



STATE REGISTER

STATE OF MINNESOTA

RULES

PROPOSED RULES

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VOLUME 3, NUMBER 41

APRIL 16, 1979

Pages 1893-1920

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			
42	Monday Apr 9	Monday Apr 16	Monday Apr 23
43	Monday Apr 16	Monday Apr 23	Monday Apr 30
44	Monday Apr 23	Monday Apr 30	Monday May 7
45	Monday Apr 30	Monday May 7	Monday May 14

*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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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Albert H. Quie
Governor

Carol Anderson Porter
Editor

James Hiniker
**Commissioner
Department of Administration**

James Clancy, Paul Hoffman, Robin PanLener
Editorial Staff

Stephen A. Ordahl
**Manager
Office of the State Register**

Jack Richter
Information Officer

Roy Schmidtke
Circulation Manager

Cindy Riehm
Secretarial Staff

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Number 41 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* is published each quarter and at the end of the volume year.

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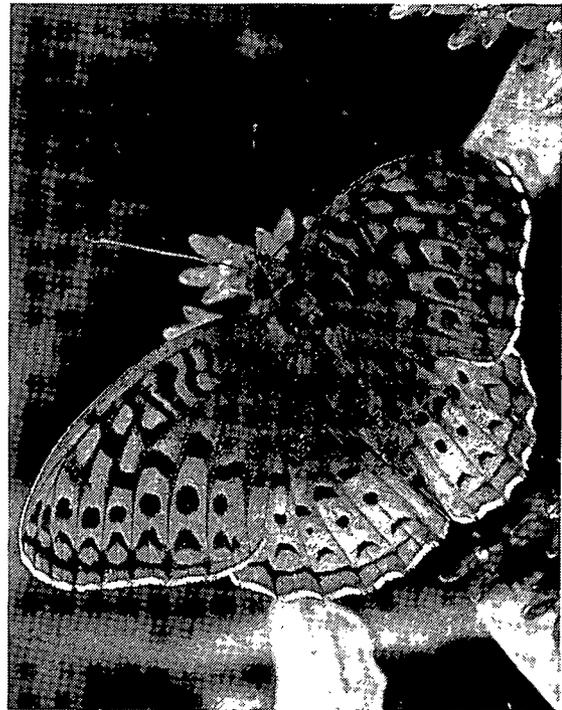
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Found throughout the U.S., the great spangled fritillary is a common sight in Minnesota meadows. Its 3.5-inch wings are brilliant orange and brown with black spots on the forewing and white spots on the hind wing. The caterpillar, hatched in late summer, hibernates beneath the violets or pansies which will be its food in the spring. The adult prefers the nectar of Joe Pye weed, thistles and other wildflowers. (Courtesy of National Wildlife Federation and Department of Education)

RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which

has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Board of Accountancy

Adopted Rules Governing the Professional Conduct of Certified Public Accountants

Adopted rules governing the Code of Professional Conduct as proposed and published at *State Register*, Volume 2, Number 40, pp. 1878-1879, April 10, 1978 (2 S.R. 1878) are adopted as proposed, with the following amendments:

Rules as Adopted

Chapter Fifteen: Code of Professional Conduct

Accy 150 Code of professional conduct.

Rule 404 C. Contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality that is not based on verifiable facts; or

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Rule 408 Solicitation. A licensee shall not by any direct personal communication solicit an engagement to perform professional services (a) if the communication would violate Rule 404 if it were a public communication; or (b) by the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harassing conduct; or (c) where the engagement would be for a person or entity not already a client of the licensee, unless such person or entity has invited such a communication or is seeking to secure the performance of professional services and has not yet engaged another to perform them. The term "direct personal communication" as used in this rule means any in-person, written, telephonic, or similar communication directed to a specific recipient or tailored in content to a specific recipient.

Department of Health Personal Health Services

Adopted Rules Relating to Family Planning Special Project Grants

The rules proposed and published at *State Register*, Volume 3, Number 22, pages 1188-1192, December 4, 1978, (3 S.R. 1188) are adopted as proposed, with the following amendments:

Rules as Adopted

Chapter 27, Part II

7 MCAR § 1.457 Family planning special project grants.

A. Purpose, scope and applicability.¹ The purpose and scope of these rules is to prescribe requirements applicable to family planning special project grants, to establish minimum standards for family planning services supported in whole or in part by family planning special project grant funds, and to provide a criteria for the review of family

¹ Minn. Stat. § 145.925 contains provision prohibiting use of these funds for abortions, family planning services to unemancipated minors in school buildings, requiring notice to parents or guardians of unemancipated minors to whom abortion or sterilization is advised, except as provided in Minn. Stat. §§ 144.341 and .342, and prohibiting coercing anyone to undergo an abortion or sterilization.

planning special project grant applications. An applicant is not required to provide all family planning service components to be eligible for funding. The following parts of 7 MCAR §§ 1.451-1.455 and no others also apply to family planning special project grants: 1.451 A., B., C.3., D.; 1.452 A., B., C., D.1. & 2., E.; 1.453 A., B.2.c. & e.; 1.454 A., ~~B.1.~~, B.1.-5.a., d., e., f., C.; 1.455 B.

B. Definitions. "Approved family planning methods" means agents and devices for the purpose of fertility regulation prescribed by a licensed physician, and other agents and devices for the purpose of fertility regulation including, ~~but not limited to~~ spermicidal agents, diaphragms, condoms, natural family planning methods, sterilizations, and the diagnosis and treatment of infertility by a licensed physician, which can be paid for in whole or in part by family planning special project grant funds.

"Family planning" means voluntary planning and action by individuals to attain or prevent pregnancy.

"Family planning services components" means each of the public information, outreach, counseling, method, referral and follow-up services.

"Provide" means to directly supply or render or to pay for in whole or in part.

C. Content of application. In lieu of the items a.-h., 7 MCAR § 1.452 D.3., the application shall identify the geographic area to be served by the applicant and shall address the following information and requirements:

1. An inventory of existing family planning services provider agencies in the geographic area served by the applicant. The inventory shall include for each provider agency at least:

a. names and addresses;

b. the target population served, including total number served if available; if unavailable, estimates will be acceptable;

c. family planning service components provided.

2. An assessment of unmet needs of the geographic area to be served by the applicant including, but not limited to, an identification of unavailable family planning service components and/or unserved or underserved population. A description of the method used in making the assessment shall be provided by the applicant.

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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3. A description of the family planning service components to be provided by the applicant. Procedures for referral and follow-up shall be incorporated into all family planning services available on an individual basis. Each component to be provided with family planning special project funds must meet the standards for that component described in 7 MCAR § 1.457 D. For each component to be provided, the application must describe:

- a. the goals;
- b. the population to be served (target population);
- c. the specific objectives to be achieved during the funding period;
- d. the methods by which each objective will be achieved;
- e. the criteria to be used to evaluate the progress towards each objective;
- f. a budget and budget justification;
- g. a summary of the training and/or experience relevant to the component(s) to be provided of the person(s) providing the service.

4. A description of the linkages between the applicant and other family planning services in the geographic area including, but not limited to, plans for contracts and/or cooperative agreements with other organizations, agencies or individual providers. All funded projects must establish linkages to facilitate access to outreach, counseling, and other component services for service recipients.

5. A description of fees, if any, to be charged individuals for any family planning services. Proposed fees must be charged in accordance with a sliding fee for services and supplies based on the cost of such services or supplies and on the individual's ability to pay as determined by income, family size and other relevant factors. When applicable, the maximum fee charged shall not exceed the maximum reimbursement available from Title XIX, Medical Assistance. Services shall not be denied based on ability to pay as specified in "C8" herein.

6. Assurance that services will be provided in accordance with state and federal laws and rules.

7. A description of the policies and procedures that will be employed to maximize the use of third-party sources of funding.

8. Assurance that services will be provided without regard to age, sex, race, religion, marital status, income

level, residence, parity, or presence or degree of disability except as otherwise required by law.

9. Assurance that arrangements shall be made for communication to take place in a language understood by the family planning service recipient.

10. When the applicant proposes to use family planning special project grant funds to supplant Community Health Services subsidy funds planned and budgeted for family planning services, the amount to be supplanted must be described in the application.

11. Assurance that the privacy of the service recipient will be maintained in accordance with law.

D. Family planning service components, definitions and minimum standards. All service components shall include information on family planning services available from the applicant. Service components to be provided by the applicant shall be defined as indicated and shall meet or exceed the following standards:

1. "Public information" means specific activities designed to inform the general population about family planning and all family planning services available in the geographic area.

2. "Outreach" means specific activities designed to inform members of the target population about family planning and all the family planning services available in the geographic area. Outreach activities shall include, but not be limited to, one-to-one or small group contacts with the target population.

Outreach shall be conducted at times and places convenient to the target population. Persons conducting outreach shall have training and/or experience in family planning services.

3. "Counseling" means utilization of non-directive interview techniques which enable individuals to voluntarily determine their participation in family planning services and their family planning method of choice, if any. When individuals are seeking to prevent pregnancy, counseling shall include the provision and explanation of factual information on all approved family planning pregnancy prevention methods. When individuals are seeking to attain pregnancy, counseling shall include the provision and explanation of factual information on infertility diagnosis and treatment and services for pregnant women available in the geographic area.

Counseling shall be available to any individual in the target population and shall be conducted at times and places convenient to the target population. Counseling shall include documentation that information required in subd. 7 of

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Laws of 1978, ch. 775 has been provided. Counseling shall be conducted by persons with training and/or experience in counseling and family planning services.

4. "Method" means the provision to a service recipient of her/his ~~approved~~ family planning method of choice. Provision of any ~~approved~~ family planning method shall include, but not be limited to:

a. Procedures which document that the service recipient participated in counseling prior to selecting a family planning method to prevent pregnancy;

b. Voluntary selection of the ~~approved~~ family planning method by the service recipient;

c. Information on the advisability of females obtaining a gynecological examination with Pap smear prior to initiating any family planning method;

d. Education on the use of the selected family planning method, including the risks and benefits of the method;

e. Medical/laboratory services prior to the provision of a family planning method when the selected method requires medical intervention for prescription, fitting, insertion or for surgical or diagnostic procedures. When the selected method does not require medical intervention, as described herein, the applicant shall encourage service recipients to obtain medical/laboratory services, but provision by the applicant is not required. Medical/laboratory services shall include:

(1) Social and medical/surgical history with emphasis on the reproductive system;

(2) Height, weight, and blood pressure measures;

(3) Bimanual pelvic examination for females;

(4) Breast examination and instruction on self-examination for females;

(5) Hemoglobin or hematocrit;

(6) Urinalysis for sugar and protein;

(7) Pap smear.

In addition, when indicated by history or symptoms, the medical services shall include for both male and female as appropriate:

(8) Diagnosis and treatment of venereal disease;

(9) Diagnosis and treatment of vaginitis;

(10) Diagnosis of pregnancy.

Medical services shall be rendered by licensed physicians, or professional nurses with documentable training in gynecological care conducted under the supervision of a licensed physician, or nurse midwives certified by the American College of Nurse Midwifery, under the supervision of a physician. Laboratory tests shall be conducted by personnel trained to conduct such tests.

5. "Referral" means to provide, in writing, information to service recipients which enables them to participate in family planning.

6. "Follow-up" means specific procedures of continuing care designed to encourage safe and consistent family planning and utilization of other needed services.

E. Criteria for award of family planning special project grants. Applications which meet the requirements of law and these rules shall be ~~funded~~ awarded in accordance with the notice of availability as specified in 7 MCAR § 1.452 A., procedures specified in 7 MCAR § 1.452 E., and the following criteria:

1. Applications proposing to provide all family planning service components in counties with no in-county subsidized family planning service as of December 31, 1978, will be given priority above all other applications.

2. Quality and Content: ~~In addition to 7 MCAR § 1.453 B.2.c. & e., applications~~ Applications will be evaluated on the basis of:

a. 7 MCAR § 1.453 B.2.c. and e.

~~b. a-~~ The extent the funds will be used to meet unmet needs in the geographic area as identified in the application;

~~c. b-~~ The extent the application proposes an identifiable expansion in the capacity of the family planning service system in the geographic area to be served by the applicant;

~~d. e-~~ The extent the application proposes to coordinate family planning services with organizations, agencies and individual providers in the geographic area to be served.

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3. Agency. When equivalent and competing applications are submitted for a geographic area, award funding priorities will be in accordance with the following:

a. First priority will be given to local boards of health;

b. Second priority will be given to eligible non-profit corporations. Prior to submission to the Commissioner, the applicant shall submit the proposal to the local board of health for review and comment. Any comments of a local board of health shall be submitted to the Commissioner within 20 days of the date the proposal was mailed to the local board.

When requests for family planning special project grant funds from eligible applicants exceeds the amount of such funds available, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. If the total of funding requests in these applications exceed funds available, all first priority requests will be multiplied by a ratio of total available funds to total funds requested under this priority.

2. Applications requesting funding of \$20,000 or less will be given second priority. If the total funding requests in these applications exceeds the funds available for distribution, all second priority requests will be multiplied by the ratio of funds available minus funds awarded under priority one to funds requested minus funds available under priority one.

3. Remaining applications will be given third priority and receive an amount equal to their request multiplied by the ratio of total available funds minus funds awarded under priorities one and two to total requested funds minus funds awarded under priorities one and two.*

F. Contingency funding proration. If after processing applications in accordance with Section E. above, the total amount of funds budgeted in these applications exceeds the amount of family planning special project grant funds avail-

able, applications will be funded in accordance with the following:

1. Applications proposing to provide service in counties with no in-county family planning service as of December 31, 1978, will receive first priority. Up to the first \$20,000 of the recommended budget in these applications will be awarded with no modification. Any portion in excess of \$20,000 will be awarded in accordance with number 2. as follows:

2. All other applications and those unawarded portions of applications in number 1. above, will be prorated in an amount equal to their recommended budget multiplied by the ratio of total available funds minus funds awarded under number 1. above to total amount of the recommended budgets minus funds awarded under number 1. above.

G. F. Use of state funds available for family planning special project grants.

1. Family planning special project grant funds awarded to applicant may be used to supplant Community Health Services subsidy funds planned and budgeted for family planning services in the 1978 or 1979 Community Health Services Plan.

2. Family planning special project grant funds may not be used to supplant any existing federal or local funds for family planning information or services.

3. Applicants are not required to match funds available under family planning special project grants.

*Example of funding award under priority three:

Applicant's family planning special project funds request	\$ 100,000
Total funds available for distribution	1,000,000
Total funds requested	1,500,000
Total funds distributed under priorities one and two	250,000
Funds awarded to applicant	\$100,000
	$\frac{(-1,000,000 \quad 250,000)}{(-1,560,000 \quad 250,000)} = \$60,000$

PROPOSED RULES

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 rule or amendment. 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.

Calendar of Public Hearings on Proposed Agency Rules

April 23-30, 1979

<u>Date</u>	<u>Agency and Rule Matter</u>	<u>Time and Place</u>
Apr 23	Dpt. of Agriculture Nonalcoholic Beverages Hearing Examiner: Myron Greenberg	9:00 a.m., Veterans Services Bldg., Rm. D, 20 W. 12th St., St. Paul, MN
Apr 23	Dpt. of Agriculture Licensing of Certain Coin Operated Food Vending Machines Hearing Examiner: Myron Greenberg	1:00 p.m. at the above address
Apr 25	Health Department Crippled Children's Services, Criteria, Procedures and Responsibilities for Eligibility, Cost-Sharing & Reimbursement Hearing Examiner: Peter Erickson	9:00 a.m., Council Rm., St. Cloud City Hall, 314 St. Germain, St. Cloud, MN
Apr 27	Same as above Hearing Examiner: Peter Erickson	9:30 a.m., Rm. 105, Dpt. of Health Bldg., 717 Delaware St. S.E., Minneapolis

Department of Public Safety Safety Administration Division

Proposed Rules Governing Minimum Standards for Wheelchair Securement Devices

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room B-9 Transportation Building, John Ireland Blvd., St. Paul, Minnesota, on May 17, 1979, commencing at 9 a.m., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to participate, by submitting either oral or written data, statement, or arguments. Written materials may be submitted by mail to Peter Erickson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, MN, either before the hearing or within 5 days after the close of the hearing (or within 20 days if so ordered by the hearing examiner). The proposed rules are subject to change as a result of the rule hearing process. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process.

The Commissioner proposes to adopt rules relating to strength, positioning, attachment and design of devices used to secure wheelchairs in vehicles during transport of persons in wheelchairs and standards for seat belts to be used by such persons. The proposed rules also include procedures for approval by the Commissioner of such devices, issuance and revocation of certificates of approval, inspections, labeling requirements and responsibilities of drivers of vehicles equipped with securement devices.

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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The Department's authority to promulgate the proposed rules is contained in Laws of 1978, Chapter 752. One free copy of the proposed rules is available and may be obtained by writing to Diane Hamilton, Room 210 Transportation Bldg., St. Paul, MN 55155. Additional copies will be available at the door on the date of the hearing.

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 is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department of Public Safety and at the Office of Hearing Examiners. The Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the department at the hearing, justifying both the need for and 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.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist 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. Questions should be directed by the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

March 27, 1978

Edward G. Novak
Commissioner of Public Safety (Acting)

Rules as Proposed

Chapter 21: Standards for Wheelchair Securement Devices

11 MCAR § 1.0188 Purpose and authority.

A. Purpose. The purpose of these rules is to establish minimum standards for approval of wheelchair securement devices in vehicles and approval of seat belt assemblies and anchorages used to protect persons in wheelchairs while transported in vehicles.

B. Authority. These rules are promulgated pursuant to the authority granted by Laws of 1978, ch. 752.

11 MCAR § 1.0189 Definitions. For the purpose of these rules, the following terms shall have the meanings ascribed to them:

A. Anchorage. The provision for transferring wheelchair securement loads to the vehicle structure.

B. Commissioner. The Commissioner of Public Safety or his duly authorized agent.

C. Interior paneling. Material used to finish the interior of a vehicle, not including the floor.

D. Wheelchair securement device or securement device. An apparatus installed in a motor vehicle for the purpose of securing an occupied wheelchair into a location in the vehicle.

11 MCAR § 1.0190 Wheelchair securement.

A. An occupied wheelchair transported in a vehicle shall be secured with a securement device of sufficient strength to prevent forward, backward, lateral or vertical movement of the wheelchair when the device is engaged and the vehicle is in motion, accelerating or braking.

B. Each wheelchair securement device shall attach to the frame of the wheelchair without damaging the frame.

C. A wheelchair securement device shall not be attached to a wheel of a wheelchair.

11 MCAR § 1.0191 Minimum standards. Each wheelchair securement device shall:

A. Attach to the wheelchair frame on at least three (3) points. The three (3) points of contact shall be spaced to provide effective securement.

B. Consist of at least two (2) webbing-type belts described in clause (1) or at least two (2) all-metal devices described in clause (2) or one or more of each such device.

1. Webbing type devices shall be assemblies that meet or exceed Type 2 pelvic restraint seat belt requirements as specified in federal regulations or be certified by the manufacturer that such device meets or exceeds assembly

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strength of 5,000 pounds in loop fashion or 2,500 pounds on each anchorage leg.

a. Certification may be the specification listed in catalogs or publications by the manufacturer.

b. All new construction of such securement devices and repairs to webbing shall conform with standards established by the manufacturer of the webbing.

2. All-metal securement devices shall be of a design and construction which provides wheelchair securement strength at least equal to the strength of a webbing type device comprised of three separate attachments and anchorages.

C. Be free of sharp edges, corners and jagged projections to minimize injury to persons in the event of unintentional contact.

D. Be capable of retraction, and be readily removable or otherwise suitably storable when not in use.

E. Be anchored to the vehicle at not less than two separate points with bolts, nuts and lock washers or self-locking nuts.

1. Bolts used shall be not less than $\frac{3}{8}$ inch in diameter and of National Fine Thread SAE grade 5 designation or equivalent.

2. Where anchorage bolts do not pierce the vehicle frame, subframe, bodypost or equivalent metal structure, a metal reinforcement plate or washer not less than 1/16 inches thick by 2 1/2 inches in diameter is required.

3. In no event shall interior paneling constitute anchorage for a point of securement.

4. A metal track, rail or similar device permitting attachment of the securement device at optional points thereon may be used to anchor the securement device, provided:

a. The track, rail or other device is secured to the vehicle in compliance with anchorage requirements of this rule.

b. The attachment of the securement device to the anchor point is by means of a positive attachment metal fitting.

11 MCAR § 1.0192 Approval procedure.

A. Application for approval of a wheelchair securement device shall be made to the commissioner and shall be accompanied by the manufacturer's actual or proposed written installation instructions and photographs or drawings clearly depicting the construction of the device and its physical characteristics, including all mounting hardware.

B. The applicant shall furnish a vehicle with the securement device installed therein and demonstrate the device by attaching it to a wheelchair furnished by the applicant. The wheelchair shall not be modified to accommodate the securement device. The commissioner may load the wheelchair to 140 pounds and require the vehicle be accelerated, driven around corners and subjected to hard braking at speeds of thirty miles per hour or less. Movement of the wheelchair more than one (1) inch in any direction, including: vertically, during such test shall be grounds for refusal of approval. Measurement of movement shall be at the points where wheelchair wheels contact the floor. Damage to the wheelchair or any other property during such test shall be the responsibility of the applicant.

C. Upon determining that the securement device meets the requirements of these rules, the commissioner shall issue a certificate of approval authorizing use of the device. The approval shall expire five years from the date of issuance. A securement device installed in a vehicle during the life of the approval may be used throughout its useful life in any vehicle.

D. The commissioner may revoke any approval granted hereunder upon a showing that the securement device does not meet a requirement of these rules.

E. Each wheelchair securement device shall be permanently labeled with the name, initials, or trademark of the manufacturer and the model designation of the device. The label shall be readily visible and legible from the outside of the device when it is properly mounted to the vehicle and in use.

11 MCAR § 1.0193 Seat belts.

A. Each vehicle equipped with a wheelchair securement device installed after October 1, 1979, shall be equipped with a type 2 seat belt assembly with a detachable upper torso portion at each such wheelchair position in the vehicle. The seat belt assembly, the upper torso restraint, and the anchorages for both shall meet the requirements of applicable Federal Motor Vehicle Safety Standards.

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B. Each vehicle equipped with a securement device installed prior to October 1, 1979, shall be equipped with a type 1 or type 2 seat belt assembly at each such wheelchair position in the vehicle. The seat belt assembly, and the upper torso restraint if so equipped, and their respective anchorages shall meet the requirements of applicable Federal Motor Vehicle Standards.

11 MCAR § 1.0194 Securement. It shall be the responsibility of the driver of any vehicle equipped with a wheelchair securement device to:

A. Properly secure an occupied wheelchair prior to moving the vehicle unless the wheelchair occupant is capable of securing the device and does so.

B. Fasten the seat belt assembly, and upper torso restraint if so equipped, around the occupant of the wheelchair unless the occupant is capable of fastening same and does so. The driver shall not fasten the assembly if doing so would aggravate a physical condition of the occupant.

C. Retract, remove or otherwise store securement devices and seat belt assemblies when not in use to prevent tripping of persons and damage to devices.

11 MCAR § 1.0195 Inspection. The commissioner may order the removal or corrective action upon determining that any wheelchair securement device without regard to date of installation:

A. Is not capable of sustaining loads imposed thereon in restraining an occupied wheelchair, or

B. The securement device permits excessive movement of an occupied wheelchair.

11 MCAR § 1.0196 Effective dates. These rules apply to all securement devices installed in a vehicle after October 1, 1979, and to any securement device used in any vehicle after December 31, 1980.

State Planning Agency Office of Local and Urban Affairs

Proposed Rules and Proposed Amendments to Rules for Administering Grants for Park and Open Space Acquisition and Development

Notice of Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 15.0412 (1978) and Minn. Stat. § 4.17 (1978) in the above-entitled matter commencing in the Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota at 9:30 a.m. on May 21, 1979. The hearing may be continued to such time and place as the Hearing Examiner may designate until all interested or affected groups or persons or their representatives have had an opportunity to participate and be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Written material may be submitted to the Office of Hearing Examiners, Myron Greenberg, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, and recorded in the hearing record without appearing at the hearing and will be accepted for a period of 5 working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

The purpose of these rules is generally as follows: To establish procedures for administering grants for athletic court and trail development for local government units. The rules also reflect recent changes in state legislation and federal regulations regarding acquisition and development of parks and open space. The athletic court grant program provides funds for the development of special surface areas and supporting equipment or structures for basketball, volleyball, handball and tennis. The trail grant program provides funds for the development of surface areas and supporting facilities for hiking, biking and skitouring trails on public lands. These rules will provide a mechanism for determining the types of projects which will be eligible for grant awards. These rules will also describe criteria for applicant eligibility and criteria for selection of grant award recipients. The Minnesota State Planning Agency was given authority to provide federal and state funds for acquisition and development of park and open space to appropriate units of government by Minn. Laws of 1969, ch. 1139, § 48, subd. 7, para. g. In 1977, three new grant programs were created by the Minnesota legislature to provide fund-

PROPOSED RULES

ing for parks and trails, local trails and athletic courts. Minn. Laws of 1977, ch. 421, § 2, subds. 2, 3 and 4. Minn. Stat. § 4.17 (1978) gives the Minnesota State Planning Agency authority to promulgate rules for distributing these funds.

Free copies of the proposed rules are now available upon request by writing or telephoning the:

Minnesota State Planning Agency
Office of Local and Urban Affairs
200 Capitol Square Building, 550 Cedar
St. Paul, Minnesota 55101
Tel: (612) 296-9006

Notice is also given that all lobbyists must register with the State Ethical Practices Board prior to engaging in any conduct for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules. Minn. Stat. § 10A.01, subd. 11 states in part:

“Lobbyist” means 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 State Ethical Practices Board is located at 41 State Office Building, St. Paul, Minnesota 55155, telephone number (612) 296-1720. Any questions concerning lobbying should be directed to that Board.

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 resubmission to the Attorney General).

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.

Amendments as Proposed

Rules 10 MCAR §§ 1.300 to 1.304 Administering Federal and State Outdoor Recreation Grants

10 MCAR § 1.300 Authority, definitions and general provisions.

A. Authority. The rules contained herein are prescribed by the State Planning Agency, Office of Local and Urban Affairs, pursuant to authority granted in Minn. Stat. § 86.71 ~~(1974)~~ (1976) and Laws of 1969, ch. 1139, § 48, subd. 7, paragraph g, as amended and Extra Session Laws of 1971, ch. 3, § 48, subd. 7, paragraph h as amended (et seq.) and Laws of 1977, ch. 421, § 2.

B. Purpose of rules. These rules are set forth to provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for LAWCON, and LCMR grants-in-aid, athletic courts, and trails.

C. Definitions. The following terms as used in these rules have the following meanings:

1. “Ad Hoe Lake Improvement Committee” means the committee composed of representatives of the State Planning Agency, Department of Natural Resources, University of Minnesota, Department of Health, Pollution Control Agency, Legislative Commission on Minnesota Resources, and Department of Agriculture, that reviews and evaluates lake improvement applications.

1. 2. “BOR” “HCRS” means the Bureau of Outdoor

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Recreation Heritage Conservation and Recreation Service of the United States Department of the Interior.

2. ~~3.~~ "BOR HCRS Guidelines" means those guidelines established by Bureau of Outdoor Recreation Heritage Conservation and Recreation Service Grants-in-Aid Manual effective as of May 6, 1976 October 1, 1978.

10 MCAR § 1.300 C.4.-19 Renumber as **10 MCAR § 1.300 C.3.-18.**

10 MCAR § 1.301 LAWCON grant program.

A. Application process.

1. Submission of preliminary applications.

a. Eligibility. Any local applicant which satisfies the guidelines for eligibility established by BOR HCRS may apply for a LAWCON grant.

b. Notice. Annually, OLUa shall send notice of the period of time that preliminary applications for LAWCON grants shall be accepted by OLUa. The notice shall be sent at least 45 days before the period ends. Such notice shall be sent to the following:

(1) Mayors and in care of the clerks of all cities in Minnesota;

(2) County board chairmen and in care of the auditors of all counties in Minnesota;

2. Evaluation of preliminary applications. Preliminary project applications which satisfy the BOR's HCRS project eligibility guidelines and priorities for LAWCON grants shall be evaluated and ranked as follows: a) general criteria; b) acquisition priorities; and c) development priorities.

5. BOR HCRS approval. If the final application is satisfactory, OLUa shall request BOR HCRS approval of a LAWCON grant for the recommended project. OLUa shall notify the applicant of the action taken by BOR HCRS.

B. Project agreement. Upon approval by BOR HCRS, OLUa shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

C. Disbursement of grant. The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to OLUa a billing request for work completed on the project, but not more than six billings per project. Upon receipt of a billing request, containing the documentation required in the project agreement, OLUa shall request from BOR HCRS the Federal

share of the eligible costs represented by that billing. Upon receipt of the LAWCON grant for that billing, OLUa shall reimburse the applicant. The final billing shall reflect any cost adjustments due to project changes and shall be subject to a site inspection by the State and BOR HCRS personnel and verification by federal and state audit.

D. Amendments. A request for an amendment in the project scope, costs or time period may be submitted to OLUa prior to project termination. If the request is eligible for a LAWCON amendment and OLUa considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under 10MCAR § 1.301 A.2., above, it may request BOR HCRS to approve the amendment.

10 MCAR § 1.302 LCMR grants-in-aid program.

B. Grant categories and financial assistance.

1. Regional project. A LCMR grant-in-aid may be available when the applicants can document that the project serves a regional need under the following circumstances: and in the percentage rates specified by State Law.

a. Project with approved federal grant: Eligible applicants with an approved federal grant for a park, recreation or open space project within their jurisdiction, may apply for a LCMR grant-in-aid up to 100% of the local share of that acquisition or development project provided that the state share shall not exceed 75% of the total project costs.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant in aid up to 75% of the total cost of the project application.

2. Other than regional projects. A LCMR grant-in-aid may be available to applicants for other than regional projects under the following circumstances: and in the percentage rates specified by State Law.

a. Project with approved federal grant: Eligible applicants receiving a federal grant for a park, recreation or open space project may apply for a LCMR grant-in-aid to 50% of the local share of the project.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for LCMR grant-in-aid up to 50% of the total cost of the project.

D. Application procedure.

1. Projects under consideration for a LAWCON grant.

b. Upon BOR HCRS approval of a LAWCON ap-

PROPOSED RULES

plication, OLU shall initiate the application procedure for applicants that have not received LCMR grants-in-aid exceeding the maximum legislative grant allowable for that project.

10 MCAR § 1.304 LCMR grants-in-aid program for lake improvement projects:

A. Lake improvement program: A lake improvement grant program is hereby established for demonstrating or carrying out new techniques to improve the quality of lakes. This grant program is an extension of the LCMR grants-in-aid program and is established by Minn. Laws 1969, ch. 1139, § 48, subd. 7, paragraph g. Pursuant to said statute, the following shall be eligible to apply for such projects:

B. Eligible applicants:

1. Units of local government and public agencies that have the authority to undertake lake improvement projects;

2. Non-profit organizations and associations whose primary objective is the management of natural resources and the improvement of the environment.

C. Eligible projects: Eligible projects for lake improvement grants shall be pilot demonstration projects which are new or unique for that type of lake. Eligible projects and facilities may receive a LCMR grant-in-aid of 50 percent of the eligible costs but not to exceed the maximum legislative grant-in-aid allowable for that projects. Grants from this program shall be available for acquisition, construction and testing costs. Maintenance and operational costs shall be the responsibility of the applicant.

D. Application process: Eligible applicants may apply for a LCMR grant-in-aid for lake improvement by submitting a preliminary application to OLU and the Metropolitan Council or the appropriate regional development commission for a project review. The Metropolitan Council or appropriate regional development commission at their option may recommend on an advisory basis to OLU, a list of applications from the region arranged in order of priority. OLU shall prescribe the form and content of the application.

E. Evaluation of applications:

1. Priorities: The criteria that shall be used to evaluate and establish priorities for applications shall be based upon projects that:

a. Perpetuate the beneficial natural characteristics of the shoreline.

b. Consider upstream conditions and sound watershed management practices, as may be established in the comprehensive watershed plan.

c. Are located in areas that have and are enforcing effective zoning ordinances, building codes, health ordinances, and conservation rules that affect the project.

d. Have a majority of shoreline in public ownership. Only lakes that are accessible to the public shall be eligible for a grant.

e. Improve the quality of waterbased recreational activities and fish and game habitat.

f. Have received a federal grant.

2. Procedure: Upon receipt of a preliminary application for lake improvement grant, OLU shall follow the following procedure:

a. The application shall be reviewed for eligibility and completeness. If additional information is required, the applicant shall be notified and asked to provide the additional information.

b. A preliminary evaluation and priority ranking of the lake improvement project shall be conducted by OLU, the Department of Natural Resources and the Pollution Control Agency.

c. Applicants that receive a high priority ranking in the preliminary project evaluation shall then be submitted to the "Ad Hoc Lake Improvement Committee" for review.

d. Applicants that receive a high ranking from the "Ad Hoc Lake Improvement Committee" evaluation shall be eligible to submit a final application.

e. Final applications shall be submitted to OLU. OLU shall prescribe the form and content of the application. Final applications that are acceptable shall be recommended to the LCMR and the LAG in accordance with 10 MCAR § 1.302 D, f, e, d, e.

f. Disbursement of grants: The disbursement of grants for LCMR grant-in-aid lake improvement projects shall be as specified in 10 MCAR § 1.302 E.

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G. Amendments. Lake improvement projects shall be eligible for LCMR grant-in-aid amendments as specified in 10 MCAR § 1.302 F.

H. Project completion. Upon completion, the project shall be subject to closing requirements as specified in 10 MCAR § 1.302 G.

Rules as Proposed

10 MCAR § 1.304 Athletic Court Grants program.

A. Distribution of grants. OLUA shall distribute state grants for the development of basketball, handball, tennis and volleyball courts in conformance with Laws of 1977, ch. 421, § 2, subd. 4 and the rules contained herein. Applications for athletic court grants shall be considered once a year and information concerning the deadline for the submission of such shall be available from OLUA.

B. Application procedure.

1. Eligible applicants as defined by Laws of 1977, ch. 421, § 2, subd. 1(c) may apply for state athletic court grants.

2. The contents of the application shall be consistent with the informational requirements of these rules and must describe the project, financial resources of the applicant, and existing facilities with sufficient specificity so that a determination of eligibility and ranking can be made pursuant to these rules.

3. All applications for projects shall be submitted to OLUA for review under these rules. Applications for projects within the jurisdiction of the Metropolitan Council shall also be submitted to the Metropolitan Council for their review.

C. Eligible projects. No project, the construction of which has already commenced or for which a construction contract has already been let, shall be eligible for a grant under this program. Maintenance and operational costs shall be the responsibility of the applicant. Projects and facilities eligible for a state grant shall include the following:

1. A special surface area of asphalt or concrete materials with adequate foundation suitable for the soil and climatic conditions. Prior to construction, such surface areas and foundations shall be approved by the applicant's engineer, as being suitable. Courts shall be outlined on the surface area and be of proper size to meet generally recognized athletic court dimensions.

2. Hoops, nets and supporting structures for athletic court games which shall be of a proper size to utilize the facility.

3. Walls and fences for the athletic court of a proper size to utilize the facility in the manner intended.

4. Adequate lighting to extend the use of the court games into hours of darkness.

D. Evaluation of applications.

1. Applications from outside the jurisdiction of the Metropolitan Council shall be evaluated and ranked by OLUA by giving equal consideration to each of the following criteria:

a. Priority shall be given to eligible applicants that demonstrate the athletic courts will be developed jointly with one or more eligible applicant. Included shall be evidence of cooperative use of such facilities between schools, cities, and other local units.

b. Eligible project applications received by OLUA shall be ranked in order from highest to lowest in relation to those projects located in cities or towns which have the lowest number of similar public athletic courts in relation to their population:

c. Eligible project applications received by OLUA shall be ranked in order from highest to lowest by the distance the project is located away from similar existing public athletic courts.

d. Priority shall be given to eligible applicants that can demonstrate that the courts will be readily accessible to the public by vehicular and pedestrian traffic, serve residential areas, and are available to the entire community during daylight and evening hours.

2. Applications from within the jurisdiction of the Metropolitan Council shall be evaluated and ranked by OLUA under the criteria found in D.1. of these rules and by the Metropolitan Council pursuant to their criteria. The determination of which proposals shall receive funding shall be made by combining the two rankings on an equal basis.

E. Distribution of grants. Grants shall be distributed in order of ranking until available athletic court funds are depleted. For those applicants recommended for a grant, OLUA will submit a project agreement to be executed between the applicant and the State of Minnesota. Upon completion of executed project agreement, the funds will be submitted to the applicant and it may proceed with the project.

PROPOSED RULES

F. Accounting. The applicant shall maintain a separate accounting of the project costs and shall submit documentation as required by OLUA to verify the costs and compliance with the project agreement.

G. Project completion. Upon completion, the project shall be subject to the closing requirements as specified in 10 MCAR § 1.302 G.

H. Retention and use of the project. Property developed with an athletic court grant shall be retained and used for public outdoor recreation during its useful life. Any property so developed shall not be changed to a non-recreational use or another recreational use without prior approval of OLUA. In the event an approved change occurs, the applicant shall return that percentage of the state grant equal to the percentage of the developed property changed to a non-recreational use.

I. Responsibilities of recipient. A recipient of an athletic court grant shall comply with all existing or subsequent state laws and regulations that apply to the project.

10 MCAR § 1.305 Trail Grants program.

A. Distribution of grants. OLUA shall distribute state grants for the development of hiking, biking, and touring trails in conformance with Law of 1977, ch. 421, § 2, subd. 3 and the rules contained herein. Applications for trail grants shall be considered once a year and information concerning the deadline for the submission of such shall be available from OLUA. Trail grants shall be available for trail development on public parks or other public lands excluding public road rights-of-way.

B. Application procedure.

1. Eligible applicants as defined by Laws of 1977, ch. 421, § 2, subd. 1 (c) may apply for trail grants.

2. Only trails that provide a primary recreational activity in themselves shall be eligible for trail grants. Pathways that just connect recreational activities, provide access to them, or protect the site from overuse shall not be eligible.

3. The contents of the application shall be consistent with the informational requirements of these rules and must describe the project, financial resources of the applicant; relationship to future plans, and existing facilities with sufficient specificity so that a determination of eligibility and ranking can be made pursuant to these rules.

4. Applications for projects outside of the jurisdiction of the Metropolitan Council shall be submitted to OLUA for review and ranking under these rules. Applications for projects within the jurisdiction of the Metropolitan Council shall be submitted to OLUA for review and ranking under these rules, and to the Metropolitan Council for its review and ranking.

C. Eligible projects. No project, the construction of which has already commenced or for which a construction contract has already been let, shall be eligible for a grant under this program. Maintenance and operational costs shall be the responsibility of the applicant. Project and facilities eligible for a state grant shall include the following:

1. Clearing of vegetation, grading, and construction of a surface area and necessary drainage structures suitable for the type of trails proposed.

2. Shelters, signs, parking, toilet facilities, and water systems suitable for type of trails proposed.

D. Evaluation of applications.

1. Applications from outside the jurisdiction of the Metropolitan Council shall be evaluated and ranked by OLUA by giving equal consideration to each of the following criteria:

a. Priority shall be given to trail projects located so as to minimize interference with incompatible activities and features.

b. Priority shall be given to trail projects that provide access to areas of outstanding natural resources or man-made features.

c. Priority shall be given to trail projects that continue or link into other trail systems or proposed trail systems.

d. Priority shall be given to trail projects from applicants that have the fewest miles of similar trails in relation to their population.

e. Priority shall be given to eligible applicants that can demonstrate that the proposed trails are readily accessible to the public by vehicular, pedestrian and bicycle traffic and are available to the entire community.

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PROPOSED RULES

2. Applications from within the jurisdiction of the Metropolitan Council shall be evaluated and ranked by OLUA under the criteria found in D.1. of these rules and by the Metropolitan Council pursuant to their criteria. The determination of which proposals shall receive funding shall be made by combining the two rankings on an equal basis.

E. Distribution of grants. State grants shall be distributed in order of ranking until trail development funds are depleted. For those applicants who are recommended for a grant, OLUA will submit a project agreement to be executed between the applicant and the State of Minnesota. Upon completion of executed project agreement, the funds will be submitted to the applicant and it may proceed with the project.

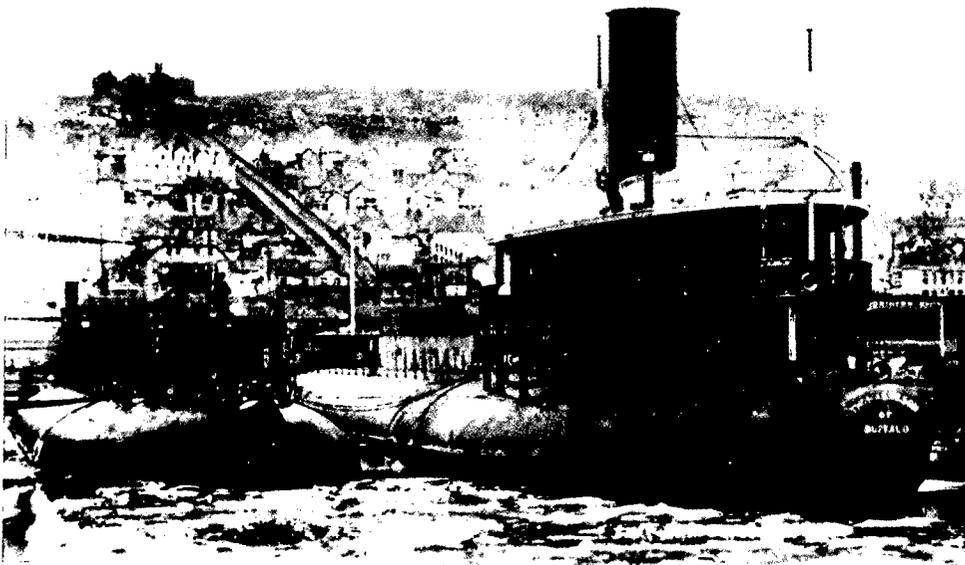
F. Accounting. The applicant shall maintain a separate accounting of the project costs and shall submit documenta-

tion as required by OLUA to verify the costs and compliance with the project agreement.

G. Project completion. Upon completion, the project shall be subject to the closing requirements as specified in 10 MCAR § 1.302 G.

H. Retention and use of project. Property developed with a trail grant shall be retained and used for public outdoor recreation during its useful life. Any property so developed shall not be changed to a non-recreational use or another recreational use without prior approval of OLUA. In the event an approved change occurs, the applicant shall return that percentage of the state grant equal to the percentage of the developed property changed to a non-recreational use.

I. Responsibilities of recipient. A recipient of a trail grant shall comply with all existing or subsequent state laws and regulations that apply to the project.



The boats shown here, called whalebacks, were first built in Duluth about 1890 by Alexander McDougall. Their rounded tops and sides and flat bottoms enabled them to carry large cargoes of iron ore in shallow water. This picture was taken in Duluth Harbor about 1893. (Courtesy St. Louis County Historical Society and Minnesota Historical Society)

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Agriculture Shade Tree Program

Notice of Amendment to Request for Proposals for Display Design Contract

The Department of Agriculture Shade Tree Program hereby amends the following Request for Proposals for professional/technical services as published in the *State Register* on Monday, April 2, 1979 to read:

3. Design of a mobile display: Price cannot exceed \$1,500.

The following Request for Proposals for Media and Graphic design contract(s) remain in effect as published:

1. Production of radio and television public service announcements: Responders should prepare two proposals, one for up to \$7,500 and one up to \$12,500.

2. Design of a multi-use press kit: Price cannot exceed \$500.

Request for Proposal forms can be obtained by writing the Minnesota Shade Tree Program, Room 600, Bremer Building, St. Paul, MN 55101 or calling (612) 296-8580.

Department of Corrections Health Care Unit

Notice of Request for Proposals for Professional/Technical Services Contracts

Notice is hereby given that the Minnesota Department of Corrections is seeking the following services for the period July 1, 1979 through June 30, 1980. These services are to be performed at the indicated state correctional institutions.

1. Services of a Pharmacist for the Minnesota State Prison on a full time basis to supervise the total pharmacy program. The estimated amount of the contract will not exceed \$22,000.

2. Services of a Radiologist approximately 24 hours per month to provide full radiological services to the State Prison. The estimated amount of the contract will not exceed \$21,000.

3. Services of a Registered Dietitian approximately 64 hours per month to provide the total consultant dietitian services at the State Prison. The estimated amount of the contract will not exceed \$12,500.

4. Services of a Psychiatrist approximately 64 hours per month to provide psychiatric consultations at the Minnesota State Prison and the inpatient Mental Health Unit. The estimated amount of the contract will not exceed \$33,250.

Direct inquiries for the above listed contracts to Clyde Eells, Health Services, Minnesota State Prison, Stillwater, MN 55082.

5. Services of a Physician to provide on-site, primary health care services for the inmates of the State Reformatory for Men. The estimated amount of the contract will not exceed \$56,100. Direct inquiries to David Ek, Business Manager, State Reformatory for Men, Box B, St. Cloud, MN, 56301.

6. Services of a Psychiatrist approximately 4 days per month to provide psychiatric consultations to the juveniles at the State Training School in Red Wing. The estimated amount of the contract will not exceed \$15,792. Direct inquiries to Thomas Kernan, Assistant Superintendent, State Training School, Box 35, Red Wing, MN 55066.

7. Services of a Psychiatrist approximately 20 hours per month to provide psychiatric consultation services to the Minnesota Department of Corrections' Mental Health Unit located at the Minnesota State Prison. The estimated amount of the contract will not exceed \$10,500. Direct inquiries to Dr. Wallace Balcerzak, Ph.D., Mental Health Unit, Minnesota State Prison, Box 55, Stillwater, MN 55082.

8. Services of a Behavior Therapist to provide: psychological evaluations including a performance evaluation prediction on sex offenders for the Minnesota Corrections Board; general consultation services to the Minnesota Corrections Board; and therapy services to inmate sex offenders. Estimated amount of the contract will not exceed

\$12,100. Direct inquiries to Ronald Byrnes, Minnesota Corrections Board, Suite 238, Metro Square Building, St. Paul, Minnesota, 55101.

Proposals for the above listed contracts must be submitted no later than May 6, 1979.

**Department of Economic
Security
Employment and Training
Division**

**Notice of Request for Proposals for
Consultant Services in Regard to
CETA Programs**

1. Agency name and address: Minnesota Department of Economic Security, Employment and Training Division, Balance of State Office, 690 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.

2. Contact person: Persons or organizations wishing to receive this Request for Proposal package, or who would like additional information may write the contracting officer, Richard Burns, at the address provided in Item #1 above, or call (612) 296-3010.

3. Description: A notice for RFP has been issued on April 16, 1979, for the purpose of providing CETA Client Tracking Systems design and monitoring service until December 31, 1979, for the Balance of State's CETA Prime Sponsor Management Information System. This Request for Proposal does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

4. Cost: One award will be granted not to exceed \$31,710.

5. Final proposal submission date: Proposals must be received by 4:30 p.m., May 7, 1979.

**Department of Economic
Development
Public Information Division
Notice of Request for Proposals for
Technical and Creative
Communications Assistance**

Proposals are being accepted for provision of special technical and creative assistance of a professional communications nature for FY 1980 and FY 1981.

This support service is needed to review, analyze and make recommendations on existing communications efforts of the department as a whole and for special projects within individual divisions. Recommendations will then be implemented through existing departmental communications programs and personnel.

Those interested in receiving proposal specifications should contact Stephen Kane, Deputy Commissioner, Minnesota Department of Economic Development, 480 Cedar St., St. Paul, MN 55101, (612) 296-2755. Proposals will be accepted until 4 p.m., May 7, 1979.

**Department of Education
School Management
Services Division
Notice of Request for Proposals for
Evaluation of Computerized
Personnel/Payroll System**

The Department of Education hereby announces that it intends to contract with an independent third party to conduct an evaluation of the administrative and computer procedures used in the Elementary, Secondary and Vocational Information System Personnel/Payroll Subsystem.

Scope of this contract includes review of documentation and on-site interview of regional computer centers, and school districts.

The contractors must have demonstrated ability to relate the efficiency of this system and its procedures to at least three other personnel/payroll systems, at least one of which was with another major governmental entity, and one of which was with a major nongovernmental agency.

STATE CONTRACTS

The product of this contract shall be a written report detailing the result of the evaluation and proposing recommendations for modifications and/or enhancements to the system, if any.

Responses to the Request for Proposal shall be accepted until 4:30 p.m., May 7, 1979. It is anticipated the contract will be issued prior to May 30, 1979, and that the work will be performed prior to June 30, 1979.

Direct inquiries for RFP forms to Erv Chorn, Room 803, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101, (612) 296-5647.

Pollution Control Agency Water Quality Division

Notice of Request for Proposals for Assessment of Radioactive Air Emission Control and Monitoring at Two Minnesota Nuclear Power Plants

The Pollution Control Agency is seeking proposals for an assessment of radioactive air control and monitoring systems at the Monticello and Prairie Island nuclear power plants. The assessment is to include a determination of maximum achievable control and maximum effective measurement of radioactive air emissions and operational performance of systems, all with reference to best available technology. Progress and final reports are required.

Estimated Cost: \$30,000

Persons desiring to submit proposals should contact:

Dr. John Ferman
Nuclear Engineer
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

The deadline date for proposals is June 1, 1979.

Notice of Request for Proposals for Assessment of Risk Associated with Radioactive Air Emissions from Two Minnesota Nuclear Power Plants

The Pollution Control Agency is seeking proposals for an assessment of whether currently experienced radioactive air emissions from the Monticello and Prairie Island nuclear power plants pose a significant risk to the public. Progress and final reports are required.

Estimated Cost: \$20,000

Persons desiring to submit proposals should contact:

Dr. John W. Ferman
Nuclear Engineer
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

The deadline for proposals is June 1, 1979.

OFFICIAL NOTICES

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 Commerce Insurance Division

Notice of Annual Meeting

Members of the Minnesota Comprehensive Health
Association

Thursday, June 14, 1979
10:00 a.m.

State Office Building
Room 83
St. Paul, Mn

Board of Directors meeting to follow

Energy Agency

Certificate of Need Jurisdiction of the Minnesota Energy Agency over Transmission Line(s) Proposed by NSP and UPA

Order to Show Cause and Notice

The Minnesota Energy Agency ("Agency") is required by Minn. Stat. §§ 116H.07, subd. 1(f) and 116H.13 (1978) to require certificates of need prior to construction of large energy facilities, including certain large high voltage transmission lines ("LHVTL"), as defined in Minn. Stat. § 116H.02, subd. 5(b) (1978).

The Agency is aware of the proposed construction of two LHVTL's in the area of Sherburne, Benton and Mille Lacs Counties. Northern States Power Company ("NSP") proposes to construct a 345 kilovolt ("kV") LHVTL from Sherburne County Substation to Benton County Substation by 1981. United Power Association ("UPA") proposes to construct a 230 kV LHVTL from Benton County Substation to UPA's Milaca Substation by 1981. Neither line as proposed is apparently long enough to be a "large energy facility" in accordance with the Minnesota Energy Agency Act. However, if the two lines are considered together as one, they may constitute a "large energy facility" and could require a certificate of need from the Agency prior to siting or construction.

To consider the two lines as one for purposes of certificate of need jurisdiction the Agency must conclude that the lines are jointly owned by the two utilities or a pool, or that either of the lines is designed to meet the long-term needs of a utility not owning the line. See rule 6 MCAR § 2.0631 C. There are several factors indicating treatment of the line(s) as one project is appropriate, and others indicating individual treatment.

The Agency has reached a preliminary conclusion that at least the second scenario for its jurisdiction is met, i.e., the NSP line is designed to meet the long-term needs of UPA, a utility which has no apparent ownership in the NSP line. The issue before the Agency on which it desires more input from the affected utilities and any interested person is whether it has certificate of need jurisdiction over the line(s). Factors which the Agency desires to have addressed include: the reasons for the size of each of the lines, ownership of the Benton County Substation and of the lines, the probability of the other line being built if one of the lines were not built, the reasons for the coincidence in the timing of the lines, the proposed schedules for routing/permitting, the extent of coordination or knowledge of the other utility's plans or needs in the planning process for each of the lines, the purposes to be served by the line(s), the alternatives to each of the lines, and any other factor bearing on the Agency's certificate of need jurisdiction over the line(s).

Now, therefore, it is hereby ordered and notice is hereby given that Northern States Power Company and United Power Association appear before the Minnesota Energy Agency at the Area Vocational-Technical Institute, 1540 Northway Drive, Saint Cloud, Minnesota on 30 April 1979, at 2:00 p.m. and show cause, if any there be, why the Agency should not assert its certificate of need jurisdiction over the proposed NSP and UPA LHVTL('s) in accordance with Minn. Stat. § 116H.13 (1978) and 6 MCAR §§ 2.0601-.0641, especially 6 MCAR § 2.0631 C. The hearing will continue until all persons have had an opportunity to be heard. Written statements will be received at the hearing. Written statements will also be received prior to, or post-marked within five (5) days after, the hearing, addressed to Minnesota Energy Agency, attention David L. Jacobson, 980 American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

April 9, 1979

Algernon H. Johnson
Director

**Department of Health
Emergency Medical
Services Section**

**Notice of Filing of Application for
Licensure by Pettit Ambulance,
Inc.**

On March 14, 1979, Pettit Ambulance, Inc. filed application with George C. Pettersen, Commissioner of Health, for a license to operate an emergency land ambulance service with a base of operation in Solon Springs, Wisconsin. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subdivision 2 of that statute states in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977), may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

**Department of
Transportation**

**Notice of Application and
Opportunity for Hearing
Regarding Petition to Retire and
Remove Track No. 48, 1202 Feet
Long Including 2 Turnouts
Located in Dundas, 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. § 219.47 and § 218.041, subd. 3 (10) to retire and remove track No. 48, 1202 feet long including 2 turnouts located in Dundas, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time and there is no present prospect that the subject track will be needed in the future. There are no shippers, patrons or members of the public who might have any interest in retention of the track 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 May 7, 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.

March 30, 1979

Richard P. Braun
Commissioner

SUPREME COURT

Decisions Filed Friday, April 6, 1979

Compiled by John McCarthy, Clerk

48235/326 George E. Hehl vs. Estate of Edward M. Klotter, Deceased, et al, Peter Flint Fox, et al, G & R. Construction, Inc., Appellant. Hennepin County.

A seller of property who insists upon cancellation of one purchase agreement as a condition precedent to entering into another purchase agreement for the same property is entitled to cancellation of the original agreement regardless of whether the original agreement was legally enforceable.

Reversed. Peterson, J. Took no part, Otis, J.

48185/311 Mary Jennette Vyskocil, Appellant, vs. Leonard Vyskocil. Blue Earth County.

Where plaintiff, who was a party to a divorce decree entered in Minnesota, brings an action to enforce that decree in the court of a sister state, the Minnesota courts may properly recognize the foreign decision by reason of comity and dismiss a subsequent action raising identical issues although neither party to the decree resides or is domiciled within this state.

Affirmed. Kelly, J. Took no part, Sheran, C. J. and Otis, J.

48795/4 Frederick E. Betlach, III, Appellant, vs. Wayzata Condominium and Douglas Peterson, Swanson-Abbott Development Co., et al. Hennepin County.

Because of ambiguities in the defendants' letter of February 27, 1976, whether it constituted a valid acceptance to plaintiff's offer forming a binding agreement in a question of fact.

Merely because parties to an agreement contemplate a later memorialization of that agreement in a formal sublease, the agreement is not rendered invalid unless the parties did not intend the initial agreement to be binding. The determination of the intent of the parties is similarly a question of fact.

When there are genuine issues of fact which are unresolved, disposition by means of a summary judgment is inappropriate.

Reversed and remanded. Kelly, J.

48873/24 Ronald Engel vs. Redwood County Farmers Mutual Insurance Company. Redwood County.

A fire may be hostile although burning at its usual rate if it burns substantially longer or in some fashion other than expected.

Affirmed. Kelly, J. Took no part, Otis, J.

48046/309 Cherne Industrial, Inc. vs. Grounds & Associates, Inc., et al, Appellants. Ramsey County.

There was ample evidence defendants breached their employment agreements by competing with plaintiff after they had left plaintiff's employment, and the trial court acted within its authority to grant an injunction and award damages for such breach.

The injunction may issue forbidding future conduct as a remedy for past use of confidential information even though the information had otherwise lost its confidential status.

The issuance of the injunction in this case does not violate defendants' First Amendment rights of free speech and expression.

The compensatory damages and punitive damages awarded by the district court were amply supported by the facts and the law in this case.

The trial court acted within its authority in refusing attorneys fees in this case.

Affirmed. Yetka, J.

47665/32 Lucille A. Dodge, et al, Plaintiffs, Catherine Wormlund, Margaret Hanks and Mary P. Peterson, Appellants, vs. Minnesota Mining and Manufacturing Company. Ramsey County.

Where the district court found defendant-employer guilty of discriminatory practices against 18 female employees but denied damages to three plaintiffs on the ground that their alleged damages were not caused by employer's discriminatory practices, the record supports the findings of the trial court in denying relief and those findings will not be disturbed on appeal.

Affirmed. Yetka, J. Took no part, Otis and Todd, JJ.

49046/69 Yvette Cronen, widow of Timothy Cronen, deceased, vs. Wegdahl Elevator Association, et al, Relators. Workers' Compensation Court of Appeals.

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