



STATE REGISTER

STATE OF MINNESOTA

EXECUTIVE ORDERS

PROPOSED RULES

SUPREME COURT

OFFICIAL NOTICES

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
25	Monday Dec 11	Friday Dec 15	Monday Dec 25
26	Monday Dec 18	Friday Dec 22	Monday Jan 1
27	Friday Dec 22	Friday Dec 29	Monday Jan 8
28	Tuesday Jan 2	Monday Jan 8	Monday Jan 15

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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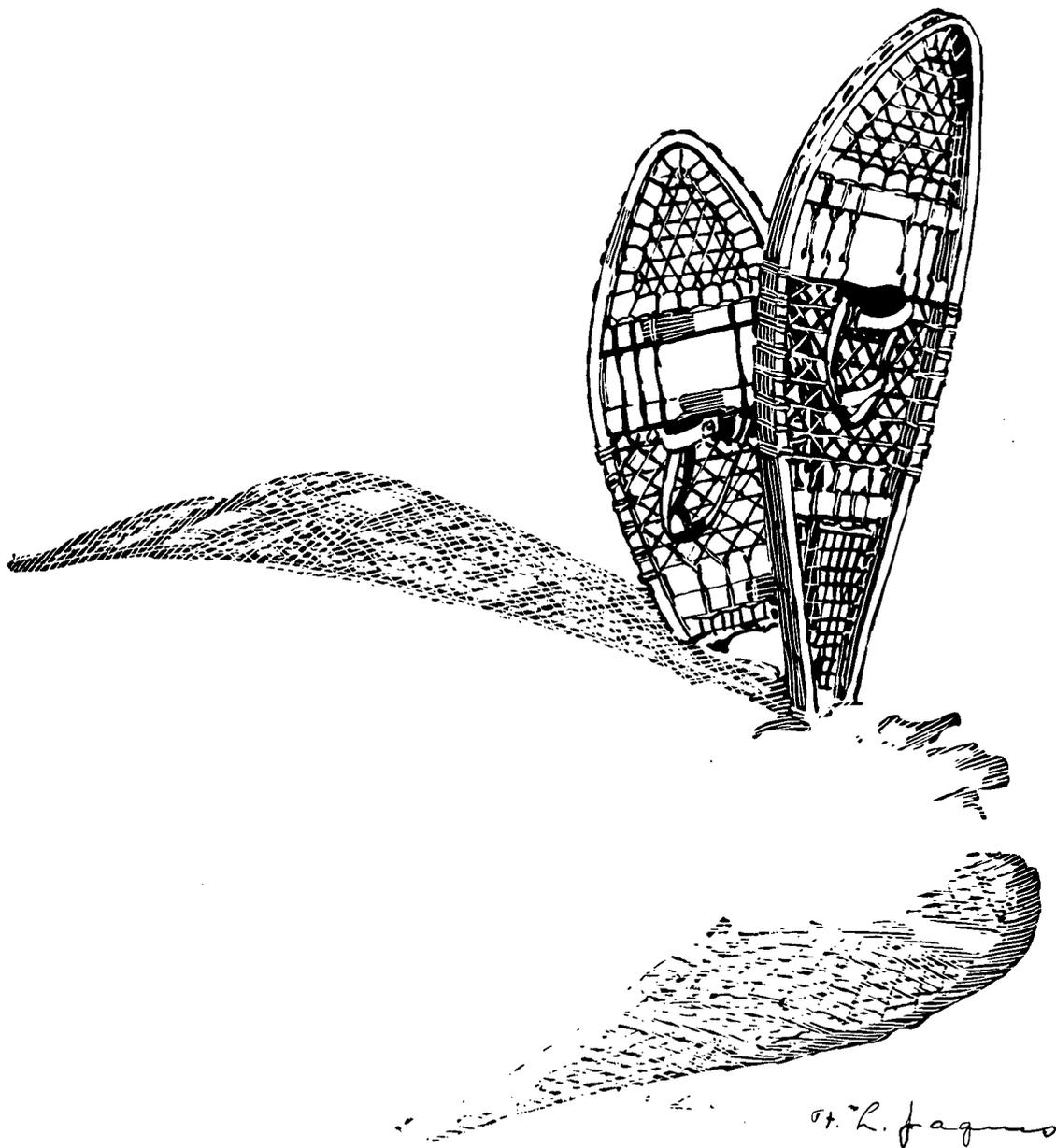
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"Snowshoes" is one of many nature and wildlife works by Minnesota artist Francis Lee Jacques (1887-1969). Jacques grew up in Atkins and worked in the Duluth and Iron Range areas as a young man. His first artistic endeavors were in the field of commercial art. In the early 1920s he submitted a painting to the New York Museum of Natural History and subsequently worked there for 18 years, traveling extensively and returning to produce large diorama background paintings for the museum. After his return to Minnesota as a well-known wildlife artist, Jacques created dioramas for the John Ford Bell Museum at the University of Minnesota. He also illustrated several books by his wife, Florence, about their experiences in Minnesota's north country. One of the best known of these, "Snowshoes," contained the above print and was published in 1944. (Courtesy of John Ford Bell Museum.)

MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

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EXECUTIVE ORDERS

Executive Order No. 184

Providing for the Establishment of the Governor's Advisory Council on Motion Picture Production

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, hereby issue this Executive Order.

Whereas, Minnesota is experiencing rapid growth in the motion picture industry and is receiving increasing attention as a site for motion picture production and filming; and,

Whereas, businesses in the State of Minnesota stand to receive millions of dollars in increased income through the promotion of Minnesota as a site for film production and making; and,

Whereas, there exists a need to coordinate the activities of public and private entities that promote Minnesota as a site for film production; and,

Whereas, the state stands to receive considerable publicity and promotion as a tourist destination through the production and filming of motion pictures in the state; and,

Whereas, the State of Minnesota stands to receive increased tax revenues through the promotion of the state as a site for motion picture production and filming;

Now, therefore, I order:

1. The Governor's Advisory Council on Motion Picture Production is created within the Minnesota Department of Economic Development. This council shall consist of 15 members, and authority to appoint the members and to designate a chairperson is delegated to the Commissioner of Economic Development. The members shall be knowledgeable and interested in the motion picture industry. The members shall serve during the pendency of this Order.

2. The council shall meet monthly or at the call of the chairperson and shall operate pursuant to the statement of purpose, procedures and policies to be adopted by the Council.

3. The council shall study issues affecting the attraction of motion picture production firms and filming companies to the state, and shall formulate recommendations for improving the implementing programs to attract these activities to the state.

Pursuant to Minn. Stat. § 4.035 (1977 Supp.), this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035.

In testimony whereof, I hereunto set my hand this day of November, 1978.



EXECUTIVE ORDERS

Executive Order No. 185

Repealing Certain Executive Orders

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order.

Whereas, Minn. Stat. § 4.035 (1977 Supp.) standardizes the format and procedures relating to Executive Orders; and,

Whereas, legislative intent in § 4.035 expresses a desire for periodic review of Executive Orders by the executive branch; and,

Whereas, such a review is helpful in producing efficiency and clarity in governmental operations, as time and superseding statutes can make Executive Orders obsolete;

Now, therefore, I order the following Executive Orders issued by Governor Wendell R. Anderson, dated from January 13, 1971, through November 2, 1976, be repealed:

- | | | |
|----|----------|---|
| 1 | 01/13/71 | Designated Department of Administration to apply for, receive and accept federal funds. |
| 3 | 05/27/71 | Specified duties of Governor's Commission on Crime Prevention and Control. |
| 9 | 09/02/71 | Designated Commissioner of Administration to supervise a referendum for public hospital employees regarding inclusion or exclusion in PERA — to be held no later than 12/31/71. |
| 22 | 03/24/72 | Established a Trail Advisory Committee. |
| 24 | 03/31/72 | Assigned duties to DNR and State Planning under Land and Water Conservation Fund Act of 1965. |
| 26 | 05/10/72 | Established Minnesota Right to Read Council. |
| 47 | 10/17/72 | Provided for protection of employees who are reassigned in order to implement improvements in state government operations. |
| 58 | 05/01/73 | Provided for maximum utilization of recycled materials in state government. |
| 63 | 08/06/73 | Provided for administration of "Law Enforcement Crime Prevention Program." |
| 68 | 08/30/73 | Provided for referendum to determine inclusion of judges into the state social security agreement. |

EXECUTIVE ORDERS

- | | | |
|------|----------|---|
| 71 | 11/13/73 | Established Minnesota Water Resources Council. |
| 76 | 02/25/74 | Established Affirmative Action Program in all state agencies. |
| 76A | 12/31/75 | Amended Affirmative Action Program procedures. |
| 77 | 02/22/74 | Reorganized Human Services Council. |
| 78 | 03/01/74 | Directed Commissioner of Highways to lower speed limit to 55 miles per hour. |
| 92 | 11/27/74 | Created State Coordinator of Migrant Services position and established Task Force on Migrant Affairs. |
| 92A | 09/15/76 | Amended Executive Order No. 92 and created position of liaison for Spanish speaking people. |
| 100 | 02/14/75 | Superseded and cancelled Executive Orders No. 13, 61, 72, and 85 relating to Criminal Justice Information Systems Steering Committees and Advisory Boards, etc. |
| 100A | 06/22/76 | Amended Executive Order No. 100. |
| 105 | 06/30/75 | Established Governor's Office of Volunteer Services. |
| 107 | 06/06/75 | Established Task Force on Public/Educational Radio. |
| 114 | 07/09/75 | Established State Office of Human Services. |
| 114A | 06/17/76 | Amended Executive Order No. 114. |
| 129 | 08/20/76 | Emergency order provided assistance to county officials in control of fires. |
| 131 | 11/02/76 | Emergency order provided assistance to city officials of Minnesota to control fires. |

Pursuant to Minn. Stat. § 4.035 (1977 Supp.), this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State.

In testimony whereof, I hereunto set my hand on this 28th day of November, 1978.



EXECUTIVE ORDERS

Executive Order No. 186

Repealing Certain Executive Orders

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order.

Whereas, Minn. Stat. § 4.035 (1977 Supp.) standardizes the format and procedures relating to Executive Orders; and,

Whereas, legislative intent as expressed in § 4.035 makes necessary a periodic review of Executive Orders by the executive branch; and,

Whereas, such review is helpful in producing efficiency and clarity in governmental operations, as time and superseding statutes can make Executive Orders obsolete;

Now, therefore, I order the following Executive Orders issued by me be repealed:

- | | | |
|-----|----------|---|
| 134 | 01/08/77 | Special election to fill vacancy. |
| 136 | 01/19/77 | Referendum to determine inclusion of Minneapolis Retirement Fund Association in state Social Security agreement. |
| 137 | 01/25/77 | Special election to fill vacancy. |
| 140 | 02/16/77 | Special election to fill vacancy. |
| 150 | 06/30/77 | Search Committee for Agriculture Commissioner. |
| 151 | 08/03/77 | Special election to fill vacancy. |
| 158 | 11/01/77 | Special election to fill vacancy. |
| 161 | 11/08/77 | Special election to fill vacancy. |
| 162 | 11/13/77 | Emergency assistance. |
| 163 | 12/19/77 | Referendum to determine inclusion of Minneapolis Teachers Retirement Fund Association, etc., in State Social Security agreement . . . to be held after May 1, 1978, but before June 30, 1978. |
| 164 | 12/19/77 | Emergency assistance. |
| 169 | 04/13/78 | Emergency assistance. |
| 175 | 07/10/78 | Emergency assistance. |

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176	07/10/78	Emergency assistance.
177	07/10/78	Emergency assistance.
179	08/01/78	Emergency assistance.

Pursuant to Minn. Stat. § 4.035 (1977 Supp.) this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State.

In testimony whereof, I hereunto set my hand on this 28th day of November, 1978.



PROPOSED RULES



Henry Schoolcraft discovered Lake Itasca in 1832, and derived its name from the Latin words *veritas* (truth) and *caput* (head). This engraving by Seth Eastman, based on Schoolcraft's own sketch, appeared in the explorer's *Indian Tribes of the United States* in 1851. (Courtesy of Minnesota Historical Society)

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce Insurance Division

Proposed Rules Governing Uniform Health Insurance Claim Forms

Order Withdrawing Rules

The above-entitled matter came on for hearing before the Commissioner of Insurance of the State of Minnesota before Natalie L. Gaull, duly appointed Hearing Examiner, on the 19th day of September, 1978, at 9:30 a.m. in the Department of Commerce Hearing Room, 500 Metro Square Building, Seventh and Robert Streets, Saint Paul, Min-

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

PROPOSED RULES

nesota 55101, after proper notice required by Minn. Stat. § 15.0412 (Supp. 1977) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and after proper publication of such notice in the *State Register*.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony and considered all of the evidence adduced, together with the Report of Hearing Examiner and the Findings of Fact of the Commissioner of Insurance herein, and having determined that the above-captioned proposed rules are not in accordance with all substantive requirements of law, that it would be unreasonable to adopt the rules as proposed, and that modification of the proposed rules would require substantial change,

Now, therefore, it is ordered that these rules, identified as Minn. Rules Ins 300 through 307, are hereby withdrawn this 1st day of December, 1978, pursuant to the authority vested in the Commissioner of Insurance by Minn. Stat. §§ 15.0412 and 62A.025 (1976 and Supp. 1977).

December 1, 1978.

Berton W. Heaton
Commissioner of Insurance

Department of Health Vital Statistics Division

Proposed Amendments to Rules Relating to Vital Statistics

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on January 22, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to Minn. Rules 7 MCAR §§ 1.007-1.015 (MHD 7-15) captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five (5) days after the close of the hearing. The Hearing Examiner may

keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed amendments would increase the fee for a certified copy of a birth, death, or marriage certificate; provide a fee schedule for the verification of information from, or a noncertified copy of, a birth, death, or marriage record; and allow the registrar to restrict physical access to vital records in certain cases. Specifically, the proposed amendments would:

1. Increase the fee for a certified copy of a birth, death, or marriage certificate from \$2.00 to \$3.00.

2. Provide a fee of \$.50 for the verification of information from or a noncertified copy of a birth, death, or marriage record when specific information is furnished to locate the record and a \$5.00 per hour fee when specific information is not furnished.

3. Allow the registrar to permit or deny an applicant's request to do his own searching of the records after considering such things as the physical condition of the records, whether or not a file contains private or confidential data, the registrar's workload at the time the request is received, and the urgency of the request.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to Frederick L. King, State Registrar of Vital Statistics, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice: The proposed amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments to participate in the rule hearing process.

The statutory authority of the Commissioner to promulgate and adopt these rules is contained in Minn. Stat. §§ 144.11-.12 (1976) and Minn. Stat. §§ 144.151-.227 (1976) as amended by Laws 1978, ch. 699.

Notice is hereby given that 25 days prior to the hearing, a

PROPOSED RULES

statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or re-submission to the Attorney General).

December 1, 1978

Warren R. Lawson, M.D.
Commissioner of Health

Rules as Proposed

7 MCAR § 1.007 General provisions.

A. Definitions.

1. "Live birth" shall mean the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy, which after this separation shows any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether the umbilical cord has been cut or the placenta is attached. Each product of such a birth shall be considered liveborn.

2. "Fetal death" shall mean death prior to the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy. Death after such separation is indicated by the absence of any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles.

3. "Delayed registration" shall mean a certificate of birth or of death which is filed 6 1 or more ~~months~~ years after the date established by law for such filing.

4. "Date filed" shall mean the date on which a certificate of birth or of death, acceptable for registration under the provisions of the vital statistics act and the rules promulgated thereunder, is first received and subscribed by a local registrar of vital statistics.

B. State Registrar to maintain agreement of records. It shall be the duty of the State Registrar to ensure that the ~~County Record and the duplicate in the custody of the clerk of District Court~~ record on file with the local registrar of the ~~county~~ district in which a birth or death occurred agrees with the original of the birth or the death certificate in his office.

C. Time of birth or of death, procedure for recording. All references to time on vital records shall refer to the time in effect when the event occurred.

D. Providing information. Anyone possessing information concerning a birth, death, or fetal death shall furnish this information when requested by the State or local registrar. No person shall furnish false information in the preparation or the alteration of any vital record or any record used with the burial or the disposition of a human body.

E. Falsified records. The State Registrar may cancel a falsified record during the first 90 days after filing, provided that a correct certificate is filed in its place.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

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F. Local registrar to keep his files in order. The local registrar shall maintain his files of birth and of death records in a form that permits him to immediately locate any record required by the State Registrar. The local registrar shall file and date all birth and all death certificates acceptable for registration immediately upon their receipt. Local registrars, other than clerks of District Court and of the cities of the first class Minneapolis and St. Paul shall record them within 3 days in the manner prescribed by the State Registrar, and transmit these certificates to the clerk of the District Court of the county in which the birth or death occurred.

G. Preparation of certificates. Each birth, ~~fetal death~~, or death certificate shall be legibly and neatly prepared, preferably typewritten, or if handwritten using a black permanent ink. Each form shall be as complete as possible. The registrar to whom a certificate is submitted shall examine the certificate. He may refuse to accept for ~~filing registration~~ any birth, ~~fetal death~~, or death certificate which is incomplete, inaccurate, illegible, or mutilated. When a certificate is unacceptable, the person responsible for the original filing shall prepare another certificate acceptable for filing, and submit it to the local registrar within 24 hours.

H. Determination of place of occurrence. Whenever a birth, a fetal death, or a death occurs in a moving conveyance, the event shall be considered to have occurred at the place where the child or the body is initially removed from the conveyance.

I. Transfer of record custody. Upon the written request of the State Registrar, any local official, or other person having custody of any official birth, death, or fetal death records (except as required by the ~~Uniform~~ Vital Statistics Act) shall transfer them to the State Registrar, or to the clerk of District Court, as appropriate.

~~J. Permanency of local records. The certified resident transcripts filed under Minnesota Statute 144.203 shall be prepared in accordance with the specifications for permanent records recommended by the United States National Bureau of Standards, unless otherwise specified by the State Registrar.~~

J. The clerk of the District Court of each county and the local registrars of the cities of Minneapolis and St. Paul shall prepare a transcript of birth and death certificates received by him for births and deaths occurring in his registration district on which the place of residence of the mother of a child or that of the decedent is shown to be in another registration district of the state and, upon being satisfied that they are correct, shall immediately transmit such certified transcripts to the local registrars of the registration district shown on the original birth and death certificates to be the place of residence of the mother of the child or of the decedent. But, in any event, he shall transmit such certified

transcripts to the local registrar of the registration district of residence not later than the 11th day of the following month. All such certified transcripts shall be filed and indexed. The facts appearing thereon shall be recorded in the registration district birth and death record as provided for original certificates by the Vital Statistics Act and the rules promulgated thereunder, which shall constitute a legal birth and death record. A certified copy of the facts contained in such record shall be considered for all purposes the same as the original certificate.

K. Transmit to State Registrar. On the 11th day of each month the local registrar of each county and of the cities of Minneapolis and St. Paul shall transmit to the State Registrar all original birth and death certificates received by him on or before the 10th day of that month for births and deaths which occurred during the previous month.

L. Subregistrars. Licensed morticians designated by the State Registrar to receive death certificates for filing, to issue burial permits, and to issue permits for the transportation of dead bodies or dead fetuses within a territory designated by the State Registrar shall be known for purposes of these rules as subregistrars. Subregistrars shall perform duties as prescribed by these rules.

M. Certificate forms. The form of birth and death certificates shall include as a minimum the items required by the respective standard certificates as recommended by the National Center for Health Statistics subject to the approval of and modification by the Commissioner. The form and use of such certificates shall be subject to the provisions of the Vital Statistics Act and these rules.

N. Fees.

1. The fee for the search of the files under one name for a birth or a death certificate shall be \$2.00. This fee includes the issuance of either a certified copy or certification that the record cannot be found. Issuance of either a certified copy of a birth, death, or marriage record or a certification that the record cannot be found shall be \$3.00. No fee shall be charged for a certified copy needed in connection with service in the armed forces or the Merchant Marine of the United States or in the presentation of claims to the United States Veterans Administration or the official veterans administration of any state or territory of the United States or for any copy needed by the commissioner of public welfare in connection with the needs of state wards. No fee shall be charged for verification of information requested by official agencies of this state, local governments in this state, or the federal government.

2. The fee for the replacement of a birth certificate under the provisions of Minn. Stat. §§ 144.171 subd. 2, 144.176, or 144.177 shall be \$3.00.

PROPOSED RULES

3. The fee for the filing of a delayed registration of birth or death shall be \$4.00.

4. The fee for the alteration, correction, or completion of a birth or death certificate when requested more than one year after the filing of the certificate shall be \$2.00.

5. The fee for the verification of information from or a noncertified copy of a birth, death, or marriage record shall be \$.50 when the applicant furnishes specific information to locate the record. When the applicant does not furnish specific information the fee shall be \$5.00 per hour. Specific information shall include at least the correct date of the event and the correct name of the registrant.

7 MCAR § 1.008 Birth registration.

A. Birth certificates — filing requirements.

1. A Certificate of Live Birth must be filed for every live birth.

2. The physician, ~~midwife~~, or other legally authorized person operating under the supervision of a physician in attendance at the birth, or if not so attended, one of the parents, shall within 5 days subscribe and file a certificate of birth on a form prescribed by the State Board of Health Commissioner for that purpose, with the local registrar of the district within which the birth occurred. However, the birth certificate for a child of illegitimate birth shall be filed only with the State Registrar.

3. The birth certificate shall be as complete as possible under the circumstances; however, in every case except for a foundling certain minimal information shall be required.

a. Date and place of birth.

b. Maiden name of mother.

c. Full name of father (except for ~~illegitimate out-of-wedlock~~ births).

d. Signature of certifier.

4. If neither parent of the newborn child whose birth is unattended as above provided is able to prepare a birth certificate, the local registrar shall secure the necessary information from any person having knowledge of the birth and prepare, record, and file the certificate.

B. Confidential medical supplement. The confidential medical supplement to the birth certificate ~~and to the fetal death certificate~~ shall be completed and filed within 5 days after birth with the State Department of Health by the physician, ~~midwife~~, or other legally authorized person operating under the supervision of a physician in attendance at the birth. If not so attended, one of the parents shall within 5 days after birth complete and file the supplement.

C. Monthly hospital report. On or before the 10th day of each month, the hospital administrator shall submit to the ~~Board State Registrar~~, on a blank provided by or approved by the ~~Board Commissioner~~ for this purpose, a report of all births, deaths, and fetal deaths occurring in his institution during the previous month.

D. ~~Illegitimate~~ Out-of-wedlock birth reports. Every ~~illegitimate out-of-wedlock~~ birth shall be reported within 24 hours after the birth of the child, to the Commissioner of Public Welfare, on a form furnished by him.

E. Information confidential. No member of the hospital staff or employee of the hospital shall give information regarding a maternity patient or her child to anyone except an authorized representative of the ~~Board Commissioner~~ or the Commissioner of Public Welfare when the birth of the child is ~~illegitimate or if the legitimacy of the birth is questionable occurred out-of-wedlock.~~

F. Disposition of fetal remains. When a fetal death occurs in a hospital and the remains are cremated or disposed of by some other means within the hospital, the hospital administrator or other person responsible for this disposition shall be responsible for the preparation and the filing of the fetal death ~~certificate~~ report.

G. Legitimacy.

1. When the natural father of a child was married to the natural mother at the time of birth or of conception, the birth of the child shall be recorded as legitimate, even when this marriage is established later to be null or bigamous. The birth of a child to a married woman shall be recorded as legitimate unless both the mother and her husband submit written statements to the contrary.

2. ~~The surname of a child of illegitimate birth shall be the legal surname of the mother at the time of birth.~~

2. When the father's name is entered on the birth certificate of a child of ~~illegitimate birth~~ born out-of-wedlock

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before its official filing with the ~~State Registrar~~ local registrar, an affidavit of paternity or a certified copy of the adjudication of paternity report must accompany the birth certificate.

H. Foundling registration. Whoever assumes custody of a live born infant of unknown parentage shall notify the local registrar immediately. A Certificate of Live Birth shall be prepared and "foundling" shall be plainly marked in the top margin. Information on parentage, legitimacy, and other items not specifically required by ~~Minnesota Statute 444.162~~ shall be omitted. The certification of the attendant shall be amended to read "I certify that this child was found alive at the place and on the date stated above and that parentage is unknown". The certificate shall be signed by the child's custodian.

7 MCAR § 1.009 Alterations and amendments of vital records.

A. Alteration limitations. To protect the integrity and accuracy of vital statistics records a certificate or record registered under the ~~Uniform~~ Vital Statistics Act may be altered or amended only in accordance with these ~~regulations~~ rules.

B. Court orders. An alteration of a vital record shall be made whenever a court having jurisdiction specifically orders that an alteration be made.

C. Amendments.

1. ~~Clerks of District Court shall be required to send only one verification query to parents or informants.~~ Upon the receipt of a verification query within one year following birth, which contains information to correct or complete a record, the ~~clerk of District Court~~ local registrar shall amend his record when the facts appear to be true.

2. During the first year following a birth or a death, the person responsible for completing or filing the certificate in the first instance may request that the record be corrected or completed. Upon receipt of such a request in writing the registrar shall amend his record when the facts appear to be true.

3. During the first year following birth, the given names of a child may be added to the birth certificate by the registrar, upon receipt of a supplemental report from a parent or the guardian of the child.

4. During the first year following a birth or death, the State Registrar may initiate queries and correct his record on the basis of a written response, when the facts appear to be true. After amending his record, the State Registrar shall immediately notify the local registrar, who shall then amend his record.

~~5. During the first 6 months following an unattended birth where the parents are unable to prepare a birth certificate, information necessary to complete the birth certificate may be added upon receipt of a supplemental report.~~

~~6. 5.~~ Corrections and completions of records under the provisions of ~~MHD 9 (e) 7 MCAR § 1.009 C.~~ shall not be considered as alterations but rather shall be considered as amendments. The information shall be entered on the record in red ink, dated and initialed by the person making the amendment, and the record shall be marked "amended."

~~7. 6.~~ When a local registrar amends his record under the provisions of this ~~regulation~~ rule, he shall transmit the written basis for the amendment to the State Registrar on or before the 10th of the following month. Upon receipt of the basis for the amendment, the State Registrar shall amend his record, when the facts appear to be true. However, when the State Registrar believes that the record should not have been amended, he shall immediately notify the local registrar who shall then reamend his record so that it agrees with the original record.

~~8. 7.~~ The provisions of ~~MHD 9 (e) 7 MCAR § 1.009 C.~~ shall not be used to correct or complete information on paternity, legitimacy, or age of decedent, (except that an inconsistency between age and birthdate may be corrected under these provisions) or to make a complete change in family surname without the approval of the State Registrar. The State Registrar shall consider any request for the correction or completion of a death certificate by a coroner or medical examiner as a request for an amendment. He shall also consider the receipt of an adjudication of paternity report as a request for an amendment.

D. Request for alteration. To alter a vital record a written application must be made, or an order from a court having jurisdiction must be submitted, to the State Registrar, ~~the clerk of District Court or local registrar of the county district where the event occurred, or the health officer of a city of the first class with whom the record is filed.~~

1. To alter a birth certificate, the application shall be made by the registrant when he is 21 18 years of age or older. When ~~he~~ the registrant is less than 21 18 years of age, or otherwise unable to sign the application, the application shall be made it may be signed by one of the parents, the guardian, or legal representative.

2. To alter a fetal death certificate, the application shall be made by one of the parents.

3. To alter a death certificate, the application shall be made by the ~~surviving spouse~~ informant, or the nearest lineal relative to the decedent. Amendments of the medical certification may be requested by the attending physician, by the coroner, or by the medical examiner.

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E. Certified copy required. Every application to alter a vital record shall be accompanied by a certified copy of the record to be altered. When the alteration is made, a certified copy of the altered certificate shall be issued to the applicant without additional charge. The registrar may waive the requirement for submitting a certified copy for individuals appearing in person or in other cases where he feels it is unnecessary.

F. Evidence required. Every application to alter a vital record shall be accompanied by the appropriate affidavit or statement and the supporting documentation as follows.

1. Place of birth or of death. A minor geographical error which does not involve a change in the registration district may be altered on the authority of an affidavit. Any substantial change of the place of birth or of death shall be supported by a minimum of two documents in addition to an affidavit.

2. Date of birth or of death. No alteration of the date of birth or of death shall be made which conflicts with the filing date of the record. All alterations of the date shall be substantiated with documentation in addition to an affidavit. Alterations of the date of birth or of death of 30 days or more shall be supported by a minimum of two documents in addition to an affidavit unless the date of birth or of death is in conflict with the filing date.

3. Sex. To alter the sex designation, a statement from the medical attendant or the hospital administrator shall be required. When this statement cannot be obtained or is not based on records made at the time of birth, other documents, such as baptismal, circumcision, census, or school record, may be accepted. When the applicant requests a change in sex designation that conflicts with the gender implied by the given names on the record, additional documentation may be required. When a sex designation change is requested following surgery, e.g., pseudohermaphroditism or transsexualism, the sex designation may be altered by the State Registrar to conform with a written statement from the surgeon who performed the operation.

4. Name of child. When the name has been omitted on the birth certificate, it may be added during the first 7 years on the authority of an affidavit signed by a parent or the guardian. After the first 7 years, documentation shall be required, in addition to an affidavit. When the name has previously been recorded on the birth certificate, minor spelling errors may be corrected on the basis of an affidavit. However, any substantial or complete change in the names shall be supported by documentation, in addition to an

affidavit. This documentation for a complete change of name must prove that the original entry was erroneous or that the change in name was made prior to the registrant's seventh birthday. Otherwise, the change cannot be made without a court order or a legal change of name. A reversal of given names or a change where the replacement word is a nickname, a foreign equivalent or is similar in pronunciation shall not be considered a complete change but shall be supported by documentation in addition to an affidavit. The surname shall be altered only to conform with the parent's surname unless specified otherwise in these regulations rules. ~~(An affidavit shall be sufficient basis for such an alteration.)~~

5. Legal change of name. Upon receipt of a certified copy of a court order changing the name of the registrant and upon request of such person or his parent, guardian, or legal representative, the birth certificate shall be altered to show the new name. Upon receipt of a certified copy of a court order changing the name of a parent, the birth certificate may be altered to show the new name when it is necessary to establish agreement with the surname of the child or when the legal change of name was made prior to the birth.

6. Other names. The following alterations may be made on the authority of an affidavit.

a. Correction of minor spelling errors.

b. On a birth certificate, the addition of parents' middle names. On a death certificate the addition of decedent's middle name, or the addition of his parents' or spouse's name.

Documentation in addition to an affidavit shall be required for any substantial or complete change in names, or for the addition of the mother's maiden surname on a birth certificate.

A minimum of two supporting documents in addition to an affidavit shall be required for a complete change of the father's given name on a birth certificate.

A certified copy of a court order from a court having jurisdiction shall be required for a complete change of the family surname on a birth certificate, or for a complete change of the decedent's name on a death certificate.

~~A reversal of given names or a change where the replacement word is a nickname, or a foreign equivalent or is similar in pronunciation shall not be considered a complete change.~~

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7. Paternity. Paternity information for a child of ~~illegitimate birth~~ born out-of-wedlock shall be entered on the birth or the death certificate by the ~~State Registrar~~ registrar only when the father has acknowledged his paternity by affidavit or has been adjudged the father by a court having jurisdiction. Upon receipt of an adjudication of paternity report along with information necessary to identify and amend the birth certificate, ~~from a clerk of District Court,~~ the ~~State Registrar~~ registrar shall record the father's name in accordance with the report. Whenever any District Court shall determine that the man designated on a birth certificate or on a death certificate as the father of a child of ~~illegitimate birth~~ born out-of-wedlock is not, in fact, the father of that child, the clerk of District Court shall forward to the State Registrar a certified copy of that court's judgment. The State Registrar shall then correct the paternity designation of the birth certificate or the death certificate and permanently file a copy of this judgment.

8. Alias. When a person has established a second name through usage (this shall not include married names) or has used two different names interchangeably over a period of years, and when this additional information shall contribute to his personal identification, the second name may be added to the birth or the death record with the notation "also known as". The original name shall not be lined out or obliterated. Entries of this nature shall be supported by documentation in addition to an affidavit. Upon receipt of proof of marriage the State Registrar or local registrar may add the surname of the stepfather after the ~~surname of a child of illegitimate birth~~ born out-of-wedlock when the stepfather and the mother have given their consent in affidavit form and have indicated that the child is also known under the new surname. (The requirement for the mother's consent may be waived when the mother is dead). Upon the recommendation of the Commissioner of Public Welfare, the State Registrar or local registrar may add the surname of the foster parent to the birth certificate of a ~~child of illegitimate birth~~ State ward when the foster parent has given his consent in affidavit form, and has indicated that the child is also known under the new surname.

9. Identification of an unnamed person. The death certificate of a person for whom the name is unknown at the time of its filing may be amended to record the name and personal particulars when the coroner or the medical examiner has identified the person. The amendment shall be made on the authority of a statement from the coroner or the medical examiner that identifies the record to be amended and states that the identity of this previously unknown person has been established.

10. Legitimacy. Upon receipt of proof that a birth has been erroneously recorded as legitimate, the State Registrar or local registrar shall alter or amend the ~~legitimacy status and the surname of the child so that it conforms to the legal surname of the mother as of the time of birth.~~ The State

~~Registrar shall direct the local registrar to cancel or seal the local record birth certificate to reflect the true facts.~~ Sufficient proof shall be:

a. An adjudication of paternity document showing that the father is someone other than the man recorded as the father on the birth certificate.

b. An affidavit of nonpaternity from the man recorded as the father accompanied by an affidavit from the mother that corroborates this affidavit.

Upon receipt of proof that a birth has been erroneously recorded as illegitimate, the State Registrar shall replace the birth certificate as in the case of a legitimation.

11. Color or race. Documentation shall be required to alter the color or race designation in addition to an affidavit.

12. Cause of death. The cause of death or any related items of the medical certification may be altered or amended on the basis of a statement from the attending physician, coroner or medical examiner who signed the original certificate. However, for any case in which the coroner or medical examiner has assumed jurisdiction, an amendment may be made on the basis of his statement even when he did not sign the certificate originally.

13. Age of the deceased. Documentation shall be required for an alteration in the age listed for the deceased, except that when the age and the birthdate shown on the record are inconsistent, either item may be altered to conform with the other on the basis of an affidavit.

14. Signatures. Signatures shall not be altered or obliterated.

15. Filing date. A filing date shall not be altered under any circumstances. However, when the presence of an error can be documented, the State Registrar may authorize the addition of a note to the record which summarizes the available facts related to the error.

16. Information previously altered. Any alteration of a delayed registration or a previously altered item of information (except for cause of death information) shall be supported by a minimum of two documents, in addition to an affidavit, unless it can be shown that the previous alteration was made in error.

17. Other items. An alteration of information for which specific written evidence has not been prescribed may be altered by the authority of an affidavit.

18. Additional written evidence required. The State Registrar shall require additional documentation in support

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of any alteration the implementation of which would appear to threaten the integrity of the Vital Statistics System.

G. Documents. The documents used to substantiate the facts for an alteration of a birth certificate shall be the earliest documents available. When the earliest document supporting an alteration of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

1. Be without any sign of erasure, alteration, or any change of the pertinent information.

2. Indicate the date and by whom the original document was made.

3. Be at least 5 years old, except when altering the birth certificate of a young child, this requirement may be waived.

H. Method of altering vital records. All alterations shall be made on the face of the record in red ink. One line shall be drawn through the original entry and the new information shall be entered above it. When a line is drawn through the original entry, it must not obliterate it. The record shall be marked "altered," dated, and endorsed. A summary statement of the evidence shall also be cited on the record, as provided by Minnesota Statute 144.172. When the summary statement of the evidence, the date and endorsement cannot be shown on the record because of space limitations, the registrar shall file this information in a manner which will permit it to be readily matched with the altered record.

I. Abstract of documentation required. When convinced that the requirements for alteration have been met, the registrar shall abstract the facts of birth or of death, recorded in the documents. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that the documentation reviewed confirms the facts as cited.

J. Requirements for affidavits.

1. The affidavit supporting an application for alteration shall be submitted in duplicate (except when the birth or death occurred before 1900, the duplicate copy is not required). Unless otherwise specified, it shall be signed, when possible, by the nearest lineal relative. When there are no lineal relatives having personal knowledge of the facts, the registrant when ~~24~~ 18 years of age or older may write "no known living kin" on the affidavit and sign it himself.

However, in these instances, additional documentation may be required to support the alteration.

2. Both the original and the duplicate copy of the affidavit shall bear the signatures of each attester. After the alteration has been made, the duplicate copy of the affidavit and the required abstract of documentation shall be filed by the local registrar. The original affidavit and the abstract of documentation shall be filed by the State Registrar.

K. Duties of the State Registrar. It shall be the duty of the State Registrar to ensure agreement of the records on file in his office with the record on file with the ~~clerks of District Court and with the local health officers of cities of the first class~~ registrar in the district where the event occurred. Whenever an application for an alteration is approved, and whenever a record is amended as a result of the amendment procedure under ~~MHD 9 (e)~~ 7 MCAR § 1.009 C., the State Registrar shall notify the ~~clerk of the District Court, or the local registrar of a city of the first class~~ where the event occurred, and approve the alteration of the local record. Except as he shall otherwise authorize, only the State Registrar shall make alterations or amendments of the original birth, death and fetal death records.

L. Duties of the ~~clerk of District Court and local~~ regis-trars of cities of the first class.

1. He shall ensure agreement of the records on file in his office and the records on file with any other local registrar within his registration district. When an alteration or amendment has been approved by the State Registrar, the ~~clerk of District~~ local registrar shall notify any local registrar within his registration district and direct him to alter his record.

2. He shall ensure agreement of the records on file in his office and the records on file with another local registrar to whom a certified resident transcript has been sent ~~under the provisions of Minnesota Statute 144.203.~~ He shall notify the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence where the certified resident transcript was sent whenever an alteration or amendment has been approved by the State Registrar. Upon receipt of this notice, the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence shall alter or amend his record.

3. Upon the direction of the State Registrar, he shall alter the records on file in his office to conform with the records on file with the State Registrar.

4. He shall review applications for alterations of vital

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records, and alter his records when it appears that the legal requirements have been met. When the birth or the death occurred in 1900 or later, he shall transmit the appropriate statements or affidavits and the abstract of documentation to the State Registrar for his approval.

5. He shall initiate queries, as provided under Minnesota Statutes 144.201 and 144.202, and amend his records in the manner prescribed by MHD 9 (e). He shall transmit to the State Registrar with his monthly shipment of records, the verification form or other written basis for the amendment.

M. Local referrals to the State Registrar. Whenever a clerk of the District Court or a local registrar in a city of the first class is uncertain of the acceptability of the information presented in support of an alteration, the case shall be referred to the State Registrar for his review prior to the actual altering of the local record. When an alteration of paternity, legitimacy, cause of death, or sex designation resulting from surgery is requested, the local registrar shall immediately submit the request to the State Registrar unless the State Registrar has specifically authorized the local registrar to make these alterations without referral.

N. Duties of local registrar of a federal reservation and of a city other than one of the first class.

1. When directed by the clerk of the District Court, he shall alter or amend the records on file in his office in the manner provided by these ~~regulations~~ rules.

2. He shall apprise the clerk of the District Court of any inaccuracies in the records on file in his office and refer each application for alteration to the clerk of the District Court or to the State Registrar, as the case may require.

7 MCAR § 1.010 Replacement of birth records.

A. Replacement certificate. A replacement certificate shall be made and filed only as prescribed in this ~~regulation~~ rule. The fact of replacement shall not be shown on the replacement certificate. The date and the place of birth shall be transcribed from the original birth certificate. The original filing date, certificate number, and any information that is consistent with information appearing on the documents that serve as the basis for the replacement, shall also be transcribed. Following the replacement of a birth certificate, the original birth certificate and its related documents, which are on file with the State Registrar, shall be placed in an envelope and sealed. The local registrar shall file a copy of the replacement certificate and seal any previously filed local record, as directed by the State Registrar.

B. Adoption. Upon the receipt of a certificate of adoption, or a certified copy of a decree of adoption accompanied by the information necessary to identify the original birth certificate, the State Registrar shall prepare and file a

replacement certificate. This replacement certificate shall include the new name of the child and the names and the personal particulars of the adopting parents.

C. Legitimation. When the natural parents of a child of illegitimate birth born out-of-wedlock marry each other subsequent to the birth of their child, and upon receipt of proof of paternity and of their marriage, the State Registrar shall prepare and file a replacement certificate. This replacement certificate shall include the new name of the child and the name and the personal particulars of the natural father.

1. Proof of marriage — a certified copy of the marriage record shall constitute proof of marriage.

2. Proof of paternity — an adjudication of paternity report shall constitute proof of paternity, or an affidavit of paternity shall constitute proof of paternity when no other man has been recorded as father on the birth certificate. When some other man has been recorded as father on the basis of a paternity affidavit, the new affidavit of paternity can be accepted only with an affidavit of nonpaternity signed by the man originally named as father, and an affidavit from the mother agreeing with the legitimation.

D. Adjudication. After a court having jurisdiction adjudicates the facts of birth under the provisions of Minn. Stat. § ~~144.171~~ 144.218, subd. 2 4, and upon his receipt of a certified copy of the court judgment the State Registrar shall prepare and file a replacement certificate to show these findings. After a court having jurisdiction adjudicates the facts of birth without reference to Minn. Stat. § ~~144.171~~ 144.218, subd. 2 4, and upon receipt of a certified copy of the court judgment and a court order to replace the original birth certificate, the State Registrar shall prepare and file a replacement certificate in accordance with these findings.

E. Delayed registrations. When no certificate of birth is on file for the person for whom a replacement certificate is to be made, a delayed registration of birth shall be filed with the State Registrar as provided in ~~MHD 47~~ 7 MCAR § 1.011, before a replacement certificate is filed, except that when the date and place of birth and parentage have been established in court proceedings, a delayed registration shall not be required. However, the replacement certificate shall be marked "delayed," and shall show the abstract of documentation, as provided in ~~MHD 47~~ 7 MCAR § 1.011.

F. Alteration of replacement certificate. A replacement certificate shall not be altered except on the basis of a legal change of name. When it can be shown that the replacement was erroneously completed, another replacement certificate shall be prepared and filed.

G. Foreign births. Each certificate prepared under the provision of Minn. Stat. § ~~144.176~~ 144.218, subd. 2 shall be

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plainly marked "This certificate was filed by the State Registrar under the provisions of Minn. Stat. § ~~144.176~~ 144.218, subd. 2 and is not evidence of United States Citizenship." Each certified copy or certification of such a certificate shall be similarly marked.

7 MCAR § 1.011 Delayed registrations.

A. Delayed registration of birth. The registration of a birth later than the time prescribed for filing but within ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "late birth registration." Filing shall be subject to the requirements of ~~MHD 41(e)~~ 7 MCAR § 1.011C., but shall not be labeled a "delayed registration." The registration of a birth subsequent to ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "delayed birth registration."

B. Who may apply for the establishment of a delayed registration of birth. Any person born in the State of Minnesota whose birth is not recorded, or his parent, his guardian, or his legal representative may apply for the establishment of a delayed registration.

C. Procedures and requirements for filing delayed registrations within 7 years of birth.

1. A delayed birth registration filed within 7 years of birth shall be completed and filed in the same manner of birth certificates filed on time except that it shall be plainly marked "delayed."

2. Delayed birth registrations filed within 7 years of birth shall be prepared and filed on the Certificate of Live Birth form being used at the time of filing. To be acceptable for filing, the certificate must be signed by the physician, ~~midwife~~, or other person operating under the supervision of a physician in attendance at the birth; or when the birth occurred in a hospital, by the hospital administrator or by his designated representative. When the physician or other person who attended the birth is not available, or when the birth occurred outside a hospital, it may be signed by one of the parents or the guardian, if accompanied by an affidavit explaining why the certificate could not be signed by the attendant.

3. The State Registrar or the local registrar may require additional substantiation of the facts of birth or an explanation of the delay in filing when there appears to be adequate justification.

D. Procedures and requirements for filing delayed birth registrations 7 years or more after birth.

1. An application for an establishment of a delayed birth registration 7 years or more after birth shall be made to ~~the clerk of the District Court or to the local registrar of a city of the first class district~~ in which the birth occurred, except that applications for ~~illegitimate~~ births which occurred out-of-wedlock and for cases where the names have been established by adoption or legitimation shall be made to the State Registrar. The application shall be accompanied by evidence that the record is not on file ~~in the State Vital Statistics Office~~. For births occurring in 1900 or later, the application shall be made in duplicate.

2. These facts concerning the person whose birth is to be registered must be established:

a. The name of the person at the time of birth; however, the delayed registration may reflect a name established by adoption or legitimation when this evidence is submitted to the State Registrar.

b. The date and the place of birth.

c. The names of the parents; except when the birth ~~was illegitimate~~ occurred out-of-wedlock, the name of the father shall not be entered on the delayed birth registration unless the paternity has been determined.

3. Delayed birth registration 7 years or more after birth shall be prepared and filed on a form prescribed by the State Registrar. The form shall include an affidavit signed by the parent, guardian, or the nearest lineal relative who has personal knowledge of the facts of birth. When there are no lineal relatives having personal knowledge of the facts and the registrant is ~~at~~ 18 years of age or older, he may write "no known living kin" on the affidavit and sign it himself.

4. Documentation required to support the affidavit shall consist of the physician's record of the birth, or if the child was born in a hospital or ambulance service, a statement from the hospital administrator certifying the hospital record of birth. Either of these completed documents shall constitute sufficient evidence to establish a delayed birth registration when the record contains information on all the facts which must be established. When neither of these documents is available, other documentation may suffice.

a. In addition to the affidavit, the date and the place of birth shall be authenticated by a minimum of two supporting documents.

b. In addition to the affidavit, the facts of parentage shall be supported by documentation.

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5. The documents used to substantiate the facts for the establishment of a delayed registration shall be the earliest documents available. When the earliest document supporting the establishment of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

a. Be without any sign of erasure, alteration, or any change of the pertinent information.

b. Indicate the date and by whom the original document was made.

c. Be at least 5 years old, except that when filing a birth certificate for a young child, this requirement may be waived.

6. Abstract of documentation required. When convinced that the requirements for establishing a delayed birth registration have been met, the registrar shall abstract on the delayed registration form the facts of birth recorded in the document. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that this is the only birth registration on file for this person and that the documentary evidence submitted to determine the facts of birth has been reviewed, and that it confirms the facts as cited.

7. Filing delayed registrations. After the registrar has made the abstract and certification of documentation, he shall sign, date, and file the duplicate copy and immediately transmit the original copy to the State Registrar. (Delayed registrations of birth occurring prior to 1900 shall be filed only with the local registrar.) The State Registrar shall review the delayed registration certificate and when acceptable, he shall sign, date, and file the certificate. He shall also notify the local registrar of this action. When the State Registrar finds a delayed registration certificate to be unacceptable for filing, he shall notify the local registrar within 10 days, giving a clear explanation for the rejection. Upon receipt of a notice of rejection, the local registrar shall not issue any certification or certified copy of the certificate until the cause for rejection has been removed.

E. Cancellation of records. When the State Registrar contends that a delayed registration was established through fraud, he shall notify in writing the person named in the certificate of his intention to cancel the certificate. The notice may be sent by registered mail to the person whom the record purports to certify, or in the case of a minor or incompetent, to his parent or guardian at his last known address. The notice shall permit the person to appear and dispute the cancellation. Unless this person responds within 30 days after the date of mailing, the State Registrar shall cancel the certificate.

F. Delayed registrations of death. The registration of a death after the time prescribed for filing but within 6 months 1 year after the time prescribed for filing shall be considered a "late death registration." Its filing shall be subject to the requirements of ~~MHD 44 (g)~~ 7 MCAR § 1.011 G., but it shall not be labeled a "delayed registration." The registration of a death subsequent to 6 months 1 year after the time prescribed for filing shall be considered a "delayed death registration."

G. Procedures and requirements for delayed death registration. Delayed registrations shall be completed and filed in the same manner as death certificates filed on time. To be acceptable for filing, the death certificate must be signed by the physician, the coroner, or the medical examiner and, if possible, by the funeral director, mortician, or by the other person responsible for the disposition of the body. When statements cannot be obtained from both the person responsible for the medical certification and the person in charge of the disposition, the case shall be referred directly to the State Registrar for his determination of other confirmatory evidence which may suffice. When neither the physician's, coroner's, or medical examiner's statement nor the statement of the person in charge of the disposition is available only a court finding as to the fact of death will suffice to establish a delayed death registration. The State Registrar or the local registrar may require additional substantiation of the facts of death or an explanation of the delay in filing when there appears to be adequate justification.

H. Manner prescribed by the ~~Board~~ Commissioner for preservation of delayed registration evidence. The ~~Board~~ Commissioner prescribes that written evidence used for establishing delayed registrations of birth or of death, or used in the alteration of certificates of birth or of death shall be preserved in one of the following forms: abstracts, certified copies, microfilm images, or photographic copies. These forms shall be completed by the officers empowered to issue delayed certificates of birth or of death or to make material alterations on certificates of birth or of death. When acceptable to all parties concerned, the original evidence may be preserved in lieu of a certified copy or an abstract.

7 MCAR § 1.012 Certification.

A. Certification of altered records.

1. Certified copies and certifications of altered records which are certified to be "full and complete" or "true and correct" copies shall show the alteration and the statement, "any alterations shown were made under the authority of ~~Minnesota Statute 144.172~~ the Vital Statistics Act and the regulations rules of the State Board of Health Commissioner," shall be printed or typed on the certified copy of the certification.

2. Certifications of altered records which are not cer-

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tified to be "full and complete" or "true and correct" copies need not show the alteration.

3. Certified copies and certifications of delayed registration records which are certified to be "full and complete" or "true and correct" copies shall include the basis for the establishment of the delayed registration including an abstract of the documentation supporting the establishment of the delayed registration. All certifications of delayed registration records shall include the statement, "This delayed registration was established under the authority of the ~~Uniform~~ Vital Statistics Act and the rules of the Commissioner."

B. Abstract of birth in stepfather's name. The State Registrar may issue an abstract of birth under the surname of the stepfather for a child ~~of illegitimate birth~~ born out-of-wedlock, if the stepfather has given his consent in affidavit form. His wife shall join in the affidavit. Information of parentage and of legitimacy status shall not appear on the birth abstract.

C. Abstract of birth in foster parents' name. Upon recommendation of the Commissioner of Public Welfare, the State Registrar may issue an abstract of birth under the surname of the foster parents for a ~~child of illegitimate birth~~ State ward when they have given their consent in affidavit form. Information of parentage and of legitimacy status shall not appear on the birth abstract.

D. Restricted certification. Sections of the birth and fetal death record entitled "for medical and health use only" or "supplementary information" shall be excluded from certified copies, unless specifically requested by the applicant.

E. Prima facie evidence.

1. Birth and death certificates filed within 1 year of the event shall be prima facie evidence of the facts stated therein. Data pertaining to the father of a child are prima facie evidence only if the alleged father is the husband of the mother; if not, the data pertaining to the father of a child are not evidence in any proceeding adverse to the interests of the alleged father, or of his heirs, next of kin, devisees, legatees or other successors in interest, if the paternity is controverted.

2. A copy of a birth or death certificate when certified by the State Registrar or a local registrar shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the

evidentiary value of a certificate filed more than 1 year after the event shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

7 MCAR § 1.013 Access to records.

A. Information for commercial use. The State Registrar, ~~the and local registrars, and the clerks of the District Court~~ shall not furnish gratis or for purchase information identifying persons recorded in a birth or death certificate to be used for commercial purposes (publication in official newspapers shall not be considered as a commercial purpose). Neither shall hospital administrators, nor funeral directors or morticians use or furnish vital statistics information for such purpose.

B. Unauthorized certification prohibited. No person shall prepare or issue any certificate which purports to be an original, certified copy, certification or certificate of birth, death, or fetal death, except as authorized by the ~~Minnesota Statutes, 144.151-144.204~~ (Uniform Vital Statistics Act).

C. Upon receipt of a written request, the State Registrar or local registrar shall issue a copy of or verify information from a vital record. In determining whether or not to allow an applicant to do his own searching of the records, the registrar shall consider such things as the physical condition of the records to be searched, whether or not a file contains private or confidential data, the registrar's workload at the time the request is received, and the urgency of the request.

7 MCAR § 1.014 Death registration.

A. Death certificate. A death certificate must be filed for every known death, by the mortician, funeral director or other person in charge of the disposition of the body with the local registrar of the registration district within which the death occurred or with a subregistrar designated by the State Registrar to receive death certificates for filing within that territory. If the place of death is not known the death certificate shall be filed with the local registrar of the registration district within which the body was found, or with a subregistrar, within 24 hours thereafter. The certificate shall be filed prior to interment or other disposition of the body or in any case within 5 days after the occurrence.

B. Fetal death ~~certificate report~~ report. A fetal death ~~certificate report~~ report must be filed for the death of each fetus for whom 20 or more weeks of gestation have elapsed. Each fetal death which occurs within the state shall be reported

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within 5 days to the State Registrar on a blank provided by or approved by the State Registrar for this purpose. The mortician, funeral director, hospital administrator, or other person in charge of the disposition of the remains, shall be responsible for making this report. He shall secure personal data for the report from the best source available. This source may be the next of kin, hospital records, or the records of a coroner or medical examiner. He shall obtain the medical portion of the report from the physician or other person in attendance at the delivery of the fetus, or if not attended, from one of the parents or from the coroner or medical examiner.

C. Completion of death certificate. The mortician, funeral director, or other person in charge of the disposition of the body shall secure personal data from the best source available. This source may be the next of kin, hospital or institutional records, or the records of a coroner or medical examiner. He shall secure the medical certification of cause of death from the physician last in attendance upon the deceased, or from the coroner or medical examiner having jurisdiction. He shall notify the local registrar when it is impossible to obtain the medical certification from the physician last in attendance or from the coroner or medical examiner. The local registrar shall immediately refer the case to the local health officer for investigation and certification of cause of death upon the basis of information from the most reliable source available.

D. Referrals to coroner or medical examiner. The mortician, funeral director, or other person in charge of the disposition of the body shall notify the coroner or medical examiner before moving a body from the site of death in any case where he is unable to obtain firm assurance from the physician that the medical certification will be signed. In addition, the case shall be referred to the coroner or medical examiner whenever circumstances suggest that the death was caused by other than natural causes, or where the body is to be disposed of in some manner which prevents later examination, or when the decedent was an inmate of a public institution who was not hospitalized for organic disease.

E. Physician in attendance. The term "physician in attendance upon the deceased" shall mean the physician who treated the deceased for the illness or condition which led to death. When the "physician in attendance" is unavailable to certify the cause of death, an associate or another physician shall be authorized to certify the cause of death when he has access to the medical history of the case, provided that he views the deceased at or after death.

F. Medical certification. The physician, coroner, or medical examiner shall certify the cause of death and return the certificate to the mortician or funeral director promptly, so that a reasonable amount of time is available for the mortician or funeral director to obtain the necessary Permit for

Disposition prior to disposition. When the physician, the coroner, or the medical examiner cannot complete his study and certify the cause of death before burial, cremation, or removal, but the body is no longer required for his diagnosis, the diagnosis may be deferred. (When the diagnosis is to be deferred, the certifier must date and sign the medical certification portion and check the deferred diagnosis space on the death or the fetal death certificate). The deferred diagnosis procedure shall apply only when there is a reasonable expectation that an autopsy, other diagnostic method, or investigation may significantly change the diagnosis. This procedure shall not apply when the cause of death is in doubt, but where no further diagnostic procedures can be carried out. In this case, the "probable" cause shall be entered on the basis of the facts available and the certification made in accordance with the best judgment of the certifier.

G. Deaths from undetermined circumstances. Deaths shall be classified as due to undetermined circumstances only when it is impossible to establish the circumstances of death.

H. Monthly report of deaths.

1. Every person providing a casket for any final disposition of a dead human body shall maintain a record showing the name of the purchaser, the purchaser's post office address, the name of the deceased, the date of death, and the place at which the death occurred. This record shall be open to inspection by the State Registrar at all times. On or before the 10th day of each month the establishment providing caskets shall report, on a blank provided for the purpose, to the State Registrar those facts that he shall require for the preceding month. No person selling caskets solely to distributors, morticians, or funeral directors shall be required to keep this record.

2. Every person providing a casket at retail, and not having charge of the disposition of the body, shall enclose within the casket a notice furnished by the State Registrar calling attention to the requirements of the law, a blank certificate of death, and the statutes and ~~regulations~~ rules of the ~~State Board of Health~~ Commissioner for the disposition of a dead body.

I. Dead body not found. When circumstances suggest that a death has occurred although a dead body cannot be produced to confirm the fact of death, a death certificate shall not be filed until a court having jurisdiction has adjudged the fact of death. A certified copy of the court finding must be attached to the death certificate when it is presented for filing.

7 MCAR § 1.015 Burial — transit — removal permits.

A. Permit for disposition — when required.

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1. A Permit for disposition shall be required for burial, cremation, transportation by common carrier, removal out-of-state, removal from a registration district, for disinterment and reinterment, or for the retention of a dead human body more than 5 days. It shall be issued by the local registrar or a subregistrar, of the place of death, or if necessary to avoid delay, by the State Registrar.

2. The permit shall contain the information required on the form supplied by the ~~State Board of Health Commissioner~~ and shall be signed by the following persons: the local registrar or the subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When a communicable disease is the cause of death, the permit shall be signed by the mortician who prepared the body. When a firm name is subscribed on the Permit for Disposition, it shall be accompanied by the personal signature of a licensed member of that firm.

B. Notice of removal permit. Whenever it is impossible to secure a proper certificate or permit for disposition without great delay, the dead human body may be moved by private conveyance from its present registration district to another registration district within the state for burial preparation using the notice of removal provided by the State Registrar. Before removing the body the attending mortician or, when death is not from a communicable disease, the funeral director shall obtain assurance that the cause of death will be certified prior to final disposition of the body. Within 18 hours following the removal, he shall mail or hand the notice of removal to the local registrar. The notice shall explain the failure to obtain the usual permit for disposition and include the date, and time of removal, and place to which the body shall be moved.

C. Ashes of the dead. Cremation of a dead human body shall be considered as a final disposition of that body. No additional permit is required for transportation or disposition of the ashes of cremation.

D. Issuance of a permit. The permit for disposition may be issued by a local registrar, a subregistrar, or if necessary to avoid delay, by the State Registrar; however,

1. No permit shall be issued until the death certificate or the fetal death certificate report has been filed. Each certificate or report shall be as complete as possible under the circumstances; however, in every case certain minimal information shall be required.

a. The name and the age of the deceased or the coroner's identification.

b. The date and place of death or the place where the body was found.

c. The medical certification. See 7 MCAR § 1.014 F.

d. Information on disposition.

2. No permit shall be issued without receiving an assurance of compliance with the regulations governing transportation of the dead.

3. The subregistrar shall write upon each death certificate filed with him the date of the filing, his name, and forward it to the local registrar of the proper district within 3 days after receipt.

E. Use and filing permit. Until the time of the final disposition, the permit shall be in the possession of the person in charge of the body, or attached to its shipping container. In localities requiring local issuance of disposition permits, the original permit shall be presented to the Health Officer with the request for the reissuance of a permit. At this time, the permit shall be filed with the person in charge of the cemetery or crematory. Where there is no person or corporation responsible for the maintenance of a cemetery, the mortician or funeral director in charge of interment in this cemetery shall write above his signature upon the permit(s) issued "no association, person, or corporation responsible for this cemetery" with the name of the cemetery and the city, village, or township and county in which it is located. This permit shall then be mailed to the State Registrar.

F. Cemetery official to be appointed. Individuals, associations, or corporations owning or operating cemeteries shall appoint some person to be responsible both for receiving and filing, and preserving permits for disposition ~~and for the enforcement of the statutes requiring permits for interments or cremations.~~ The sexton or other person acting as such shall not permit the interment or cremation of a dead human body until a burial permit issued under the provisions of the Vital Statistics Act and these rules has been filed with him. He shall keep a record of all interments and cremations stating the name of the deceased, place of death, date of burial or cremation, and name and address of the attending mortician or funeral director.

G. Death outside state, burial permit. When a death or fetal death occurs outside this state and the body is accompanied by a permit for burial, removal, or other disposition issued in accordance with the laws and rules in force where the death or fetal death occurred, the permit shall authorize

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the transportation of the body into or through this state but before the burial, cremation or other disposition of the body within this state a local burial permit shall be issued by the local registrar of the district where disposal is to be made, or by a subregistrar or, if necessary to avoid delay, by the State Registrar. The permit accompanying the body into this state shall, together with the local burial permit, be filed with the sexton who shall keep a record thereof as provided in 7 MCAR § 1.015 F.

Department of Natural Resources

Proposed Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cloquet River from Its Source at Cloquet Lake to Its Mouth at the St. Louis River, and the Proposed Adoption of a Management Plan for the Cloquet River

Order for Hearing

In accordance with the Minnesota Wild and Scenic Rivers Act (Minnesota Statutes, Sections 104.31 through 104.40) the Commissioner of Natural Resources has prepared a management plan for the above-captioned segment of the river as a component of the state's Wild and Scenic Rivers System. The Commissioner must hold public hearings in each affected county, but not before copies of the management plan have been available to the public for at least 60 days.

Now, therefore, it is ordered this 4th day of December, 1978 that public hearings be held on the above-captioned matter, in the manner provided by Minnesota Statutes, Sections 15.0411 through 15.051 and Section 15.052, at the following times and places.

7 p.m. February 19, 1979 in the Two Harbors High School Auditorium, Two Harbors, Minnesota.

7 p.m. February 20, 1979 at the University of Minnesota-Duluth, Chemistry 200 Auditorium, Duluth, Minnesota. (Use campus entrance off College Street; use parking lot A or B — the lots are off Lawn Drive, enroute to Administration Building.)

It is further ordered that Notice of Hearing be provided by mail or publication, as possible and appropriate, to the Secretary of State's mailing list, Office of State Register, members of the Legislature, affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public.

It is further ordered that the Notice of Hearing name places where copies of the management plan will be available for inspection.

Joseph N. Alexander
Acting Commissioner

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter, in the manner provided by Minn. Stat. §§ 15.0411 through 15.051, and § 15.052 at:

7 p.m. February 19, 1979 in the Two Harbors High School Auditorium, Two Harbors, Minnesota.

7 p.m. February 20, 1979 at the University of Minnesota-Duluth, Chemistry 200 Auditorium, Duluth, Minnesota. (Use campus entrance off College Street; use parking lot A or B — the lots are off Lawn Drive, enroute to Administration Building.)

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements, or arguments.

The hearing examiner will be Howard Kaibel from the State Department of Administration, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8107.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available

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after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The proposed management plan relates to the following matters:

Reasons for including the Cloquet River in the Minnesota Wild, Scenic and Recreational Rivers System.

The proposed classification of the river or segments of the river.

The proposed land use district boundaries which shall not exceed 320 acres per each river mile on both sides (not each side) of the river.

The proposed methods for preserving the river and its adjacent land, including the recommended land acquisition.

The proposed regulations for local land use control, including such matters as lot size and building height and setback requirements, vegetative cutting provisions, use within land use districts, and criteria for utility crossings, public roads and river crossing.

The proposed plan for recreational management within the land use district, including the location and design of campsites, rest areas, and accesses.

The proposed plan for administration of the management plan.

Copies of the management plan are available for inspection at public libraries in Duluth, Cloquet and Two Harbors, and at the Legislative Reference Library in the state Capitol. Interested individuals may receive a copy of the plan by writing or calling the Department of Natural Resources, Bureau of Planning and Research, Rivers Section, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784). Copies of the management plan will also be available at the public hearings.

The proposed management plan for the Cloquet River has

been prepared in accordance with Minn. Stat. § 104.35 and the Statewide Rules and Regulations relating to the Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-81).

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1702.

Dated this 4th day of December, 1978.

Joseph N. Alexander
Acting Commissioner

Rules as Proposed (All new material)

Chapter Thirty-one: 3100 Designation, Classifica-

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tion and Management of the Cloquet River in St. Louis and Lake Counties

NR 3100 Designation.

A. The river. The following portion of the Cloquet River is designated a component of the Minnesota wild and scenic rivers system: from the river's source at Cloquet Lake to its confluence with the St. Louis River.

B. Authority. This designation is made by the Commissioner of Natural Resources pursuant to the authority of the Minnesota wild and scenic rivers act, Minn. Stat. §§ 104.31 to 104.40 (1974), as amended.

C. Policy. It is the intent of these rules and regulations to protect and manage the Cloquet River and its adjacent lands. They were written with the knowledge that nothing in nature can be "preserved" forever. For the purposes of these rules and regulations the word "preserved" in NR 78-81 shall be changed to read "protect and manage."

D. Shoreland included. The designation and these rules and regulations apply to the river and the nearby lands indicated by the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Rules NR 78 (g) (2) (bb).

E. Severability. The provisions of these rules and regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

NR 3110 Classification. The following segments of the Cloquet River are classified wild:

From the river's source at Cloquet Lake to the common border of sections 34 and 35 in T53N-R14W at the east end of Island Lake.

From the common border of sections 22 and 23 in T52N-R16W near the abandoned Duluth NE Railroad grade to the common border of sections 25 and 26 in T52N-R17W just east of U.S. Hwy. 53.

From the common border of sections 17 and 20 in T51N-R17W just southwest of County Road 694 to the river's confluence with the St. Louis River.

The following segments of the Cloquet are classified scenic:

From the common border of the E½ and the W½ of the NE¼ of section 15 in T52N-R15W near the Island Lake dam to the common border of sections 22 and 23 in T52N-R16W near the abandoned Duluth NE Railroad grade.

From the common border of sections 25 and 26 in T52N-R17W just east of U.S. Hwy. 53 to the common border of sections 17 and 20 in T51N-R17W just southwest of County Road 694.

NR 3120 Management.

A. Land use provisions.

1. The Commissioner of Natural Resources hereby adopts the wild and scenic land use districts as identified in the land use district descriptions of these rules and regulations. The land use districts were derived in accordance with NR 78 (g) (2) (bb).

2. Minnesota Rules NR 78-81 shall apply to all lands in the wild and scenic land use districts, except as specified in these rules and regulations.

3. NR 79 (b) (1) (bb) (i) shall be amended to read:

Any structural alteration or addition to a substandard structure that will increase the substandard dimensions (toward the water) shall be allowed only with a variance. Any other structural alteration shall conform to the applicable zoning ordinance.

4. NR 79 (b) (2) (aa) through (ff) shall be amended as follows:

	Wild River	Scenic River
C—Conditional use		
N—Nonpermitted use		
(aa) Governmental campgrounds, subject to management plan specifications.	N	C
(bb) Private campgrounds, subject to management plan specifications.	N	C
(cc) Public accesses, road access-type with boat launching facilities, subject to management plan specifications.	N	C
(dd) Public accesses, trail access-type, subject to management plan specifications.	C	C
(ee) Temporary docks.	C	C
(ff) Other governmental open space recreational uses, subject to management plan specifications.	C	C

5. The statement at the end of the use table, NR 79 (b) (2), shall be amended to read:

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Any use not specifically mentioned above, if in keeping with the purposes of the wild and scenic rivers act, shall be allowed only with a conditional use permit from the applicable local zoning authority (county, township, municipality) and the approval of the commissioner of natural resources.

6. Because of the special nature of some timbered lands along the Cloquet River, the provisions of NR 79 (g) are replaced by the following:

(g) *Vegetative cutting provisions.*

(1) *General Provisions: Timber management shall be restricted to generally accepted forest management practices designed to promote and manage a healthy forested area. Emphasis shall be placed on development and maintenance of riverfront forests that are compatible with the established land-use designations.*

(aa) *Cutting shall be conducted so as to prevent damage to soils, slopes or other watershed conditions that are fragile and subject to injury.*

(bb) *Where visible from the river, clear cutting shall be kept at the minimum necessary and cutting boundaries shall utilize topographic terrain, roads and forest type changes where ownership patterns permit. Skidding shall be away from streams and adjacent streamside management zones.*

(cc) *Where feasible, all clear cuts shall be conducted between September 15 and May 15.*

(dd) *These cutting provisions shall not be deemed to prevent:*

(i) *The removal of diseased or insect-infested trees, or of rotten or damaged trees that present safety hazards:*

(ii) *Pruning of understory vegetation, shrubs, plants, bushes or grasses, or harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.*

(2) *Timber harvesting on lands being managed for forest cover:*

(aa) *If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. If replanting is necessary, it shall be performed in the same spring or the following spring.*

(bb) *Clear cuttings on land within 200 feet of the normal high-water mark of wild rivers, and within 150 feet of the normal high-water mark of scenic rivers; and on lands 40 feet landward of the bluffline on wild rivers, and 30 feet landward of the bluffline on scenic rivers, are subject to the following standards and criteria:*

(i) *It shall be the responsibility of the applicable Department of Natural Resources area forestry office to approve a written management plan for these lands.*

(ii) *The timber management goals within this zone will be for the regeneration and maintenance of aesthetically pleasing forest vegetation to be perpetuated as dictated silviculturally.*

(iii) *Clear cutting may be allowed in strips that do not*

exceed 500 feet of riverfront. At least 1,000 feet adjacent to the cut area on each riverfront side shall remain uncut for at least five years. To the extent practical, clear-cut areas will not be located across the river from each other.

(iv) *Management of long-lived species along the riverfront shall be directed at promotion of large-sized trees by using rotations based on biological age rather than economic age.*

(v) *Vegetation consisting of naturally associating different species shall be encouraged.*

(vi) *Forest type conversions shall favor long-lived species that are naturally suited to that particular site.*

(3) *Timber harvesting on other lands:*

(aa) *On lands within 200 feet of the normal high-water mark of wild rivers, and within 150 feet of the normal high-water mark of scenic rivers; and on lands 40 feet landward of the bluffline on wild rivers, and 30 feet landward of the bluffline on scenic rivers, the following standards shall apply:*

(i) *Clear cutting, except for any authorized public services such as roads and utilities, shall not be permitted.*

(ii) *Selective cutting of trees in excess of four inches in diameter at breast height is permitted, provided that cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings.*

B. Land acquisition.

1. The Commissioner of Natural Resources hereby adopts the fee title and scenic easement lands, as identified in the fee title descriptions and scenic easement descriptions, of these rules and regulations, as priority areas for these types of acquisition.

a. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed.

b. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values.

c. Acquisition of lands or interests in land is at market value from willing sellers. Some lands recommended for scenic easement acquisition may be purchased in fee title and some lands recommended for fee title acquisition may be purchased as scenic easements with the mutual agreement of the State of Minnesota and the landowner(s). Furthermore, additional land or interests in land other than those recommended may be purchased from willing sellers within the land use district to further the policies established in Minn. Stat. § 104.32, and these rules and regulations.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

PROPOSED RULES

d. Other forms of acquisition from willing sellers, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the land use district, when such purchases further the policies of these rules and regulations and Minn. Stat. § 104.32.

2. Land or interests in land recommended to be acquired in these rules and regulations will be acquired from willing sellers when funds are available for such purposes as provided for in Minn. Stat. § 104.37.

3. Whenever feasible, land will be exchanged with willing parties in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.

4. All islands acquired by or transferred to the DNR shall be managed in a manner consistent with policy established in the Minnesota wild and scenic rivers act and these rules and regulations.

5. The Commissioner of Natural Resources shall not request or use condemnation to acquire lands in the Cloquet River land use district through the wild and scenic rivers program.

C. Recreation Management.

1. General.

a. The rules of NR 80 shall apply, except that the fine for littering shall be the same as for a misdemeanor and NR 80 (b) (4) shall be amended to read:

Overnight camping, fires or campfires shall not be allowed on publicly owned lands within wild, or scenic river land use districts, except in areas posted or designated by the commissioner for such purposes, or in case of emergency.

b. As provided for in these rules and regulations, the recreation management policy is to provide for the orderly use of public lands and waters within the wild and scenic river land use districts. The development of selected land- and river-oriented recreational facilities and the maintenance of these will help protect the rights of private landowners, ensure quietude, reduce trespassing and maintain the essential quality of wild and scenic river land use districts.

2. Uses.

a. Because public accesses located at Indian Lake, T55N-R12W, Sec. 3; near Bear Lake, T55N-R13W, Sec. 36; at the Carrol State Forest Road, T54N-R13W, Sec. 34; and on Island Lake are considered adequate and because it is the intent of these rules and regulations to maintain the

“wild” character of the land use district, no additional public accesses above Island Lake are recommended until a need is shown.

b. Above Island Lake, campsites shall be single units, consisting of a latrine, fireplace and from one to three tent pads. Campsites shall not be developed at intervals of less than six miles. The ultimate interval will depend on access points, types and amounts of use, existence of suitable areas and locations of private land and/or improvements. No sites will be constructed at or near portage termini or along portages. These sites will generally be aimed at the transient remaining in one spot for only one or two nights.

c. Below Island Lake, priority area for development of governmental recreational facilities designed specifically for river users are listed below. If these sites are not available for use similar parcels may be purchased for these uses.

Location	Facilities
T52N-R15W, Sec. 15, Govt. Lot 15	Access, Rest Area, Portage
T52N-R15W, Sec. 17, Govt. Lot 3	Campsite, Rest Area
T52N-R16W, Sec. 23, Govt. Lot 1	Access
T52N-R16W, Sec. 22, Govt. Lot 3	Campsite, Rest Area
T51N-R17W, Sec. 16, Govt. Lot 6	Access
T51N-R17W, Sec. 16, Govt. Lot 6	Campsite, Rest Area

d. The development of public or private facilities within the wild and scenic land use district shall conform to the site typicals in these rules and regulations.

e. The DNR shall inventory the river for potential campsites. Before any new site is developed an analysis of the capability of that site to support the desired recreational use shall be conducted. If any factor is present that shows the site incapable of supporting the proposed use the site shall not be developed.

f. Recreational sites shall be monitored and appropriate action shall be taken if any problems arise.

g. No sites shall be specifically developed for day use, although all campsites shall be suitable for day use.

h. No special facilities for large boats shall be provided.

i. Snowmobile use on lands in the wild and scenic river land use district shall be allowed:

(i) On private lands, only with the permission of the appropriate landowner(s).

(ii) On public lands unless otherwise specified.

j. Outboard motors shall be allowed.

PROPOSED RULES

k. Recreational facilities shall be located within reasonable distance of areas accessible to fire fighting equipment so that adequate fire controls can be maintained.

3. Signing.

a. Signs shall be used to identify access points, campsites, hazards and portages. Sign design shall be according to the sign typicals in these rules and regulations.

b. Orientation signs locating all recreational facilities along the river and containing the recreational rules for the river shall be provided at accesses.

c. All portages shall be signed at both ends. At a safe distance upstream from the portage a warning sign stating where the portage is located shall be posted.

d. Restrictive signs shall be used where necessary to locate public lands where camping is prohibited. These signs may be metal or poster material and may be mechanically lettered.

4. Maintenance.

a. The statutes and rules pertaining to littering (Minn. Stat. § 609.68, and Minnesota Regulations NR 80 (b) (ii)) shall be enforced.

b. To reduce the effects of littering, a "carry-in, carry-out" policy shall be implemented. To help ensure the success of this policy no trash receptacles shall be provided and areas shall be maintained to prevent the establishment of dumps. Existing dumps shall be removed.

c. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cloquet River land use district.

5. Enforcement.

a. The DNR, Division of Enforcement, shall determine with the local units of government the division of responsibilities for enforcement of the wild and scenic river

user regulations (Minnesota Regulations NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river use regulations.

b. No water surface zoning regulations are needed at this time.

D. Administration.

1. The local zoning authority shall follow the provisions of NR 81.

2. The local zoning authority shall enact or amend such ordinances and maps as necessary to:

a. Establish the wild and scenic river land use districts in their jurisdiction according to Minnesota Regulations NR 3110, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations, as applicable.

3. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules and regulations.

4. The DNR shall assist local units of government in implementing these rules and regulations, in accordance with the provisions of Minn. Stat. § 104.36.

5. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

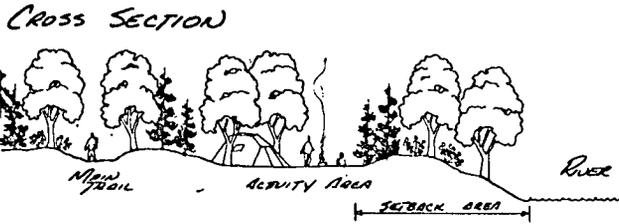
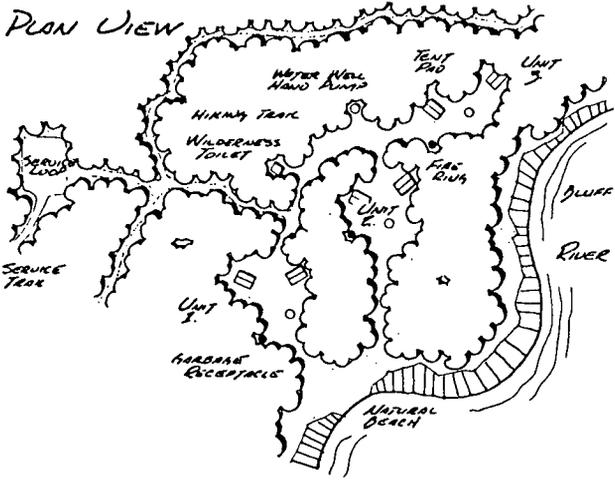
6. At least every five years the DNR shall conduct a public informational meeting to determine the effectiveness, the progress and the opportunities for improvement of these rules and regulations.

7. The commissioner of natural resources will not seek the inclusion of the Cloquet River in the federal wild and scenic rivers system.

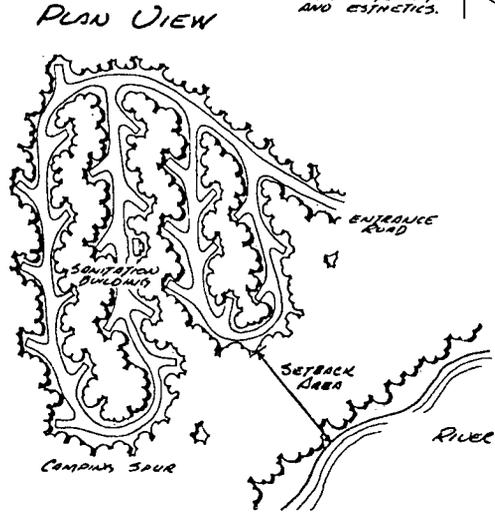
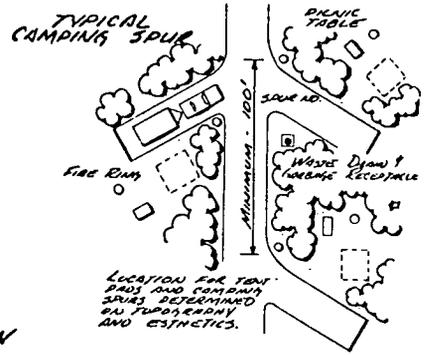
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Site typicals

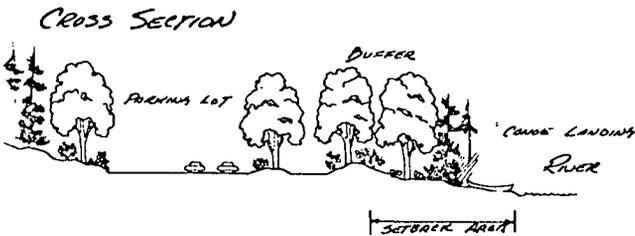
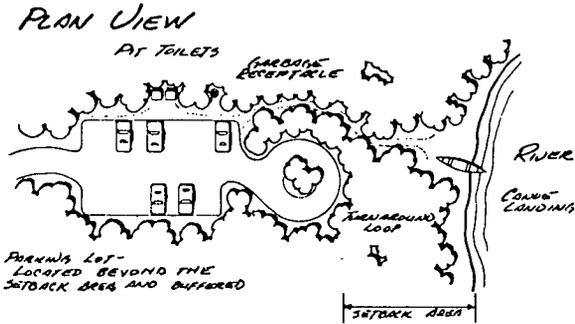
PRIMITIVE CAMPSITE



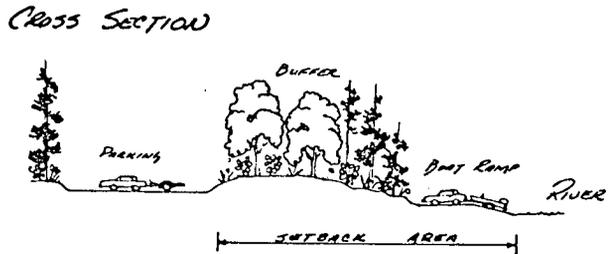
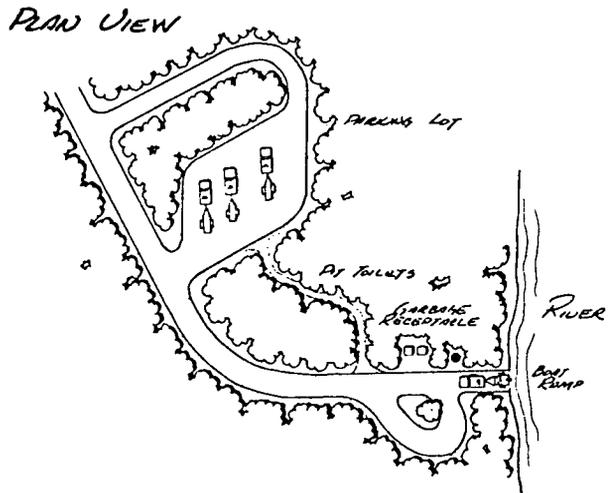
CAMPGROUND



CANOE ACCESS

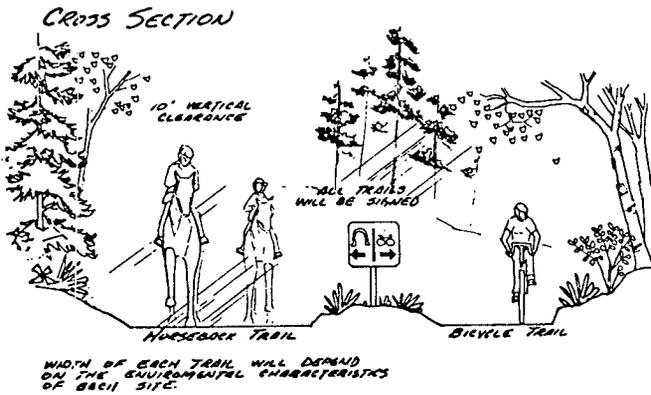
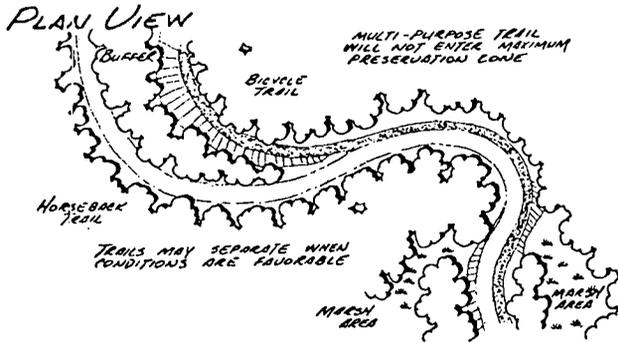


BOAT ACCESS

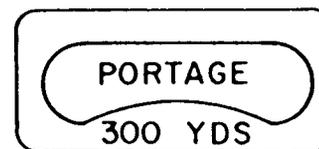
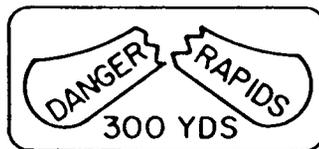
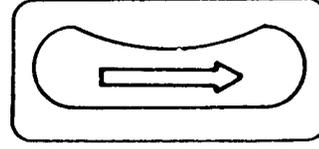
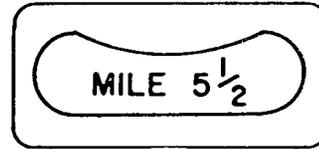
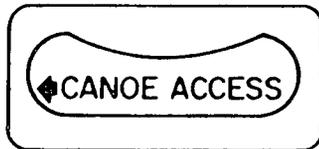
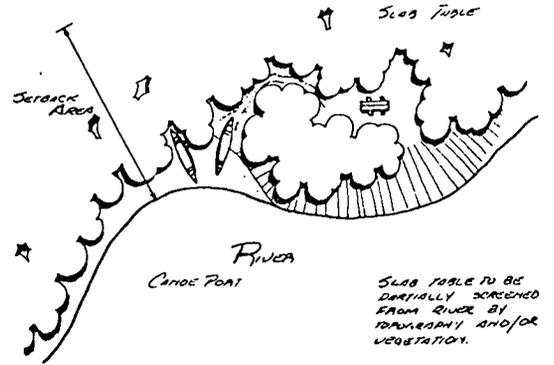


PROPOSED RULES

TRAIL DESIGN



REST AREA



Land Use District Legal Descriptions

Description	Acreage
T57N-R9W	
Section 9	
Government Lot 12	20.00
" Lot 10	40.50
Section 16	
E½ of NW¼ of NW¼	20.00
NE¼ of NW¼	40.00
SE¼ of NW¼	40.00
E½ of SW¼ of NW¼	20.00
SW¼ of SW¼ of NW¼	10.00
N½ of NW¼ of SW¼	20.00
Section 17	
S½ of SE¼ of NE¼	20.00
N½ of SE¼	80.00
SW¼ of SE¼	40.00
SE¼ of SW¼	40.00
S½ of SW¼ of SW¼	20.00
Section 20	
NW¼ of NE¼	40.00
N½ of NW¼	80.00
Section 19	
NE¼	160.00
E½ of NW¼	80.00
NE¼ of SW¼	40.00
Government Lot 3	41.26
" Lot 2	41.30

PROPOSED RULES

T57N-R10W		
Section 24		
SE $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00
SE $\frac{1}{4}$		160.00
Section 36		
NW $\frac{1}{4}$ of NW $\frac{1}{4}$		40.00
Section 25		
W $\frac{1}{2}$ of NE $\frac{1}{4}$		80.00
E $\frac{1}{2}$ of NW $\frac{1}{4}$		80.00
SW $\frac{1}{4}$		160.00
Section 26		
E $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40.00
Section 35		
NE $\frac{1}{4}$		160.00
E $\frac{1}{2}$ of NW $\frac{1}{4}$		80.00
N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
N $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
N $\frac{1}{2}$ of SW $\frac{1}{4}$		80.00
Section 34		
N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
N $\frac{1}{2}$ of SE $\frac{1}{4}$		80.00
W $\frac{1}{2}$ of NE $\frac{1}{4}$		80.00
SE $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
NW $\frac{1}{4}$		160.00
Section 27		
S $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
S $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
Section 33		
NE $\frac{1}{4}$		160.00
N $\frac{1}{2}$ of SE $\frac{1}{4}$		80.00
N $\frac{1}{2}$ of SW $\frac{1}{4}$		80.00
S $\frac{1}{2}$ of NW $\frac{1}{4}$		80.00

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Section 32		
S½ of NE¼		80.00
SE¼		160.00
SW¼		160.00
Section 31		
E½ of SE¼		80.00
T56N-R10W		
Section 5		
Government Lot 4		45.65
" Lot 3		45.25
S½ of NW¼		80.00
NE¼ of SW¼		40.00
W½ of SW¼		80.00
Section 6		
SE¼		160.00
Section 7		
NE¼		160.00
NE¼ of SW¼		40.00
SE¼ of NW¼		40.00
Government Lot 4		38.66
" Lot 3		38.59
" Lot 2		38.51
T56N-R11W		
Section 12		
S½ of NW¼ of SE¼		20.00
S½ of NE¼ of SE¼		20.00
S½ of SE¼		80.00
S½ of SW¼		80.00
Section 13		
NW¼ of NE¼		40.00
NE¼ of NW¼		40.00
W½ of NW¼		80.00

Section 14		
	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$	20.00
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
	W $\frac{1}{2}$ of SW $\frac{1}{4}$	80.00
	S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$	20.00
	N $\frac{1}{2}$ of SE $\frac{1}{4}$	80.00
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	40.00
	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80.00
Section 15		
	SE $\frac{1}{4}$	160.00
	SW $\frac{1}{4}$	160.00
	S $\frac{1}{2}$ of NW $\frac{1}{4}$	80.00
Section 16		
	SW $\frac{1}{4}$	160.00
	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
Section 21		
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
	N $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$	20.00
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
	W $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$	20.00
	NW $\frac{1}{4}$	160.00
Section 29		
	N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
Section 20		
	SE $\frac{1}{4}$	160.00
	SW $\frac{1}{4}$	160.00
Section 19		
	SE $\frac{1}{4}$	160.00
	S $\frac{1}{2}$ of NE $\frac{1}{4}$	80.00
	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
	E $\frac{1}{2}$ of SW $\frac{1}{4}$	80.00
	Government Lot 4	40.34
	" Lot 3	40.16
Section 30		
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
	Government Lot 2	20.33
	" Lot 1	40.39
	Except E 20	

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T56N-R12W		
Section 24		
Government Lot 4		0.01
" Lot 3		39.85
Section 25		
E 1/2 of NW 1/4 of NE 1/4		20.00
W 1/2 of SW 1/4 of SE 1/4		20.00
N 1/2 of NE 1/4 of SE 1/4		20.00
E 1/2 of NW 1/4 of SW 1/4		20.00
Government Lot 8		34.65
" Lot 7		45.90
" Lot 6		39.75
" Lot 5		34.05
" Lot 4		38.65
" Lot 3		29.10
" Lot 2		25.95
" Lot 1		11.50
Section 36		
W 1/2 of SE 1/4 of SW 1/4		20.00
Government Lot 8		0.35
" Lot 7		36.00
" Lot 6		27.85
" Lot 5		51.70
" Lot 4		28.05
" Lot 3		48.90
" Lot 2		40.75
" Lot 1		35.45
Section 35		
E 1/2 of NE 1/4 of SE 1/4		20.00
Government Lot 2		38.20
" Lot 1		0.80

PROPOSED RULES

T55N-R12W

Section 1		
N½ of NW¼ of SW¼		20.00
Government Lot 4		30.85
" Lot 5		10.65
" Lot 6		36.95
Section 2		
N½ of SE¼ of SE¼		20.00
Government Lot 1		39.15
" Lot 5		36.75
" Lot 6		31.35
" Lot 7		55.90
" Lot 8		20.60
" Lot 9		10.20
" Lot 10		32.20
Section 11		
W½ of SE¼ of NW¼		20.00
W½ of NW¼ of SW¼		20.00
W½ of SW¼ of SW¼		20.00
Government Lot 3		27.50
" Lot 2		45.15
" Lot 1		39.80
Section 10		
SE¼ of SE¼		40.00
N½ of SE¼ of SW¼		20.00
NE¼ of NW¼		40.00
Government Lot 11		40.10
" Lot 10		40.25
" Lot 9		35.35
" Lot 8		34.40
" Lot 7		28.60
" Lot 6		46.70
" Lot 4		39.10
" Lot 3		46.40
" Lot 2		22.50
" Lot 1		15.25
Section 3		
Government Lot 7		36.50
" Lot 8		0.25

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Section 4		
	E $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$	20.00
	Government Lot 5	28.00
	" Lot 6	5.40
Section 9		
	W $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$	20.00
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40.00
	Government Lot 1	30.85
	" Lot 2	46.90
	" Lot 3	51.85
	" Lot 4	35.35
	" Lot 5	25.30
	" Lot 6	31.05
	" Lot 7	19.50
	" Lot 8	24.75
	" Lot 9	3.65
Section 16		
	N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$	20.00
	Government Lot 5	39.35
	" Lot 1	15.25
	" Lot 2	23.00
	" Lot 3	52.35
	" Lot 4	26.00
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
Section 17		
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
	NW $\frac{1}{4}$ of SE $\frac{1}{4}$	40.00
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	40.00
	Government Lot 1	35.75
	" Lot 2	34.85
	" Lot 3	56.40
	" Lot 4	30.30
	" Lot 5	40.50
	" Lot 6	35.15
	" Lot 7	42.75
	" Lot 8	30.40

PROPOSED RULES

Section 18		
	E½ of SE¼ of NE¼	20.00
	NW¼ of SE¼	40.00
	Government Lot 6	38.15
	" Lot 7	14.10
	" Lot 8	30.65
	" Lot 9	30.90
Section 19		
	E½ of SE¼ of SW¼	20.00
	Government Lot 2	28.50
	" Lot 1	48.75
	" Lot 7	39.70
	" Lot 8	45.15
	" Lot 10	31.75
	" Lot 9	35.95
	" Lot 4	44.60
	" Lot 15	28.60
	" Lot 16	0.75
Section 30		
	Government Lot 1	39.75
	" Lot 2	26.75
	" Lot 3	2.25
	" Lot 4	32.50
	" Lot 5	35.23
	" Lot 7	52.50
	" Lot 6	52.63
T55N-R13W		
Section 25		
	Government Lot 1	43.00
	" Lot 2	35.50
	" Lot 10	34.75
	" Lot 9	53.10
	W½ of SE¼ of SE¼	20.00
	NE¼ of SE¼	40.00
	W½ of SE¼	80.00
	Government Lot 7	19.75
	" Lot 6	14.00
	E½ of SW¼ of SW¼	20.00

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Section 35

E½ of NE¼ of NE¼		20.00
Government Lot 1		2.20
E½ of SW¼ of NE¼		20.00
E½ of NW¼ of SE¼		20.00
Government Lot 2		34.00
" Lot 3		30.60
" Lot 4	except W 20	37.90
" Lot 5		24.25

Section 36

N½ of NW¼ of NE¼		20.00
Government Lot 7		11.50
" Lot 1		26.25
" Lot 2		21.75
" Lot 3		48.75
" Lot 4		18.85
" Lot 5		22.75
" Lot 6		30.85
W½ of SW¼ of SW¼		20.00

T54N-R13W

Section 1

NW¼ of NW¼		41.54
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Section 2

E½ of SE¼ of NW¼		20.00
E¼ of NE¼ of SW¼		20.00
Government Lot 2	except W 20	26.00
" Lot 5		33.65
" Lot 8		33.00
" Lot 9		43.50
" Lot 1		26.16
" Lot 6		40.65
" Lot 7		42.50
" Lot 11		38.75
" Lot 10		27.75

PROPOSED RULES

Section 11		
E½ of NW¼ of NW¼		20.00
Government Lot 2		20.80
" Lot 3		37.50
" Lot 6		32.50
" Lot 1		52.25
" Lot 4		36.10
" Lot 5		31.00
" Lot 8		39.90
" Lot 7		43.85
Section 10		
Government Lot 7		41.75
" Lot 6		20.40
" Lot 5		38.50
S½ of NW¼ of SW¼		20.00
Government Lot 1		30.25
" Lot 2		51.50
" Lot 3		40.60
" Lot 4		26.60
Section 15		
E½ of SW¼ of NW¼		20.00
N½ of NW¼ of NE¼		20.00
Government Lot 1		57.50
" Lot 2		15.76
" Lot 4		21.50
" Lot 3		16.50
" Lot 5		38.10
Section 16		
E½ of NE¼ of NE¼		20.00
Government Lot 5		28.50
" Lot 4	except E 20	37.90
" Lot 1		48.00
" Lot 2		35.65
" Lot 3		56.35
SW¼ of SW¼		40.00

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Section 21		
Government	Lot 1	22.25
"	Lot 2	44.85
"	Lot 5	38.60
"	Lot 4	46.45
"	Lot 8	32.75
NW $\frac{1}{4}$ of NW $\frac{1}{4}$		40.00
Government	Lot 3	30.35
"	Lot 7	18.75
Section 20		
N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
Government	Lot 5	18.50
"	Lot 6	33.60
"	Lot 7	7.30
NE $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
SE $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
Government	Lot 4	17.50
"	Lot 3	38.65
"	Lot 2	26.75
"	Lot 1	39.75
Section 19		
S $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
Section 29		
N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$		20.00
W $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
Government	Lot 1	37.75
"	Lot 2	30.35
"	Lot 3	51.00
"	Lot 7	1.75
"	Lot 4	38.00
"	Lot 5	31.75
"	Lot 6	9.00
Section 30		
Government	Lot 1	38.00
"	Lot 2	21.75
"	Lot 3	26.35
"	Lot 4	21.00
"	Lot 10	0.15
"	Lot 9	38.75

except S 20

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Section 32			20.00
	W½ of NE¼ of NW¼		10.25
	Government Lot 1		25.00
	" Lot 2		37.00
	" Lot 3		33.50
	" Lot 4		3.25
	" Lot 5		34.50
	" Lot 6		
Section 31			40.00
	NE¼ of NE¼		38.50
	Government Lot 7		39.50
	" Lot 6		38.75
	" Lot 5		
T53N-R13W			
Section 6			
	Government Lot 1		29.00
	" Lot 2	except W 40	18.70
	" Lot 3		19.08
	" Lot 4		34.50
	SE¼ of SE¼		40.00
Section 5			
	SW¼ of NW¼		40.00
	Government Lot 2		31.95
	" Lot 3		38.40
	" Lot 4		18.96
	" Lot 5		54.95
Section 8			
	W½ of NW¼ of NE¼		20.00
	N½ of SE¼ of NW¼		20.00
	Government Lot 1		53.67
	" Lot 2		22.48
	" Lot 3		28.20
Section 7			
	SE¼ of SE¼		40.00
	E½ of NE¼ of SW¼		20.00
	Government Lot 1		58.20
	" Lot 2		39.00
	" Lot 3		17.16
	" Lot 4		54.76

PROPOSED RULES

"	Lot 5		21.10
"	Lot 6		25.85
"	Lot 7		50.60
Section 18			
	Government Lot 9		39.80
"	Lot 1		20.25
"	Lot 2	except W 20	32.10
"	Lot 3		36.80
"	Lot 4		39.00
"	Lot 5		47.10
"	Lot 6		29.70
"	Lot 8		37.20
"	Lot 7		34.15
Section 17			
	Government Lot 3		30.95
Section 19			
	Government Lot 1	the N 20	20.00
"	Lot 9		4.98
"	Lot 8		1.18
"	Lot 7		37.70
Section 20			
	Government Lot 10		12.09
"	Lot 9		1.08
"	Lot 3		23.40
"	Lot 7		30.07
"	Lot 8		33.65
Section 29			
	Government Lot 1		10.25
"	Lot 2		29.35
"	Lot 3		29.50
"	Lot 4		32.15
"	Lot 5		39.85

Section 32	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	40.00
Section 30	Government Lot 3	1.32
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
	Government Lot 1	39.80
	" Lot 2	30.90
	S $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$	20.00
	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$	20.00
	S $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$	17.96
Section 31	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$	20.00
	N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NE $\frac{1}{4}$	20.00
	N $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
	Government Lot 1	9.73
	" Lot 2	24.90
	" Lot 6	25.70
	" Lot 5	29.85
	" Lot 4	26.20
	" Lot 3	49.67
T53N-R14W		
Section 25	S $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$	20.00
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	40.00
Section 36	Government Lot 8	39.95
	" Lot 7	23.35
	" Lot 6	25.70
	" Lot 5	6.18
	" Lot 4	33.42
	" Lot 3	54.62
	" Lot 2	35.10
	" Lot 1	26.22
	except N 20	
	except N 20	

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N $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
Government Lot 9		26.40
" Lot 10		56.25
" Lot 11		21.91
Section 35		
Government Lot 4		31.22
" Lot 3	except N 20	35.53
" Lot 2	except N 20	34.12
" Lot 1	except N 40	11.42
" Lot 6		15.90
" Lot 7		16.85
" Lot 8		19.31
T52N-R14W		
Section 1		
NW $\frac{1}{4}$ of NW $\frac{1}{4}$		41.60
Section 2		
NE $\frac{1}{4}$ of NE $\frac{1}{4}$		40.89
NW $\frac{1}{4}$ of NE $\frac{1}{4}$		41.92
NE $\frac{1}{4}$ of NW $\frac{1}{4}$		41.84
NW $\frac{1}{4}$ of NW $\frac{1}{4}$		41.76
T52N-R15W		
Section 15		
Government Lot 5		30.16
" Lot 4		32.44
" Lot 3		36.94
" Lot 2		43.50
S $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00
S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00
W $\frac{1}{2}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00
NW $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00

PROPOSED RULES

Section 16		
	Government Lot 1	37.91
	" Lot 2	34.37
	" Lot 8	37.14
	" Lot 7	31.12
	" Lot 6	39.22
	" Lot 4	57.05
	" Lot 3	20.24
	1/2 of NE 1/4 of NE 1/4	20.00
	NW 1/4 of SE 1/4	40.00
Section 17		
	Government Lot 2	37.02
	" Lot 8	31.54
	" Lot 7	41.70
	" Lot 6	37.49
	" Lot 5	39.04
	" Lot 4	28.83
	" Lot 3	42.08
Section 20		
	Government Lot 1	19.27
	" Lot 2	49.96
	" Lot 4	39.12
	" Lot 5	19.60
	" Lot 6	56.01
	" Lot 3	29.62
	NW 1/4 of NE 1/4	40.00
	1/2 of SW 1/4 of NE 1/4	20.00
Section 21		
	Government Lot 3	39.19
	" Lot 2	33.32
	" Lot 1	35.71
	1/2 of NW 1/4 of NE 1/4	20.00

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Section 19			
Government	Lot 3		23.54
"	Lot 4		50.58
"	Lot 5		49.20
"	Lot 7		57.99
"	Lot 6		19.15
"	Lot 8	within 600' of normal high-water mark	5.00
"	Lot 2	within 600' of normal high-water mark	14.00
"	Lot 1		52.04
N $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$			20.00
Section 30			
NW $\frac{1}{4}$ of NW $\frac{1}{4}$			38.46
W $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$			20.00
T52N-R16W			
Section 24			
Government	Lot 2		38.40
Section 25			
Government	Lot 10		39.45
"	Lot 9		39.95
"	Lot 8		29.60
"	Lot 7		49.40
"	Lot 6		25.10
"	Lot 5		39.40
"	Lot 4		5.70
"	Lot 3	within 600' of normal high-water mark	12.00
"	Lot 2	within 600' of normal high-water mark	8.00
"	Lot 1		59.95
NW $\frac{1}{4}$ of SE $\frac{1}{4}$			40.00
NE $\frac{1}{4}$ of SW $\frac{1}{4}$			40.00

Section 26			8.35
Government Lot 10			23.05
" Lot 5	except SW 30		39.00
" Lot 4			34.20
" Lot 3			39.35
" Lot 2			6.45
" Lot 6			38.80
" Lot 7			56.90
" Lot 1			8.05
" Lot 8			23.75
" Lot 9			20.00
W½ of SE¼ of NW¼			
Section 35			
Government Lot 2	except W 20		19.85
" Lot 1			36.60
NE¼ of NE¼			40.00
Section 27			
Government Lot 2			22.20
" Lot 5			22.00
" Lot 6			27.20
" Lot 4			53.90
" Lot 3			49.25
" Lot 1			36.30
E½ of NW¼ of NE¼			20.00
SW¼ of SE¼			40.00
Section 23			
Government Lot 1			39.50
" Lot 2			19.15
" Lot 4	except E 40		13.75
" Lot 3			31.20
Section 22			
Government Lot 10			4.05
" Lot 9			44.40
" Lot 8			41.65
" Lot 7			31.75

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"	Lot 6	52.50
"	Lot 5	56.55
"	Lot 4	40.20
"	Lot 3	23.40
"	Lot 2	28.50
SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40.00
Section 21		
Government	Lot 2	17.50
"	Lot 4	25.85
"	Lot 5	32.40
"	Lot 3	39.85
"	Lot 1	50.45
SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40.00
Section 28		
Government	Lot 4	39.45
"	Lot 2	54.90
"	Lot 3	28.25
"	Lot 1	48.15
NW $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00
Section 29		
Government	Lot 7	38.50
"	Lot 6	43.25
"	Lot 5	36.35
"	Lot 4	24.20
"	Lot 3	32.45
"	Lot 2	20.15
"	Lot 1	18.65
S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$		20.00
N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00
S $\frac{1}{2}$ of SW $\frac{1}{4}$ of NE $\frac{1}{4}$		20.00
Section 32		
Government	Lot 1	1.85
"	Lot 2	30.80
NE $\frac{1}{4}$ of NW $\frac{1}{4}$		40.00
N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00

Section 31

Government Lot 9		34.50
" Lot 8		20.30
" Lot 2		44.00
" Lot 1		31.30
" Lot 7		32.75
" Lot 5		50.15
" Lot 4		55.65
" Lot 3		51.75
N $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00

except S 20

T52N-R17W

Section 36

Government Lot 1		51.00
" Lot 3		17.75
" Lot 2		23.90
SW $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
NE $\frac{1}{4}$ of NW $\frac{1}{4}$		40.00
N $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$		20.00

Section 25

Government Lot 6		48.75
" Lot 5		47.40
" Lot 2		45.35
" Lot 1		35.40
" Lot 3		24.40
" Lot 4		24.80
" Lot 7		22.25
SW $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
NE $\frac{1}{4}$ of NW $\frac{1}{4}$		40.00

Section 26

Government Lot 5		44.70
" Lot 4		39.70
" Lot 6		37.80
" Lot 9	N of CSAH 33	18.75
" Lot 8		52.10
" Lot 7		35.65
" Lot 3		36.25
" Lot 2		31.25
" Lot 1		29.40
W $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$	N of CSAH 33	12.00
E $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00

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Section 35			
	Government Lot 1		7.75
	" Lot 2	N of CSAH 33	26.25
	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	N of CSAH 33	14.00
	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	N of CSAH 33	12.00

Section 34			
	Government Lot 3		17.50
	" Lot 4		46.40
	" Lot 7		44.35
	" Lot 6		24.00
	" Lot 5		20.10
	" Lot 2		54.00
	" Lot 1		38.00
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00

T51N-R17W

Section 3			
	Government Lot 3		35.00
	" Lot 4		44.30
	" Lot 7		43.50
	" Lot 8		17.60
	" Lot 6		13.75
	" Lot 5		28.50
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00
	SW $\frac{1}{4}$ of SW $\frac{1}{4}$		40.00

Section 4			
	Government Lot 7		17.50
	" Lot 6	except W 20	32.70
	" Lot 5		37.00

Section 10			
	Government Lot 1		39.60
	W $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00

Section 9			
	Government Lot 1		2.10
	" Lot 9		31.15
	" Lot 8		12.75
	" Lot 7		36.20
	" Lot 6		36.35

PROPOSED RULES

"	Lot 5	35.50
"	Lot 4	35.60
"	Lot 3	18.75
"	Lot 2	32.20
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	40.00
	E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
	E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$	20.00
Section 16		
	Government Lot 1	27.50
	" Lot 2	31.75
	" Lot 3	22.00
	" Lot 4	38.75
	" Lot 5	23.70
	" Lot 6	
	" Lot 7	30.60
	" Lot 8	36.60
	N $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$	44.25
		20.00
Section 17		
	Government Lot 1	23.00
	" Lot 2	9.00
	S $\frac{1}{2}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$	20.00
Section 20		
	Government Lot 1	39.10
	" Lot 2	18.75
	" Lot 3	39.20
	" Lot 4	22.90
	" Lot 5	31.25
	" Lot 6	9.50
	" Lot 7	31.50
	" Lot 8	32.25
	" Lot 9	12.20
	E $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	40.00
Section 21		
	N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00
	N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$	20.00

N of CSAH 7, a line 300' from the normal high-water mark and everything south of highway

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Section 19		
Government Lot 5		38.30
E½ of NE¼ of SE¼		20.00
Section 29		
Government Lot 1		38.20
W½ of SW¼ of NW¼		20.00
Section 30		
Government Lot 10		14.85
" Lot 11		27.25
" Lot 12		30.80
" Lot 4		44.90
" Lot 5		39.90
" Lot 6		29.20
" Lot 7		41.10
" Lot 8		13.25
" Lot 9		30.45
E½ of NE¼ of SW¼		20.00
E½ of NW¼ of NE¼		20.00
E½ of SW¼ of NE¼		20.00
Section 31		
Government Lot 1		39.70
" Lot 2		30.40
" Lot 4		23.25
" Lot 3		18.35
" Lot 5		43.41
N½ of NE¼ of NE¼		20.00
T51N-R18W		
Section 36		
Government Lot 5		29.50
" Lot 6		51.00
" Lot 7		47.00
" Lot 2		25.50
" Lot 3		23.00
" Lot 4		41.65
N½ of NE¼ of SE¼		20.00

TOTAL

24,022.88

Scenic Easements
Legal Descriptions

T55N-R12W			
Section 9	Government Lot 11		3.65
Section 16	Government Lot 3		52.35
	" Lot 4		26.00
Section 8	1/2 of SE 1/4 of SE 1/4		20.00
T55N-R13W			
Section 25	Government Lot 9		23.00
	" Lot 10		23.00
T54N-R13W			
Section 21	Government Lot 4		46.45
	" Lot 3		30.35
	" Lot 8	except S 20	32.75
Section 20	SE 1/4 of NE 1/4		40.00
	Government Lot 4		14.50
	" Lot 5		18.50
	" Lot 6		33.60
	" Lot 7		9.30
	" Lot 1		39.75
Section 29	Government Lot 1		39.75
	" Lot 2		30.35
	" Lot 3		51.00
	" Lot 4		38.00
	" Lot 5		31.75
	" Lot 6		9.00
	" Lot 7		1.75

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Section 30		
Government	Lot 1	38.00
"	Lot 2	21.75
"	Lot 3	26.35
"	Lot 4	21.00
"	Lot 9	38.75
"	Lot 10	0.15

Section 31		
Government	Lot 5	38.75
"	Lot 6	39.50
"	Lot 7	38.50
NE $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00

T53N-R13W

Section 5		
Government	Lot 1	1.79
"	Lot 2	31.95
"	Lot 3	38.40
"	Lot 4	18.96
"	Lot 5	54.95

Section 8		
Government	Lot 1	53.67
"	Lot 2	22.48

Section 6		
Government	Lot 1	29.00
"	Lot 2	18.70
"	Lot 4	34.50
SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40.00

except W 40

Section 7		
Government	Lot 1	58.20
"	Lot 2	39.00
"	Lot 3	17.16
"	Lot 4	54.76
"	Lot 5	21.10
"	Lot 6	25.85
"	Lot 7	50.60
SE $\frac{1}{4}$ of SE $\frac{1}{4}$		40.00
E $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$		20.00

PROPOSED RULES

Section 18		
Government	Lot 1	39.80
"	Lot 5	47.10
"	Lot 6	29.70
"	Lot 7	34.15
"	Lot 8	37.20
Section 17		
Government	Lot 3	30.95
Section 19		
Government	Lot 1	20.00
Government	Lot 7	37.70
	the N 20	
Section 20		
Government	Lot 3	23.40
"	Lot 7	30.07
"	Lot 8	33.65
"	Lot 9	1.08
Section 29		
Government	Lot 1	10.25
"	Lot 4	32.15
"	Lot 5	39.35
Section 30		
E½ of NE¼		80.00
Government	Lot 1	39.80
"	Lot 2	30.90
Section 31		
Government	Lot 1	9.73
"	Lot 2	24.90
"	Lot 3	49.67
"	Lot 4	26.20
"	Lot 5	29.35
"	Lot 6	25.70

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T53N-R14W			
Section 36			
Government Lot 1		except N 20	26.22
" Lot 2		except N 40	15.10
" Lot 3			54.62
" Lot 4			33.42
" Lot 5			6.18
" Lot 6			25.70
" Lot 7			23.35
" Lot 8			39.95
" Lot 9			26.40
" Lot 10			56.25
" Lot 11			21.91
Section 35			
Government Lot 1		except N 40	11.42
" Lot 2		except N 40	14.12
" Lot 8			19.31
T52N-R15W			
Section 15			
Government Lot 2			43.50
" Lot 3			36.94
" Lot 4			32.44
S $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$			20.00
S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$			20.00
NW $\frac{1}{4}$ of SW $\frac{1}{4}$			40.00
Section 16			
Government Lot 3			20.24
" Lot 4		except N 40	17.05
" Lot 6			39.22
" Lot 8			37.14

Section 17			
Government	Lot 2		37.02
"	Lot 4		28.83
"	Lot 5		39.04
"	Lot 6		37.49
"	Lot 7		41.70
"	Lot 8		31.54
Section 19			
Government	Lot 3		23.54
"	Lot 4		50.58
"	Lot 5		49.20
"	Lot 6		19.15
"	Lot 7		57.99
Section 21			
Government	Lot 1		35.71
"	Lot 2		33.32
T52N-R16W			
Section 24			
Government	Lot 1		38.40
Section 25			
Government	Lot 1		59.95
"	Lot 4		5.70
"	Lot 6		25.10
"	Lot 7		49.40
"	Lot 8		29.60
"	Lot 9		39.95
"	Lot 10		39.45
Section 26			
Government	Lot 1	except N 40	16.90
"	Lot 7		38.80
"	Lot 8		8.00
"	Lot 9		23.75
"	Lot 5		53.05
"	Lot 6		6.45

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Section 27			
Government	Lot 4		53.90
"	Lot 3		49.25
"	Lot 1		36.30
"	Lot 2		22.20
Section 23			
Government	Lot 4		13.75
"	Lot 2		19.13
"	Lot 1		39.50
"	Lot 3		31.20
Section 22			
Government	Lot 2		28.50
"	Lot 4		40.20
"	Lot 5	except N 40	16.55
"	Lot 9		44.90
"	Lot 8		41.65
"	Lot 7		31.75
"	Lot 6		12.50
Section 21			
Government	Lot 1		50.45
"	Lot 3		39.85
"	Lot 5		32.40
"	Lot 2		17.50
"	Lot 4		25.85
N $\frac{1}{2}$ of SE $\frac{1}{4}$ of SE $\frac{1}{4}$			20.00
Section 28			
Government	Lot 4	except S 20	19.45
"	Lot 2		34.90
"	Lot 3		28.25
"	Lot 1		48.15
Section 29			
Government	Lot 1		18.05
"	Lot 2		30.15
"	Lot 3		32.45
"	Lot 4		24.20
"	Lot 7		38.50
"	Lot 6		43.25
"	Lot 5		36.35
S $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$			20.00

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Section 32			
Government	Lot 2		30.80
"	Lot 1		1.85
N½ of SW¼	of NW¼		20.00
Section 31			
Government	Lot 1		31.30
"	Lot 2	except N 20	24.00
"	Lot 3	except N 20	31.75
"	Lot 4	except N 20	35.65
"	Lot 9		34.50
"	Lot 8		20.30
"	Lot 7	except S 20	32.75
"	Lot 5		50.15
T52N-R17W			
Section 36			
Government	Lot 1		51.00
"	Lot 3		17.75
"	Lot 2		23.90
SW¼ of NE¼			40.00
Section 25			
Government	Lot 7		22.25
"	Lot 4		24.80
"	Lot 3		24.40
"	Lot 1		35.40
NE¼ of NW¼			40.00
Government	Lot 6		48.75
"	Lot 5		47.40
"	Lot 2		45.35
Section 26			
Government	Lot 1		29.40
"	Lot 2		31.25
"	Lot 4		39.70
"	Lot 5	except S 20	24.70
Section 34			
Government	Lot 2		54.00
"	Lot 4	except E 20	26.40
"	Lot 6		24.00
"	Lot 7	except E 20	24.35

T51N-R17W

Section 3

Government Lot 3		35.00
" Lot 4		44.30
" Lot 5		28.50
" Lot 7	except E 20	23.50
" Lot 6		13.75
" Lot 8		17.60

Section 10

Government Lot 1		39.60
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Section 9

Government Lot 1		3.10
" Lot 2		32.20
" Lot 3		18.75
" Lot 4		35.60
" Lot 5		35.50
" Lot 6		36.35
" Lot 7		36.20
" Lot 8		12.75
" Lot 9		31.15
NW $\frac{1}{4}$ of NE $\frac{1}{4}$		40.00
E $\frac{1}{2}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$		20.00

Section 16

Government Lot 1		27.50
" Lot 2		31.75
" Lot 3		22.00
" Lot 4	except S 20	18.75
" Lot 5		23.70
" Lot 7	except W 20	16.60
" Lot 8		44.25
" Lot 6	N of Hwy., 300' from normal high-water mark	5.00

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Section 20

Government Lot 1
 " Lot 2
 " Lot 3
 " Lot 4
 " Lot 5
 " Lot 6
 " Lot 7
 " Lot 8
 " Lot 9

except E 20

19.10
 18.13
 39.20
 22.90
 31.25
 9.50
 31.50
 32.25
 12.20

Section 29

Government Lot 1

38.20

Section 30

Government Lot 5
 " Lot 6
 " Lot 7
 " Lot 8
 " Lot 9
 " Lot 10
 " Lot 11
 " Lot 12

39.90
 29.20
 41.10
 13.25
 30.45
 14.85
 27.25
 30.80

Section 31

Government Lot 1
 " Lot 2
 " Lot 3
 " Lot 4
 " Lot 5
 N $\frac{1}{2}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$

39.70
 30.40
 18.35
 23.25
 43.41
 20.00

T51N-R18W

Section 36

Government Lot 2
 " Lot 3
 " Lot 4
 " Lot 5
 " Lot 6
 " Lot 7
 N $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$

25.50
 23.00
 41.65
 29.50
 51.00
 47.00
 20.00

TOTAL

7,567.58

<u>Description</u>	<u>Fee Title or Lease</u>	<u>Acreage</u>	<u>Proposed Use</u>
T52N-R15W Section 15 Government Lot 5	adjoining river	5.00	Access-Portage
T52N-R15W Section 17 Government Lot 3	except N 20	22.08	Campsite-Rest Area
T52N-R16W Section 23 Government Lot 1	adjoining river and road	10.00	Access
T52N-R16W Section 22 Government Lot 3		23.40	Campsite-Rest Area
T51N-R17W Section 16 Government Lot 6	that portion S of Hwy., except NW 10	20.00	Campsite-Rest Area- Access
	TOTAL	80.48	

PROPOSED RULES

Department of Public Welfare

Support Services Bureau

Proposed Amendments to Rule Governing Welfare Per Diem Rates for Nursing Home Providers Under the Title XIX Medical Assistance Program

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Minnesota Veterans Home, Building 15, Auditorium Chapel Building, Minnehaha Avenue and East 51st Street, Minneapolis, Minnesota, 55417 on January 18, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter C. Erickson, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8118 either before the hearing or within 5 working days after the public hearing ends. The Hearing Examiner may extend the written comment period up to 20 calendar days at the hearing.

Present Rule 49 established the criteria by which welfare rates for nursing homes are established. The proposed amendments to Rule 49 are required in compliance with 45 CFR 249.33 which are the federal standards for Payments for Skilled Nursing Facility and Intermediate Care Facility Services. Likewise, the proposed amendments are required in compliance with Minn. Stat. § 256B.46 (Laws of 1976, ch. 282, subd. 6). Minn. Stat. § 256B.45, subd. 1 authorized the state agency to establish a 2% investment allowance for nonproprietary facilities effective July 1, 1977. Approval for such an investment allowance was not granted by the appropriate federal agency. Therefore, effective January 1, 1978 the 2% nonproprietary investment allowance was deleted from Rule 49 by temporary rule and a non-proprietary efficiency allowance replaced the deleted allowance on the same date by means of another temporary

rule. The proposed nonproprietary efficiency allowance will be determined from a comparison of the facility's prior year's operating costs plus projected cost changes to the current year's operating costs. If the provider can operate within the costs budgeted for the fiscal year, he can include in allowable costs an efficiency allowance not to exceed 60 cents per day. This limit will increase by 1 cent per day for each year of continuous ownership to a maximum at 25 cents per day. This amount will allow a maximum efficiency allowance of 85 cents per day. Copies of the proposed rule are now available and one free copy may be obtained by writing to Jacqueline Bovaird, Department of Public Welfare, 1st Floor, Centennial Office Building, St. Paul, Minnesota, 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 256B.27, 256B.41 and 256B.46.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lob-

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byist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions at Minn. Stat. Sec. 10A.01 Subd. 11. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone (612) 296-5615.

November 29, 1978

Edward J. Dirkswager, Jr.
Commissioner

Adopted rule 12 MCAR § 2.049 (DPW 49) was published at *State Register*, Volume 2, Number 6, pp. 245-247, August 15, 1978 (2 S.R. 245). This adopted rule is proposed for amendment as follows:

Amendments as Proposed

12 MCAR § 2.049. B. Rate Determination.

1. Method of calculating per diem rate.

a. Historical rate. The method of calculating the nursing-home provider per diem rate for skilled, ICF I, and ICF II facilities will be to determine reasonable costs for the most current fiscal year and divide by adjusted patient days according to reasonable cost provisions of D. and cost-reporting regulations contained in C.

b. Incentive factors.

(1) In no case will the historical rate so determined under B.1.a. be less than the historical rate calculated for the previous year minus one-half of the difference. This provision shall not apply for rates for newly established providers under B.3.a. rates set by applying exceptions provided by D.8.d. and flat rates established under B.3.e. For multi-level providers this provision will be applied to the facilities average historical rates.

(2) Per-diem rates for non-proprietary facilities may include an efficiency allowance. If the facility's allowable historical cost per patient per day for the most recently completed fiscal year is less than the allowable welfare rate exclusive of Sections B.4.a. & b. and as adjusted for the lack of implementation of known cost changes, an efficiency allowance will be granted equal to the difference between the allowable historical cost and the allowable welfare rate subject to a maximum efficiency allowance of 60 cents per patient per day. For each year after the year in which the non-proprietary facility was originally purchased and there is no transfer of ownership of the facility, the

efficiency allowance maximum will be increased one cent per patient per day subject to a maximum of an additional 25 cents per patient per day after 25 years. If a non-proprietary facility is operated on a lease basis, there shall not be recognized as an allowable cost for the operator any rental fee in excess of the total amount allowed for depreciation and pursuant to B.1.b.(2). This provision of the rule will be effective for rates paid non-proprietary facilities on January 1, 1978 and subsequent provided this provision of the rule is approved by HEW.

c. Allowance for known cost changes.

(1) Future cost increases or decreases that are in accordance with the reasonable cost principles of D.1. known as of the report filing date, must be added to or deducted from the historical rate determined according to B.1.a. and b. Such adjustment will be restricted to the elements defined in B.1.c.(1)(a) through (h) and shall be the annualized cost effect of such cost changes exclusive of any portion of the cost change included in the historical rate.

(a) Salary and wage changes to occur during the effective period of the welfare rate:

(i) Future changes according to labor contracts, board resolutions, written policies, or minimum wage laws.

(ii) Changes that are in effect as of the end of the fiscal period covered by the historical cost portion of the welfare per-diem rate.

(b) Changes in facilities or equipment.

(c) The annualized cost effect of complying with federal, state, or local laws and regulations and Department of Public Welfare announced policies on care or facilities.

(d) All taxes except for income taxes.

(e) Interest.

(f) Depreciation.

(g) Utilities and insurance.

(h) Rental payments pursuant to a written lease.

(i) Raw food cost increase computed initially by multiplying \$1.20 times one-half the percentage increase in the wholesale price index for raw food during calendar 1973. The initial increase is \$.14. For reports covering periods ending December 31, 1974 or later, this cost increase shall be calculated as follows:

PROPOSED RULES

(i) Calculate the percentage increase in the wholesale price index for raw food for the period December through November.

(ii) If the increase is greater than that computed for the prior year, add the difference to (i).

(iii) If the increase is less than that computed for the prior year, subtract the difference from (i).

(iv) Multiply one-half of the resulting figure times the sum of \$1.20 plus all of the annual increases allowed pursuant to this section.

(j) Unidentified cost increases equal to changes in the annual percentage increase in the consumer price index in Minneapolis-St. Paul as Published by the Bureau of Labor and Statistics, using the October indices (new series index 1975 equals 100) as applied to the historical cost portion of the facilities previous year's cost less those costs relating to areas where the facility is seeking specific allowances for known cost changes. In no case may the increase be applied against the historical cost of salaries, changes in facilities or equipment, property taxes, interest, depreciation, rental payments of food costs.

(2) Cost changes determined under this provision must be based upon facts and commitments in existence as of the original filing date of the report C.1.c.1. If the provider cannot substantiate that such facts and commitments did exist as of the filing date, the welfare rate will be subject to adjustment according to B.2.c. If known cost changes calculated under (a) through (h) above do not in fact occur, the welfare rate will similarly be subject to adjustment under B.2.c. If actual cost increases exceed the known cost changes determined under (a) through (i) above, no adjustment in welfare rate will be made.

2. Effective date, notifications and adjustments.

a. Effective date. A new per diem rate determined by the Department will be effective the first day of the month following the provider's normal fiscal year-end except in instances in which penalty provisions of regulation C.1.f. are applicable. If the new rate results in a lower rate than the previous rate, the provider has 120 days from the original filing date in which to pay back any difference received during the period the new rate was to be effective. If the new rate results in a higher rate than the previous rate, payment shall be made to the provider within 45 days after receiving notification of the rate adjustment.

b. Rate notifications. A temporary rate notification consisting of the previous year's allowed historical cost per patient day plus 80% of the indicated allowed known cost changes per patient day will be issued and paid on receipt of the report. The temporary rate shall be limited by all maximums contained in Rule 49. Individual as well as overall maximums apply. The Commissioner will notify the provider in writing and the respective county welfare boards of the final rate determined under these regulations and the effective date of such rate. Included in the notification will be a detailed statement of the reason for any difference between the rate requested by the provider and the rate determined.

c. Adjustments for errors or omissions. All rates determined according to DPW Rule 49 may be subject to adjustment as a result of errors or omissions determined through audit of the provider's accounting and statistical records or by amended reports as provided by C.1.i. Such adjustments are limited to the three complete fiscal years preceding the date an audit commences. If the adjustment results in a payment from the provider to the County welfare board(s), the provider will have up to 120 days from the date the provider receives written notification of the adjustment. If the adjustment results in a payment to the provider, payment shall be made within 45 days after the date of receiving written notice of the adjustment.

3. Special rate setting procedures.

a. Newly constructed facilities.

(1) Required reports. Providers with newly constructed facilities may request an interim welfare rate. Providers who increase the facility's capacity by at least 50% may at their option be considered in this classification. The provider must submit reports as required in C.1.a. for the immediate future fiscal year forecast results.

(2) Report compliance. Reports will comply with all applicable sections of these regulations governing cost finding, reporting, and allowable costs to the extent feasible in the individual circumstances. Non-compliance with any provision of these regulations must be so stated together with the reason why the provider cannot comply.

(3) Interim rate establishment. The Commissioner will establish an interim rate in accordance with regulations B.1. retroactive to the first day a Medical Assistance recipient is placed in the home. Such rate shall be subject to retroactive upward or downward adjustment in accordance with all provisions of DPW Rule 49 except B.1.b. on the

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PROPOSED RULES

basis of first cost report covering actual results for the period to which the rate has been applied. Adjustments to the interim rate will be in accordance with B.2.a. and C.1.i.

b. Rates for lesser care levels in facilities without certification classification. Providers who provide care to welfare recipients requiring less care than the care level to which the provider is certified will receive a per-diem rate as follows:

(1) ICF I care per diem rate in a skilled nursing-care facility will not exceed 85 per cent of the established skilled nursing-care rate for that facility except that facilities whose skilled rates are affected by B.4.c.(2) shall receive up to 85% of what their skilled rate would have been without application of B.4.c.(2).

(2) ICF II care per diem rate in an ICF I facility will not exceed 60 per cent of the established ICF I rate for that facility.

(3) ICF II care per diem rate in a skilled nursing-care facility will not exceed 50 per cent of the established skilled nursing-care rate for that facility.

This provision shall be applied in conjunction with C.3.c.(2).

c. Private room rate. A private room rate of 115 per cent of the established welfare per diem rate for the applicable care level in an individual home shall be allowed for a Medical Assistance recipient when deemed a medical or other necessity for the individual patient or as the patient's condition affects others; such condition must be determined by the attending physician and approved by the county welfare board. This provision, together with the provisions of D.8.d. shall apply only to facilities applying for a Certificate of Need after August 15, 1972.

d. Care classification additions. Providers who add certified care classifications may file an amended report under C.1. that includes known cost changes associated with care classification additions to obtain a welfare per diem rate for care not previously provided. At the provider's option he may accept the lesser care rates under B.3.b. in lieu of filing reports according to this provision.

e. Election of flat rate for small providers. Providers with a capacity of less than 30 licensed beds may annually elect to receive a flat per diem rate for providing required care of welfare patients by filing a flat rate report in lieu of receiving a rate complying with reporting requirements of C.1. and otherwise being subject to provisions of DPW Rule 49. The flat rate for skilled, ICF I, and ICF II for each region or group of regions as defined in B.4.b. shall be the regional average rates as determined from filed reports before the maximum rate limitation and excluding rates for

providers electing the flat rate. These rates will be adjusted annually through policy bulletins. Such an election must be filed within reporting deadline provided by C.1.e. or be subject to penalty provisions of C.1.f. Such rates elected by providers will be in effect for one year.

f. Incidental welfare rate. Providers may elect to receive a flat rate under B.3.e. for care of welfare recipients if welfare recipients account for less than twenty per cent of the certified capacity of the home.

4. Rate limitations.

a. Limitation based on private pay rates or relevant federal or state laws and regulations. Notwithstanding any other provisions of these regulations, the established provider rates for nursing-home care will not exceed the normal provider's rate charged private patients for comparable nursing-care services. This rate limitation shall be applied when the welfare rate is anticipated to exceed the private pay rate for a comparable time period. Welfare rates may further be limited by federal and state laws or regulations that affect the Medical Assistance Program.

b. Maximum rate. Individual welfare rates will be subject to a maximum of 125 per cent of regional average costs plus known cost changes exclusive of this limitation and flat rates under B.3.e. Regions will be those areas designated by the Governor for regional planning and economic-development purposes. Regions may be combined when deemed appropriate by the Commissioner as announced through policy bulletins. The regional averages will be calculated separately for proprietary, non-proprietary and hospital-attached facilities except the regional average costs for hospital-attached facilities shall be included in the regional average calculation for non-proprietary free-standing facilities. The maximum-rate limitations will be adjusted annually through policy bulletins. The regional averages will be determined by the Commissioner, using all available information from reports that indicate a fiscal-year end during a calendar year and will be applied to rates that become effective during the second succeeding calendar year. Facilities that have a non-calendar-year end and have been previously subject to the maximum rates may adjust the rates to the new maximum rates if previously justified by the reports.

c. Maximum rate exceptions.

(1) Welfare per diem rates in excess of the maximum rate limitation will be allowed in the initial year to the extent that the welfare rate requested includes cost increases required to increase wages to the minimum standards of federal or state wage laws.

(2) Provision B.4.b. will not apply to homes that

PROPOSED RULES

qualify for exception under D.8.b.(3) or facilities licensed under DPW Rule 80.

(3) Provision B.4.b. will not apply to providers with newly constructed facilities or providers who increase the facility's capacity by 50% for the first two immediate fiscal years.

(4) A welfare per diem rate component in excess of either of the maximum rate limitations contained in B.4.b. will be allowed to the extent of 85 percent of the first \$2.00 per patient day over the maximum welfare rate when total allowable costs are divided by actual patient days or 93 percent of total capacity patient days, whichever is greater provided that in no event shall this section affect a per diem rate by more than \$1.70.

(5) Provision B.4.b. will not apply to those salary cost changes which exceed 6% of the historical salaries if the salary cost changes are reasonable and are required to bring facility salaries to the salary range of comparable facilities. The salary cost changes for top management compensation are excluded from this exception.

d. Minimum rate. The minimum welfare per diem rates will be 75 percent of the regional average as defined in B.4.b.

5. Appeal procedures.

a. Scope of appeals procedures. These procedures describe the manner by which unresolved individual provider or county welfare board disputes that may arise concerning application of these regulations excluding regulation B.5. will be settled. Unresolved disputes are defined as those disagreements which cannot be resolved informally between the provider and the Department staff normally assigned responsibility for administration, or the provider and a county welfare board.

b. Time limit. The provider, or the county, has 30 days to appeal from the date of the Department's notification of the new per diem rate. Appeals will be heard by a Hearing Examiner of the Office of Hearing Examiners and will be according to rules of that office in addition to the provision of this rule.

c. Effective date of resolved disputes. If the dispute is related to a change in the provider's rate, the new per diem rate will prevail until final determination according to these appeal procedures is made. The total dollar amount due the provider or the Department resulting from the re-

solved disputes will be subject to payment provision of B.2.c.

D. Reasonable cost principles.

1. General provisions.

a. Reasonable costs. Costs to be allowable for rate setting purposes must satisfy the following over-all criteria:

(1) They must be necessary and ordinary costs related to patient care.

(a) They must be costs that prudent and cost-conscious management would pay for a given item or service.

b. Costs not allowable. Costs that relate to management inefficiency, unnecessary care or facilities, and activities not common and accepted in the nursing care field are not allowable.

c. Reasonable compensation. Reasonable compensation of individuals employed in the facility is an allowable cost, provided the services are actually performed in a necessary function and the costs reported are actually incurred. To be reasonable the compensation allowance must be such an amount as would ordinarily be paid for comparable services by comparable facilities. To be necessary the function must be such that had the individual not rendered the services, the facility would have had to employ another person to perform the services. The function must also be pertinent to the operation and conduct of the facility. Where the services are rendered on less than a full-time basis, the allowable compensation should reflect an amount proportionate to a full-time basis. Compensation shall include payment to individuals as well as to organizations of non-paid workers that have arrangements with the provider for the performance of services by non-paid workers.

d. Substance over form. The cost effect of transactions that are conceived for the purpose of circumventing the regulations contained in DPW Rule 49 will be disallowed under the principle that the substance of the transaction shall prevail over form.

e. Costs due to changes in federal or state requirements. Costs incurred to comply with changes in federal or state laws and regulations on increased care and improved facilities are allowable costs for purposes of determining a historical per diem rate under B.1.a.

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f. Reduction in costs. Purchase discounts, allowances, and refunds are a reduction of the cost of whatever was purchased.

g. Annual review of cost limitations. The Commissioner shall review annually the dollar limitations for top management compensation limitation D.3.a. and depreciation basis limitation D.4.b. and adjust the limitations accordingly if justified by current data. The data used as a basis for this determination shall be made available to all providers.

h. Application of principles and specific limits. The reasonable cost principles defined in D.1. apply to all reported costs and have been specifically defined for certain cost elements in D.2. through D.8.

2. Nursing care and attendant limitations.

a. Nursing care. Nursing-care costs will be limited by a maximum number of nursing hours per patient day as follows:

Skilled — 2.9 hours
ICF I — 2.3 hours

If the actual average nursing hours per patient day exceed the above limit, the reasonable cost limitation will be calculated by multiplying the ratio of the above stated limit to the average actual nursing hours per patient day for the year times the actual cost per patient day. This limitation will not apply to facilities that qualify for exception under D.8.d.(3) or facilities licensed under DPW Rule 80, or facilities mandated by a correction order from the Department of Health to provide additional nursing care.

b. Attendants (ICF II facilities only). Reasonable costs for attendants in ICF II facilities will be limited to one hour per patient day. If the actual average attendant hours per patient day exceeds this limit, the reasonable cost limitation will be calculated by multiplying the ratio of the stated limit to the average actual attendant hours per patient day for the year times the actual cost per patient day.

3. General and administrative expenses. Reasonable cost criteria for general and administrative expenses are as follows:

a. Top-management compensation limitation. Top-management compensation includes that of owners, administrators, president, chairman of the board, board members, or other individuals receiving compensation as executives but not performing duties of a department head. Compensation includes the costs of non-cash compensation such as residences, salaries, and deferred compensation except IRS qualified pension or profit sharing plans. The average annual cost limitation for rate-setting purposes on com-

ensation is determined according to the average number of combined licensed nursing-home and boarding-care beds according to the following schedule:

Cumulative Annual Compensation	
Number of Beds	Per Bed Limitation
First 50	\$264
Next 51-100	132
Over 100	66

The minimum annual compensation limitation is \$10,000 or actual compensation, whichever is less, and the maximum shall be \$35,000. For each full percentage point increase in the consumers price index in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the months October, 1973 and October, 1974, new series index (1967=100), the accumulation annual compensation per paid limitation listed above shall be increased by one percent. The increase, if any, generated by this formula shall be affected in January 1, 1975. Similar calculations shall be made for each successive year using the October indices for two successive years with the increases beginning effective the following January.

b. Assistant administrator. Reasonable compensation of assistant administrators is not subject to the limitation in D.3.a.

c. Other management services. The costs of other directors' fees, unidentified management fees, and physician compensation for performing administrative functions are allowable to the extent that such costs together with compensation of top management do not exceed the limitations defined in D.3.a.

d. Other general and administrative costs.

(1) Owners life insurance. The costs of premiums are not allowable.

(2) Personal expenses. Personal expenses of owners or employees, such as homes, boats, airplanes, vacation expenses, etc., are not allowable costs. The costs of residences for administrators and key staff are allowable costs if such costs together with other compensation do not exceed the limitations of D.1.c. and D.3.a.

(3) Professional, technical or business-related organizations. These costs are allowable if their function and purposes can be reasonably related to the development and operation of nursing facilities, patient-care facilities, and programs for the rendering of patient-care services.

(4) Social, fraternal, and other organizations. Costs incurred in connection with memberships in all organizations not included in D.3.d.(3) are not allowable.

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(5) Travel and automobile. These expenses are not an allowable expense unless they are related to activities of managing the nursing home.

(6) Entertainment. These expenses are not allowable costs.

(7) Pension and profit-sharing plans. Contributions to either an Internal Revenue Service approved pension or profit-sharing plan, but not both, are allowable costs.

(8) Employee education costs, orientation, and on-the-job training. Costs relating to providing improved patient care or, where required by state law, are allowable costs. If part or all of these costs are reimbursed by private or public funds, only the excess of cost over reimbursed funds are allowable costs. All such costs should be included in respective cost categories, C.3.b. unless not identifiable.

(9) Training programs for non-employees. Costs of training programs conducted for non-employees other than for volunteers are not allowable.

(10) Telephone, television, and radio service. These are allowable costs where furnished to the general patient population in areas of provider day rooms, recreation rooms, lounges, etc. The cost of these services when located in a patient accommodation is not allowable.

(11) Noncompetitive agreement. Costs of these agreements are not allowable.

(12) Pre-opening costs. One time pre-opening costs of new facilities incurred prior to admittance of patients must be capitalized as a deferred charge. Costs in the form of amortization will be recognized as allowable costs over a period no less than 120 consecutive months beginning with the month in which the first patient is admitted for care. Examples of these costs are wages paid prior to the opening of the facility. Construction financing, feasibility studies, and other costs related to construction must be depreciated over the life of the building.

(13) Bad debts. Amounts considered to be uncollectible patient accounts are not allowable costs.

(14) Fund-raising costs. Costs incurred for such purpose including advertising, promotional, or publicity costs are not allowable in the year in which they are incurred except in the form of amortization as allowed by D.6.a.

(15) Charitable contributions. These are not allowable costs.

(16) Other general and administrative costs. As provided in Minn. Stat. § 256B.47, subd. 2, the following shall not be recognized as allowable costs unless otherwise noted:

(a) Political contributions. Political contributions made by a health care facility or institution shall not be recognized as allowable.

(b) Salary of a lobbyist. The salary of an individual in the employ of a facility shall be allowed for lobbying activities as defined in Sec. 10A.01, Subd. 11 only if the lobbying activity is incidental to the individual's job functions and if such lobbying directly relates to the licensed and certified functions of the facility.

(c) Advertising. Reasonable Yellow Pages listings, brochures, flyers, newsletters and other similar items which are primarily designed to describe the services, licensure, accreditation, staffing, and other similar matters concerning the facility are allowable costs.

(d) Assessments levied by the Health Department for uncorrected violations. Assessments levied and collected by the Minnesota Health Department shall not be recognized as allowable costs.

(e) Legal fees for unsuccessful challenges to decisions by state agencies.

(f) Association dues. Association dues are allowable only if they directly relate to patient care. For purposes of this section, directly related to patient care means activity which the nursing home clearly demonstrates is a necessary part of the licensed or certified function of the nursing home or directly leads to improved quality of care or improved administrative operations.

Each association for which dues are claimed as an allowable cost must file annually with the department a statement summarizing its activities, its revenues generated by dues and its expenditures of funds received from dues payments. The percentage (up to 100%) of dues revenue which the association expends for direct care purposes as defined above will be allowed during the next year. The statement must be filed within 30 days of the end of the association's fiscal year except that in order for dues to be allowable effective September 1, 1977 each association must file such a statement by October 1, 1977 covering its

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most recently completed fiscal year. This provision of the rule is effective for rates paid on September 1, 1977.

4. Depreciation.

a. Basis for depreciation calculation.

(1) Cost. Historical cost of nursing facilities shall be the basis for calculating depreciation as an allowable cost, except as provided by D.4.a.(2).

(2) Change in ownership of facilities. In a case in which a change in ownership of a nursing-home facility occurs, and the new owner's investment is greater than the old owner's investment, if a bona fide sale is established by the new owner, the basis for depreciation will be adjusted as follows:

(a) In the case of a complete change in ownership, the basis for calculating depreciation will be the lower of:

(i) The portion of the purchase price properly allocable to depreciable nursing home facilities; or

(ii) The appraised value of the depreciable nursing home facilities calculated under the replacement cost, depreciated method.

(b) In the case of a partial change in ownership, as defined below, the basis for calculating depreciation shall be determined according to provision of D.4.a.(2)(a) the case of a complete change in ownership except that all relevant figures will be placed on a scale proportionate to the percentage of ownership change. For purposes of this provision, a partial change in ownership occurs only in the case of an organization with ten or fewer owners, after the change in ownership, and when the ownership change exceeds 20 percent. Any increase allowed by this Section will then be adjusted according to Section D.4.a.(6).

(3) Redemption of ownership interests. In a case in which the remaining owners establish the fact that a bona fide redemption of an ownership interest has occurred, the basis for calculating depreciation will be increased by the excess, if any, of the redemption price over the former owner's investment. The adjusted basis shall be determined by applying the provision of D.4.a.(2)(b).

(4) Donated assets. The basis of donated assets, except for donations between providers or related parties, shall be fair market value defined as the price that an able buyer would pay a willing seller in an arms-length sale or appraised value defined in D.4.a.(2)(a)(ii) whichever is lower. An asset is considered donated when the provider acquires the asset without making any payment for it in the form of cash, property, or services. In the instance of the

exception stated, the net book value to the donor shall be the basis for the donee.

(5) Subsequent acquisitions. The basis for calculating depreciation may be increased for the actual cost of equipment additions or facility modification or renovation.

(6) Recapture of depreciation resulting from sale of facility. The sale of depreciable nursing-home property, or substantial portion thereof, at a price in excess of the cost of the property as reduced by accumulated depreciation calculated in accordance with D.4. indicates the fact that depreciation used for purposes of computing allowable costs was greater than the actual economic depreciation.

(a) The amount of the recapture will be determined as follows:

(i) The gross recapture amount will be the lesser of the actual gain on the sale or the depreciation after the effective date of DPW Rule 49 (November 1, 1972).

(ii) The gross recapture amount as determined in (i) above shall be allocated to fiscal periods in the same ratio as depreciation amounts claimed under DPW Rule 49. The amount allocated to each period shall be divided by the total actual patient days in that period, thereby determining a patient-day cost for the period. The total net recapture shall then be determined by multiplying the actual welfare days times the patient-day cost for each fiscal period.

(iii) The total net recapture amount determined according to (ii) above will be reduced by one percent for each month of ownership since the date of acquisition of the facility. The net recapture paid to the State of Minnesota is includable in the new owner's basis for depreciation subject to the provisions of D.4.a.(2).

(b) The net recapture amount so determined in (iii) above will be paid by the new owner to the State of Minnesota within a time period agreed to by the Commissioner and the new owner. The time period should effectuate an orderly payment schedule and must not exceed two years after the date of sale.

(7) Gains and losses on disposition of equipment. Gains and losses on the sale or abandonment of equipment are includable in computing allowable costs. A gain shall be an offset to depreciation expense to the extent that such gain resulted from depreciation reimbursed under these regulations. Gains or losses on trade-ins should be reflected in the asset basis of the acquired asset. Losses will be limited to five cents per patient day annually; however, any excess over this limitation can be carried forward to future years.

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b. Limitations.

(1) The total basis of depreciable nursing-facility assets shall not exceed an average of \$13,000 per bed for licensed beds in two or more beds per room and \$19,500 per bed for licensed private rooms built or purchased after January 1, 1974. This limitation will be adjusted annually beginning January 1, 1975 according to a construction index as determined by the Commissioner. The depreciable basis for licensed beds built or purchased prior to January 1, 1974 shall not exceed an average of \$11,000 per bed for licensed beds in two or more beds per room and \$16,500 per bed for licensed private room which satisfy the certificate of need provision of B.3.c. However, the depreciable basis for licensed private rooms built prior to August 15, 1972 shall not exceed an average of \$16,500 per bed for a maximum of 5% of licensed beds.

(2) In no instance can accumulated depreciation calculated in accordance with D.4. exceed the basis defined in Section D.4.a.

(3) Accumulated depreciation as of the beginning of the first fiscal year covered by this regulation shall be calculated retroactively using the useful life concept defined in Sections D.4.c. and D.4.d.

(4) Regardless of the applicability of the limitation stated in D.4.b.(1) above, depreciation on investments in facility modifications and new equipment will be allowed if they were required by governmental requirements.

c. Depreciation rates for new facilities and equipment. Depreciation shall be calculated using the basis determined under Section D.4.a. applying one of the "useful life" schedules defined in Section D.4.c.(1) or D.4.c.(2).

(1) Building — 35 years

Major building improvements (depreciated over the remaining life of the principal asset or useful life, but not less than 15 years).

Land improvements — 20 years

Equipment — 10 years

Vehicle — 4 years

(2) American Hospital Association depreciation guidelines.

d. Other useful lives.

(1) Depreciation rates for used facilities and equipment. The useful life shall be assigned by the provider

considering the individual circumstances; however, the useful life will not be shorter than one-half of the useful life provided by Sections D.4.c.(1) or D.4.c.(2).

(2) Leasehold improvements. The useful life of the improvement or the remaining term of the lease, including renewal periods, shall be used, whichever is shorter.

e. Depreciation method. The straight-line method of depreciation should be used except, at the option of the provider when the principal payments on capital indebtedness (as defined in Section D.6.a.(1)) exceed the total depreciation allowance calculated in accordance with Section D.4. In such instances, depreciation may be increased to equal principal payments on capital indebtedness amortized over actual amortization periods; however, the amortization period cannot be less than 20 years for building and six years for equipment. Accumulated depreciation cannot exceed the basis defined in Section D.4.a. Depreciation on any new construction or expansion of facilities commenced on or after January 1, 1977, other than governmentally owned facilities, shall be on a basis of not less than 30 years. For facilities constructed or expanded prior to January 1, 1977, and for facilities purchased after January 1, 1977, presently existing depreciation rules will apply.

f. Facilities financed by public funds. Depreciation will not be allowed on the portion of facilities financed by federal, state or local appropriations or grants unless the intent of such appropriation or grant was that to be repaid through operating revenue of the facility. This limitation will not apply to governmentally owned nursing homes.

g. Non-depreciable assets. Nursing-facility assets that are not depreciable include but are not restricted to:

(1) Land. Includes the land owned and used in provider operations included in the cost of land and the costs of permanent roadways and grading of a non-depreciable nature, the cost of curbs and sidewalks whose replacement is not the responsibility of the provider, and other land expenditures of a non-depreciable nature.

(2) Goodwill. Includes amounts that result from purchase of property or stock in excess of determinable value as determined in D.4.a.(2).

h. Capitalization vs. expense. Expenditures for equipment that has a useful life of more than one year shall be capitalized except that the provider may show as expenses small equipment purchases normally capitalized if

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such items do not exceed two cents per patient-day annually.

5. Leased facilities or equipment.

a. Rental charges. Reasonable rental charges incurred by a provider through a lease entered into an arms length transaction are includable in allowable costs. Unless:

(1) Rental charges result from a sale, lease-back arrangement, or lease with option to buy at a price less than anticipated value.

(2) Rental charges are paid to a related or controlled organization. If either D.5.a.(1) or (2) exists, the provision of D.5.b. will be applied.

b. If rental charges are not allowed, the rate of the provider will be determined as for any other provider as though the lease did not exist. In this case allowable costs would include both costs of the lessor and the lessee.

c. Limitation. Allowable rental charges are subject to the investment per bed limitations of D.4.b.(1) determined by calculating the present value of lease payments exclusive of real and personal property taxes and other costs assumed by the lessor. Interest rates used in capitalizing lease payments shall be the mortgage rate of the lessor or, if the mortgage rate is not available, 2.15 percentage points above the interest rate of Federal Hospital.

Insurance Fund obligations as of the effective date of the lease. The formula for determination of this provision is as follows:

Present value of lease = Lease payment per period \times present value factor per period.

Investment per bed = Present value of lease \div Licensed Beds.

The present value factor can be determined from annuity tables according to the present worth of \$1 per period for the term of the lease.

6. Cost of capital.

a. Interest.

(1) Except as provided in Section D.6.a.(6) interest is an allowable cost for non-proprietary facilities only and will be classified as follows:

(a) Interest on capital indebtedness includes amortization of bond premium and discount and related financing costs. Capital indebtedness is defined as any loan that is applied to purchase fixed assets related to providing

nursing care as defined in D.6.b.(1). The form of indebtedness will include mortgages, bonds, notes, and debentures, when the principal is repaid over a period in excess of one year.

(b) Other interest for working capital and operating needs that directly relate to providing nursing care is an allowable cost. The form of indebtedness will include, but not be limited to, notes, advances, and various types of receivable financing the principal of which will be generally repaid within one year.

(2) Interest income will be a deduction from interest allowable under provision D.6.a.(1)(a) or D.6.a.(1)(b). Interest income on restricted funds will not be deducted from interest expense. Restricted funds are defined as all unexpended donated funds carried by the institution that are restricted for other than operating costs. The operating or building funds cannot be included as part of restricted funds for this purpose.

(3) Interest rate. The interest rate incurred must not be in excess of what a borrower would have had to pay in an arms-length transaction in the money market when the loan was made. When a non-proprietary provider borrows from its own restricted fund, interest paid by the general fund to the restricted fund is allowable at a rate not to exceed the interest rate the fund is currently earning. Interest on liens between operating and building funds is not allowable.

(4) Construction interest. Interest cost incurred during and related to construction must be capitalized as a part of the cost of the facility. The period of construction is considered to extend to the date the facility is put into use for patient care.

(5) After the first three years that a non-proprietary or governmentally owned nursing home has been owned by its current owners, the state agency shall not recognize as an allowable cost the expense of interest on net debt for any indebtedness and loans which exceed 100 percent of the net asset value of the facility. Effective July 1, 1977, interest expense on indebtedness incurred prior to April 13, 1976, is exempted from this provision if the expense is allowable according to Section D.6.a.(1).

(6) Interest expense for a proprietary nursing home will be allowable on capital indebtedness to the extent that the rate of interest exceeds nine percent, but no more than twelve percent, if the indebtedness relates directly to the purchase of the nursing home or to working capital for the operation of the nursing home and if the rate of interest does not exceed a rate which a prudent and cost-conscious borrower would incur in an arms-length transaction.

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b. Investment allowance.

(1) Determination of allowance. Proprietary homes where cost reports are received after January 1, 1977, shall receive an investment allowance of nine percent of the original value of the facility for depreciation purposes. ~~Non-proprietary homes whose fiscal year begins after June 30, 1977, shall receive an investment allowance of two percent of the original value.~~

For each year after the year in which the nursing home was originally purchased in which there is no transfer of ownership of a nursing home, the investment allowance shall be increased by one percent of the original investment allowance, but the increases shall be limited to a maximum of 25 percent of the original investment allowance effective for rates paid on August 1, 1977.

(2) For purposes of this section the following terms shall have the meaning given to them.

(a) Facility means the building in which a nursing home is located and all permanent fixtures attached to it. Facility does not include the land or any supplies and equipment which are not fixtures.

(b) Original value means the lesser of purchase price or appraised value at the time of purchase. Appraisals at the time of purchase shall be on the depreciated replacement cost basis. If a nursing home expands its facility or makes any other capital expenditure which increases the value of the facility, the cost of the expansion or capital expenditure shall be added to the original value. If the Department disputes the cost of the expansion or capital expenditure, it may request an appraisal and use the appraised value as the allowed cost.

(3) Allowance for leased facilities. Leased facilities shall receive an investment allowance not to exceed the greater of \$.35 per the facility's 93% capacity patient days or the investment allowance of Section D.6.b.(1) for those fixed assets owned by the lessee facility.

7. Welfare. All directly identifiable costs associated exclusively with the welfare program and benefiting welfare patients exclusively will be calculated in a manner that results in an assignment of the incremental costs stated above wholly to welfare patients. Such costs may include reasonable expenditures for utilization review, preparation and processing of a cost statement under these regulations.

8. Facility utilization incentives.

a. Capacity limitation. The allowable cost amount per patient day depreciation, interest, property taxes, administration and earnings allowance will be calculated by dividing such allowable costs by 93 percent of total capacity patient days for licensed beds. Facilities qualifying for the special care rate of C.3.c.(2) may adjust the capacity limitation by the same formula. The capacity limitation cannot be reduced below 90 percent of total capacity patient days for licensed beds.

b. Calculation of patient days. For purposes of calculating patient days at 93 percent of licensed capacity and to assign a greater proportion of costs to private rooms, a factor of 1.5 times the number of licensed private beds will be used in determining the number of patient days. This provision shall apply only to facilities applying for a Certificate of Need after August 15, 1972.

c. Licensed bed capacity. Useable or operable bed capacity may be used for purposes of the calculation required by D.8.a. and b. if the provider can justify in writing, to the satisfaction of the Commissioner that licensed beds is an inappropriate measure of capacity.

d. Waiver of limitation. Providers may apply for a waiver of the provisions of D.8.a. and b. in the following instances:

(1) For new facilities or facilities with major changes in capacity, that are applying for a certificate of need after the effective date of these regulations, the Commissioner may grant a waiver of this capacity calculation and allow a rate based on anticipated actual patient days for the period through the end of the first full fiscal year.

(2) In cases of extreme hardship, nursing homes not covered by D.8.d.(1) and having 65 percent welfare patient days may be granted an annual waiver by the Commissioner of this capacity calculation and be allowed a rate based on actual patient days. "Extreme hardship" will include a financial situation in which projected cash flow indicates the fact that debt and operating obligations cannot be met.

(3) Skilled care facilities which have a patient population with an annual average length of stay of 180 days or less may be granted an annual waiver by the Commissioner of this capacity calculation and be allowed a rate based on actual patient days. The average length of stay is determined by dividing the actual patient days for the histor-

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ical fiscal year by the total discharges for the historical fiscal year.

E. Implementation procedures.

1. Effective date of DPW Rule 49 revisions.

a. Unless noted otherwise, all changes are effective for rates paid ~~August 4, 1977~~ January 1, 1978 and subsequent.

F. Severable provisions.

1. If any provisions of the rule as adopted by Commissioner of Public Welfare are found to be unreasonable or not supported by the evidence, the remaining provisions shall remain valid.

Board of Teaching

Proposed Rules Governing Procedures for the Issuance of Life Licenses, Teachers Prepared in States Other than Minnesota

Notice of Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1977), in the above entitled matter in the Veterans Service Building, Conference Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on Saturday, January 20, 1979, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Written material may be submitted without appearing at the hearing and may be submitted and recorded in the hearing record for five (5) days after the public hearing ends or for a longer period not to exceed twenty (20) calendar days if ordered by the hearing examiner.

The Board proposes to adopt rules governing procedures for Issuance of Life Licenses, Teachers Prepared in States Other than Minnesota. The authority of the Board to promulgate the proposed rules is found in Minn. Stat. §§ 125.05, subd. 1, and 125.185, subd. 4. A copy of the proposed rules is attached hereto.

Notice is hereby given that twenty-five (25) days prior to the hearing, a statement of need and reasonableness will be available for review at the Office of the Board of Teaching

and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the Board of Teaching at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge at this address: Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104.

Minn. Stat. § 10A.01, subd. 11 (1976), defines a lobbyist as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

Lobbyist does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual in the course of selling goods or services to be paid for by public funds;

(d) News media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in Section 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

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Pursuant to Minn. Stat. § 10A.03 (1976), lobbyists must register with the State Ethical Practices Board as a lobbyist within five (5) days of the commencement of such activities by the individual.

Any questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155.

Public comment will be accepted after presentation of each of the proposed rules.

Copies of the proposed rules are now available and may be obtained by writing to:

Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Additional copies of the proposed rules will be available at the door on the date of the hearing.

Notice is hereby given that any person may request notification of the date on which the report of the hearing examiner will be available, after which date the Board of Teaching may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the Board of Teaching. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner in the case of the report of the hearing examiner, or to the Board of Teaching in the case of the Board of Teaching submission or resubmission to the Attorney General.

Kenneth L. Peatross,
Executive Secretary

Rules as Proposed (All new material)

5 MCAR § 3.002 Procedures for the issuance of life licenses.

A. Any teacher currently holding a license in Minnesota having a minimum of five years teaching experience and subject to the rules of the Board of Teaching who was actually employed as a teacher in the state of Minnesota, as defined in Minn. Stat. § 179.63, in the school year immediately preceding July 1, 1969, may apply for and shall

receive a life license applying to the grades and subjects taught and licenses held upon payment of fees as established by the Board of Teaching provided that the application is submitted to the department of education prior to July 1, 1980.

B. This rule shall expire on July 1, 1980, without further action by the board of teaching.

5 MCAR § 3.142 Teachers prepared in states other than Minnesota.

A. Licenses to teach in Minnesota shall be granted to persons who otherwise meet applicable statutory requirements and who complete programs leading to teacher licensure in teacher preparation institutions located outside Minnesota. Such licenses shall be granted only in licensure fields for which the Board of Teaching has established rules governing programs leading to teacher licensure. Such licenses shall be issued according to either 1. or 2. as follows:

1. Persons who complete approved programs leading to teacher licensure in teacher preparation institutions within states which have signed contracts with Minnesota according to the provisions of the interstate agreement on qualification of educational personnel shall be granted a Minnesota entrance license. No licenses shall be issued on the basis of teaching experience only.

2. Persons who complete programs leading to teacher licensure in teacher preparation institutions within states which have not signed contracts with Minnesota according to the provisions of the interstate agreement on qualification of educational personnel shall be granted a Minnesota entrance license when all of the following criteria are met:

a. The teacher preparation institution is regionally accredited by the association for the accreditation of colleges and secondary schools.

b. The program leading to teacher licensure has been recognized by the state as qualifying the applicant completing the program for such licensure within that state.

c. The program leading to teacher licensure completed by the applicant is essentially equivalent in content to approved programs offered by Minnesota teacher preparation institutions according to board of teaching rules governing the licensure field.

d. The teacher preparation institution which offers the program leading to licensure verifies that the applicant

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has completed an approved teacher licensure program at that institution and recommends the applicant for a license in a licensure field at a licensure level.

e. The applicant has completed a major or minor program leading to teacher licensure as verified by the transcript issued by the institution recommending the applicant for licensure.

f. The applicant has completed student teaching in the licensure field and at the licensure level of the program.

B. Notwithstanding the rule governing human relations, persons who have been prepared as teachers in states other than Minnesota shall be granted a Minnesota entrance license based upon the provisions of this rule.

SUPREME COURT

Decisions Filed Friday, December 8, 1978

Compiled by John McCarthy, Clerk

47850/355 **Vernon J. Rockler & Co., Inc., Appellant vs. Glickman, Isenberg, Lurie & Co., et al. Hennepin County.**

In an accounting malpractice action plaintiff must prove all elements of negligence: duty, breach of duty, factual causation, proximate causation, and damages. On the record submitted for review we hold that the trial court's findings adverse to plaintiff with respect to breach of duty and factual causation are not clearly erroneous.

Affirmed. Rogosheske, J.

47804/94 **Wallace A. Howard, Appellant vs. Aid Association for Lutherans. Dakota County.**

A misrepresentation of a required disclosure on an insurance application voids the policy, without regard to whether the facts misstated ultimately related to the insured's cause of death, if the omission or misrepresentation substantially effects or impairs an insurer's ability to make a reasonable decision to assume the risk of coverage. The misrepresentation here relating to a history of drug abuse was material to the insurer's decision, and plaintiff-beneficiary is therefore precluded from recovering under the policy.

Decedent-insured's written waiver of medical privilege accompanying his insurance application, as well as the medical releases executed by plaintiff after insured's death, were effective waivers and are binding upon plaintiff; the trial court properly considered medical evidence obtained upon investigation of the insurer.

Affirmed. Wahl, J.

48105/176 **State of Minnesota vs. Donald Harry Dewey, Appellant. Itasca County.**

The warrantless removal of blood for use in a criminal negligence prosecution may be justified under the exigent circumstances exception to the warrant requirement if the police have probable cause to believe that the driver of the automobile was intoxicated and was guilty of criminal negligence, and exigent circumstances necessitated the immediate removal of the blood.

Admission of expert accident reconstruction testimony is within the discretion of the trial court if there is a need for the evidence and if the expert is qualified.

Remanded for trial. Per Curiam.

48462/361 **Tilmer Eugene Thompson, petitioner, Appellant vs. Frank W. Wood, Warden, Minnesota State Prison. Washington County.**

The district court's order denying petitioner's petition for habeas corpus was proper. The record indicates the petitioner's seeking to relitigate issues which were decided against him in a previous habeas corpus proceeding. Petitioner failed to file a timely appeal from the order discharging the writ in that proceeding. Our decisions forbid petitioner from now trying to cure the procedural defect by instituting this second proceeding.

Affirmed. Per Curiam.

46333/365 **State of Minnesota vs. Harvey Louis Carignan, Appellant. Hennepin County.**

Defendant is not entitled to a new trial on the ground of pretrial publicity, because he failed to show that such publicity prevented him from receiving a fair trial.

Defendant's claim that the identification procedures were unnecessarily suggestive is without merit because under the totality of the surrounding circumstances there was no "very substantial likelihood of irreparable misidentification."

Defendant's claim that the trial court erred in allowing a witness to testify who was not included on the prosecutor's list of witnesses as required by Rule 9.01, subd. 1(a), Rules of Criminal Procedure is without merit because that rule did not become effective until after the trial of this case.

Defendant was not prejudiced by the arresting officer's testimony that defendant's car was impounded by the homicide division.

The trial court did not err in admitting evidence of similar crimes defendant committed against other women because such evidence showed identity and common-scheme-or-plan and thus was admissible as an exception to the general exclusionary rule.

The evidence was clearly sufficient to establish both venue and identity beyond a reasonable doubt.

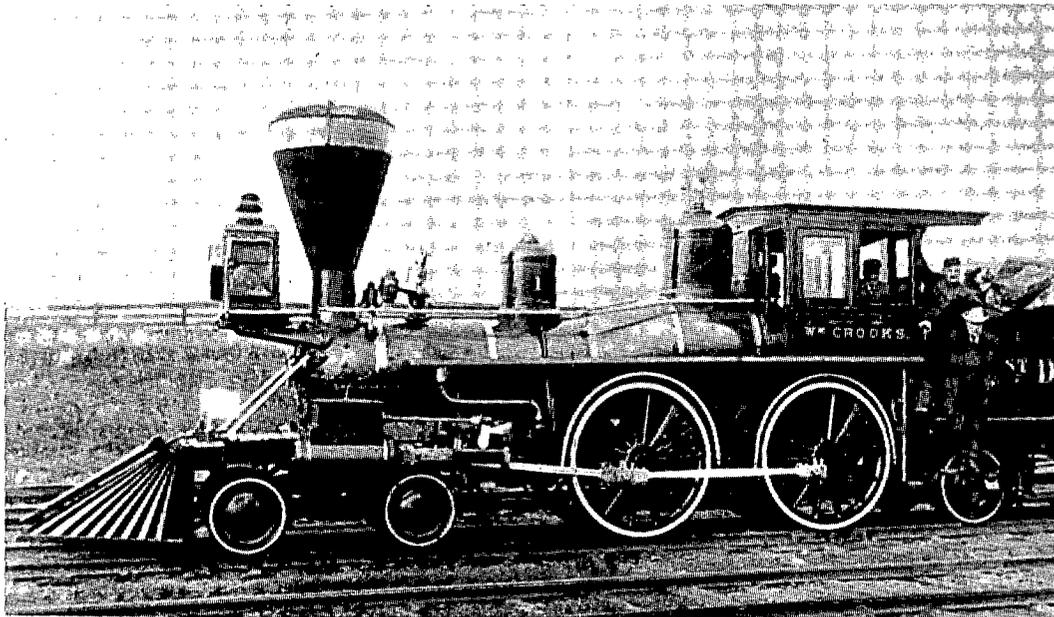
Affirmed. Per Curiam.

49426/447 **State of Minnesota, Appellant vs. Edward Michael Siegfried. Ramsey County.**

The suppression of evidence by the district court because the informant's reliability was insufficiently established is reversed on the basis of police information from other sources in the affidavit which corroborated the informant's story.

Reversed and remanded. Per Curiam.

OFFICIAL NOTICES



Railroad builder James J. Hill is shown standing on the steps of the wood-burning "William Crooks" which pulled the first train between Minneapolis and St. Paul in 1862. In the following decade over 2,000 miles of track were laid in Minnesota. (Courtesy of Minnesota Historical Society)

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Department of Natural Resources Waters Division

Notice of Cancellation of Public Hearing on Proposed Rules Concerning Dam Safety

Notice is hereby given that the public hearing on proposed rules concerning dam safety, pursuant to Laws of 1978, ch. 779, scheduled for December 20, 1978 as published at 3 S.R. 1047, November 20, 1978 is hereby cancelled. Details on rescheduling of the public hearing will be published within 30 days.

Ethical Practices Board

Notice of Recessed Hearing on a Proposed Lobbyist Rule

Notice is hereby given that the public hearing held Thursday, December 7, 1978, has been recessed until 9:30 a.m., Thursday, December 28, 1978, in room 14 of the State Office Building.

The hearing will reconvene for the sole purpose of accepting testimony on 9 MCAR § 1.0204 A.3.i. Other disbursements.

From 1974 to the present time, the Board has not required lobbyists to report nonreimbursed, ordinary, and necessary office expenses including clerical expenses.

Proposed rule 9 MCAR § 1.0204 A.3.i. Other disbursements. now proposes to require lobbyists to report nonreimbursed, ordinary and necessary office expenses including clerical expenses incurred for the purpose of lobbying.

For persons desiring additional information as to the need and reasonableness of the rule, the amendment to the Statement of Need delivered on December 7, 1978, by B. Allen Clutter, Executive Director, supporting the change in this rule, is available upon request to the Ethical Practices Board, Room 41, State Office Building, St. Paul, Minnesota 55155 or 612 - 296-5148.

Department of Human Rights

Amended Notice of Hearing Regarding Proposed Rules Relating to Sex Discrimination in Athletic Programs

Notice is hereby given that a public hearing on the above-captioned rules previously scheduled for January 3 and 4, 1979 at the University of Minnesota, Room 101, Fraser Hall, Minneapolis, Minnesota, pursuant to notice given at *State Register*, Volume 3, Number 21, has been changed to February 8 and 9, 1979 commencing at 9:00 a.m. at Anoka/Ramsey Community College Theatre, 11200 Mississippi Boulevard N.W., Coon Rapids, Minnesota 55433.

Notice of the hearing on these rules was originally published at *State Register*, Volume 3, Number 19. Individuals interested in participating in the hearing or commenting upon these rules are encouraged to read that notice.

December 11, 1978

William L. Wilson
Commissioner

Department of Labor and Industry

Prevailing Wage Division

Notice of Prevailing Wage Rates for Highway Construction

Minn. Stat. § 177.44 requires the Commissioner of Labor and Industry to certify, at least once a year, the prevailing wage rates for highway construction under contracts based on bids as provided for in Minn. Stat. § 161.32. Title 8, Minnesota Code of Agency Rules, Section 1.8010 (8 MCAR § 1.8010) requires that notice of those certifications be published in the *State Register*.

On December 15, 1978, the Commissioner certified wage rates for highway construction for 13 counties in Minnesota. Those counties are: Mahnomens, Clay, Becker, Wilkin, Ottertail, Traverse, Grant, Douglas, Pope, Stevens, Big Stone, Swift and Hubbard.

A copy of the determined wage rates may be obtained by writing to the Department of Labor and Industry, Prevailing Wage Division, 444 Lafayette Road, St. Paul, Minnesota 55101.

A check or money order for \$5.00, payable to the Department of Labor and Industry, must accompany each request to cover the cost of copying and mailing.

E. I. Malone
Commissioner

Public Service Commission

Notice of Solicitation of Comments on Draft Rule Specifying Method of Refunding Natural Gas Company-Supplier Refunds to Retail Customers

Comments from interested persons are being solicited by the Minnesota Public Service Commission on the proposed rule, reprinted below in draft form, which would govern the method by which retail natural gas companies would refund to their customers amounts received from their suppliers representing overcharges for gas previously sold. Persons or groups interested in this subject are invited to comment and, if appropriate, to suggest clarifications and revision. All material must be received by February 1, 1979. It should be addressed to:

Aaron Beckerman, Financial Analyst
Minnesota Department of Public Service
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Following receipt of comments and suggested revisions, a public hearing will be scheduled and the rule will be proposed for adoption. The draft rule attached as Appendix A may not be in this form and is subject to change depending upon the comments and suggestions received. Notice of the hearing, including reprinting of the rule, will be given after February 1, 1979.

December 11, 1978

Leo J. Ambrose
Secretary
Minnesota Public Service Commission

OFFICIAL NOTICES

APPENDIX

Proposed PSC 393 C.

C. Refunds and interest thereon received from the suppliers of purchased gas which are attributable to the cost of gas previously sold shall be refunded by credits to bills or check within a period not to exceed 12 months. The utility shall add interest to the unrefunded balance at the prime interest rate. This rule specifies record retention requirements and procedures for refunds by public utilities to retail customers of amounts received by public utilities from their suppliers attributable to natural gas previously sold. The rule applies only to public utilities supplying natural gas service.

In this rule, supplier refunds include any interest from the supplier associated with money paid to the supplier. No deduction for the public utility incurred expense of refunding to retail gas customers is allowed.

1. Each public utility must maintain customer records of the amount of MCF usage by demand and commodity for each class of its customers by month for five years. In this rule, customers on different rate schedules are considered customers in separate classes.

2. Each public utility must maintain individual customer monthly records of the amount of MCF usage on whatever basis the customer is billed for the most recent 12 months or equivalent billing cycles.

3. A public utility must complete the refund to its customers within 60 days of the receipt of the supplier refund. Refunds not made in the first billing cycle commenced 30 days after receipt of the supplier refund must include interest computed as specified in Minn. Rule PSC 390 O. Interest accrues beginning the date of receipt of the supplier refund up to the midpoint of the billing cycle in which the refund will be mailed.

4. Only those customers of record at the time the refund is received from the supplier qualify for refunds. At the utility's option, refunds may be made to all customers of any class on the system at any time for which the amounts refunded by the supplier were collected. If this alternative is chosen for a class, then the refund to those customers cannot be computed based on paragraph 5.c. below.

5. The refund per customer will be computed in this manner:

a. The total dollar amount of the supplier's refund will first be allocated among the customer classes, based on the appropriate class usage during the period of time to

which the supplier refund applies. If the refund period is longer than the period for which data is maintained, then the calculation for class allocation of the refund will be based on the data available. The MCF usage for each class will be on the same basis (demand, commodity, or demand and commodity) as the refund was computed by the supplier. The percentage relationship of each class of MCF usage to the total MCF usage, times the total dollar amount to be refunded, determines the dollar amount to be refunded to each class.

b. Following this allocation, individual customer refunds will be computed by dividing the dollar allocation to the class for the customers of record of the class by each customer's relative total MCF usage during the entire period for which money was refunded. The MCF usage will be computed on the same basis as the customer was billed.

c. As an alternative to the procedure in 5.b., and if the refund period is longer than 12 months, the utility may compute individual customer refunds for all customers of any class based on each customer's relative historical usage in the 12 month period preceding receipt of the supplier refund.

d. Refunds will be computed to the nearest \$.001 and issued to the nearest \$.01.

6. Refunds will be separately stated as credits on active customers' bills unless the refund credit applied to the current billing results in a credit balance of \$50.00 or more. In that situation, the utility must refund the entire credit balance by check. The public utility must mail checks for the entire credit balance to customers with accounts remaining inactive for two billing cycles following distribution of the refund credit and to customers who have left the system since the billing cycle immediately prior to the refund.

7. The public utility must give written notice to the Commission within 10 working days of receipt of a supplier refund. The notice contains:

a. The supplier refund letter.

b. A statement of the public utilities' intention to refund, including the timing of the refund.

c. A description of the method by which the public utility will accomplish the refund.

The refund procedure must be approved by the Commission prior to distribution of the refund. Unless notice of Commission disapproval is received by the utility within 10 working days of utility submission of the information required in paragraph 7. above, the procedure proposed

OFFICIAL NOTICES

is deemed approved. The Commission may delegate the authority to disapprove refund proposals to employees of the Department of Public Service.

8. Within 30 calendar days following the distribution of refund credits, except to inactive accounts, the utility must provide the Commission with an accounting by class of the funds disbursed and a detailed narrative explanation of the manner in which the refund was computed for individual customers. The public utility must make available at the Commission's request and in the format specified, any information required to verify that the refund was accomplished in the manner described.

Office of the Secretary of State Administration Division

Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an Open Appointment process by which the public is informed of openings on state multimember agencies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information.

Application deadline is January 9, 1979.

CRIME VICTIMS REPARATIONS BOARD: One vacancy for a doctor — open immediately.

TASK FORCE FOR AMERICAN INDIAN LANGUAGE AND CULTURE EDUCATION: One vacancy for a Minnesota Chippewa tribe member.

Department of Transportation Administration Division Notice of Application and Opportunity for Hearing Regarding Petition to Retire and Remove 140 Feet of Track No. 55 Located at LeSueur, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove 140 feet at Track No. 55 located at LeSueur, Minnesota.

“The subject trackage is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The trackage is not used at the present time and there is no present prospect that the subject trackage will be needed in the future. The City of LeSueur Municipal Utilities has requested the retirement and removal of the trackage. There are no shippers, patrons or members of the public with any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years.”

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before January 8, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Rule HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

December 11, 1978

Jim Harrington
Commissioner of Transportation

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OFFICE OF THE STATE REGISTER

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