mono and di)</td>
<td>0.1</td>
</tr>
<tr>
<td>7783075</td>
<td>Hydrogen selenide</td>
<td>0.1</td>
</tr>
<tr>
<td>10102188</td>
<td>Sodium selenite</td>
<td>0.1</td>
</tr>
<tr>
<td>13410010</td>
<td>Sodium selenate</td>
<td>0.1</td>
</tr>
<tr>
<td>99999918</td>
<td>Radionuclides (including radon)</td>
<td>b</td>
</tr>
</tbody>
</table>

* - For this chemical group, specific compounds or subgroups are named specifically in this table. For the remainder of the chemicals of the chemical group, a single de minimis value is listed, which applies to compounds that are not named specifically.

** - The “toxic equivalent factor” method in EPA/625/3-89-016 (U.S. EPA (1989) Interim procedures for estimating risk associated with exposure to mixtures) must be used for PCDD/PCDF mixtures. EPA/100/R-10/005 Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8- Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds. A different de minimis level will be determined for each mixture depending on the equivalency factors used, which are compound specific. For purposes of this part, the document EPA/625/3-89-016, Interim Procedures for Estimating Risk Associated with Exposure to Mixtures, U.S. EPA (1989) EPA/100/R-10/005 Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8- Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds, United States Environmental Protection Agency (December 2010), is incorporated by reference. The Environmental Protection Agency is the author and publisher. This document, is available at the University of Minnesota through the Minitex interlibrary loan system. This document https://nepis.epa.gov, and is not subject to frequent change.

a - De minimis values are zero. Currently available data do not support assignment of a “trivial” emission rate; therefore, the value assigned will be policy based.

b - The EPA relies on Code of Federal Regulations, title 40, part 61, subparts B and I, and appendix E, and assigns a de minimis level based on an effective dose equivalent of 0.3 millirem per year for a seven-year exposure period that would result in a cancer risk of one per million. The individual radionuclides subject to de minimis levels are contained in Code of Federal Regulations, title 40, part 61.
Proposed Rules

7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.

[For text of subparts 1 to 6, see Minnesota Rules]

Subp. 7. When permittee may make proposed modification or change.

A. The permittee may make the modification or change proposed in a minor permit amendment application seven working days after the application is received by the air quality division of the agency.

B. The permittee may begin actual construction on a modification proposed in a moderate permit amendment application upon receipt of a letter of approval from the agency authorizing such the construction. However, the permittee may not conduct start-up of the modification until the amended permit has been issued.

[For text of subparts 8 and 9, see Minnesota Rules]

7007.3000 PREVENTING SIGNIFICANT DETERIORATION OF AIR QUALITY.

A. Any person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source must meet the requirements of Code of Federal Regulations, title 40, part 52.21, as amended, entitled “Prevention of Significant Deterioration of Air Quality,” which is adopted and incorporated by reference, except that:

(1) the authorities identified in Code of Federal Regulations, title 40, part 52.21(g), (s), (t), and (u), are not delegated to the commissioner and are retained by the administrator; and

(2) the commissioner must comply with parts 7007.0700, item B, and 7007.0850, subpart 2, in lieu of the requirements under Code of Federal Regulations, title 40, part 52.21(q).

B. Any person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source must meet the requirements of Code of Federal Regulations, title 40, part 52.21.

B. C. All applications and other information required pursuant to Code of Federal Regulations, title 40, part 52.21, from emissions units, emission facilities, and stationary sources located in Minnesota shall must be submitted to the commissioner.

7009.0010 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts 7009.0010 to 7009.0080, the following terms have the meanings given them. The definitions in this part apply to parts 7009.0010 to 7009.0080. The definitions in parts 7000.0100, 7005.0100, and 7007.0100 apply to this chapter unless the terms are otherwise defined in this part.

[For text of subparts 1a to 4, see Minnesota Rules]

7009.0090 NATIONAL AMBIENT AIR QUALITY STANDARDS.

The following national ambient air quality standards, established pursuant to section 109 of the Clean Air Act, are adopted and incorporated by reference. Interpretation of the standards and measurements made to determine compliance with these standards must be performed as specified in part 7009.0050:

[For text of items A to G, see Minnesota Rules]

7009.1010 DEFINITIONS.

Subpart 1. Scope. As used in parts 7009.1000 to 7009.1110, the following words shall have the meanings defined herein. The definitions in this part apply to parts 7009.1000 to 7009.1110.

[For text of subparts 2 to 4, see Minnesota Rules]
Proposed Rules

Subp. 4a. [See repealer.]

[For text of subparts 5 to 10, see Minnesota Rules]

7011.0010 APPLICABILITY OF STANDARDS OF PERFORMANCE.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. New facility. An owner or operator who constructs, modifies, or reconstructs an emission facility shall comply with the new source performance standards, if applicable, and the standards of performance for a new emission facility set forth in the state air pollution control rules. However, if the administrator has determined a state standard of performance to be of equal or superior environmental protection compared to the new source performance standards, then the owner or operator need only comply with the state standard of performance. “Administrator” has the meaning given in part 7007.0100, subpart 3.

[For text of subparts 3 to 5, see Minnesota Rules]

7011.0120 ADJUSTING OPACITY STANDARD.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Atmospheric dispersion modeling. If the data submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the commissioner shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to “Guidelines on Air Quality Models,” EPA-450/2-78-027R, United States Environmental Protection Agency (July 1986), as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The guidelines are incorporated by reference. The guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are available at https://nepis.epa.gov, and are subject to frequent change and are available from the Minnesota State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155.

[For text of subpart 3, see Minnesota Rules]

7011.0735 TABLE 2.

<table>
<thead>
<tr>
<th>Source Gas Volume, DSCFM&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Concentration GR/DSCF&lt;sup&gt;b&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>7,000 or less</td>
<td>0.100</td>
</tr>
<tr>
<td>8,000</td>
<td>0.096</td>
</tr>
<tr>
<td>9,000</td>
<td>0.092</td>
</tr>
<tr>
<td>10,000</td>
<td>0.089</td>
</tr>
<tr>
<td>20,000</td>
<td>0.071</td>
</tr>
<tr>
<td>30,000</td>
<td>0.062</td>
</tr>
<tr>
<td>40,000</td>
<td>0.057</td>
</tr>
<tr>
<td>50,000</td>
<td>0.053</td>
</tr>
<tr>
<td>60,000</td>
<td>0.050</td>
</tr>
<tr>
<td>80,000</td>
<td>0.045</td>
</tr>
<tr>
<td>100,000</td>
<td>0.042</td>
</tr>
<tr>
<td>120,000</td>
<td>0.040</td>
</tr>
<tr>
<td>140,000</td>
<td>0.038</td>
</tr>
<tr>
<td>160,000</td>
<td>0.036</td>
</tr>
<tr>
<td>180,000</td>
<td>0.035</td>
</tr>
</tbody>
</table>
Proposed Rules

<table>
<thead>
<tr>
<th>Source Gas Volume, DSCFM(^a)</th>
<th>Concentration GR/DSCF(^b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>200,000</td>
<td>0.034</td>
</tr>
<tr>
<td>300,000</td>
<td>0.030</td>
</tr>
<tr>
<td>400,000</td>
<td>0.027</td>
</tr>
<tr>
<td>500,000</td>
<td>0.025</td>
</tr>
<tr>
<td>600,000</td>
<td>0.024</td>
</tr>
<tr>
<td>800,000</td>
<td>0.021</td>
</tr>
<tr>
<td>1,000,000 or more</td>
<td>0.020</td>
</tr>
</tbody>
</table>

Interpolation of the data in this part for airflow rates between 7,000 dscfm and 1,000,000 dscfm must use the equation:

\[ c = 1.7627 \times FR_{\text{corrected}}^{d_{2241}} \]

where:

\( c \) = concentration limit in gr/dscf

\( FR_{\text{corrected}} \) = gas volume in dscfm

\(^a\) Dry standard cubic feet per minute

\(^b\) Grains per dry standard cubic foot.

7011.1201 DEFINITIONS.

[For text of subparts 1 to 2c, see Minnesota Rules]

Subp. 11. Class C waste combustor. “Class C waste combustor” means that the total of the design capacities for all waste combustor units at a stationary source is 15 x 10^6 Btu/hr or more and less than 93.75 x 10^6 Btu/hr, the waste combustor units combust primarily mixed municipal solid waste or RDF, and construction of the waste combustor was commenced on or before September 20, 1994 August 30, 1999.

[For text of subparts 12 and 13, see Minnesota Rules]

Subp. 14. Class II waste combustor. “Class II waste combustor” means that the design capacity for a waste combustor unit is 15 x 10^6 Btu/hr or more and less than 93.75 x 10^6 Btu/hr, the waste combustor unit burns mixed municipal solid waste, and construction of the unit is commenced after September 20, 1994 August 30, 1999, or modification or reconstruction is commenced after June 19, 1996 6, 2001.

[For text of subparts 15 to 50, see Minnesota Rules]

7011.1215 APPLICABILITY OF STANDARDS OF PERFORMANCE FOR WASTE COMBUSTORS.

[For text of subparts 1 to 2c, see Minnesota Rules]

Subp. 3. Exemptions from standards of performance Crematoria: pathological and animal carcass waste combustors. Crematoria, pathological waste combustors, and waste combustors used solely for the disposal of animal carcasses are exempt from the requirements of parts 7011.1210 7011.1215 to 7011.1294, and shall meet the conditions of this subpart.

[For text of items A to C, see Minnesota Rules]
[For text of subparts 4 to 6, see Minnesota Rules]

7011.1225 STANDARDS OF PERFORMANCE FOR WASTE COMBUSTORS.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Class I or II waste combustors. A class I or II waste combustor must not emit gases that exceed the
Proposed Rules

standards of performance shown in part 7011.1230.

Subp. 2a. **Class II waste combustors.** For each waste combustor unit, an owner or operator of a class II waste combustor must not cause to be emitted into the atmosphere gases in excess of the standards of performance under part 7011.1229.

[For text of subparts 3 to 5, see Minnesota Rules]

**7011.1229 TABLE 2 PERFORMANCE STANDARDS FOR CLASS II WASTE COMBUSTORS.**

Subpart 1. **Scope.** The owner or operator of a class II waste combustor must comply with:

A. the emission limits, notification, monitoring, testing, record-keeping, and reporting requirements of the new source performance standards incorporated in part 7011.1293;

B. **subpart 2; and**

C. the following requirements:

   (1) parts 7011.1240, **subpart 1; 7011.1281; 7011.1282; 7011.1283; and 7011.1284 if the owner or operator chooses to comply with the operator certification requirements of Code of Federal Regulations, title 40, section 60.54b, as amended, by obtaining certification through the agency;**

   (2) the general waste combustor facility requirements under part 7011.1245;

   (3) the industrial solid waste management plan requirements under part 7011.1250;

   (4) the reporting and response requirements for exceeding continuously monitored emissions under part 7011.1260, **subpart 7;**

   (5) the reporting and response requirements under part 7011.1265, **subpart 11, if an exceedance is measured during the conduct of a performance test; and**

   (6) the testing or monitoring frequency for a waste composition study according to part 7011.1270, **subpart 6.**

Subp. 2. **Emission limits.** The table in this part **subpart** governs emission limitations for a class II waste combustor. For acid gas limitations, either the applicable percent reduction or the parts per million by volume emission limitation, whichever is less stringent, is the emission limitation for the waste combustor.

**Size**

<table>
<thead>
<tr>
<th>Particulate matter</th>
<th>Class II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filterable</td>
<td>0.015 gr/dscf</td>
</tr>
<tr>
<td>The sum of filterable and organic condensable</td>
<td>0.020 gr/dscf</td>
</tr>
</tbody>
</table>

| PCDD/PCDF (total) | 30 ng/dscm |
| Acid gases        |           |
| HCl               | 90% control or 25 ppm |
| SO₂               | 80% control or 30 ppm |

| Carbon monoxide   |         |
| Modular           | 50 ppm  |
| Mass burn or fluidized bed | 100 ppm |
| RDF stoker        | 150 ppm |
Proposed Rules

Size
Opacity
NOx
Mercury (short-term)
  Modular
  Mass Burn
  RDF (90-day test interval)
  FBC
Mercury (long-term)
  Modular
  Mass burn
  RDF (90-day test interval)
  FBC
  RDF (12-month test interval)

7011.1235 REQUIREMENTS OF CLASS IV WASTE COMBUSTORS.
[For text of subparts 1 to 2a, see Minnesota Rules]

Subp. 3. [See repealer.]

7011.1255 PLAN TO SEPARATE SOLID WASTES CONTAINING MERCURY.

Subpart 1. Preparing mercury waste separation plan. If a mercury waste separation plan is required by part 7007.0501 or 7011.1210, the waste combustor owner or operator must prepare a plan to identify, separate, and collect before combustion solid wastes which contain mercury.
[For text of subpart 2, see Minnesota Rules]

Subp. 3. Periodically revising plan. Except for class C waste combustors, in each application for reissuance of a permit, or every five years for class IV waste combustors, the owner or operator of the combustor must revise the plan shall be revised to improve identification, separation, and collection before combustion of mercury from the solid waste stream. The class C waste combustor owner or operator must submit an updated plan to the commissioner every year after initial issuance of a permit under chapter 7007. The updated plan must identify improvements that have been made to the plan to increase identification, separation, and collection before combustion of mercury from the solid waste stream. If no changes are being made, the class C waste combustor operator must state that no changes are being made for that year.

7011.1265 REQUIRED PERFORMANCE TESTS, METHODS, AND PROCEDURES.
[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. Performance test methods for other air contaminants. If not specified in this subpart, the owner or operator must use test methods in Code of Federal Regulations, title 40, part 60, Appendix A, or part 61, Appendix B, as amended, or other methods determined by the commissioner in writing to be equivalent. For class A waste combustors, other methods used for performance testing must be approved by the Environmental Protection Agency.

A. For hydrogen chloride, the percentage reduction in the potential hydrogen chloride emissions (\(\%P_{HCl}\)) is computed using the following formula:

\[
\%P_{HCl} = \frac{(E_i - E_o)}{E_i}
\]

where \(E_i\) is the potential hydrogen chloride emission rate measured at the control device inlet, corrected to seven percent...
Proposed Rules

$O_2$ and $E_0$ is the hydrogen chloride emission rate measured at the outlet of the acid gas control device, corrected to seven percent $O_2$.

Code of Federal Regulations, title 40, part 60, Appendix A, Method 26 or 26A, or title 40, part 63, Appendix A, Method 320, as amended, must be used for determining the hydrogen chloride emission rate. The minimum sampling time is one hour. An oxygen or carbon dioxide measurement must be obtained simultaneously with each Method 26 test run for hydrogen chloride. The average of the hydrogen chloride emission concentration or percent reduction is used to determine compliance.

[For text of items B to D, see Minnesota Rules]
[For text of subparts 4 to 11, see Minnesota Rules]

7011.1270 PERFORMANCE TEST, WASTE COMPOSITION STUDY, AND ASH SAMPLING FREQUENCY.

Subpart 1. Generally. The owner or operator of a waste combustor shall conduct the performance tests required in part 7011.1265, subpart 5, based on the schedules in items A to E this part.

Subp. 2. Class A waste combustors.

A. The owners or operators of class A waste combustors shall conduct performance tests as described in subitems (1) to (6):

1. once within the normal start-up;

2. once annually after the test in subitem (1), but not more than 12 months following the initial performance test, except that fugitive emissions from ash handling need only to be tested once within normal start-up as required in subitem (1);

3. If all PCDD/PCDF performance tests for all units for a two-year period indicate that PCDD/PCDF emissions are less than or equal to 15 ng/dscm corrected to seven percent $O_2$ from each unit, then the owner or operator may choose to test one unit for PCDD/PCDF once annually after the test in subitem (2), but not more than 12 months following the previous performance test. Thereafter, the owner or operator may continue to test a different unit for PCDD/PCDF each year, in sequence (e.g. unit 1, unit 2, etc.). If any annual performance test demonstrates a PCDD/PCDF concentration greater than 15 ng/dscm corrected to seven percent $O_2$, performance tests thereafter shall be conducted annually on all units until all annual performance tests for all units for a two-year period indicate a PCDD/PCDF emission concentration less than or equal to 15 ng/dscm corrected to seven percent $O_2$, or as provided in item B; and

4. The owner or operator will specify what the PCDD/PCDF performance testing schedule is each time a pretest notification is given under the conditions of part 7017.2030.

5. From for mercury emissions, every three months for class A waste combustors that are not burning RDF; for mercury emissions every three months or as provided under items D and E.

The facility may implement testing for mercury not less than once every 12 months under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years.

Waste combustors combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combustor combusting RDF is exceeded, the commissioner shall require testing every three months thereafter until compliance with the standard is demonstrated.

6. A waste composition study every five years.

B. If all PCDD/PCDF performance tests for all units for a two-year period indicate that PCDD/PCDF emissions are less than or equal to 15 ng/dscm corrected to seven percent $O_2$ from each unit, then the owner or operator may...
choose to test one unit for PCDD/PCDF once annually after the test in item A, subitem (2), but not more than 12 months following the previous performance test. Thereafter, the owner or operator may continue to test a different unit for PCDD/PCDF each year, in sequence.

C. The owner or operator must specify what the PCDD/PCDF performance testing schedule is each time a pretest notification is given under part 7017.2030.

D. The owner or operator of a class A waste combustor may implement testing for mercury not less than once every 12 months if the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years.

E. The owners or operators of class A waste combustors combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combustor combusting RDF is exceeded, the commissioner must require testing every three months thereafter until compliance with the standard is demonstrated.

F. The owner or operator of a class A waste combustor must complete a waste composition study every five years.

Subp. 3. Class II and C waste combustors.

B. A. The owners or operators of class II and C waste combustors shall conduct performance tests as described in subitems (1) to (4):

(1) once within the normal start-up, except as provided in subitem (3);

(2) once annually after the test in subitem (1), but not more than 12 months following the initial performance test, except as provided in subitem (3). Also, fugitive emissions from ash handling do not need to be tested more frequently than the initial test required in subitem (1). If three annual performance tests for a three-year period show compliance with standards in part 7011.1225, the owner or operator may continue to conduct annual testing, or may choose to conduct performance tests every 2-1/2 years, except as required by subitem (3). At a minimum, a performance test shall be conducted every 2-1/2 years, but no more than 30 months following the previous compliance test. If a performance test indicates noncompliance with applicable standards, the owner or operator shall resume annual testing for three years for that pollutant for which noncompliance was demonstrated. If three annual performance tests for the three-year period show compliance with standards in part 7011.1225, the owner or operator may again conduct performance testing every 2-1/2 years, or as provided in item B; and

(3) for mercury emissions, class C waste combustors shall commence testing June 20, 1995, and continue testing every 90 days until August 1, 1997. Thereafter, every three months for class C waste combustors that are not burning RDF shall conduct mercury emissions testing every three months or as provided in items C and D.

The facility may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years.

If a facility is granted testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, and a mercury performance test shows mercury emissions greater than 50 percent of the facility’s permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility’s permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility’s permitted limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

Waste combustors combusting RDF may choose to conduct performance tests for mercury emissions every 12 months. If a test shows that emission limits for mercury from a waste combustor combusting RDF are exceeded, the commissioner shall require performance testing every three months until compliance is demonstrated.
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B. Fugitive emissions from ash handling do not need to be tested more frequently than the initial test required in item A, subitem (1). If three annual performance tests for a three-year period show compliance with standards in part 7011.1225, the owner or operator may continue to conduct annual testing or may choose to conduct performance tests every 2-1/2 years, except as required by item A, subitem (3). At a minimum, a performance test must be conducted every 2-1/2 years, but no more than 30 months following the previous compliance test. If a performance test indicates noncompliance with applicable standards, the owner or operator must resume annual testing for three years for that pollutant for which noncompliance was demonstrated. If three annual performance tests for the three-year period show compliance with standards in part 7011.1225, the owner or operator may again conduct performance testing every 2-1/2 years.

C. The owner or operator of a class C waste combustor that is not burning RDF may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, if the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years. However, if a mercury performance test shows mercury emissions greater than 50 percent of the facility’s permitted mercury limit, the owner or operator must resume annual mercury stack sampling until emissions are below 50 percent of the facility’s permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility’s permitted limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

D. The owners or operators of waste combustors combusting RDF may choose to conduct performance tests for mercury emissions every 12 months. If a test shows that emission limits for mercury from a waste combustor combusting RDF are exceeded, the commissioner must require performance testing every three months until compliance is demonstrated.

E. (4) For waste combustors accepting municipal solid waste, the owner or operator must complete a waste composition study every five years.

Subp. 4. Class III and D waste combustors.

C. A. The owners or operators of class III and D waste combustors shall conduct performance tests as described in subitems (1) to (6):

1. once within the normal start-up;
2. every 2-1/2 years after the test in subitem (1), but not more than 30 months following the initial performance test;
3. for class III waste combustors, every three months for emissions of mercury, every three months or as provided in item B;

The facility may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, under the following conditions: the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years.

If a facility is granted testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, and mercury performance test shows mercury emissions greater than 50 percent of the facility’s permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility’s permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility’s permitted limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

4. for class D waste combustors, every 2-1/2 years for emissions of mercury every 2-1/2 years; and

5. for ash, in accordance with part 7045.0131, every 30 months for toxicity by toxic characteristic leach
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procedure for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and nickel.

B. The owner or operator of a class III waste combustor may implement testing for mercury not less than once every three years or according to federal applicable requirements, whichever is more stringent, if the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years. However, if a mercury performance test shows mercury emissions greater than 50 percent of the facility’s permitted mercury limit, the owner or operator must resume annual mercury stack sampling until emissions are below 50 percent of the facility’s permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility’s permitted mercury limit, the facility may resume testing every three years, upon notifying the commissioner in writing.

C. (6) The owners or operators of class III and D waste combustors must complete a waste composition study every five years.

Subp. 5. Class IV waste combustors.

D. The owners or operators of class IV waste combustors shall conduct performance tests:

(1) once within the normal start-up;

(2) every five years after the test in subitem (1), but not more than 60 months following the initial performance test; and

(3) for ash, in accordance with part 7045.0131, every 60 months for toxic characteristic leach procedure for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and nickel.

Subp. 6. Class I waste combustors.

A. The owners or operators of class I waste combustors that are not combusting RDF must conduct performance tests for mercury emissions every three months for waste combustors that are not burning RDF. The conditions: if the facility has demonstrated that mercury emissions have been below 50 percent of the facility’s permitted long-term limit for three consecutive years.

B. The owners or operators of class I waste combustors that are combusting RDF may choose to conduct performance tests for mercury every 12 months. If a test shows that an emission limit for mercury from a waste combusting RDF is exceeded, the commissioner shall require testing every three months thereafter until compliance with the standard is demonstrated.

C. The owners or operators of class I waste combustors shall conduct a waste composition study every five years.

7011.1295 INCORPORATION BY REFERENCE; FEDERAL PLAN REQUIREMENTS FOR SMALL MUNICIPAL WASTE COMBUSTOR UNITS.


Subp. 2. Exceeding emission limits. Owners and operators of a small municipal waste combustor unit must comply with part 7011.1340.

7011.1340 EMISSION LIMITS; EXCEEDANCE REQUIREMENTS.
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Subpart 1. Applicability. The owners or operators of an emissions unit subject to parts 7011.1291, 7011.1292, 7011.1293, 7011.1294, 7011.1295, 7011.1350, 7011.1355, 7011.1360, and 7011.1370 must comply with this part.

For text of subparts 2 to 4, see Minnesota Rules

7011.3470 INCORPORATION BY REFERENCE; NEW SOURCE PERFORMANCE STANDARDS; CALCINERS AND DRYERS IN THE MINERAL INDUSTRY.


7011.3515 INCORPORATION BY REFERENCE; NEW SOURCE PERFORMANCE STANDARDS; MUNICIPAL SOLID WASTE LANDFILLS EXISTING AFTER JULY 17, 2014.

For text of subpart 1, see Minnesota Rules


7011.3530 INCORPORATION BY REFERENCE; FEDERAL PLAN REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION OR BEFORE JULY 17, 2014, AND HAVE NOT BEEN MODIFIED OR RECONSTRUCTED SINCE JULY 17, 2014.

Subpart 1. Scope. The requirements of this part apply to the owner or operator of a landfill that began construction on or before July 17, 2014. Landfills that began construction, modification, or reconstruction after July 17, 2014, are subject to part 7011.3515.


7017.0200 INCORPORATION BY REFERENCE; COMPLIANCE ASSURANCE MONITORING.

Code of Federal Regulations, title 40, sections 64.1 to 64.10, as amended, entitled “Compliance Assurance Monitoring,” are adopted and incorporated by reference.

7017.1060 PRECERTIFICATION TEST REQUIREMENTS.

Subpart 1. Certification test plan required. Prior to conducting a certification test, the owner or operator of the emission facility shall develop and must submit to the commissioner a test plan which contains all of the information required in subpart 2. The certification test plan must be postmarked or received at least 30 days before the certification test date. No certification test may be conducted until a test plan has been submitted to and approved by the commissioner.

For text of subpart 2, see Minnesota Rules

Subp. 3. Certification pretest meeting. The owner or operator of the emission facility shall schedule a meeting with the agency to discuss the details of the proposed certification test. The meeting may be conducted in person or by a telephone conference call. When requested by the commissioner or the owner or operator, an in-person pretest meeting, held at the agency office between authorized employees of the agency and the owner is required. The pretest meeting shall be held at least seven days prior to the certification test date except that a shorter time shall be allowed upon commissioner approval. The commissioner may reject the results of a certification test if the owner or operator of the emission facility refused to participate in a pretest meeting, must consult with agency staff to discuss the proposed certification test. The meeting may be in person or by telephone, except when either the commissioner or the owner or operator requires an in-person meeting at one of the agency’s offices. Unless a shorter period is approved in writing by the commissioner, the pretest consultation must be held at least seven days before the certification test date. The commissioner must reject the results of a certification test if:
A. the owner or operator of the emission facility refused to participate in a pretest meeting; and

B. the commissioner finds that the lack of consultation resulted in a certification test that did not meet the requirements of the test plan approved by the commissioner under subpart 1.

7019.1000 NOTIFICATIONS OF DEVIATIONS ENDANGERING HUMAN HEALTH OR THE ENVIRONMENT; SHUTDOWNS AND BREAKDOWNS.

Subpart 1. Notification of deviations which endanger human health or the environment. The owner or operator of an emission facility, in the event of any deviation, as defined in part 7007.0100, subpart 8a, which could endanger human health or the environment, shall must notify, orally or by facsimile e-mail, the commissioner or must telephone the state duty officer at 800-422-0798 or 651-649-5451 immediately after discovery of the deviation or immediately after when the deviation reasonably should have been discovered by the owner or operator. Within two working days of the discovery, the owner or operator shall must submit to the commissioner a written description of the deviation stating:

A. the cause of the deviation;

B. the exact dates of the period of the deviation, if the deviation has been corrected;

C. whether or not the deviation has been corrected;

D. the anticipated time by which the deviation is expected to be corrected, if not yet corrected; and

E. steps taken or planned to reduce, eliminate, and prevent reoccurrence of the deviation.

Subp. 2. Breakdown notification. The owner or operator of an emission facility, emissions unit, or stationary source shall must notify the commissioner within 24 hours of a breakdown of more than one hour duration of any control equipment or process equipment if the breakdown causes any increase in the emissions of any regulated air pollutant. The 24-hour time period starts when the breakdown was discovered or reasonably should have been discovered by the owner or operator. However, notification is not required if:

A. an applicable requirement as defined in part 7007.0100, subpart 7, or compliance document as defined in part 7017.2005, subpart 2, does not require operation of the control equipment;

[For text of item B, see Minnesota Rules]

C. if the facility directly and continuously monitors the emissions with a continuous emissions monitor or similar direct monitoring device that demonstrates emissions do not exceed the applicable limit of any regulated pollutant during the breakdown.

At the time of notification or as soon as possible thereafter, the owner or operator shall must inform the commissioner of the cause of the breakdown and the estimated duration. The owner or operator shall must notify the commissioner when the breakdown is over.

Subp. 3. Shutdown notification. The owner or operator of an emission facility, emissions unit, or stationary source shall must notify the commissioner at least 24 hours in advance of a planned shutdown of any control equipment or process equipment if the shutdown would cause any increase in the emissions of any regulated air pollutant. If the owner or operator does not have advance knowledge of the shutdown, notification shall be made to the owner or operator must notify the commissioner as soon as possible after the shutdown. However, notification is not required if:

A. an applicable requirement as defined in part 7007.0100, subpart 7, or compliance document as defined in part 7017.2005, subpart 2, allows the shutdown of, or does not require operation of, the control equipment;
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[For text of item B, see Minnesota Rules]

C. the facility directly and continuously monitors the emissions with a continuous emissions monitor or similar direct monitoring device that demonstrates emissions do not exceed the applicable limit of any regulated pollutant during the shutdown.

At the time of notification, the owner or operator shall must inform the commissioner of the cause of the shutdown and the estimated duration. The owner or operator shall must notify the commissioner when the shutdown is over.

Subp. 4. Operation changes. In any shutdown, breakdown, or deviation covered by subpart 1, 2, or 3, the owner or operator shall must immediately or as soon as possible considering plant and personnel safety take all practical steps to modify operations to reduce the emission of any regulated air pollutant. The commissioner may require feasible and practical modifications in the operation to reduce emissions of air pollutants. No emissions units that have an unreasonable shutdown or breakdown frequency of process or control equipment shall be are permitted to operate.

Subp. 5. Effect of rule. Nothing in this part:

A. allows the operation of an emission facility, emissions unit, or stationary source which that may endanger human health or the environment;

[For text of items B to E, see Minnesota Rules]

Subp. 6. [See repealer.] [For text of subpart 7, see Minnesota Rules]

7019.3040 CONTINUOUS EMISSION MONITOR (CEM) DATA.

A. If an emission reporting facility or a facility issued an option B registration permit under part 7007.1120 that chooses to be assessed a fee under part 7002.0025, subpart 1, item C, subitem (1), has collected emissions data through use of a CEM in compliance with the preconditions in subitems (1) and (2), the facility shall owner or operator must report that data to the agency commissioner in its the facility’s emission inventory. The emission inventory submitted shall must be based on all of the CEM data. The requirements in subitems (1) and (2) must be met:

[For text of subitems (1) and (2), see Minnesota Rules]

B. Facilities required to use this method shall include the following information in their An emission inventory submitted according to item A must include:

[For text of subitem (1), see Minnesota Rules]

(2) an explanation of how the emissions were calculated based on the CEM data. Except for facilities subject to part 7017.1020, for periods when the CEM is down and the emissions unit is operating, missing emissions data shall must be substituted with CEM data recorded during a representative period of operation of the emissions unit, and, if applicable, of the control equipment operation during the same calendar year for which the inventory is being submitted. The CEM must have recorded data for at least 90 percent of the hours the emission unit was operated for the calendar year for which the inventory is being submitted. If substitute CEM data meeting these conditions is not available, emissions during periods of CEM downtime shall must be calculated using the next highest available method on the hierarchy of methods listed in part 7019.3030; and

(3) for facilities subject to part 7017.1020 shall, substitute CEM data in accordance with Code of Federal Regulations, title 40, part 75.

7019.3060 VOLATILE ORGANIC COMPOUND (VOC) MATERIAL BALANCE.

If the methods in part 7019.3040 or 7019.3050 are unavailable to the owner or operator of an emission reporting facility or a facility issued an option B registration permit under part 7007.1120 that chooses to be assessed a fee under part 7002.0025, subpart 1, item C, subitem (1), the facility may calculate VOC emissions using the material balance method described in this part. This method may be used in conjunction with or instead of emission factors and enforceable limitations methods described in parts 7019.3080 and 7019.3090, where applicable. A person using material
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balance to calculate VOC emissions shall determine the total VOC emissions (E) as follows:

\[ E = (A - B - C) \times (1 - CE) \]

where:

A = the amount of VOC entering the process. The amount of VOC used in this calculation shall be the amount certified by the supplier or, the maximum amount stated on the material safety data sheet, or the amount determined by reference method 24.

B = the amount of VOC incorporated into the product. This includes VOCs chemically transformed in production. An explanation of this calculation must also be submitted.

C = the amount of VOC, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air. If the actual VOC content of the waste is unknown, then C = 0.

CE = the overall control efficiency, or the product of capture efficiency and control collection or destruction efficiency, of any device used to capture and/or control VOC emissions, expressed as a decimal fraction of 1.00. The overall control efficiency shall be based on efficiency factors, as defined in part 7005.0100, subpart 9b, or shall be based on the overall control efficiency verified by a performance test conducted according to parts 7017.2001 to 7017.2060 and 7019.3050. The overall efficiency of a pollution control system that uses a hood, as defined in part 7011.0060, subpart 2, as the emission capture device shall be based on a capture efficiency of 60 percent. If an alternative capture efficiency has been determined by a performance test conducted according to parts 7017.2001 to 7017.2060 and 7019.3050, that capture efficiency shall be used in the calculation of actual emissions.

7019.3065 MERCURY MATERIAL BALANCE.

If the methods in parts 7019.3040 and 7019.3050 are unavailable to the owner or operator of an emission reporting facility, the owner or operator of a mercury emission source may calculate mercury air emissions using the material balance method described in this part. This method may be used in conjunction with or instead of emission factors and enforceable limitations methods described in parts 7019.3080 and 7019.3090, where applicable. A person using material balance to calculate mercury emissions must determine the total mercury air emissions (E) as follows:

\[ E = (A - B - C) \times (1 - CE) \]

Where:

A = the total amount of mercury entering the process. The amount of mercury used in this calculation must be the amount certified by the supplier, the maximum amount stated on a material safety data sheet, or the maximum amount determined by sample analysis using a reference method.

B = the sum of the amount of mercury incorporated into manufactured products. The owner or operator must submit an explanation of how this quantity was determined.

C = the sum of the amount of mercury leaving the process by a mechanism other than through controlled stack gases or in a product, as when material leaves the process as a waste, is recycled, or is approved for beneficial reuse. The mercury leaving the process by such a mechanism must be established by sample analysis using a reference method. If the actual mercury content of the mercury leaving the process is unknown, then C = 0.

CE = the overall control efficiency, or the product of capture efficiency and control collection or destruction efficiency, of any air pollution control device used to capture or control mercury air emissions, expressed as a decimal fraction of 1.00. The overall control efficiency must be based on efficiency factors, as defined in part 7005.0100, subpart 9b, or must be based on the overall control efficiency verified by a performance test conducted according to parts 7017.2001 to 7017.2060.
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7019.3070 SO₂ MATERIAL BALANCE.

If the methods in parts 7019.3040 and 7019.3050 are unavailable to the owner or operator of an emission reporting facility, the owner or operator may calculate sulfur dioxide emissions using the SO₂ material balance method described in this part. A person using this method shall measure the sulfur content of the fuel and assume that all of the sulfur in the fuel is oxidized to sulfur dioxide. This method may be used in conjunction with or instead of emission factors and enforceable limitations methods described in parts 7019.3080 and 7019.3090, where applicable. The sulfur content of each batch of fuel received must be certified by the supplier or an independent laboratory. The sulfur content shall be determined using American Society for Testing and Materials (ASTM) methods. The sulfur dioxide emissions shall be determined by using the following equation:

\[ \text{SO}_2 = \frac{\%S}{100} \times F \times 2 \times \frac{2000}{2 \times 64/32} \]

where:

\[ \text{SO}_2 = \] Sulfur dioxide emissions from a batch of fuel.
\[ \%S = \] Weight percent sulfur in the fuel being burned.
\[ F = \] Amount of fuel burned by weight in pounds.
\[ 2000 = \] Pounds per ton.
\[ 2 \text{ or } 64/32 = \] Pounds of sulfur dioxide per pound of sulfur in one pound-mole.

The total sulfur dioxide emissions for the year shall be the sum total of the individual batch totals.

7019.3080 EMISSION FACTORS.

A. If the methods in parts 7019.3040 and 7019.3050 are unavailable to the owner or operator of an emission reporting facility or a facility issued an option B registration permit under part 7007.1120 that chooses to be assessed a fee under part 7002.0025, subpart 1, item C, subitem (1), the facility owner or operator may calculate its emissions using factors as defined in part 7005.0100, subpart 10a, as described in this part. This method may be used in conjunction with or instead of material balance and enforceable limitations methods described in parts 7019.3060, 7019.3070, and 7019.3090, where applicable. Calculations of actual emissions shall be based on operating data multiplied by an emission factor. The owner or operator must include operating data necessary to apply the emission factor used in the calculation of emissions in this method shall be included in the emission inventory. Operating data means the data necessary to apply the emission factor to calculate emissions. For example, tons of material handled is the necessary operating data for an emissions factor expressed as “tons of pollutant/ton of material handled.”

B. Control equipment efficiency shall be based on efficiency factors as defined in part 7005.0100, subpart 9b, or shall be based on the efficiency verified by a performance test conducted according to parts 7017.2001 to 7017.2060 and 7019.3050. Calculations of actual emissions from an emission unit through a pollution control system that uses a hood, as defined in part 7011.0060, subpart 2, as the emission capture device shall be based on a capture efficiency of 80 percent. If an alternative capture efficiency has been determined by a performance test conducted according to parts 7017.2001 to 7017.2060 and 7019.3050, the owner or operator must use that capture efficiency shall be used in the calculation of actual emissions.

7019.3090 ENFORCEABLE LIMITATIONS.

If the methods in part 7019.3040 or 7019.3050 are unavailable to an owner or operator of an emission reporting facility or a facility issued an option B registration permit under part 7007.1120 that chooses to be assessed a fee under part 7002.0025, subpart 1, item C, subitem (1), the facility owner or operator may calculate actual emissions using any enforceable permit limitation or applicable requirement limitation. This method may be used in conjunction with or instead of material balance and emission factor methods described in parts 7019.3060 to 7019.3080, where applicable. Calculations of actual emissions shall be based on operating data multiplied by the limitation. The owner or
operator must include operating data and a sample calculation used in the calculation of emissions in this method shall be included in the emission inventory. “Operating data” means the data upon which the emission limitation is based. For example, dscf (dry standard cubic feet) for an emission limitation expressed as “gr/dscf” (grains per dry standard cubic feet).

7019.3100 FACILITY PROPOSAL.

A. The owner or operator of an emission reporting facility may propose an alternative method for calculating actual emissions if the emission reporting facility owner or operator can demonstrate to the satisfaction of the commissioner either:

[For text of subitems (1) and (2), see Minnesota Rules]

B. The proposal shall include:

[For text of subitems (1) to (3), see Minnesota Rules]

C. The owner or operator must submit the proposal shall be submitted to the commissioner by September 1 of the year for which the emissions are being calculated. The commissioner shall must approve the emission reporting facility’s proposal if the commissioner finds that the facility has made the demonstration required under item A. If the commissioner rejects the proposal, the commissioner shall must do so by November 30 of the year for which the emissions are being calculated. Approval of a method shall expire no more than expires five years after the year for which emissions were first calculated.

D. The commissioner shall must revoke approval of the method if, after the first year’s emission inventory submittal, the owner or operator or the commissioner has determined that the method described under this part no longer accurately calculates each unit’s actual emissions. If the commissioner revokes the approval, the commissioner shall must do so by November 30 of the year for which the emissions are being calculated.

RENUMBERING INSTRUCTION. A. In part 7011.1228, the reference to part 7011.1270, item A, subitem (1), is changed to part 7011.1270, subpart 2, item A, subitem (1).

B. In part 7011.1230, subparts 1 and 2, the references to part 7011.1270, item E, are changed to part 7011.1270, subpart 6.

C. In part 7011.3500, the reference to part 7011.3525 is changed to part 7011.3530.

REPEALER. Minnesota Rules, parts 7007.0100, subparts 3, 9b, 9c, 9d, 9e, and 9f; 7007.1102; 7007.1105; 7007.1107; 7009.1010, subpart 4a; 7011.1210; 7011.1235, subpart 3; 7011.3525; and 7019.1000, subpart 6, are repealed.

Minnesota Department of Veterans Affairs
Minnesota Veterans Homes

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

Proposed Amendments to Rules Governing Minnesota Department of Veterans Affairs, Minnesota Veterans Homes, Minnesota Rules, Chapter 9050; Revisor’s ID Number R-4384.

Plain English Summary. This Dual Notice is the Minnesota Department of Veterans Affairs’ (MDVA) legal notice of its intent to adopt amendments to its Rules governing the Minnesota Veterans Homes. The proposed amendments to the Veterans Homes rules are about admissions, discharges, and billing affecting residents of the Minnesota Veterans Homes. The nature of the proposed rule amendments to Minn. R. 9050.0040 - 9050.1090 is to continue to further clarify the authoritative basis for the internal functioning and operation of the Minnesota Veterans Homes. These proposed rules comprise the practices currently used at the Minnesota Veterans Homes, as well as practices that will be implemented.
Proposed Rules

upon the promulgation of these rules, and are based upon preexisting state rules and laws.

This notice provides an opportunity for the public to comment on the proposed rules. Anyone who would like to comment on the proposed rule language must submit written comment or a written request for a hearing on the proposed rules by the deadline identified below. The Subject of Rules section provides additional information about the proposed rules. If the proposed rules affect you in any, the MDVA encourages you to participate in the rulemaking process.

Introduction. The MDVA intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on November 23, 2021 (date comment period ends), the MDVA will hold a public hearing virtually via Microsoft Teams. The following information includes the website links, conference ID and an alternative meeting phone number for individual unable to access via the internet to allow all access and participation in the virtual hearing.

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Join with a video conferencing device
mn@m.webex.com

Video Conference ID: 118 862 905 9

Alternate VTC instructions

Or call in (audio only)
+1 651-395-7448 United States, St. Paul
Phone Conference ID: 264 561 304#

An Administrative Law Judge (ALJ) will conduct the hearing starting at 9:30 am on Tuesday, December 7, 2021. The hearing will continue until all parties have been heard or until the ALJ adjourns it. To find out whether the MDVA will adopt the rules without a hearing or if it will hold the hearing, you should contact the MDVA contact person after November 23, 2021 and before December 7, 2021.

Subject of Rules. The MDVA proposes to amend Minnesota Rules, chapter 9050. The proposed rules establish the necessary regulations governing the veterans homes in Minnesota under the operation of the MDVA. The rules are needed to effectively determine eligibility and suitability for admission to the Minnesota Veterans Homes facilities; to identify and define grounds on which a resident of a Minnesota Veterans Homes facility shall be discharged and to establish a method by which such discharge shall be effected; to clarify the method by which cost of providing care is calculated; to establish an objective and equitable method to determine the amount paid by the resident for services provided by the facility; to provide notice of admission requirements, eligibility standards, financial obligations, service obligations and information which must be disclosed to or by the Minnesota Veterans Homes facilities, and the requirements of disclosure.

The proposed rules:

- Add new or modify existing definitions.
- Confirm compliance with statutory changes by making technical corrections to existing rule language.
- Clarify repayment options; bed hold requirements; the discharge process including the addition of an immediate discharge process; and the cost of care calculation.
- Update income and property allowances for board and care residents; and Health Insurance Portability and Accountability Act (or HIPAA) requirements.
- Provide new rules for the adult day health care program and pharmaceutical services.
**Availability of Rules.** The proposed rules are published in the *State Register* after this notice, or they can be viewed on the MDVA’s Rulemaking Docket website at [https://mn.gov/mdva/about/reports.jsp](https://mn.gov/mdva/about/reports.jsp). A free copy of the rules is also available upon request from the MDVA contact person identified below.

**Statement of Need and Reasonableness.** The statement of need and reasonableness (SONAR) summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The SONAR is available on the MDVA’s Rulemaking Docket website at [https://mn.gov/mdva/about/reports.jsp](https://mn.gov/mdva/about/reports.jsp). A print copy is available for the cost of reproduction by contacting the MDVA contact person identified below.

**Public Comment.** You have until **Tuesday, November 23, 2021**, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the deadline. Submit written comments to the Office of Administrative Hearings Rulemaking eComments website at [https://minnesota.oah.granicusideas.com](https://minnesota.oah.granicusideas.com). If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments via the eComments website should be directed to Denise Collins, Office of Administrative Hearings, telephone 651-361-7875 and denise.collins@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings, and on the MDVA’s Rulemaking Docket website at [https://mn.gov/mdva/about/reports.jsp](https://mn.gov/mdva/about/reports.jsp).

Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

**Modifications.** The MDVA may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. The modifications must be supported by comments and information submitted to the MDVA or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the MDVA follows the procedure under *Minnesota Rules*, part 1400.2110.

**Request for a Hearing.** In addition to submitting comments, you may also request that the MDVA hold a hearing on the proposed rules. You have until **4:30 p.m. on Tuesday November 23, 2021**, to submit your written request for a hearing to the Office of Administrative Hearings rulemaking eComments website at [https://minnesota.oah.granicusideas.com](https://minnesota.oah.granicusideas.com). If it is not possible to use the eComments website, a hearing request may be submitted in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620 or at 651-539-0310 (fax). Your written request for a public hearing must include your name and postal address. You must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the MDVA cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, the MDVA will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MDVA must give written notice of this to all persons who requested a hearing, explain the actions the MDVA took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MDVA will follow the procedures in *Minneapolis Statutes*, sections 14.131 to 14.20. The MDVA reserves the option to remove any section of the rule that may be controversial and to proceed without a hearing on the noncontroversial part of the proposed rules.

**Cancellation of Hearing.** The MDVA will cancel the hearing scheduled for **December 7, 2021**, if the MDVA does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the MDVA will notify you before the scheduled hearing whether the hearing will be held. You may also call the MDVA contact person identified below after **November 23, 2021** to find out whether the hearing will be held. On the scheduled day, you may check for
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whether the hearing will be held by checking the MDVA’s Rulemaking Docket website at https://mn.gov/mdva/about/reports.jsp.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the MDVA will hold a hearing following the procedures in Minnesota Statutes, sections 14.131 to 14.20. The MDVA will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard or until the ALJ adjourns it. ALJ, the Honorable Judge Jessica Palmer-Denig is assigned to conduct the hearing. Judge Jessica Palmer-Denig’s legal assistant, Michelle Severson, can be reached at the Office of Administrative Hearings 600 North Robert Street, P.O. Box 64620, Saint Paul, MN 55164-0620, telephone 651-361-7874 and fax 651-539-0310 or at Michelle.Severson@state.mn.us.

Hearing Procedure. If the MDVA holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the ALJ to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the ALJ may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the MDVA and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the ALJ via the Office of Administrative Hearings rulemaking eComments website at https://minnesotaaah.granicusideas.com no later than 4:30 p.m. on the due date. If using the eComments website is not possible, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to ALJ Jessica Palmer-Denig at the address or facsimile number listed in the Notice of Hearing section above.

All comments or responses received will be available for review on the MDVA Rulemaking Docket website at https://mn.gov/mdva/about/reports.jsp. This rule hearing procedure is governed by Minnesota Rules, parts 1400.2000 to 1400.2240, and Minnesota Statutes, sections 14.131 to 14.20. You may direct questions about the procedure to the ALJ.

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

Adoption Procedure after a Hearing. If a hearing is held, after the close of the hearing record, the ALJ will issue a report on the proposed rules. You may ask to be notified of the date that the ALJ’s report will become available, and can make this request at the hearing or in writing to the ALJ. You may also ask to be notified of the date that the MDVA adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the MDVA contact person listed below.

Statutory Authority. The statutory authority to adopt the rules is Minnesota Statutes, sections 196.04, 198.003 and Minnesota Statute, section 14.06(a).

MDVA Contact Person. The MDVA contact person is Dale Klitzke at the MDVA, 20 West 12th Street, Saint Paul, MN 55155, telephone 612-548-5706. Email: dale.klitzke@state.mn.us. You may also call the MDVA at 651-296-2562.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact Terri Curtis at the Minnesota Department of Veterans Affairs, 20 West 12th Street, St. Paul, MN 55155 telephone 612-548-5888 or email: Diversity.MDVA@state.mn.us.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public...
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Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, MN 55155, telephone 651-539-1180 or 1-800-657-3889.

Date: October 1, 2021
Larry Herke, Commissioner
Minnesota Department of Veterans Affairs

9050.0030 COMPLIANCE WITH STATUTES, RULES, AND CODES.
The commissioner of veterans affairs shall ensure compliance by the facility and staff with applicable statutes, with applicable rules of the Minnesota Department of Health and the Minnesota Department of Human Services, and with applicable health, safety, sanitation, building, zoning, and operations codes, including the following:

L. the patient’s Health Care Bill of Rights in Minnesota Statutes, section 144.651, and the complaint and resident’s rights provisions of Minnesota Statutes, section 144A.13; and

M. the United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and

N. the United States Department of Veterans Affairs Guide to Inspection of State Veterans Homes: Domiciliary Care Standards and Guide to Inspection of State Veterans Homes Nursing Home Care Standards.

9050.0040 DEFINITIONS.

Subp. 5. Admissions agreement. “Admissions agreement” means a written contract entered into by the resident or the resident’s legal representative or spouse, if any, or both, and the commissioner of veterans affairs or the commissioner’s designated representative at the time of admission of the resident to a facility operated by the commissioner. The agreement must:

A. identify the service obligations of the facility with respect to the resident, as determined by the commissioner of veterans affairs according to licensure requirements and applicable statutes and rules, as specified in part 9050.0030;

B. identify the responsibilities of the resident with respect to the facility and other residents, including the resident’s responsibilities with respect to the facility’s policies and safety practices; and

[For text of item C, see Minnesota Rules]
[For text of subpart 5a, see Minnesota Rules]

Subp. 6. Against medical advice. “Against medical advice” means a resident has left the particular area or level of care at the Minnesota veterans home facility or campus specified in the individual care plan, or has chosen to terminate resident status contrary to the recommendations of the attending physician provider.

[For text of subpart 7, see Minnesota Rules]

Subp. 8. Applicant. “Applicant” means a person seeking admission to a facility operated by the commissioner of veterans affairs.

[For text of subparts 9 to 13, see Minnesota Rules]

Subp. 14. Bed hold. “Bed hold” means a particular bed occupied by a Minnesota veterans home resident, or a comparable bed, that is held open for the resident during the resident’s absence from a facility operated by the commissioner of veterans affairs for medically necessary treatment at another health care facility, for a rehabilitation program, or during the resident’s absence, with notice, from a facility operated by the commissioner of veterans affairs.

Subp. 15. [Repealed, L 2008 c 297 art 2 s 30]
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Subp. 16. **Boarding care.** “Boarding care” means board, room, laundry, personal services, supervision over medication that can be safely self-administered or dispensed, and a program of activities and supervision required by persons who are not able to properly care for themselves. Boarding care is the state equivalent of domiciliary care as that term is used by the United States Department of Veterans Affairs.

[For text of subpart 17, see Minnesota Rules]

Subp. 17a. **Business days.** “Business days” means Monday through Friday, excluding state-recognized legal holidays.

Subp. 18. **Facility operated by the commissioner of veterans affairs.** “Facility operated by the commissioner of veterans affairs” means a Minnesota veterans home campus, including, but not limited to, buildings, units, and grounds, at which nursing care or boarding care is provided.

[For text of subparts 19 and 20, see Minnesota Rules]

Subp. 21. **Care plan review.** “Care plan review” means an assessment of a resident’s physical and mental condition and treatment needs by the care plan team medical, nursing, mental, and psychological needs. Care plan review includes:

D. a review of the appropriateness, duration, and outcome of treatment and care provided at the facility operated by the commissioner of veterans affairs; and

E. a review and appropriate revision of the treatment and care recommendations of the multidisciplinary interdisciplinary staff, in conjunction with the resident, resident’s family, surrogate, or representative, as appropriate.

[For text of subpart 22, see Minnesota Rules]

Subp. 23. **Chemical abuse.** “Chemical abuse” has the same meaning given it in part 9530.4100, subpart 5 “abuse” in Minnesota Statutes, section 148F.01, subdivision 2.

Subp. 24. **Chemical dependency counselor.** “Chemical dependency counselor” means a person who is licensed under Minnesota Statutes, sections 148C.01 to 148C.11, chapter 148F, or who has met the minimum qualifications of a chemical dependency counselor under the examination process of the state of Minnesota or the Minnesota Merit System.

[For text of subpart 25, see Minnesota Rules]

Subp. 26. **Chemically dependent; chemical dependency.** “Chemically dependent” or “chemical dependency” has the meaning given it in part 9530.4100, subpart 6 means a pattern of pathological use, accompanied by the physical manifestations of increased tolerance to a chemical or chemicals being used or withdrawal syndrome following cessation of chemical use. Chemical dependency includes a pattern of pathological use, accompanied by the physical manifestations of increased tolerance to a chemical or chemicals being used or withdrawal, which has been interrupted by a period of incarceration or hospitalization.

[For text of subpart 26a, see Minnesota Rules]

Subp. 26b. **Commissioner.** “Commissioner” means the commissioner of the Minnesota Department of Veterans Affairs or another department employee who has delegated authority from the commissioner.

Subp. 27. **Conservator.** “Conservator” means a person who is appointed by a court to manage the estate of a protected person.

Subp. 28. **Contract.** “Contract” means a legally enforceable agreement entered into by the commissioner of veterans affairs and an applicant, resident, or the resident’s legal representative or spouse, if any, or a provider or by a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

[For text of subpart 29, see Minnesota Rules]

Subp. 30. **Cost of care.** “Cost of care” means the average daily per resident cost of providing care, calculated separately for a resident of a boarding care facility or skilled nursing home facility. The cost must be calculated...
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according to part 9050.0500.

Subp. 30a. Delinquent account. “Delinquent account” means an account created for a resident during the resident’s stay at a facility operated by the commissioner and that is over 30 days past due.

Subp. 30b. Department. “Department” means the Department of Veterans Affairs.

Subp. 31. Dependent. “Dependent” means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

A “dependent” must be an unmarried person who is:

A. either living with or receiving support contributions from the applicant or resident;

[For text of items B and C, see Minnesota Rules]

[For text of subparts 32 to 35, see Minnesota Rules]

Subp. 36. Discharge. “Discharge” means a termination of residence in the skilled nursing home facility or boarding care home that is documented in the discharge summary signed by the attending physician provider. A discharge includes the permanent movement of a resident from the campus of one facility operated by the commissioner of veterans affairs to another, whether to the same or to a different level of care. For purposes of this definition, a discharge does not include:

C. an absence from the skilled nursing home facility or boarding care home for hospitalization, treatment purposes, or personal reasons therapeutic leave when the resident is expected to return to the same skilled nursing home facility or boarding care home and complies with the bed hold requirements of part 9050.0150.

[For text of subpart 37, see Minnesota Rules]

Subp. 38. Educational expenses. “Educational expenses” means the actual amounts paid for a nonskilled resident or dependent child’s tuition, mandatory fees, transportation to and from high school, supplies and equipment required for coursework, and child care while the person is in school or in transit. For a nonskilled resident to be eligible for educational expenses, the educational program must be part of the resident’s approved care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination on the issue.

[For text of subparts 39 to 40a, see Minnesota Rules]

Subp. 41. Goal. “Goal” means the desired medical alleviation or behavioral outcome of an activity that can be observed and reliably measured by two or more multidisciplinary members.

[For text of subpart 42, see Minnesota Rules]

Subp. 43. Guardian. “Guardian” has the meaning given it in Minnesota Statutes, section 525.539, subdivision 2. means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

Subp. 44. Health care facility. “Health care facility” means a hospital, nursing home, skilled nursing facility, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or 144A.01 to 144A.18.

[For text of subparts 45 to 49, see Minnesota Rules]

Subp. 50. Hospital absence. “Hospital absence” means an absence from a facility operated by the commissioner of veterans affairs for medically necessary treatment in a hospital.

[For text of subparts 51 and 52, see Minnesota Rules]
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Subp. 53. **Inappropriate and harmful use.** “Inappropriate and harmful use” has the meaning given it in part 9530.4100, subpart 14, means use of a chemical that exceeds social or legal standards of acceptability, the outcome of which is characterized by three or more of the following:

A. weekly use to intoxication;

B. inability to function in a social setting without becoming intoxicated;

C. driving after consuming sufficient chemicals to be considered legally impaired under Minnesota Statutes, section 169A.20, whether or not an arrest takes place;

D. excessive spending on chemicals that results in an inability to meet financial obligations;

E. loss of friends due to behavior while intoxicated; or

F. chemical use that prohibits the individual from meeting work, school, family, or social obligations.

[For text of subparts 54 and 55, see Minnesota Rules]

Subp. 56. **Independent physician.** “Independent physician” means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is not the applicant’s or resident’s attending physician. The independent physician may be a Minnesota veterans home staff physician of a facility operated by the commissioner of veterans affairs other than the one in which the individual in question resides.

[For text of subpart 57, see Minnesota Rules]

Subp. 58. **Individual care plan.** “Individual care plan” means a written plan developed for implementing and coordinating a resident’s care and treatment that is developed and maintained by the multidisciplinary interdisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service and care needs of the resident, set treatment goals and objectives, identify outcomes or resolution of treatment for the resident, and identify responsibilities of the multidisciplinary interdisciplinary staff for the resident’s care and treatment.

Subp. 58a. **Initial admission.** “Initial admission” means the first time an individual is admitted for residency at any of the Minnesota veterans homes (MVH) facilities for services such as skilled care or domiciliary care. If a resident is admitted to a MVH Minnesota veterans home facility within one calendar year of being discharged from the same or another MVH facility, the admission to the first facility is the resident’s “initial admission” for the purposes of residency at both facilities.

Subp. 58b. **Interdisciplinary staff.** “Interdisciplinary staff” means health care professionals, mental health practitioners, and mental health professionals employed by or under contract with the Department of Veterans Affairs to provide clinical and evaluative services in the treatment of conditions of the residents.

Subp. 59. **International Classification of Diseases; ICD-9-CM ICD-10-CM.** “International Classification of Diseases” or “ICD-9-CM” “ICD-10-CM” means the current edition of the Clinical Manual of the International Classification of Diseases, as published by the Commission on Professional and Hospital Activities, 1968 Green Road, Ann Arbor, Michigan. This publication is incorporated by reference and is available through the Minitex interlibrary loan system. It is not subject to frequent change.

[For text of subparts 60 and 61, see Minnesota Rules]

Subp. 62. **Level of care.** “Level of care” means the licensure level of the facility operated by the commissioner of veterans affairs in which a resident lives and is assigned an appropriate bed through the use of a patient classification system.

Subp. 63. **Level of care change.** “Level of care change” means movement of a resident from one level of care to
another within a facility operated by the commissioner of veterans affairs or from one facility to another on the same campus.

Subp. 64. Licensed psychologist. “Licensed psychologist” means a person licensed under Minnesota Statutes, section 148.91, subdivision 5, 148.907.

[For text of subparts 65 to 69, see Minnesota Rules]

Subp. 69a. Make available. “Make available” means to assist a resident in obtaining information about and arrange for a resident’s access to a particular service, but not necessarily assure payment for that service. The commissioner of veterans affairs shall determine annually which services will be paid for by the facilities operated by the commissioner of veterans affairs, based on appropriations.

[For text of subpart 70, see Minnesota Rules]

Subp. 71. Market value. “Market value” means the most probable price in terms of money that property should bring in a competitive open market under all conditions requisite to a fair sale. The value on the most recent property tax statement must be presumed to be the market value for purposes of calculating the maintenance charge unless the person or the commissioner of veterans affairs or the commissioner’s designated representative provides convincing evidence to overcome the presumption.

Subp. 72. Medical condition. “Medical condition” means the diagnosis or diagnoses listed in current editions of ICD-9-CM, ICD-10-CM or DSM-MD, made by the applicant’s or resident’s attending physician.

Subp. 73. Medical director. “Medical director” means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract to with the commissioner Department of Veterans Affairs who is responsible for the purpose of the overall direction of medical practice in a facility to ensure the appropriateness of the medical services provided to the residents.

Subp. 74. Medical treatment plan. “Medical treatment plan” means the plan signed by the resident’s attending physician that includes the resident’s primary and secondary diagnoses, order for treatment and medications, rehabilitation potential, rehabilitation procedures if ordered, clinical monitoring procedures, and discharge potential. The medical treatment plan is a component of the individual care plan.

[For text of subparts 75 to 79, see Minnesota Rules]

Subp. 80. [See repealer.]

[For text of subparts 81 to 83, see Minnesota Rules]

Subp. 84. [See repealer.]

[For text of subparts 85 to 88a, see Minnesota Rules]

Subp. 88b. Patient classification system. “Patient classification system” means a system that categorizes present patients on the basis of certain care needs.

Subp. 89. [See repealer.]

[For text of subparts 90 to 94a, see Minnesota Rules]

Subp. 94b. Provider. “Provider” means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is an applicant’s or resident’s primary treating or supervising physician.

[For text of subpart 95, see Minnesota Rules]


[For text of subparts 96 to 99, see Minnesota Rules]
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Subp. 100. **Reporting year.** “Reporting year” means the period from March 1 to the last day of February immediately preceding the rate year, for which the skilled nursing home facility or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year.

[For text of subparts 101 to 105, see Minnesota Rules]

Subp. 105a. **Skilled nursing facility.** “Skilled nursing facility” means a facility licensed by the commissioner of health under chapters 4655 and 4660 and Minnesota Statutes, section 144A.

Subp. 106. **Social worker.** “Social worker” means a person who is licensed under Minnesota Statutes, sections 148B.18 to 148B.209 chapter 148E, or who has met the minimum qualifications of a social worker under the examination process of the state of Minnesota or the Minnesota Merit System.

[For text of subpart 106a, see Minnesota Rules]

Subp. 107. **Staff physician.** “Staff physician” means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is employed by or under contract to the commissioner of veterans affairs to provide services in a facility operated by the commissioner of veterans affairs.

Subp. 108. **Staff psychiatrist.** “Staff psychiatrist” means a psychiatrist who is employed by or under contract to the commissioner of veterans affairs to provide psychiatric services in a facility operated by the commissioner of veterans affairs.

Subp. 109. **Staff psychologist.** “Staff psychologist” means a person licensed under Minnesota Statutes, sections 148.88 to 148.98, who is employed by or under contract to the commissioner of veterans affairs to provide psychological services in a facility operated by the commissioner of veterans affairs.

Subp. 109a. **Therapeutic leave.** “Therapeutic leave” means an absence from a facility operated by the commissioner for family visits, vacations, or other personal, nontreatment-related reasons.

Subp. 110. **Transfer.** “Transfer” means:

A. movement of a resident to or from another health care facility for purposes of hospitalization or other health care services if a bed is held at the particular facility operated by the commissioner of veterans affairs for the resident pending completion of medically necessary treatment and the resident’s anticipated return to the same facility operated by the commissioner of veterans affairs; or

B. movement to or from a skilled nursing home facility to a boarding care facility or to or from a boarding care facility to a skilled nursing home facility at a particular campus, when a bed hold is not required and a return to the resident’s previous level of care is not anticipated.

[For text of subpart 111, see Minnesota Rules]

Subp. 112. **Treatment absence.** “Treatment absence” means an absence of a resident from a facility operated by the commissioner of veterans affairs, with the expectation of the resident’s return to the facility operated by the commissioner of veterans affairs. The absence must be to be placed in a residential institutional setting, including a detoxification facility, a rehabilitation program, or health care facility other than a hospital.

[For text of subpart 113, see Minnesota Rules]

Subp. 114. **Unemployment compensation.** “Unemployment compensation” means the insurance benefits paid to an unemployed worker under Minnesota Statutes, sections 268.03 to 268.23.

Subp. 115. **Utilization review.** “Utilization review” means the activity or function within the facility operated by the commissioner of veterans affairs responsible for the ongoing evaluation of the necessity for and the quality and timeliness of services provided in facilities operated by the commissioner of veterans affairs, according to chapters 4655 and 4660, when the services are not under the responsibility of a professional standards review organization.

[For text of subparts 115a to 119, see Minnesota Rules]
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9050.0050 PERSONS ELIGIBLE FOR ADMISSION.

Subpart 1. [See repealer.]

Subp. 2. Veterans. A person must meet the criteria in Minnesota Statutes, sections 197.447 and 198.022, paragraphs (1) and (2), to be eligible for admission to a facility operated by the commissioner of veterans affairs as a veteran. A veteran seeking admission to a facility operated by the commissioner must:

A. meet the requirements of Minnesota Statutes, sections 197.447 and 198.01;

B. be a permanent resident of the state of Minnesota as defined in subpart 3a; and

C. meet the criteria in part 9050.0070.

The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

Subp. 3. Nonveterans. A person who is not a veteran must meet the criteria in Minnesota Statutes, section 198.022, paragraphs (1) and (2), to be eligible for admission to a facility operated by the commissioner of veterans affairs. A nonveteran seeking admission to a facility operated by the commissioner must:

A. meet the criteria of Minnesota Statutes, section 198.022;

B. be a permanent resident of the state of Minnesota as defined in subpart 3a;

C. meet the criteria in part 9050.0070; and

D. if the nonveteran is a spouse of a veteran, meet the requirements of Minnesota Statutes, sections 197.447 and 198.01.

The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

Subp. 3a. Residency. For purposes of determining residency under Minnesota Statutes, section 198.022, paragraphs (2) and (3), a person is a permanent resident of Minnesota if:

A. the person currently resides in Minnesota and intends to reside in the state permanently rents, owns, maintains, or occupies a residence in Minnesota suitable for year round use for at least 90 days prior to application to a veterans home operated by the commissioner; and

B. the person does not rent, own or maintain or occupy a home in another state.

Subp. 4. [See repealer.]

Subp. 5. Exclusion. An applicant who has past unpaid bills to the state for maintenance charges for prior residence in a facility operated by the commissioner must satisfy the past debt for maintenance charges before that applicant will be placed on the waiting list. For the purpose of this part, “satisfy” means that the applicant has either paid the debt or entered into an agreement to repay the debt. The agreement must conform with Minnesota Statutes, section 198.03, subdivision 3.
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9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

Subpart 1. Process. A person seeking admission to a facility operated by the commissioner of veterans affairs may obtain an application form and information describing the required application procedures from the facility. The social services staff of the facility operated by the commissioner of veterans affairs shall assist the person to complete the application form and process. When an application is requested, the staff shall provide a checklist of items requiring documentation, information, or verification to complete the application.

Subp. 1a. Preadmission screening. The staff of the facility operated by the commissioner of veterans affairs shall conduct a preadmission screening of applicants, similar to that prescribed in Minnesota Statutes, section 256B.0911, in order to determine whether the person meets the general eligibility requirements in part 9050.0050. If these requirements are met, an applicant’s name and application file must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3.

Subp. 1b. Admission application. Prior to admission, the staff shall obtain the following information about an applicant. Any deviation from these procedures must be approved by the administrator. If the procedures are deviated from, the administrator or designee must obtain information that is equivalent to the following items:

For text of items A to C, see Minnesota Rules

D. medical and psychiatric information from previous or current placements and current attending physicians providers and, as appropriate, psychologists or psychiatrists, including level of care information from previous and current placements;

For text of items E and F, see Minnesota Rules

G. basic financial information on the applicant and the applicant’s spouse and dependents. The data is limited to the information requested on the Minnesota veterans homes admission application. The financial information must not be used to determine eligibility for admission to the facility.

The appropriate clinical staff shall interview the applicant or the applicant’s legal representative, if any, and the applicant’s family members with the applicant’s consent, and shall review the application for admission.

The staff of the facility operated by the commissioner of veterans affairs shall keep a checklist on which to record the date of receipt of information for the person’s application file.

Subp. 2. Timing of review by admissions committee. The admissions committee shall review an application for admission according to items A and B, and determine the applicant’s suitability for admission to a facility operated by the commissioner of veterans affairs as determined by the criteria in part 9050.0070, subparts 3 and 4.

A. If the facility operated by the commissioner of veterans affairs to which a person has applied has no waiting list, the admissions committee shall review the application file within five working business days of its completion submission.

B. If the facility operated by the commissioner of veterans affairs to which the person has applied has a waiting list, the admissions committee shall review the application file within five working business days from the time the applicant’s name reaches the first place on the active waiting list and a bed becomes available.

Subp. 3. Waiting lists. Each facility operated by the commissioner of veterans affairs shall maintain an active admission waiting list and an inactive waiting list to determine the admission priority of applicants. The active admission waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant’s needs. The inactive waiting list is for those applicants who do not currently want to exercise their option for admission, or who have not yet met the established criteria for admission.

If an eligible applicant cannot be considered for immediate admission to a facility operated by the commissioner of veterans affairs with an appropriate level of care due to unavailability of a bed, the applicant must be placed on either an active or inactive the admission waiting list according to preference. An applicant shall indicate preference for the
A.

If it is determined by the utilization review committee that a current resident of a facility needs a level of care not offered at the facility operated by the commissioner of veterans affairs where the resident is staying, the current resident has priority for consideration for admission to other facilities operated by the commissioner of veterans affairs at an appropriate level of care if they meet the criteria for that level of care and a bed is available.

B.

A person who is discharged for failure to meet bed hold criteria in part 9050.0150, subpart 2 or 3, has priority for consideration for admission to a facility operated by the commissioner of veterans affairs at an appropriate level of care if the person meets the criteria for that level of care and a bed is available.

C.

A person on the active admission waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person’s position on the active admission waiting list and the patient classification system and level of care needs as determined by the admissions committee.

D.

A person offered admission to a facility operated by the commissioner has three working business days to accept the offer. If the person declines the offer of admission, the person’s name must be put on the bottom of the active admission waiting list, unless the person requests removal from the active waiting list or transfer to the inactive waiting list. If the person fails to respond to the offer of admission within three working business days from the date the offer is made, the person’s application file must be closed and the person’s name removed from all the admission waiting lists. A person whose name is removed from all the admission waiting lists for failure to respond to an offer for admission must reapply.

A bed must be held without charge for an approved applicant for up to three working days from the date of acceptance of the offer of admission. The bed may be held open for an additional period of time at the discretion of the administrator. A bed held under this subpart is a reserved bed.

Subp. 4. Priority.

The facility financial staff shall evaluate the financial status resources of a person who has been approved for admission or who is anticipated to be within 60 days of reaching the top of the waiting list admission to the facility. The purpose of the initial financial status review is to determine the person’s ability to pay toward the cost of care and to calculate the person’s maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900. The maintenance charge calculation must be according to part 9050.0560.

9050.0060 ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND DUTIES.

Subp. 2. Composition of admissions committee. The admissions committee must consist of the following staff members of the facility operated by the commissioner of veterans affairs: the administrator or a designee, a registered nurse, and a social worker. The admissions committee may consult with any of the following staff members, as indicated by other interdisciplinary team members based on the diagnosis or diagnoses of the applicant to be reviewed.
The person's attending physician must document the person's need for the services provided in a boarding care facility. If a resident has not specified an attending physician, the attending physician must be a Minnesota veterans homes staff physician. If an applicant for admission has not specified an attending physician, Minnesota veterans homes facility staff must assist the applicant in finding a physician to provide an admitting diagnosis.

D. A person must be alert and oriented to person, place, and time, and able to function within a structure of daily monitoring by the nursing staff of the boarding care facility. A person who has a diagnosis of mental illness must be reviewed and may be assessed by a staff psychiatrist or psychologist.

E. A person must be able to recognize and appropriately react to hazards in the environment. A person who has a diagnosis of mental illness must be reviewed and may be assessed by a staff psychiatrist or psychologist, for whom the psychiatrist or psychologist must conclude that the person does not pose a risk to themselves or other residents. The case mix indicator for orientation and self-preservation skills must be used to determine whether the individual has the mental judgment or physical ability necessary to function in a changing environment and a potentially harmful situation.

I. The person must require no more than twice daily face-to-face monitoring by the nursing staff of the boarding care facility. For continued stay, face-to-face monitoring for special medical needs may exceed twice daily for up to five days with approval of the director of nursing or the assistant director of nursing designated by the director of nursing.

K. A person diagnosed by the attending physician provider as actively psychotic must require no more than twice daily face-to-face monitoring by facility nursing staff and no more than weekly face-to-face therapeutic contacts with a staff psychiatrist or psychologist.

L. A person who has an active substance use disorder must be evaluated assessed by an attending psychologist or psychiatrist. The evaluation must include an assessment of the person's chemical health needs, the current severity
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of the person’s disorder, and whether the facility operated by the commissioner can meet the care needs of the person. If the medical records obtained by the admissions committee do not adequately document a person’s substance disorder status, the person’s status may be verified by a collateral contact. For purposes of this part, “collateral contact” means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, educational institutions, and employers.

[For text of item M, see Minnesota Rules]

N. An attending physician A provider shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

Subp. 4. Criteria for admission to and continued stay in a skilled nursing home facility. The decision about admission or continued stay in a facility operated by the commissioner can meet the care needs of the person. If the medical records obtained by the admissions committee do not adequately document a person’s need for the services provided in a skilled nursing home facility.

A. The person must have or be assigned to an appropriate bed through the current state or federal resident classification system to assist with skilled nursing facility admission determinations.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician provider indicating placement in a skilled nursing home facility is a medical necessity. If a resident has not specified an attending physician provider, the attending physician provider must be a Minnesota veterans homes home staff physician. If an applicant for admission has not specified an attending physician provider, Minnesota veterans homes facility staff must assist the applicant in finding an attending physician provider to provide an admitting diagnosis.

C. The person’s attending physician provider must document the person’s need for the services provided in a skilled nursing home facility.

D. The person must demonstrate a history of cooperation with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician provider. Cooperation may be demonstrated by a documented history of cooperation in a prior placement, if any, or other relevant evidence which demonstrates cooperation. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

E. An attending physician A provider shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

F. An attending psychiatrist or psychologist, provider, or the skilled nursing facility medical director must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest the individual poses a threat of harm to self or others to determine the facility’s ability to meet the safety needs of the person and other persons at the facility.

G. A person who has an active substance use disorder must be evaluated assessed by an attending psychologist or psychiatrist, provider, or the skilled nursing facility medical director. The evaluation must include an assessment of the person’s chemical health needs, the current severity of the person’s disorder, and whether the facility operated by the commissioner can meet the care needs of the person. If the medical records obtained
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by the admissions committee do not adequately document the person’s substance disorder status, the person’s status may be verified by a collateral contact. For purposes of this part, “collateral contact” means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, education institutions, and employers.

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

Subpart 1. Notice. An applicant must be advised, in writing, of the admissions committee’s decision and the reasons for the decision. The notice must be sent to the applicant no later than three working business days after the admissions committee’s decision. The notice must include information about the applicant’s right to request a review of a denial and about the review process as specified in subpart 2 or information regarding additional actions necessary to affect admission. Nothing in this subpart precludes concurrent or prior notification by telephone.

Subp. 2. Review and reconsideration.

A. An applicant or the applicant’s legal representative may request a review of a decision of the admissions committee to deny the applicant’s admission. The applicant or applicant’s legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 calendar days of the applicant’s receipt of a notice of denial. The review must be completed within 30 calendar days of receipt of the request.

B. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The applicant or applicant’s legal representative desiring a reconsideration of the review shall forward the request, in writing, to the administrator within 14 calendar days of the applicant’s receipt of the review. The administrator shall conduct a final review of the admissions committee’s decision, based on the admissions criteria in part 9050.0070, subparts 3 and 4, and shall issue a final decision within 30 calendar days from the receipt of the request for reconsideration. The decision of the administrator shall constitute final agency action.

9050.0100 TRANSFER.

Subpart 1. Generally. A resident may be transferred from a facility operated by the commissioner of veterans affairs to another health care facility or rehabilitation program or detoxification program if:

A. ordered or recommended by the attending physician or the utilization review committee as part of the resident’s individual care plan;

[For text of item B, see Minnesota Rules]

C. an emergency situation exists.

A resident may be transferred only with the resident’s consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident’s individual care plan. The utilization review committee’s decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient’s Health Care Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility’s ability to meet the person’s care needs as determined by the criteria in part 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the facility operated by the commissioner of veterans affairs does not need to reapply for admission.

Subp. 2. Notice. Unless a situation occurs that is outside the control of the facility operated by the commissioner of veterans affairs, such as a utilization review, the accommodation of newly admitted residents, a change in the resident’s medical or treatment program, or the resident’s own or another resident’s welfare, a resident for whom the utilization
review committee or the attending physician recommends a transfer must be notified of the recommendation at least, the resident must be notified, in writing, of the transfer within:

A. 30 days before the anticipated transfer date, if to a facility or program not operated by the commissioner of veterans affairs, according to Minnesota Statutes, section 144.651, subdivision 29;

B. seven days before the anticipated transfer to another bed or level of care within the same facility operated by the commissioner of veterans affairs, or to another facility operated by the commissioner of veterans affairs located at the same campus, according to Minnesota Statutes, section 144.651, subdivision 29; or

C. a reasonable time before the anticipated transfer in situations outside the control of the facility operated by the commissioner of veterans affairs. The reasonable time must be determined by the facility administrator or designee, based upon the particular facts of the situation prompting the transfer.

[For text of subpart 3, see Minnesota Rules]

Subp. 4. Transfers to United States Department of Veterans Affairs Medical Center. The facility operated by the commissioner of veterans affairs must not guarantee access or admission to or treatment at the United States Department of Veterans Affairs Medical Center, nor does residence at a facility operated by the commissioner of veterans affairs grant residents preference with regard to access, admissions, or treatment at the United States Department of Veterans Affairs Medical Center. If the United States Department of Veterans Affairs Medical Center agrees to accept the resident and has an available bed, the resident must be transferred to that facility. If the United States Department of Veterans Affairs Medical Center denies the resident treatment or admission, the resident must be transferred to a hospital or other health care facility that is able to provide the appropriate service. The Minnesota veterans home facility, the Minnesota Department of Veterans Affairs, or the state of Minnesota are not responsible for the costs of a resident’s hospitalization or treatment at a facility that is not a facility operated by the commissioner of veterans affairs.

[For text of subpart 5, see Minnesota Rules]

9050.0150 BED HOLD.

Subpart 1. Generally. A resident’s bed or a comparable bed at an appropriate level of care must be held for the resident if the resident is absent from the facility operated by the commissioner of veterans affairs for a circumstance specified in subparts 2 to 4 and continues payment as required in subpart 5 and part 9050.0540.

Subp. 2. Hospital absence. A resident’s bed must be held during a resident’s hospital absence if the treatment in the hospital is on the order of the resident’s attending physician or is a result of a medical emergency. A hospital absence in excess of 30 days must be periodically monitored by facility staff with regard to the resident’s progress and likelihood the resident can be cared for on return to the facility operated by the commissioner of veterans affairs as determined by the criteria in part 9050.0070, subpart 3 or 4. If satisfactory progress is not being made, discharge proceedings must be started by the utilization review committee.

Subp. 3. Treatment absence. A resident’s bed must be held during a resident’s treatment absence if the treatment is on the order of the resident’s attending physician as part of the resident’s individual care plan. The resident must participate in treatment on a continuing basis and make satisfactory progress as determined by the administrator of the treatment program. If satisfactory progress is not being made, discharge proceedings must be instituted by the utilization review committee.

Subp. 4. Personal absence. A resident’s bed must be held when the person leaves the facility operated by the commissioner of veterans affairs on a personal absence therapeutic leave. A personal absence therapeutic leave may be no longer than 96 hours, unless the resident has made a definitive arrangement with the administrator or administrator’s designee regarding a longer absence. The resident shall advise the administrator or administrator’s designee of the total length of the absence and the resident shall agree to pay the maintenance charge during the absence. The resident’s therapeutic leave must not exceed a total of 12 calendar days per calendar year, unless the resident has made a definitive arrangement with the administrator or administrator’s designee regarding a longer absence.
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Subp. 5. **Effect on maintenance charges.** A resident whose bed is held under this part shall continue to pay any maintenance charge or charges that accrued or are accruing either before or during the resident’s absence from the facility operated by the commissioner of veterans affairs. Absences exceeding 96 hours with or without notice result in termination of the resident’s entitlement to the per diem payment of the United States Department of Veterans Affairs retroactive to the date of departure.

[For text of subpart 6, see Minnesota Rules]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the facility operated by the commissioner of veterans affairs at least once every 30 seven days during the resident’s ongoing absence. A decision about approval of continued bed hold must be based on the resident’s satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the facility operated by the commissioner of veterans affairs and the resident’s compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding 36 cumulative days per year must be reviewed by the utilization review committee. Continued bed hold or continued residency with personal absences, therapeutic leave that are is contraindicated in the resident’s care plan may, upon the recommendation of the direct care staff, be reviewed by the utilization review committee. The decision about continued residence must be based on the resident’s continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

9050.0200 DISCHARGE.

Subpart 1. **General criteria.** As allowed in this part, a resident may be discharged from any veterans home facility. Discharge from a skilled nursing care facility or a boarding care facility constitutes permanent release from that facility operated by the commissioner of veterans affairs and terminates the duties and responsibilities of the commissioner of veterans affairs and the facility staff with respect to the discharged individual. Once discharged, a former resident must reapply for admission to a Minnesota veterans home facility.

Subp. 2. **Types of discharge and grounds for discharge.** A resident must be discharged from the facility either voluntarily or involuntarily, or immediately according to items A and B, and C.

A. A discharge is voluntary if there is mutual consent between the resident, or the resident’s legal representative or spouse, if any, the resident’s attending physician, and the administrator of the facility. Voluntary discharge begins when the resident or the resident’s legal representative submits a written notice to the facility for discharge of the resident.

B. A discharge is involuntary if it is without mutual consent of between the resident, or the resident’s legal representative who has the legal authority, or spouse, if any, the resident’s attending physician, and the administrator of the facility. Involuntary discharge procedures start if one of the following circumstances exist:

1. the resident or resident’s legal representative fails or refuses to comply with payment obligations in the admission agreement as determined by the veterans home facility financial staff as provided for in part 9050.0040, subpart 5, item C;

2. the veterans home facility is unable to meet the care needs of the resident, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

3. the resident no longer has a medical need for the services provided by a veterans home facility as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

4. the resident’s behavior exhibits willful or deliberate disregard for the veterans home facility’s regulatory requirements or policies;

5. the resident is absent without notice from the veterans home facility for more than 96 consecutive hours.
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or a definitive arrangement has been made for an absence longer than 96 hours and the resident fails to comply with that arrangement; or

(6) the resident or resident’s legal representative:

(a) falsifies or incorrectly represents required information on income disclosure and verification forms;

(b) refuses to provide information or releases;

(c) fails to report substantial change accurately and timely to the facility; or

(d) falsifies or incorrectly represents information relating to criteria in part 9050.0070, subpart 3 or 4.

C. A discharge is immediate if the resident willfully or deliberately disregards state or federal laws, rules, and regulations. Immediate involuntary discharge begins when the resident’s behavior poses an immediate threat to the health or safety of the resident, other residents, or staff of a veterans home facility as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4, and the home administrator.

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

[For text of subpart 6, see Minnesota Rules]

9050.0210 VOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. When used. Voluntary discharge procedures must be used when a discharge from the facility operated by the commissioner of veterans affairs is voluntary as in part 9050.0200, subpart 2, item A, or following review of an appeal from an involuntary discharge order when a court has issued an enforcement order or the resident has agreed to comply with the order for discharge.

Subp. 2. Responsibilities of facility staff. The staff of the facility operated by the commissioner of veterans affairs shall effect a discharge under this part according to items A to E.

A. The discharge component of the resident’s individual care plan must be updated and implemented after the resident has had an opportunity to confer with a social worker about the plan as described in subitems (1) and (2).

(1) A discharge conference must be arranged by the social worker with the resident, the resident’s family with the resident’s consent, the social worker, and multidisciplinary interdisciplinary staff. The social worker shall make a referral of the resident to social or health care services identified in the resident’s individual care plan as necessary for the resident’s discharge.

[For text of subitem (2), see Minnesota Rules]

B. The attending physician provider and facility multidisciplinary interdisciplinary staff shall complete the resident’s medical record. The resident’s medical record must be retained as specified in parts 4655.3200 to 4655.4000.

[For text of items C to E, see Minnesota Rules]

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. Generally, recommendations. Involuntary discharge for a reason specified in part 9050.0200, subpart 2, item B, must be based on the recommendation of either the utilization review committee, facility financial staff, or facility social services staff. Involuntary discharge under part 9050.0200, subpart 3, item A, F, or G, must be based on the recommendation of the facility financial staff or social services staff. The recommendation by the utilization review
committee, facility financial staff, or facility social services staff must be provided to the administrator of the facility.

Subp. 1a. **Neutral administrator.** A neutral administrator as used within the involuntary or immediate discharge process must be an administrator of one of the Minnesota veterans homes but must not be the administrator of the Minnesota veterans home who issued the notice of involuntary discharge or notice of immediate discharge to the resident. An identified neutral designee as used within the involuntary or immediate discharge process must be the department’s senior director of health care, deputy commissioner, or chief of staff.

Subp. 2. **Notice, Review of recommendation, notice, and service.**

A. A notice for involuntary discharge must be issued by the administrator of the facility operated by the commissioner of veterans affairs or administrator’s designee if, after review of the recommendations and documentation from the utilization review committee or Management and Budget Department, the administrator agrees with the recommendations. The administrator shall review the recommendation and documentation from the utilization review committee, facility financial staff, or facility social services staff. If the administrator agrees with the recommendation and documentation for involuntary discharge, the administrator must issue a notice of involuntary discharge to the resident or the resident’s legal representative.

B. A resident must be notified in writing by the administrator or administrator’s designee of the facility’s intent to proceed with involuntary discharge of the resident at least 30 days before the scheduled date of discharge as provided by Minnesota Statutes, section 144.651, subdivision 29. The 30-day period may be extended by the administrator of a facility operated by the commissioner if a situation arises that is outside the facility’s control. The 30-day period may be lessened if the involuntary discharge is being recommended under subpart 7.

C. The notice must:

1. state that the discharge is involuntary or immediate involuntary;
2. state the grounds for the discharge as specified in part 9050.0200, subpart 2;
3. contain documentation supporting the grounds alleged for the discharge;
4. be signed by the administrator or administrator’s designee; and
5. state that the resident has the right to appeal the discharge and a description of the appeal procedures.

D. The notice of involuntary discharge or immediate discharge must be delivered to the resident through personal service or United States mail. If the resident is to be discharged under part 9050.0200, subpart 2, item B, subitem (5), a notice of involuntary discharge must be sent to the resident’s last known address and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be sent by certified mail within five business days following the determination that the resident is absent without notice.

Subp. 3. **Reconsideration hearing.**

A. A reconsideration must be scheduled by a facility representative at least ten days from the date of the notice of involuntary discharge, unless it is impractical to do so or unless the parties agree otherwise. A resident or the resident’s legal representative may request a hearing on the notice of involuntary discharge. The request must be made in writing within ten days of receipt of the notice of involuntary discharge. Reconsideration must be before the administrator of the facility operated by the commissioner of veterans affairs under or an identified neutral designee. The reconsideration hearing must follow the procedures in subpart 4. The resident may waive the reconsideration hearing and the resident may proceed directly to an appeal. The appeal must be made in writing within ten days of receipt of the notice of involuntary discharge. Any such appeal must otherwise follow the procedures in subpart 6.
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B. Any reconsideration hearing may be conducted via telephone if the resident requests it or the parties mutually decide it would be advisable. If a telephone reconsideration hearing is held, the parties must document the resident’s consent for the telephone hearing and why the hearing was held via telephone.

C. The date and time of the hearing may be extended for the resident or resident’s representative for good cause shown. Good cause is determined by the neutral administrator or an identified neutral designee when a resident cannot attend because of:

(1) illness or injury of the resident;

(2) illness, injury, or death of a member of the resident’s family that requires the resident’s presence during the date and time the review is scheduled;

(3) an inability to obtain necessary assistance;

(4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident’s participation;

(5) a judicial proceeding that requires the resident’s presence in court during the hours when the reconsideration is scheduled;

(6) a nonmedical emergency that requires the resident’s presence at a different location during the hours when the reconsideration is scheduled; or

(7) any other reason as determined by the neutral administrator or an identified neutral designee.

D. “Emergency” under this subpart means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

Subp. 4. Reconsideration procedures, scheduling, representation.

A. The general procedure for reconsideration is as follows.

(1) A resident may be represented at a reconsideration under this part by an attorney, the resident, an advocate from the Office of the Ombudsman for Older Minnesotans, or other person of the resident’s own choosing.

B. A resident or the resident’s representative may question witnesses and present reasons why the resident should not be discharged.

C. The neutral administrator or an identified neutral designee shall record the proceedings electronically or stenographically. The cost must be borne by the facility.

D. The time for the reconsideration proceeding must be set by the administrator. The time may be extended for the resident for good cause shown. For purposes of this item, good cause exists when a resident cannot attend because of:

(1) illness or injury of the resident;

(2) illness, injury, or death of a member of the resident’s family that requires the resident’s presence during the time the review is scheduled;

(3) an inability to obtain necessary assistance;

(4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident’s participation;
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(5) a judicial proceeding that requires the resident’s presence in court during the hours when the reconsideration is scheduled; or

(6) a nonmedical emergency that requires the resident’s presence at a different location during the hours when the reconsideration is scheduled. “Emergency” under this subitem means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

(4) The resident or resident’s representative, and the facility, shall submit all evidence in a time and manner prescribed by the neutral administrator or an identified neutral designee.

(5) Upon the resident’s or representative’s request, the facility shall provide a copy of all information.

B. The reconsideration hearing must be conducted as follows.

(1) The neutral administrator or an identified neutral designee shall open with introductions and a statement of the case.

(2) The facility may present their facts and supporting evidence. This may include, but is not limited to, questioning the resident, questioning witnesses, and presenting the reasons why the resident should be discharged.

(3) After the facility presents its case, the resident or the resident’s representative may present their facts and supporting evidence. This may include, but is not limited to, a statement by the resident, questioning the facility staff, questioning other witnesses, and presenting the reasons why the resident should not be discharged.

(4) The neutral administrator or an identified neutral designee may request further clarification in the form of questions from both the resident or resident’s representative and the facility.

(5) The facility may provide a closing statement to clarify its position as to why the resident should be discharged.

(6) The resident or the resident’s representative may provide a closing statement to clarify their position as to why the resident should not be discharged.

(7) The neutral administrator or an identified neutral designee shall close the hearing and provide the date by which a decision and order will be issued pursuant to part 9050.0220, subpart 5.

Subp. 5. Administrator’s Reconsideration decision and order. The neutral administrator or an identified neutral designee shall issue a decision and order within ten calendar days after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue an administrator’s order supporting or reversing the involuntary discharge notice and state the reasons for the involuntary discharge hearing. The decision and order must identify the basis for the decision made by the neutral administrator or an identified neutral designee. The decision and order must also identify the resident’s appeal rights pursuant to subpart 6.

Subp. 6. Appeals process. A resident or the resident’s legal representative may appeal an administrator’s discharge or transfer order, a neutral administrator’s or an identified neutral designee’s order. A resident or the resident’s legal representative has ten working business days after issuance of the administrator’s discharge or transfer order to request an administrative appeal.

If a resident is voluntarily or involuntarily discharged from a facility while an appeal is pending and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken:

A. The appeal must be placed on hold.

B. The administrator shall send the resident a written notice via certified mail to the resident’s forwarding address.
informing the resident that if no written response is received within 30 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.

C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident.

D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 30 days after the certified letter has been sent or the location efforts were commenced. If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible for all parties.

Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, section 14.48 et. seq., until rules are adopted under Minnesota Statutes, section 14A.135, by the commissioner of health. Once the rules adopted under Minnesota Statutes, section 14A.135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. The final discharge order shall be issued by the commissioner of veterans affairs, after review of the entire record including the recommendations of the administrative law judge. A final discharge order issued by the commissioner of veterans affairs following the Office of Administrative Hearings’ review remains in effect pending judicial review under Minnesota Statutes, section 14.63, et. seq. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

Subp. 7. Immediate involuntary discharge.

A. When a resident’s behavior poses an immediate threat to the health or safety of the resident, other residents, or staff of a facility operated by the commissioner, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4, and confirmed by the facility administrator, a resident can be immediately and involuntarily discharged from the facility.

B. The administrator shall review the recommendation and the documentation from the utilization review committee. If the administrator or administrator’s designee agrees with the recommendation and documentation for immediate involuntary discharge, the administrator or administrator’s designee must issue a notice of immediate involuntary discharge to the resident or the resident’s legal representative.

C. A resident must be notified in writing by the administrator or administrator’s designee of the facility of its intent to proceed with immediate involuntary discharge of the resident at least 48 hours before the scheduled date of discharge. The 48 hours may be extended by the administrator or administrator’s designee of a facility operated by the commissioner if a situation arises that is outside of the facility’s control.

D. Contents of the notice must follow the requirements set forth in subpart 2c.

E. A reconsideration hearing must be scheduled by the facility at least 24 hours from the date of the notice of immediate involuntary discharge. A resident or the resident’s legal representative may attend the reconsideration hearing of the notice of immediate involuntary discharge. Reconsideration must be before a neutral administrator of a facility operated by the commissioner or an identified neutral designee. The reconsideration hearing must follow the procedures in subpart 4.

Any reconsideration hearing may be conducted via telephone if the resident or resident’s legal representative requests it, or the neutral fact finder determines it would be advisable.

F. The neutral fact finder or an identified neutral designee shall issue a decision and order within 24 hours after
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the reconsideration hearing. The decision and order must identify the basis for the decision made by the neutral fact finder or an identified neutral designee. The decision and order must also identify the resident’s appeal rights pursuant to part 9050.0020, subpart 6. If the order confirms immediate involuntary discharge of the resident, an appeal under subpart 6 does not delay the discharge date noted within the order.

Subp. 8. When the resident no longer resides at the facility. If a resident no longer resides at the facility while an active involuntary discharge or immediate involuntary discharge administrative appeal under this part is pending, and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken.

A. The appeal must be placed on hold.

B. The administrator shall send the resident a written notice via certified mail to the resident’s forwarding address informing the resident that if no written response is received within 14 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.

C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident.

D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 14 days after the certified letter had been sent or the location efforts were commended. If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible by all parties.

9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.

A final discharge order is the order issued by the commissioner of veterans affairs following reconsideration or review of the administrator’s discharge order under Minnesota Statutes, chapter 14, or the discharge order issued by the neutral administrator or an identified neutral designee of a facility operated by the commissioner of veterans affairs if no review was requested. A final discharge order is the final agency decision. When a resident refuses to comply with the terms of a final discharge order issued following review under Minnesota Statutes, chapter 14, and the final agency decision, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the discharge order. Pursuant to Minnesota Statutes, section 198.045, the district court may order the sheriff of the county in which the facility operated by the commissioner of veterans affairs is located to remove the resident from the facility operated by the commissioner of veterans affairs and authorize the administrator to remove the resident’s property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050.0210 regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

9050.0300 CARE PLANNING.

Subpart 1. Generally. A facility operated by the commissioner of veterans affairs must have and implement a care planning procedure. Under the procedure, a resident’s care plan is initiated and reviewed by the care plan interdisciplinary team to ensure that the resident’s needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The care plan interdisciplinary team is comprised of the facility staff members who are directly involved with the resident’s care, including. The interdisciplinary team may include a physician provider, licensed nurse, social worker, and other staff as indicated by related to the resident’s condition.

Subp. 2. Requirements of procedure. A care planning procedure must provide for:

[For text of items A to D, see Minnesota Rules]

E. an accelerated review procedure to be used when the seriousness of the resident’s behavior endangers the health and safety of the resident, other residents, or staff members of the facility operated by the commissioner of veterans
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affairs;

[For text of item F, see Minnesota Rules]

G. notice to the resident that a recommendation for discharge may occur if the facility operated by the commissioner of veterans affairs is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

[For text of subpart 3, see Minnesota Rules]

9050.0400 UTILIZATION REVIEW COMMITTEE.

Subpart 1. Appointment and duties. The administrator of a facility shall appoint a utilization review committee composed of persons as specified in subpart 2 who are employed by or under contract to the facility operated by the commissioner of veterans affairs or the commissioner. The committee shall have the duties specified in subpart 3.

Subp. 2. Composition. The utilization review committee consists may consist of one physician a provider and must consist of at least one of each of the following professionals: a registered nurse, the administrator or the administrator’s designee, a social worker, and a medical records technician, who shall or designee. The medical records technician or designee must not participate in a voting capacity. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietitian. The administrator or the administrator’s designee, one and two other committee member members, and at least which may include one physician provider, must be in attendance to hold a meeting and to take action.

Subp. 3. Duties. The duties of the utilization review committee are to:

[For text of item A, see Minnesota Rules]

B. recommend to the administrator of the facility operated by the commissioner of veterans affairs criteria for use in admitting residents for care plan reviews and discharge;

C. perform medical care evaluation studies at the request of the commissioner of veterans affairs and review assessments of residents care needs of residents based on the state licensure of the facility;

D. provide reports and recommendations to the administrators and the commissioner of veterans affairs;

[For text of items E and F, see Minnesota Rules]

G. review each a resident’s case record annually medical and minimum data set records as required to:

[For text of subitems (1) to (4), see Minnesota Rules]

[For text of subpart 4, see Minnesota Rules]

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Costs to be included in calculating cost of care. The calculation of the cost of care includes both the direct and indirect costs of providing resident care. These costs must be compiled separately for each facility operated by the commissioner of veterans affairs on the basis of whether nursing home or boarding care services are provided.

A. Direct costs include the costs of staff care directly attributable to boarding care or nursing home services that directly benefit the resident. An example of a direct cost is nursing service provided to the resident of the facility that can be traced directly to a specific cost center or cost object such as department process or product.

B. Indirect costs include costs incurred for common or joint purposes that are identified with more than one level of care and are for services that are provided on behalf of a resident of the facility or facilities. Examples are the costs of housekeeping, laundry, administration, and food services. Indirect costs must be reduced by the amount of receipts received, not to include reimbursement, by the facility operated by the commissioner of veterans affairs for lease or rent.
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payments, meals, and other common-purpose sources.

C. Calculation of the cost of care does not include the expenses of the commissioner of veterans affairs and capital expenditures or revenues receipts, including federal matching funds and designated contributions, and resident fund accounts as specified in parts 4655.4100 to 4655.4170.

Subp. 3. Method of calculating average daily per resident cost of care. The cost of care for a skilled nursing home facility or boarding care home must be calculated as follows:

A. total the direct costs for a particular campus or facility operated by the commissioner of veterans affairs for a reporting year;

B. divide item B by the average number of residents in nursing home skilled nursing care or boarding care for a reporting year;

C. total the indirect costs for a particular campus or facility operated by the commissioner of veterans affairs for a reporting year;

D. divide item E by the average number of residents at a particular campus or facility operated by the commissioner of veterans affairs for a reporting year; and

G. total items C and F. The result is the average daily per resident cost of care for nursing home skilled nursing care or boarding care.

Subp. 4. Cost of care related to maintenance charge. The cost of care as calculated in subpart 3 must be used to determine the maintenance charge to the resident. The maintenance charge must be based on the resident’s ability to pay financial assessment as specified in parts 9050.0700, 9050.0710, and 9050.0720. The maintenance charge must be calculated as specified in part 9050.0560. The maintenance charge must be reviewed and adjusted as specified in parts 9050.0560 and 9050.0580. Additionally, when applicable, the resident’s maintenance charge must be reduced by the amount of the per diem reimbursement paid on behalf of a resident by the United States Department of Veterans Affairs.

Subpart 1. Additional services at resident's own expense. In addition to the services in the resident’s admissions agreement, a resident may use additional health care services at the resident’s own expense if the health care services do not exceed the level of care for which the facility is licensed and if the service provider complies with documentation requirements of the facility operated by the commissioner of veterans affairs. A resident who chooses to use additional health care services at the resident’s own expense shall continue to pay the maintenance charge determined under part 9050.0560.

Subp. 2. Discharge for nonpayment. Discharge proceedings must be instituted under part 9050.0200, subpart 2, item A, subitem (1), when an account is delinquent. Discharge proceedings for nonpayment must be stopped when full payment, including accrued interest, is made.

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between the commissioner of veterans affairs or the commissioner’s designated representative and the resident or the resident’s legal representative about maintenance charges for care and services, obligations concerning payment of the resident’s maintenance charge, and the commissioner’s refund policy.

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

Subpart 1. In general. The applicant’s or resident’s ability to pay must be determined from any applicable insurance and other benefits; and assets including the value of property owned; and income. The applicant’s or resident’s property must be used first to pay the maintenance charge. The applicant’s or resident’s income must be used after the applicant’s or resident’s property is reduced to the limits in subpart 3 and part 9050.0600 to pay the maintenance charge.

Subp. 2. Long-term care insurance benefits. When the investigation of the applicant’s or resident’s financial status discloses eligibility for long-term care insurance benefits, the applicant or resident must be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. When the long-term care insurance benefits pay less than the full cost of care, the ability of the applicant or resident to pay the remaining part must be determined from the applicant’s or resident’s nonexcluded property and income.

Subp. 3. Property. If the applicant or resident of a skilled nursing facility owns property in excess of $3,000 that is not excluded under part 9050.0600, subparts 2 and 3, the applicant or resident must be determined able to pay the full cost of care according to part 9050.0755. The person shall pay the full cost of care until the property is reduced to the limits in parts 9050.0560 and 9050.0600. A resident of a boarding care facility who is in transition from the boarding care facility to the community is allowed to own property in excess of $3,000 up to six months prior to discharge from the boarding care facility.

Subp. 4. Chargeable income. The applicant’s or resident’s chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant’s or resident’s entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the facility operated by the commissioner of veterans affairs as representative payee has been executed in favor of the facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident’s stay that coincides with the period for retroactive payment of income to the resident. If the applicant or resident has applied for government benefits and is awarded a retroactive lump sum amount after admission to a facility, but the retroactive lump sum is not received by the resident prior to death or discharge, the maintenance charge must be recalculated for the period of the resident’s stay that coincides with the period for retroactive payment of income to the resident.

[For text of subpart 5, see Minnesota Rules]

9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.

Subpart 1. Time of determination. The amount of the maintenance charge must be determined if when:

A. a person is admitted to a facility operated by the commissioner of veterans affairs and thereafter at least annually after admission while a resident;

[For text of items B to D, see Minnesota Rules]

E. the resident is being discharged.

For purposes of the subpart, “substantial change” in financial status means a change that increases the person’s net worth above the $3,000 limit or a plus or minus ten percent change in the person’s total monthly expenses or income. An expense that would constitute a substantial change includes a major vehicle expense, major medical or dental expenses not covered by insurance, major home repair not covered by homeowner’s insurance, or major appliance failure that requires repair or replacement. A substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change. The administrator
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shall make the final determination of whether the change is a substantial change. Failure of the applicant or resident to report the substantial change accurately and timely to the facility may result in a discharge in accordance with part 9050.0200.

Subp. 2. Method of calculation. The amount that a resident must pay, or have paid on the resident’s behalf, as a maintenance charge must be determined as specified in items item A and B.

[For text of items A and B, see Minnesota Rules]

9050.0580 REVIEW OF MAINTENANCE CHARGE DETERMINATION.

An applicant or resident or legal representative may request that to the administrator of a facility operated by the commissioner of veterans affairs to reconsider a maintenance charge determination. The request must be submitted in writing to the administrator within ten business days of receipt of the maintenance charge notice. The administrator shall, within ten business days of receipt of the request, conduct a review of the maintenance charge determination. The review must be in the same format and time frames as the reconsideration procedures under part 9050.0220, subparts 3 and 4. The administrator’s determination is final upon receipt by the applicant or resident, or legal representative, and is the final agency action.

9050.0590 MAINTENANCE CHARGE; REFUND.

If an applicant or resident who has paid, or on whose behalf payment has been made of, the maintenance charge for a billing month, is discharged from a facility operated by the commissioner of veterans affairs before the end of the month for which payment has been made, the applicant or resident is entitled to a refund. The amount of the refund to which an applicant or resident, or legal representative, is entitled must be calculated by prorating the monthly maintenance charge by the number of unused days, bed days assigned to the resident, not to include the day of discharge.

9050.0600 PROPERTY LIMITATIONS.

Subpart 1. General provisions of property ownership. The equity value of all nonexcluded real and personal property owned by an applicant or resident must not exceed $3,000. The facility financial staff must use the equity value of legally available real and personal property, except property excluded in subpart 2 or 3, to determine the resources available to or on behalf of an applicant or resident.

A. If real or personal property is jointly owned by two or more persons, the facility financial staff shall assume that each person owns an equal share. When the owners document greater or smaller ownership, the facility financial staff shall use that greater or smaller share to determine the equity value held by or on behalf of an applicant or resident. Other types of ownership, such as a life estate, must be evaluated according to law using the life estate table in the Department of Human Services Minnesota Health Care Programs Eligibility Policy Manual. Ownership of any property in joint tenancy shall be treated as ownership as tenants in common for purposes of its designation as available or excluded property.

B. Real or personal property owned by or on behalf of an applicant or resident is presumed legally available unless the applicant or resident documents that the property is not legally available to the applicant or resident. If real or personal property is not legally available, its equity must not be applied against the limits of subparts 2 or 3. Examples of property not available to a person are an estate that has not been probated, property owned together with one or more other people that the facility financial staff determines cannot be liquidated or reduced to cash through exercise of the applicant’s or resident’s legal rights, and property of an applicant or resident who is determined incompetent by a court and whose guardianship is pending. The facility financial staff shall consider as available property that property which a person has failed to make available for purposes of gaining admission to a facility operated by the commissioner of veterans affairs or avoiding payment of the maintenance charge. An example of a person’s failure to make property available occurs when the person refuses to accept a share of an inheritance.

[For text of item C, see Minnesota Rules]

D. The facility financial staff shall consider as available an individual retirement account, Keogh account, or other pension or deferred compensation plan account of the resident. The facility financial staff shall evaluate determine the value of the accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.
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[For text of item E, see Minnesota Rules]

Subp. 2. Real property limitations. Real property owned by an applicant or resident must be excluded from consideration as an available resource, subject to the limitations in items A and B.

A. The facility financial staff shall exclude the homestead of an applicant or resident from consideration as a resource according to the provisions in subitems (1) to (4).

(1) The spouse of an applicant or resident or the dependent child or dependent children of the applicant or resident, if any, must occupy the homestead.

[For text of subitems (2) and (3), see Minnesota Rules]

(4) When real property that has been used as a home homestead by an applicant or resident, the spouse of an applicant or resident, or the dependent child or children of an applicant or resident is sold, the facility financial staff shall treat the proceeds from that sale as excluded property for a period of two years if the person intends to reinvest them in another home homestead and maintains those proceeds, unused for other purposes, in a separate account. If the property is held jointly, any earnings that accrue on the sales proceeds before reinvestment or any excess proceeds not used for reinvestment must be treated as joint income or property and divided according to subpart 1, item A.

[For text of items B to D, see Minnesota Rules]

E. Real property that is not salable must be excluded. If the property is a resource under part 9050.0550 and not excluded under this part is an asset that must be liquidated for the resident or applicant to meet the financial needs established by the maintenance charge calculations. The real property must be sold within six months of the determination of financial need or within six months of the date of initial admission, whichever is later, unless the property is not salable. For purposes of this item, “not salable” means: If the real property is not sold within six months, the real property must continue to list for sale. If the resident or applicant continues to make a reasonable effort to sell the real property, the real property will be excluded until it is sold. A reasonable attempt to sell the real property is determined by the following:

(1) two neutral licensed professionals agree that the property is not salable due to a specified condition; if the nonsalable condition is due to an action taken by the applicant or resident within the 12 months prior to the initial admission, there is a presumption that the action was an improper transfer pursuant to part 9050.0650, subpart 3, and is subject to the considerations listed in that subpart; or

(2) (1) an actual good faith sale attempt was made at a fair market value price not more than an estimate of based on the highest current market value obtained within six months of application for admission or since the last determination of the maintenance charge, but no offer to purchase was received. The market value price estimate must be based upon the written estimates from two licensed real estate professionals current property tax evaluation for the property. If a purchase offer at the lowest professional market value price estimate current property tax evaluation amount was received but was rejected by the seller resident or applicant, it is presumed that the failure to sell the property was due to an improper action on the part of the seller resident or applicant. Upon failure by the resident or applicant to attempt to sell the real property, the lowest market price estimate current property tax evaluation must be the figure taken into account in determining the resident’s maintenance charge or the spousal allowance.

(2) For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2) this item, “an actual sale attempt” means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a prominently posted, conspicuous sign that is readable from the road or driveway entrance. The sign must include in large, legible type a notice of the sale and the address or phone number of the owner. The owner must prominently advertise the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, or the local shopper a credible property listing website. The minimum period of an actual sale attempt is 90 consecutive days. If a property has been determined to be nonsalable, the owner of the property must offer it for sale again or establish it is still nonsalable within two years after the date of the last determination of nonsalability. Proof of this listing can be requested.
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by the facility at any time until the property is sold.

[For text of item F, see Minnesota Rules]

Subp. 3. Other property limitations. The facility financial staff shall exclude the value of the following personal property:

[For text of item A, see Minnesota Rules]

B. the value of an irrevocable prepaid burial account, burial plan, burial contract, or burial trust established in compliance with Minnesota Statutes, section 149A.97, up to an amount set by the commissioner of veterans affairs or the entire amount of an investment made prior to the date of initial admission, whichever is greater. The commissioner of veterans affairs shall establish and annually review the items categorized under “burial account,” “burial plan,” “burial contract,” and “burial trust” and establish maximum value allowance limits on those items. The allowance set by the commissioner of veterans affairs for total burial and funeral costs must not be below $5,000;

[For text of items C to F, see Minnesota Rules]

Subp. 4. Separate account for excluded funds. Funds excluded from consideration as an available resource by subpart 2 or 3 must be placed in an account separate from other funds determined available to retain the exclusion. Upon application for admission and redetermination of a maintenance charge, the facility financial staff shall inform the person in writing of the requirement to place excluded funds in a separate account.

9050.0650 TRANSFERS OF PROPERTY.

Subpart 1. Generally. A person whose application for admission is pending or a current resident of a facility operated by the commissioner of veterans affairs shall declare all transfers or sales of property within ten days of the transfer or sale. The value of property transferred or sold must be treated as an available resource for payment of the resident’s maintenance charge. The value of the property transferred or sold that will be applied against the property limits in parts 9050.0560 and 9050.0600 is the market value of the property at the time of the sale or transfer less any encumbrances on the property. For real property, the market value is the current property tax evaluation. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purposes of establishing eligibility for admission to a facility operated by the commissioner of veterans affairs or avoiding payment of a maintenance charge, except for transfers permitted under subpart 2, item B. If the real property is transferred, the effective date for the purpose of application for admission or residency is the date the document is recorded with the county property records office.

Subp. 2. Permitted transfers. Transfer or sale of property by or on behalf of an applicant or resident is permitted if the transfer or sale:

A. takes place more than 12 months before the person’s admission to a facility operated by the commissioner of veterans affairs;

[For text of item C, see Minnesota Rules]

B. is to the applicant’s or resident’s spouse or dependent child or children before the person’s admission to a facility operated by the commissioner of veterans affairs, or

[For text of item F, see Minnesota Rules]

Subp. 3. Incorrect transfers. A transfer or sale of property for less than market value within 12 months before admission or during the resident’s stay in a facility operated by the commissioner of veterans affairs, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a facility operated by the commissioner of veterans affairs or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that skilled nursing home or boarding care would be needed. Upon discovery of an incorrect transfer, a retroactive adjustment must be made in the maintenance charge assessed to the resident. If the property that was incorrectly transferred was in the resident’s name, the maintenance charge must be increased to the full cost of care until the facility has been paid the value of the property that was incorrectly transferred in addition to the maintenance charge that would have otherwise been received. If the property that was incorrectly transferred was in the spouse’s name only, the spousal allowance must be eliminated for the
number of months which, when multiplied by the amount of the spousal allowance that would have been granted but for the incorrect transfer, equals the value of the property that was incorrectly transferred.

If a resident’s maintenance charge or a spousal allowance is adjusted because of a transfer for less than fair market value, the resident, spouse, dependent, or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual’s health or well-being. In evaluating a request for a waiver, the administrator shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of veterans affairs. An appeal to the commissioner of veterans affairs must be handled in the same manner as a hearing under part 9050.0580.

Subp. 4. Loans of property. An applicant or resident who lends property or on whose behalf property is loaned is considered to have transferred the property. The facility financial staff shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or made the loan more than 12 months before the person’s entrance into a facility operated by the commissioner of veterans affairs, the facility financial staff shall honor the loan. Adequate compensation must be shown by a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be available to the applicant or resident. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

[For text of subpart 5, see Minnesota Rules]

9050.0700 INCOME.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Availability of income. Income must be attributed to the person who earns it or to the beneficiary of the income according to items A and B.

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person’s spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a facility operated by the commissioner of veterans affairs or whether the discretion of the trustees is exercised. A trust fund established or amended by the applicant or resident on behalf of another person within 12 months before admission or during the resident’s stay in a facility operated by the commissioner of veterans affairs must be considered transferred property under part 9050.0650. If the trust fund is amended within the 12 months before admission and it has no change to the financial distribution of the trust fund, then the amendment is not considered a transfer of property under part 9050.0600.

[For text of item B, see Minnesota Rules]
[For text of subpart 3, see Minnesota Rules]

9050.0710 CALCULATION OF GROSS INCOME.

[For text of subpart 1, see Minnesota Rules]

Subp. 1a. Earned income. Earned income is treated according to items A to C.

[For text of items A to C, see Minnesota Rules]

D. Contractual payment or retroactive payment of benefits shall be proportionally calculated as of the date of admission and considered as an asset prior to the date of admission and income upon admission.
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E. Refunds or rebates of federal taxes and state taxes is considered income in the month received and an asset the subsequent month.

[For text of subparts 2 to 4, see Minnesota Rules]

Subp. 5. Unearned income. Unearned income is treated according to items A and B to C.

[For text of items A and B, see Minnesota Rules]

C. The amount received or that should be received by the applicant or the resident of an annuity is unearned income. If the applicant or resident can withdraw the cash value of the annuity, then the amount of cash value is the amount of unearned income, regardless of whether or not it is actually withdrawn.

Subp. 6. Lump sums. A lump sum is considered an asset available income immediately upon receipt unless it is a contractual payment or retroactive payment of benefits. Rebates of federal taxes and state taxes are not considered a means of support. Contractual payment or retroactive payment of benefits shall be proportionally calculated as of the date of admission, and considered as an asset prior to the date of admission and income upon admission. Refunds or rebates of federal taxes and state taxes will be considered income in the month received and an asset the subsequent month.

9050.0720 CALCULATION OF NET INCOME; DEDUCTIONS FROM INCOME.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Deductions from income of applicant or resident. The facility financial staff shall deduct the expenses in this part and parts 9050.0730 and 9050.0740 from gross income to determine net income. Deductible items include:

[For text of items A to N, see Minnesota Rules]

O. payment of documented medical expenses not related to long-term care, incurred prior to the person’s admission to the facility operated by the commissioner of veterans affairs, for which the person is legally responsible. For the purposes of this item, long-term care expense or debt includes expenses incurred for nursing homes, skilled nursing, hospice care, home health care, foster care, adult day care, or similar nonacute care, the medical and basic needs portion of assisted living or supportive services that were incurred more than 30 days prior to the resident’s admission;

P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person towards completion of an educational program as part of the person’s individual care plan. If there is a dispute over whether or not an item is an educational expense, the administrator commissioner or designee shall make a final determination of the issue;

[For text of items Q and R, see Minnesota Rules]

9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.

Subpart 1. Generally. The facility financial staff shall deduct from the applicant’s or resident’s gross monthly income calculated under part 9050.0710 the amount necessary to meet the basic needs of the dependent spouse or household as calculated under this part. The applicant or resident or spouse of an applicant or resident who requests a deduction under this part must verify the monthly expenses of the dependent spouse or household that are not met by income or resources otherwise available to the dependent spouse or household. If an applicant or resident does not qualify for federal aid and attendance under Code of Federal Regulations, title 38, section 3.351, due to excess spousal assets, the spouse does not qualify for spousal allowance under this part until the total of all assets owned by the spouse and resident are consistent with the federal veterans administration threshold limit for aid and attendance qualification.

[For text of subpart 1a, see Minnesota Rules]

Subp. 1b. Commissioner of veterans affairs authority to establish, review, and revise spousal allowance basic needs and personal needs expenditures. The commissioner of veterans affairs shall establish and annually review the
items categorized under “basic needs” and “personal needs” and allowance limits on categories of expenses covered within those definitions. The commissioner of veterans affairs shall revise the allowances as necessary to reflect a reasonable sum for the average person. If the commissioner of veterans affairs does not take action to review the allowance, the allowance must be adjusted by multiplying it by the percentage of change of the Consumer Price Index (CPI) on the first day of each calendar year. The initial recommendations presented to the commissioner of veterans affairs must be based upon a review of the actual allowances currently being used at each home, data from the Bureau of Labor Statistics, or a combination of the two. Future recommendations must be based upon the current allowances, requests for increased allowances that have been received by the homes, and data from the Bureau of Labor Statistics.

If a spouse believes that an allowance as based upon the allowance limits is insufficient to meet the spouse’s needs, the spouse or a legal representative may submit a written request to the administrator for a waiver. The decision to grant or deny a waiver must be based on assets, income, or expense information provided under subpart 1a. The reasons for granting or denying the waiver must be put in writing and delivered to the spouse or the legal representative. If the waiver is approved and granted by the commissioner or designee, the administrator shall indicate the amount of the revised spousal allowance and the duration of the waiver. No waiver may be granted for more than one calendar year. A spouse may apply for an additional waiver upon the expiration of an existing waiver.

Subp. 1c. Spousal benefit applications. If a spouse or dependent wishes to obtain spousal allowance payments, the spouse, dependent, or legal representative must apply for the maximum of every benefit for which the spouse or dependent may be eligible that will increase the income of the spouse or dependent. The benefit must be applied for only if the spouse or dependent is eligible to receive the full amount of the benefit, without penalty, for making the claim or withdrawal at that time. The amount of the benefit received by the spouse or dependent should be the maximum amount allowed, unless it would cause the spouse or dependent undue financial hardship. The facility staff shall provide a spouse, dependent, or legal representative information about possible available benefits or programs of assistance and shall assist in applying for those benefits.

Subp. 2. Determination of spouse’s or dependent’s monthly expenses. The deduction for the basic needs of the dependent spouse or household is the sum of the following expenses, prorated on a monthly basis as they are incurred or can be estimated with reasonable certainty:

A. expenses related to the homestead as follows:

[For text of subitem (1), see Minnesota Rules]

(2) costs of supporting a dependent child or children residing with the spouse. Allowances for education of the child beyond high school or the equivalent of high school must not be considered. Student loans must not be considered as an allowance expense. If there is a dispute over whether or not an item is an education expense, the administrator commissioner or designee shall make a final determination on the issue;

[For text of subitems (3) to (10), see Minnesota Rules]
[For text of items B to E, see Minnesota Rules]

F. medical expense payments, except for expenses related to long-term care treatment. For the purposes of this item, long-term care expense includes expenses incurred for nursing homes, skilled nursing, hospice care, home health care, foster care, adult day care, or similar nonacute care the medical and basic needs portion of assisted living or supportive services:

[For text of item G, see Minnesota Rules]

H. payments for documented consumer debts incurred before the resident’s admission to a facility operated by the commissioner of veterans affairs for which the spouse is legally responsible. The payments may must be limited to the minimum monthly payment due; and

I. court-ordered support payments actually paid by the spouse to a former spouse or dependents who do not reside with the spouse.

Subp. 2a. Resources excluded. In determining a spouse’s or household’s available resources, the facility financial staff shall exclude from consideration the following:
Proposed Rules

A. real homestead property excluded under part 9050.0600, subpart 2, that is actually used as the primary residence of the spouse;

[For text of items B to E, see Minnesota Rules]

F. individually owned retirement accounts; Keogh accounts; or other pension or deferred compensation plan accounts;

G. burial accounts, burial plans, burial contracts, or burial trusts established in compliance with Minnesota Statutes, section 149A.97;

[For text of item H, see Minnesota Rules]

I. individually owned savings accounts or other monetary investment instruments that are income producing.

[For text of subpart 2b, see Minnesota Rules]

Subp. 2c. Waiver for undue hardship. If a maintenance charge or a spousal allowance is adjusted because of an incorrect transfer, the resident, spouse, or dependent or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual’s health and well-being. In evaluating a waiver, the administrator shall take into account whether the individual was a victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of veterans affairs. An appeal to the commissioner of veterans affairs must be handled in the same manner as a hearing under part 9050.0580.

[For text of subpart 3, see Minnesota Rules]

9050.0760 ANTICIPATING INCOME.

Income must be anticipated on a semiannual basis for all applicants or residents. Anticipated income must be determined using the method in items A to G that most accurately reflects the circumstances of the person.

[For text of items A to F, see Minnesota Rules]

G. If the applicant or resident has had a recent financial change that makes a method in item C, D, or E an inaccurate predictor of future income, the facility financial staff shall make a reasonable estimate financial assessment of future income and document the income basis used.

9050.0770 BENEFITS APPLICATION REQUIRED.

An applicant or resident, or legal representative, if any, must apply for the maximum of every benefit for which the applicant or resident may be eligible that will increase the income or eligible benefits of the applicant or resident and reduce the facility’s expenditures. The staff of the facility operated by the commissioner of veterans affairs shall provide an applicant or resident or legal representative information about possible available benefits or programs of assistance and assistance in making application for those benefits.

If the facility staff determines that an applicant or resident is not able to manage personal financial affairs, the facility staff shall recommend that the facility be authorized to receive and disburse benefit payments for which the applicant or resident may be eligible.

9050.0800 FINANCIAL INFORMATION AND INTERVIEW.

[For text of subparts 1 and 1a, see Minnesota Rules]

Subp. 2. Rights, duties, and consequences of interview and providing information. Before conducting an applicant’s or resident’s interview to determine financial status or ability to pay, the facility financial staff shall provide the following information to the applicant or resident, spouse or dependent as applicable:
Proposed Rules

A. inform the person that the person may choose an individual to assist in the determination process and any other contact with the commissioner of veterans affairs or the commissioner’s designated representative by authorizing that assistance in writing;

[For text of items B to E, see Minnesota Rules]

F. provide the person with an written information pamphlet on the cost of care and review with the applicant or resident how the commissioner of veterans affairs determines the cost of care and how the amount an applicant or resident must pay toward that cost is determined;

G. inform the person of county, state, and federal financial and veteran programs that may assist in paying the cost of care and meeting personal and family needs;

H. provide the person with forms approved by the commissioner of veterans affairs used to verify or investigate financial resources including:

[For text of subitems (1) to (4), see Minnesota Rules]

(5) other disclosure and verification forms the commissioner of veterans affairs reasonably requests to fully evaluate the applicant’s or resident’s financial status or the financial status of the applicant’s or resident’s legal representative or spouse, if any; and

I. request require that the person complete and sign the authorization forms provided and provide verification or documentation of financial information.

9050.0820 VERIFICATION OF FINANCIAL INFORMATION.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. Information to be verified. The following items must be verified:

[For text of item A, see Minnesota Rules]

B. any and all insurance benefits that may reduce the facility’s expenditures;

[For text of items C to I, see Minnesota Rules]

[For text of subpart 3, see Minnesota Rules]

9050.0900 AUTHORIZATION FORMS.

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. Refusal to sign authorization forms; consequences. Failure to complete and sign authorization forms on or by the day of admission must result in the resident being refused admission to the facility. The applicant or resident, applicant’s or resident’s legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request:

[For text of items A to D, see Minnesota Rules]

E. provide verification of information given on financial disclosure forms.

Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050.0200, subpart 2, item C. The maintenance charge must be redetermined or the application for admission must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

9050.1000 RESIDENT CARE PLANNING.

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans home facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.
Proposed Rules

The care plan must be consistent with the resident’s medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a multidisciplinary interdisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based on an assessment of the resident’s functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

Residents may be involved in their individual care plans according to part 9050.1070, subpart 4.

The resident’s care plan must be used by the facility staff involved in the resident’s care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident’s condition. For the purposes of this part, “significant change in a resident’s condition” means a new problem or a measurable improvement or worsening of an existing problem or in the resident’s physical or mental condition.

9050.1030 RESIDENT CARE SERVICES.

Subpart 1. General. Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes’ mission statements, and rules governing the facilities operated by the commissioner of veterans affairs, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to Minnesota Statutes, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations, federal Centers for Medicare and Medicaid Services regulations, and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapters 4655 and 4658; Minnesota Statutes, chapters 144 and 144A; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.

Payment of resident care services that are made available must be authorized by the commissioner of veterans affairs. The commissioner of veterans affairs shall determine annually which services will be paid for by the facilities operated by the commissioner of veterans affairs, based on appropriations.

A resident, resident’s guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the admission staff of each facility operated by the commissioner of veterans affairs or the resident’s social worker, before or at the time of admission and when changes occur, of services that are included in the facility’s basic per diem and of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts 9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17. Facility staff shall assist the resident in applying for the maximum amount of benefits for which the resident is eligible in order to assist in reducing the facility’s expenditures by reducing costs and maximizing third-party liability for resident care services.

Subp. 1a. Provided services.

A. Each facility operated by the commissioner of veterans affairs shall provide at least the following services:

For text of subitem (1), see Minnesota Rules]

(2) an attending physician provider;

[For text of subitem (3), see Minnesota Rules]

(4) dietary services, including an adequately equipped kitchen at each facility operated by the commissioner of veterans affairs, and qualified facility staff to supply the necessary food requirements of the residents;

(5) specialized rehabilitation services when prescribed by a provider, such as physical therapy, occupational therapy, and speech therapy, to improve and maintain maximum functioning;
Proposed Rules

[For text of subitems (6) and (7), see Minnesota Rules]

(8) transportation to and from approved appointments for medical services approved by the agency’s medical providers or arranged for by each facility operated by the commissioner of veterans affairs, if the appointments are located within the area regularly serviced by the transportation staff of the facility;

[For text of subitem (9), see Minnesota Rules]

(10) on-site social work services; and

(11) chaplain services, and private space provided for residents to meet with clergy of the residents’ choice;

and

(12) pharmaceutical services.

B. For purposes of item A, subitem (2), each resident must be assigned an attending physician provider who is responsible for overall medical care of the resident. A resident may choose a private attending physician provider at the resident’s own expense if the private attending provider agrees to comply with regulatory standards governing the facility. The medical director or designee of the department must approve any and all care plans, treatments, or procedures of the resident ordered by the private attending provider.

The attending physician provider shall prescribe a planned regimen of resident care based on a medical evaluation of the resident’s immediate and long-term needs. The attending physician provider must be identified on the resident’s medical chart.

The attending physician provider shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending physician provider.

C. For purposes of item A, subitem (4), a qualified dietitian, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510 or 4658.0605, subpart 2. A dietitian shall ensure that nutritional care plans are developed according to each resident’s nutritional needs and that an individual diet card is maintained for each resident. The dietary staff shall prepare therapeutic diets as ordered by the resident’s attending physician provider, according to federal and state standards.

Subp. 1b. Services made available. Each facility operated by the commissioner of veterans affairs must make the following services available:

[For text of item A, see Minnesota Rules]

B. dental care services, including, but not limited to, cleaning of teeth by a dentist or dental hygienist, an examination of the resident’s teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, and treatment of abnormalities caused by dentures as determined by the dentist. Each facility must have a written agreement with a licensed dentist or dentists to provide emergency dental care when necessary;

C. podiatric care services, through a podiatrist or physician, with the approval of the resident’s attending physician;

[For text of item D, see Minnesota Rules]

E. diagnostic services on written order of the resident’s attending physician, examples of which include, but are not limited to, X-rays and laboratory work, such as blood tests;

F. pharmaceutical services;
Proposed Rules

G.F. transportation to and from medical providers; and

H.G. chiropractic care services, according to Minnesota Statutes, section 198.065, on written order of the resident’s attending physician.

[For text of subparts 2 to 19, see Minnesota Rules]

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. Scope. Residents of each facility operated by the commissioner of veterans affairs are guaranteed all rights expressed in Minnesota Statutes, section 144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and Minnesota Statutes, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. Information about rights. On admission, a resident, resident’s guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the Patient’s and Resident’s Health Care Bill of Rights expressed in Minnesota Statutes, section 144.651. If changes occur in the Patient’s and Resident’s Health Care Bill of Rights during the resident’s stay at the facility operated by the commissioner of veterans affairs, a resident, resident’s guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the changes.

The Patient’s and Resident’s Health Care Bill of Rights must be posted in a conspicuous place in each facility operated by the commissioner of veterans affairs.

Subp. 3. Resident care. Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to Minnesota Statutes, section 144.651. “Appropriate care” means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to Minnesota Statutes, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident’s medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending physician in the resident’s medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in Minnesota Statutes, section 626.557.

Subp. 4. Resident care plan participation. Residents have the right to participate in care planning and implementation of the care plan according to Minnesota Statutes, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending physician in the resident’s chart.

Subp. 5. Resident handbook. On admission, a resident must be given a resident handbook. The handbook must be reviewed by social services staff or nursing staff designee with the resident or the resident’s representative.

After reviewing the handbook, the resident or resident’s representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident’s admission agreement.

The resident handbook must contain:

[For text of items A to C, see Minnesota Rules]
Proposed Rules

D. Patient’s and Resident’s the Health Care Bill of Rights found in Minnesota Statutes, section 144.651; and
e.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident’s representative must sign a statement indicating that the resident or representative received a copy of the changes as appropriate.

Subp. 6. Resident councils. Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to Minnesota Statutes, sections 144.651, subdivision 27, and 144A.33; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.

Space for resident council meetings must be provided at each facility operated by the commissioner of veterans affairs. Staff or visitors may only attend resident council meetings at the council’s invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

[For text of items A to F, see Minnesota Rules]

Subp. 7. Family councils. Each facility operated by the commissioner of veterans affairs shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to Minnesota Statutes, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. Legal assistance for residents. Residents have the right of reasonable access to outside advocacy and legal services according to Minnesota Statutes, section 144.651, subdivision 30. On a resident’s request, a designated staff person shall instruct and assist that resident in obtaining advocacy and legal assistance.

The opportunity for private communication between the resident and the resident’s representative must be provided at the facility operated by the commissioner of veterans affairs.

Subp. 9. Resident grievances and complaints. A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the facility operated by the commissioner of veterans affairs without retaliation according to Minnesota Statutes, sections 198.32, 144.651, subdivision 20, and 144A.13; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.
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On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each facility operated by the commissioner of veterans affairs.

Residents may complain through the facility grievance and complaint procedures. A resident may also voice grievances to the administrator, the commissioner of veterans affairs, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident’s choice.

The grievance procedure at each facility operated by the commissioner of veterans affairs must include the following:

[For text of items A to F, see Minnesota Rules]

Subp. 10. Restraints. A resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident’s medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a physician medical director or designee that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident’s behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident’s record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. Right to associate; visitors. A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with Minnesota Statutes, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by the facility administrator and be posted in plain view. Visitors to each facility operated by the commissioner of veterans affairs must follow facility rules.

Residents may receive private visits at any time from the resident’s external personal physician provider, religious advisor adviser, or attorney. Residents diagnosed as critically ill may have visits from relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part 4655.1910.

Subp. 12. Identity of physician and outside service providers. In accordance with Minnesota Statutes, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician provider responsible for coordination of the resident’s care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident’s guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician provider, and a description of the service to be given.

[For text of subpart 13, see Minnesota Rules]

Subp. 14. Married residents. Married residents have a right to privacy for spousal visits according to Minnesota Statutes, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physician providers in the medical records.

Subp. 15. Privacy of resident records. A resident has a right to confidential treatment of personal and medical records and may approve or refuse release of the records to any individual outside the facility operated by the commissioner of veterans affairs.

Medical records must be made available to persons at the facility operated by the commissioner of veterans affairs.
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affairs who are responsible for the direct care of the resident. All information contained in the resident’s records must be handled in a manner consistent with chapters 1205 and 4655; the Government Data Practices Act under Minnesota Statutes, chapter 13, and sections 144.291 to 144.298 and 144.651, subdivision 16.

Written consent of the resident or the resident’s guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with Minnesota Statutes, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

[For text of items A to D, see Minnesota Rules]

Subp. 16. Resident access to records. On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under Minnesota Statutes, sections 13.04 and 144.291 to 144.298, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and current information concerning diagnosis and treatment of the resident in terms and language the resident can reasonably be expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending physician or provider in the resident’s medical record, the information may be given to the resident’s guardian, representative, or appropriate third party as specified in Minnesota Statutes, section 144.292. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident’s written request, facility staff shall furnish to the resident copies of the resident’s records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident’s request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident’s request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

[For text of subpart 17, see Minnesota Rules]

Subp. 18. Telephone access and use. Residents must have access to a pay telephone, at a convenient location within the facility operated by the commissioner of veterans affairs, where residents can make and receive calls. There must be at least one non-coin operated telephone accessible at all times in case of an emergency according to part 4655.1910, subpart 4. “Emergency” has the meaning given in part 9050.0040, subpart 39.

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident’s calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician or provider in the resident’s medical record according to Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. Resident vehicles. Nonskilled care residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the facility operated by the commissioner of veterans affairs in which the resident resides. “Passenger vehicle” means a passenger automobile as defined in Minnesota Statutes, section 168.002, subdivision 24; a pickup truck as defined in Minnesota Statutes, section 168.002, subdivision 26; or a van as defined in Minnesota Statutes, section 168.002, subdivision 40. “Motorcycle” has the meaning given in Minnesota Statutes, section 168.002, subdivision 19. “Motorized bicycle” has the meaning given in Minnesota Statutes, section 168.002, subdivision 20.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles,
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and safety standards; Minnesota Statutes, chapter 171, regarding operators’ licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section 168B.011, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

Subp. 20. **Pets.** The administrator at each facility operated by the commissioner of veterans affairs, after consultation with facility staff and residents, shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each facility operated by the commissioner of veterans affairs.

[For text of item B, see Minnesota Rules]

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff or designee and comply with this subpart.

Subp. 21. **Resident work therapy programs.** A resident may take part in a resident work therapy program on approval of the resident’s attending physician or as recommended by the resident’s attending physician and the resident’s care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident’s care plan according to Minnesota Statutes, section 144.651, subdivision 23.

The labor performed by the resident must be other than labor of a housekeeping nature with respect to the resident’s own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work therapy program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and Minnesota Statutes, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and Minnesota Statutes, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to E.

[For text of items A and B, see Minnesota Rules]

C. Residents may keep money in a personal fund account at the facility operated by the commissioner of veterans affairs, as defined in part 9050.0040, subpart 90, and according to Minnesota Statutes, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident’s use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident accounts of $100 or more must be credited with interest earned from the investment of resident accounts. Interest must be credited to each resident’s account on a quarterly basis. The commissioner of veterans affairs is not required to pay interest on any resident accounts of less than $100. If the commissioner of veterans affairs does not pay interest on a resident account of less than $100, the interest must be used by the commissioner of veterans affairs only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that may not draw interest directly to the resident, if the account...
Proposed Rules

balance is less than $100.

Restrictions placed on a resident’s personal funds by the resident, resident’s guardian, or person responsible for the resident’s fund account must be documented in the resident’s treatment plan.

[For text of items D and E, see Minnesota Rules]
[For text of subpart 23, see Minnesota Rules]

Subp. 24. Resident clothing. Each resident must have a supply of personal clothing relative to individual needs. The administrator at each facility operated by the commissioner of veterans affairs shall determine the standards for marking the resident’s clothing for laundering and identification purposes.

A resident or resident’s representative is responsible for the condition of the resident’s personal clothing and should contact the facility for assistance in maintenance of clothing.

[For text of subpart 25, see Minnesota Rules]

Subp. 26. Room cleanliness and conditions. Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, and other regulatory agencies, and internal facility policies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident’s room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident’s attending physician, and must be documented in the resident’s medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

[For text of subparts 27 to 29, see Minnesota Rules]

Subp. 30. Storage of resident’s property. Storage of a resident’s property must be handled in compliance with items A to C.

A. The administration of each facility operated by the commissioner of veterans affairs may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident’s personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident’s property in storage, including the resident’s name and signature, guardian’s signature, date of the inventory, a detailed listing of the resident’s property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person’s designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the facilities operated by the commissioner of veterans affairs.

Cash may not be placed into storage.

Secure and temporary storage of a resident’s possessions may be provided during a resident’s emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a personal
Proposed Rules

absence therapeutic leave.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each facility operated by the commissioner of veterans affairs.

Facility staff shall maintain an updated, itemized inventory of each resident’s valuables in storage, including the resident’s name and signature, guardian’s signature, date of the inventory, a detailed listing of the resident’s property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

[For text of item C, see Minnesota Rules]

Subp. 31. Smoking. The administrator of each facility operated by the commissioner of veterans affairs shall designate smoking and nonsmoking areas according to chapter 4620 and Minnesota Statutes, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only and only during designated smoking times. The administrator of each facility must take the necessary interventions to assure the safety of the residents and others.

Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident’s attending physician. The orders must be documented in the resident’s care plan.

Subp. 32. Leaving the facility campus. Residents or authorized representatives shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return, and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

If a resident’s departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident’s actions or departure.

Subp. 33. Coffee shop and canteen. Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each facility operated by the commissioner of veterans affairs. A canteen with posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to Minnesota Statutes, section 198.261.

Subp. 34. Alcoholic beverages and illegal narcotics. The sale, distribution, consumption, and possession of alcoholic beverages and illegal narcotics are not allowed on the campuses of the Minnesota veterans homes or Alcohol during facility-sponsored events is managed in accordance with Minnesota Statutes, section 198.33, except alcohol consumption may be allowed when consumption is prescribed by the resident’s attending physician and documented in the resident’s chart. An alcoholic beverage is a beverage containing any amount of alcohol.

[For text of subparts 35 and 36, see Minnesota Rules]

Subp. 37. Contraband. A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances, and other items identified by facility policy.

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident’s chart.

[For text of subpart 38, see Minnesota Rules]

Subp. 39. Photographs, voice recordings, or videotapes. Informed written consent is required before a resident may be photographed, voice recorded, or videotaped for nonbusiness or nonresident care purposes. Written consent is not needed for identification photographs of the resident that are kept in the resident’s chart at the facility operated by the commissioner of veterans affairs.
9050.1080 ADULT DAY HEALTH CARE PROGRAM.

Subpart 1. Scope. This part applies to any adult day health care program administered by the commissioner.

Subp. 2. Applicability. The commissioner shall ensure compliance by the facility and staff with all applicable laws and rules of this state, and with all applicable health, safety, sanitation, building, zoning, and operations codes as they pertain to an adult day health care program.

Subp. 3. Eligibility.

A. An applicant must meet the criteria in part 9050.0050 to participate in any adult day health care program.

B. An adult day health care program shall have internal policies and procedures that take into consideration a participant’s financial status and establish co-payments and private pay charges. The commissioner shall annually determine the daily charge for a participant in an adult day health care program. A change in daily charge for cost of service of a program becomes effective July 1 of the rate year.

C. The commissioner shall make available at admission or upon any change in policy or procedure all policies and procedures regarding financial implications to participants or their representatives. The commissioner shall provide a notice of any change in the cost of services to all participants of a program or their legal representatives 30 days before the effective date of the change.

9050.1090 VETERANS AFFAIRS PHARMACEUTICAL SERVICES.

Subpart 1. Scope and applicability. This part governs the operations of the centralized pharmacy program for residents of the facilities operated by the commissioner.

Subp. 2. Eligibility. Residents of the facilities in need of the centralized pharmaceutical services must comply with the following:

A. a resident must meet the criteria under part 9050.0050; and

B. a resident must meet the resident’s financial obligation as determined in accordance with part 9050.0550, and Minnesota Statutes, section 198.003, subdivision 7, and veterans affairs policies and procedures covering a resident’s financial status, insurance coverage, and established third-party billing.

Subp. 3. Compliance. The commissioner shall ensure that all facilities:

A. comply with the applicable laws and rules of the Department of Health and Department of Human Services as they pertain to pharmaceutical services; and

B. comply with applicable requirements under Minnesota Statutes, chapter 151.

REPEALER. Minnesota Rules, parts 9050.0040, subparts 80, 84, 89, and 120; 9050.0050, subparts 1 and 4; 9050.0200, subparts 3, 4, and 5; 9050.0510, subpart 2; and 9050.0540, are repealed.
Adopted Rules

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

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

**Adopted Rules** - Underlining indicates additions to proposed rule language. **Strikeout** indicates deletions from proposed rule language.

Office of Higher Education
Adopted Permanent Rules Relating to Supplemental Student Loans

The rules proposed and published at State Register, Volume 46, Number 5, pages 77-90, August 02, 2021 (46 SR 77), are adopted with the following modifications:

**4850.0017 REPAYMENT PROCEDURES.**

Borrowers or cosigners must make payments of principal and interest according to this part.

A. During an in-school period, the office or its agent shall bill borrowers a minimum amount due for interest, as required by the terms of the promissory note, and applicable late charges at least once during each calendar quarter.

B. During a transition period, the office or its agent shall bill borrowers a minimum amount due for interest, as required by the terms of the promissory note, and applicable late charges once during each calendar month.

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.

Teachers Retirement Association
Audit Committee
Notice of Meeting

The Minnesota Teachers Retirement Association Audit Committee will hold a meeting on **Tuesday, November 9, 2021 at 9:30 a.m.** in Room 414, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the committee. Committee members may participate in the meeting by electronic means.

If Governor Walz’s pandemic social distancing requirements remain in place on the meeting day, the meeting will be held by electronic means. The public may monitor the meeting electronically from a remote site as set out on the agency’s website, which can be found at [www.minnesotatra.org](http://www.minnesotatra.org).
Teachers Retirement Association
Board of Trustees
Notice of Meeting

The Minnesota Teachers Retirement Association Board of Trustees will hold a meeting on **Wednesday, November 10, 2021 at 9:30 a.m.** in Room 106, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board. Board members may participate in the meeting by electronic means.

If Governor Walz’s pandemic social distancing requirements remain in place on the meeting day, the meeting will be held by electronic means. The public may monitor the meeting electronically from a remote site as set out on the agency’s website, which can be found at [www.minnesotatra.org](http://www.minnesotatra.org).

Department of Transportation (MnDOT)
Modal Planning and Program Management Division – Office of Transportation System Management
Notice of Public Comment Period for the Revised Public Participation Plan for the Statewide Multimodal Transportation Plan

NOTICE IS HEREBY GIVEN that the public is invited to review and provide comments through December 10 on the revised Public Participation Plan for the Statewide Multimodal Transportation Plan. The Statewide Multimodal Transportation Plan provides policy guidance for all modes of travel and for all transportation partners. The SMTP shares objectives, performance measures and strategies for transportation decisions over the next two decades. Following the Statewide Multimodal Transportation Plan, updates to MnDOT’s plans for highways, rail, aviation, transit, freight and non-motorized transportation (walking, bicycling and rolling) answer what the Minnesota GO vision and the Statewide Multimodal Transportation Plan mean for each type of transportation.

Public engagement is key to ensuring the final plan reflects Minnesotans’ transportation priorities. The revised Public Participation Plan outlines how MnDOT plans to connect with the public, stakeholders and partners to update the Statewide Multimodal Transportation Plan.

The revised Public Participation Plan can be accessed electronically at [http://www.minnesotago.org](http://www.minnesotago.org). A hard copy is available by mail with written request to the contact shared below.

Written comments will be accepted through December 10 and should be addressed to:

**Hally Turner**
Project Director
_Hally.Turner@state.mn.us_
651-366-3901

For more information, contact Hally Turner at 651-366-3901 or _hally.turner@state.mn.us_, or visit [http://www.minnesotago.org](http://www.minnesotago.org).
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/

Department of Employment and Economic Development (DEED)
Notice of Grant Opportunity

NOTICE IS HEREBY GIVEN that the Minnesota Department of Employment and Economic Development (DEED) places notice of any available grant opportunities online at https://mn.gov/deed/about/contracts/open-rfp.jsp

Minnesota Department of Health (MDH)
Request for Proposals for Exceptions to the Nursing Home Moratorium

Purpose
The commissioner of health is accepting written proposals from nursing homes and certified boarding care homes requesting funding through the moratorium exception process, according to Minn. Stat. § 144A.073. The commissioner of health, in coordination with the commissioner of human services, may approve such requests under conditions listed in the Minnesota Statutes. These conditions refer to categories of exceptions which are defined as:

(a) “Conversion” means the relocation of a nursing home bed from a nursing home to an attached hospital.
(b) “Relocation” means the movement of licensed nursing home beds or certified boarding care beds as permitted by state statute to promote equitable access across the state or to move the beds to another site.
(c) “Renovation” means extensive remodeling of an existing facility with a total cost exceeding ten percent of the appraised value of the facility or $200,000, whichever is less. A renovation may include the replacement or upgrade of existing mechanical or electrical systems.
(d) “Replacement” means the construction of a completely new facility.
(e) “Addition” means the construction of new space to an existing facility.
(f) “Upgrading” means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.
(g) “Phased project” means a proposal that identifies construction occurring with more than one distinct completion date. To be considered a distinct completion, each phase must have construction that is ready for resident use, as determined by the commissioner, which is not dependent on similar commissioner approval for future phases of construction. The commissioner of human services shall only allow rate adjustments for construction projects in phases if the proposal from a facility identifies construction in phases and each phase can be approved for use independent of the other phases.
(h) “Consolidation” means a project that meets the criteria for “consolidation of nursing facilities” as outlined in 144A.071, Subd. 4d.

Appropriation Available
The amount of the legislative appropriation available for the total additional biennial costs to the Medical Assistance program for this Request for Proposals (RFP), is approximately $4,033,304.

Eligibility to Submit a Proposal
A proposal for an exception to the nursing home moratorium may be submitted by an organization or individual authorized by a facility’s governing board or management to prepare and submit a proposal to the commissioner of health.
Method for Estimating Proposal Cost
The method that the commissioner will use in evaluating proposals for approval or disapproval for estimating the cost of a proposal is detailed in the application materials.

Criteria for Review
Minn. Stat. § 144A.073, Subd. 4a, states the criteria the commissioner of health is to consider in reviewing moratorium exception proposals:

Subd. 4a. Criteria for review. In reviewing the application materials and submitted costs by an applicant to the moratorium process, the review panel shall consider the following criteria in recommending proposals:

(1) the extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;
(2) the extent to which the project provides for the complete replacement of an outdated physical plant;
(3) the extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over;
(4) the extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of residents;
(5) the extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings on certification surveys, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card;
(6) the extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees;
(7) the extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project; and
(8) the extent to which the project provides or maintains access to nursing facility services needed in the community.

Procedure for Receiving Application Materials
The application materials, including instructions, format and necessary forms are available at the following website: https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html

Or upon email request to: health.nhm@state.mn.us

Review and Approval of Proposals
Proposals will be reviewed by a committee composed of organizations that represent consumers and providers of nursing home services; persons who provide engineering, building construction, or design services; and state agencies involved in long term care issues, housing and finance. Applicants will have the opportunity to present their proposal, by virtual public meeting, to the (Proposal Review Committee) prior to the Committee submitting comments and recommendations to the commissioner. Details on this virtual meeting, including date, time will be made available to the contact person listed in each moratorium exception proposal. The commissioner of health will approve or disapprove project proposals based on criteria established in law and rule. The commissioner will make the final decision no later than June 22, 2022.

Questions Concerning the RFP
Any questions relating to the RFP process must be submitted by prospective applicants in writing, via email to: health.nhm@state.mn.us

No answers will be provided in response to phone calls. Each question must cite the particular RFP page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested application materials. Only responses in writing by staff of the Minnesota Department of Health will be considered official. The closing date for the receipt of questions will be January 17, 2022.
State Grants & Loans

State Contracts
Technical assistance in completing the application forms is available from LeadingAge of Minnesota at (651) 645-4545, Care Providers of Minnesota, at (952) 854-2844 or The Minnesota Department of Health (651) 201-4200.

Procedures for Submitting Proposals
No proposals submitted by facsimile machine will be accepted.

Completed proposals must be uploaded to the Minnesota Department of Health CloudDrive, no later than 4:30 p.m. on March 17, 2022. Must receive access to upload application. Email facility name, contact person that will be uploading the application materials, and their email address. Email to: health.nhm@state.mn.us

Department of Human Services
Behavioral Health Division
Notice of Request for Proposals to provide an Opioid-Focused Project Extension for Community Healthcare Outcomes (ECHO)

The Minnesota Department of Human Services (DHS or State) is requesting proposals to provide an opioid-focused project utilizing Project ECHO, a collaborative model of medical education and care management that helps clinicians provide expert-level care to patients wherever they live. Using video-conferencing technology to train, advise, and support primary care providers, Project ECHO increases access to specialty treatment in rural and underserved areas for a variety of conditions.

DHS is seeking proposals for the grant period January 1, 2022 through June 30, 2024.

For more information contact:

Tara Holt
Department of Human Services
Behavioral Health Division
Phone: (651) 431-2473
BHD_OpioidECHO@state.mn.us

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

To obtain this information in a different format, please email Emily.Waymire@state.mn.us.

Proposals submitted in response to this Request for Proposals (RFP) must be received at the email address listed in the RFP no later than 4:00 p.m., Central Time, on November 8, 2021. Late proposals will not be considered. Proposals received via other methods will not be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services Grants, Requests for Proposals (RFP) and Requests for Information (RFI) web site: https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/

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 Human Services
Housing and Support Services Division

Notice of Request for Proposals for the 811 Project Based Program to provide tenancy supports to HUD Section 811 Project Based Program Participants Who Are Experiencing Or Have Experienced Long-Term Homelessness And A Serious Mental Illness In The 7 County Metro Area To Live Successfully In The Community

The Minnesota Department of Human Services (DHS or State) is requesting proposals to support individuals experiencing long-term homelessness and a serious mental illness who are enrolled in a Project to Assist with Transitioning from Homelessness (PATH) project. Also, assist persons exiting institutions who are enrolled in Moving Home Minnesota. The Section 811 Project Rental Assistance (PRA) Program provides project based rental assistance for extremely low-income person with disabilities linked with long-term services within the 7 county metro area.

DHS is seeking proposals for the grant period January 1, 2022 until December 31, 2023.

For more information contact:
Attn: Traci Vibo, Contract Manager
Department of Human Services
Housing and Support Services Division
P.O. Box 64842
Elmer L. Anderson, 540 Cedar Street, St. Paul, MN 55101
Phone: (651) 431-6068
traci.vibo@state.mn.us

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

To obtain this information in a different format, please email Emily.Waymire@state.mn.us.

Proposals submitted in response to this Request for Proposals (RFP) must be received on the official application form via the email address listed in the RFP by no later than 4:00 p.m., Central Time, on November 12, 2021. Late proposals will not be considered. Proposals received via other methods will not be considered.

The RFP can be viewed by visiting the Minnesota Department of Human Services Grants, Requests for Proposals (RFP) and Requests for Information (RFI) web site: https://mn.gov/dhs/partners-and-providers/grants-rfps/open-rfps/
The official application form will be posted on this DHS website.

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 Transportation (MnDOT)
Office of Civil Rights

Notice of Available Grant for Educational Institution to Participate as a NSTI Host Site

The Federal Highway Administration and the Minnesota Department of Transportation Office of Civil Rights are accepting applications from educational institutions to participate as a host site in the National Summer Transportation Institute (NSTI) 2022 Program.

Academic institutions interested in serving as host sites must complete and submit their application package via email to adrienne.bond@state.mn.us no later than October 21, 2020 at 4:30 p.m.
State Grants & Loans

PLEASE NOTE: Funding for the program is contingent upon issuance of grant award by FHWA.

To view the application, visit: https://www.dot.state.mn.us/civilrights/rfps.html

For more information, visit: https://mndot.net/civilrights/nsti-program.html

Minnesota Department of Transportation (MnDOT)
Office of Civil Rights
Request for Proposals for Micro Grant

MnDOT requests responses from certified small businesses who are seeking financial assistance for eligible expenses that increase their business capacity and/or industry knowledge to assist in their pursuit of MnDOT projects/contracts.

Responses must be received no later than 2:00 p.m. Central Standard Time on April 29, 2022 or until funding is exhausted. Late responses will not be considered.

To view the RFP go to: https://www.dot.state.mn.us/civilrights/rfps.html.

For more information, visit: https://www.dot.state.mn.us/civilrights/micro-grant.html.

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 State Colleges and Universities (Minnesota State)
Non-Construction Related Bid and Contracting Opportunities

Minnesota State is now placing additional public notices for P/T contract opportunities, goods/commodities, and non-construction related services on its Vendor and Supplier Opportunities website (http://minnstate.edu/vendors/index.html). 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.

If you have any questions regarding this notice, or are having problems viewing the information on the Vendor and Supplier Opportunities website, please call the Minnesota State Procurement Unit at 651-201-1444, Monday-Friday, 9:00 am – 4:00 pm.
Minnesota State Colleges and Universities (Minnesota State)
Lake Superior College
Request for Bid for IT Network Upgrade Components

NOTICE IS HEREBY GIVEN that bids are being solicited for Aruba network equipment and components, including switches and cabling. This equipment will be used to upgrade the IT network for Lake Superior College.

For additional information or to request a copy of the Request for Bid, please contact:

Mike Francisco, Purchasing
Lake Superior College
2101 Trinity Road, Duluth MN 55811
P: 218-733-5968 E: purchasing@lsc.edu

The RFB can also be found at https://www.lsc.edu/rfp/. Proposals are due at the Lake Superior College Business Office by 12:00pm CT on Friday, October 22nd, 2021.

This notice and the Request for Bid do not obligate the State of Minnesota, Minnesota State Colleges and Universities or Lake Superior College to award a contract; and reserves its right to withdraw from the RFB if it is considered to be in its best interest.

Minnesota State Colleges and Universities (Minnesota State)
Minnesota West Community & Technical College
Notice of Request for Proposals for Compact Track Loader

The State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of Minnesota West Community and Technical College, is requesting proposals for compact track loader with minimum specifications of:

- 98 horsepower
- 17” rubber tracks
- Block Heater
- Cab package including but not limited to Heat/AC, backup camera, air ride seat, rear view mirror kit
- 80” heavy duty bucket
- 60” trencher with standard accessories
- One-year warranty
- Assembly, setup, and delivery
- Delivery required by December 30, 2021.

To receive a copy of the proposal, please email judy.tebben@mnwest.edu.

Proposals must be sealed with a notation on the outside of the envelope stating: Compact Track Loader – DELIVER IMMEDIATELY.

Mail or delivered (faxes and email will not be accepted) sealed proposals must be delivered no later than November 2, 2021 at 2:00 pm CST to:

Minnesota West Community & Technical College
Attn: Judy Tebben
1593 11th Avenue
Granite Falls, MN 56241

PROPOSAL CLOSE DATE is November 2, 2021 at 2:00 pm CST
State Contracts

Department of Commerce
Division of Energy Resources

Notice of Request for Qualifications (RFQ) for the 2021 Residential Solar Photovoltaic Installation Program for Minnesota’s Weatherization Assistance Program

Reference number: COMM-WAP-RFQ-20211018

The Minnesota Department of Commerce, Division of Energy Resources is seeking requests for qualifications from qualified solar photovoltaic (solar PV) installers for residential solar projects on WAP-eligible households statewide throughout Minnesota. Interested parties should submit a Statement of Qualifications (SOQ) containing Responder’s qualifications and a proposal discussing the capabilities they have which will allow them to successfully handle these projects, and at what cost Responder would be able to provide services.

This Request for Qualifications (RFQ) is issued to assist the MN WAP service provider (WAP SP) network in procuring qualified solar installation professionals statewide who meet the required federal and state regulations. Commerce will provide participating WAP SPs a list of organizations who understand the Solar into WAP program and who are selected Responders to this RFQ.

A Request for Qualifications (RFQ) and required forms will be available for download on the Department’s website https://mn.gov/commerce/industries/ rfp/ through Friday, November 12, 2021.

The RFQ and forms are located: https://mn.gov/commerce/industries/rfp/

Reference Number: COMM-WAP-RFQ-20211018
Title: 2021 Residential Solar Photovoltaic Installation Program for Minnesota’s Weatherization Assistance Program

Proposals submitted in response to this RFQ must be received no later than 11:59 pm, CDT, Friday, November 12, 2021. Late proposals will not be considered. Instructions for submitting proposals are detailed in the RFQ.

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 Employment and Economic Development
Office of Broadband Development

Notice of Request for Proposals (RFP) for Broadband Data Collection and Mapping

NOTICE IS HEREBY GIVEN that the Office of Broadband Development at the Minnesota Department of Employment and Economic Development (DEED) is soliciting proposals from qualified vendors for broadband data collection and mapping services. The full Request for Proposals (RFP) is available at: https://mn.gov/deed/about/contracts/open-rfp.jsp

All requirements and information, as well as proposal delivery instructions are contained in the RFP. Inquiries regarding the RFP may be directed by email to Diane Wells, Office of Broadband Development at diane.wells@state.mn.us. Deadline for inquiries is Thursday, October 7, 2021 at 4:00 p.m. Other department personnel are NOT allowed to discuss the Request for Proposal with anyone, including responders, before the proposal submission deadline.

Proposals must be emailed to: Diane Wells, Office of Broadband Development, Minnesota Department of Employment and Economic Development at diane.wells@state.mn.us. Proposals must be received NO later than 4:00 PM, Wednesday, October 27, 2021; late responses will not be considered. The Department of Employment and Economic Development reserves the right to reject any or all proposals, to waive any irregularities or informalities, and to cancel the solicitation if it is considered to be its own best interest. This Request for Proposals does not obligate DEED to award a contract.
Minnesota Department of Health (MDH)
Request for Proposals for COVID-19 Community Engagement

PROJECT NAME: COVID-19 Community Engagement Request for Proposals

DETAILS: The Minnesota Department of Health (“State”) is issuing a request to community-based organizations and Tribes to aid the State in engaging communities around COVID-19 vaccines. This, may include, but is not limited to, addressing ongoing vaccine hesitancy, booster doses, and vaccines for youth including ages 12 and younger information about booster doses, COVID-19 variants, ongoing vaccine hesitancy, and vaccines for ages 12 and younger.

Organizations and Tribes will be asked to use culturally relevant, linguistically appropriate, and timely community engagement activities to learn about community questions and needs related to COVID-19 vaccines; work with the State and its partners to address those community needs; and connect communities vaccines and to trusted information and resources related to COVID-19 vaccines, including information about booster doses, COVID-19 variants, ongoing vaccine hesitancy, and vaccines for ages 12 and younger. The State encourages applicants to use a trauma-informed lens to approach this work.

Work is anticipated to start after 1/1/2022.

COPY REQUEST: To receive a copy of the Request for Proposals, please send a written request by email to:

Mohamed Hassan
Contracts Lead
health.covidoutreach@state.mn.us

Or view the RFP and submission instructions/materials online at: https://www.health.state.mn.us/communities/equity/funding/covidoutreach_oct2021.html

PROPOSAL DEADLINE: Proposals in response to the Request for Proposals in this advertisement must be received via online submission and email attachments no later than 11:59 PM, Central Time, October 28, 2021. Late proposals will not be considered.

This request does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is considered in its best interest. All costs incurred in responding to this solicitation will be borne by the responder.

Minnesota Department of Health (MDH)
Request for Proposals for COVID-19 Diverse Media

PROJECT NAME: COVID-19 Diverse Media Request for Proposals

DETAILS: The Minnesota Department of Health (“State”) is issuing a request to vendors to propose a plan for media services to aid the State in getting culturally relevant, linguistically appropriate, accurate, and timely messages related to COVID-19 vaccines, including information about booster doses, COVID-19 variants, ongoing vaccine hesitancy, and vaccines for ages 12 and younger, to communities of color, American Indian communities, disability communities, and LGBTQ communities in Minnesota. This may include, but is not limited to, addressing ongoing vaccine hesitancy, booster doses, and vaccines for youth including ages 12 and younger. Media services may include formats such as online and social media, radio, television, and print. Vendors are encouraged to use methods that are adaptable to quickly changing information.

Work is anticipated to start after 1/1/2022.

COPY REQUEST: To receive a copy of the Request for Proposals, please send a written request by email to:
State Contracts

Mohamed Hassan
Contracts Lead
Health.covidmedia.mdh@state.mn.us

Or view the RFP and submission instructions/materials online at: Request for Proposals - COVID-19 Diverse Media - October 2021 - Minnesota Dept. of Health

PROPOSAL DEADLINE: Proposals in response to the Request for Proposals in this advertisement must be received via online submission and email attachments no later than 11:59 PM, Central Time, October 28, 2021. Late proposals will not be considered. Faxed and mailed proposals will not be considered.

This request does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is considered in its best interest. All costs incurred in responding to this solicitation will be borne by the responder.

Minnesota House of Representatives and Minnesota Senate
Requests for Bids for printing the Official Directory of the Minnesota Legislature

The Minnesota House of Representatives and the Minnesota Senate are seeking bids from qualified printers to provide printing services for the Official Directory of the Minnesota Legislature.

The size of the publication will be 4" x 6". The Official Directory of the Minnesota Legislature will contain approximately 432 pages plus cover.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to 175 State Office Building, 100 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155-1298, or delivered via email to Paul.Battaglia@house.mn, no later than November 1, 2021 at 2 p.m. (CT).

A copy of the Request for Bid packet can be obtained by contacting: Paul Battaglia, 175 State Office Building, St. Paul, Minnesota 55155-1298, phone: 651-296-8904, email: Paul.Battaglia@house.mn.

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

Legislative Coordinating Commission
Contract Available for Providing Captioning Services for MN Legislature Telecast and Webcast Programming

The Minnesota Legislative Coordinating Commission is requesting proposals from qualified parties interested in providing captioning services for telecast and/or webcast programming of the MN Legislature during the 2022-2023 calendar years. Agreement may be extended to for 2024-2025 calendar years. For a copy of the full text of the RFP, please go to http://www.lcc.leg.mn/RFPs.html or contact:

Diane Henry-Wangensteen
Minnesota Legislative Coordinating Commission
State Office Building, STE G72
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155-1298
Phone: (651) 296-1121 (voice)
Email: diane.henry@lcc.leg.mn
State Contracts

All proposals must satisfy the criteria as outlined in the full text of the RFP.

Proposals must be received by Monday, November 15, 2021 at 4:00 PM CT. Late applications may not be accepted. All expenses incurred in responding to this notice shall be borne by the responder.

Professional Educator Licensing and Standards Board
Request for Proposals for Teacher Recruitment and Marketing Campaign

PROJECT NAME: Teacher Recruitment and Marketing Campaign

DETAILS: The Minnesota Professional Educator Licensing and Standards Board is requesting proposals for the purpose of developing and implementing an outreach and marketing campaign to elevate the teaching profession and recruit teachers, especially teachers of color and American Indian teachers, from high school and college students who have not chosen a career path and adults seeking to change careers.

Work is anticipated to start after December 15, 2022.

COPY REQUEST: To receive a copy of the Request for Proposals, please send a written request by email to:

Alex Liuzzi
Executive Director
Alex.liuzzi@state.mn.us

PROPOSAL DEADLINE: Proposals in response to the Request for Proposals in this advertisement must be received by email not later than 4:30 pm, Central Time, November 21, 2021. Late proposals will not be considered.

This request does not obligate the State of Minnesota to award a contract or complete the proposed program, and the State reserves the right to cancel this solicitation if it is considered in its best interest. All costs incurred in responding to this solicitation will be borne by the responder.

Minnesota Department of Transportation (MnDOT)
Engineering Services Division
Notices Regarding Professional/Technical (P/T) Contracting

P/T Contracting Opportunities: MnDOT is now placing additional public notices for P/T contract opportunities on the MnDOT’s Consultant Services website. 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.

Taxpayers’ Transportation Accountability Act (TTAA) Notices: MnDOT is posting notices as required by the TTAA on the MnDOT Consultant Services website.

MnDOT’s Prequalification Program: MnDOT maintains a Pre-Qualification Program in order to streamline the process of contracting for highway related P/T services. Program information, application requirements, application forms and contact information can be found on MnDOT’s Consultant Services website. Applications may be submitted at any time for this Program.

MnDOT Consultant Services website: www.dot.state.mn.us/consult

If you have any questions regarding this notice, or are having problems viewing the information on the Consultant Services website, please all the Consultant Services Help Line at 651-366-4611, Monday – Friday, 9:00am – 4:00pm.
State Contracts

Minnesota Board of Water and Soil Resources (BWSR)
Notice of Intent to Award a Single Source Contract – River Watch Study and Report

**Intent to Award to the following vendor:** International Water Institute – Fargo, ND

**Notes:** The work to be performed is summarized as follows: This contract is necessary to comply with ML 2021, 1st Special Session, Chapter 1, Article 2, Section 6(r) which requires a study and report on a statewide river watch program. The vendor must develop and implement a process to study the development, implementation, and funding of a statewide river watch program; and to submit a final report with findings and recommendations to the Minnesota Board of Water and Soil Resources (BWSR) by January 11, 2022. This vendor is the only group that can compile historical and empirical data and use their applied knowledge to develop recommendations on funding need to meet the legislation intent. They have been building and implementing the only comprehensive River Watch program in Minnesota for over 25 years and have the information, knowledge, and data needed for this project.

We anticipate the contract to be for two and one half (2.5) months, November 1, 2021 – January 11, 2022. The anticipated contract amount to be $7,020. Questions concerning this Single Source Contract should be directed to Angie Becker Kudelka. Submit question(s) by email only to: Angie.BeckerKudelka@state.mn.us. When emailing, please include in the subject line: “Single Source Contract Question from (firm name)”. All questions should be submitted via email no later than 4:00 P.M. CST November 1, 2021.

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/.

Hennepin County Designer Selection Committee
Request for Proposals for Architectural and Engineering Services

Hennepin County, through its Designer Selection Committee, will be selecting architectural / engineering firms for design and construction administration services for the Sheriff’s Enforcement Services Division Headquarters (ESD HQ) Relocation project.

To obtain a Request for Proposal, please follow the link below and navigate to Hennepin County’s Supplier Portal. In the Supplier Portal, you will be able to download the RFP and all attachments as well as submit your proposal.

https://supplier.hennepin.us/psp/fprd/SUPPLIER/ERP/h/?tab=HC_SUPPLIER_PUBLIC

A letter of interest is not required for RFP noted above. All proposals received by the deadline noted in the RFP will be reviewed by the staff consultant selection group. If you experience difficulty locating or downloading the RFP, please contact Hennepin County Purchasing and Contract Services at 612-348-3181.
Non-State Public Bids, Contracts & Grants

Metropolitan Airports Commission (MAC)
Notice of Call for Bids for 2022 Baggage Handling System

Airport Location: Minneapolis-St. Paul International Airport
Project Name: 2022 Baggage Handling System
MAC Contract No: 106-2-862
Bids Close At: 2:00 p.m. on Thursday, November 18, 2021
Bid Opening At: 3:00 p.m. on Thursday, November 18, 2021 via teleconference
Teleconference Dial In #: +16124056798
Conference ID #: 681090675#

Notice to Contractors: Sealed Bid Proposals for the project listed above will be received by the MAC, a public corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. The work includes new Baggage Handling System (BHS) including the modifications and demolition of existing BHS. The BHS project must be built in coordination with multiple concurrent MAC projects.

Note: You can sign up on our Web site (www.metroairports.org) to receive email notifications of new business opportunities or go directly to MAC's E-News Subscription Service and choose this and other topics about which you are interested.

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

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

Project Labor Agreement: This project is subject to the MAC’s Project Labor Agreement requirements. A copy of the Project Labor Agreement and Contract Riders are included in the Appendix.

Availability of Construction Documents: Plans and specifications are on file for inspection at the office of Alliance; at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring drawings and specifications may secure a complete digital set at http://www.franzrepro.com. Click on the “Plan Rooms” tab and select the “Franz Public Plan Room”. Bidders may download the complete set of digital bidding documents for $ 50.00 by entering 106-2-862-00 in the “search projects” box then click “refresh/search” button. Contact Franz at 763-503-3401 or support@franzrepro.com for assistance. Hard copy drawings and specifications are available for purchase at Bidders expense.

MAC Internet Access of Additional Information: A comprehensive Notice of Call for Bids for this project will be available on October 11, 2021, at MAC’s web address of MAC’s Construction Bids Webpage (construction bids).

Metropolitan Airports Commission (MAC)
Notice of Call for Bids for 2021 Safety & Security Center - Phase 1 (ARFF)

Airport Location: Minneapolis-St. Paul International Airport
Project Name: 2021 Safety & Security Center - Phase 1 (ARFF)
MAC Contract No.: 106-3-597
Bids Close At: 2:00 p.m. November 16, 2021
Bid Opening At: 3:00 p.m. November 16, 2021 via teleconference
Teleconference Dial In #: +16124056798
Conference ID #: 681090675#

Notice to Contractors: Sealed Bid Proposals for the project listed above will be received by the MAC, a public
corporation, at the office thereof located at 6040-28th Avenue South, Minneapolis, Minnesota 55450, until the date and hour indicated. The following major work items include but are not limited to demolition, site, general construction, mechanical and electrical work.

**Note:** You can sign up on our Web site ([www.metroairports.org](http://www.metroairports.org)) to receive email notifications of new business opportunities or go directly to MAC’s E-News Subscription Service and choose this and other topics about which you are interested.

**Disadvantaged Business Enterprises (DBE):** The goal of the MAC for the utilization of Disadvantaged Business Enterprises (DBE) on this project is 14%.

**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.

**Project Labor Agreement:** This project is subject to the MAC’s Project Labor Agreement requirements. A copy of the Project Labor Agreement and Contract Riders are included in the Appendix.

**Availability of Bidding Documents:** Bidding documents are on file for inspection at the Minnesota Builders Exchange; Dodge Data and Analytics; and NAMC-UM Plan Room. Bidders desiring Bidding Documents may secure a complete digital set at [http://www.questcdn.com](http://www.questcdn.com). Bidders may download the complete set of digital bidding documents for $50.00 by entering eBidDoc™ #7818762 in the “Search Projects” page. Contact Quest Construction Data Network at 952-233-1632 or [info@questcdn.com](mailto:info@questcdn.com) for assistance. Hard copy drawings and specifications will not be made available to Bidders.

**MAC Internet Access of Additional Information:** A comprehensive Notice of Call for Bids for this project will be available on October 18, 2021, at MAC’s web address of MAC’s Construction Bids Webpage (construction bids).