



STATE REGISTER

STATE OF MINNESOTA

RULES

PROPOSED RULES

STATE CONTRACTS

OFFICIAL NOTICES

RECEIVED

AUG 28 1978

LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155

VOLUME 3, NUMBER 8

AUGUST 28, 1978

Pages 285-328

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			
9	Monday Aug 21	Monday Aug 28	Monday Sept 4
10	Monday Aug 28	Friday Sept 1	Monday Sept 11
11	Friday Sept 1	Monday Sept 11	Monday Sept 18
12	Monday Sept 11	Monday Sept 18	Monday Sept 25
13	Monday Sept 18	Monday Sept 25	Monday Oct 2
14	Monday Sept 25	Monday Oct 2	Monday Oct 9

*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.

The *State Register* is published weekly, on Monday, by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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*.

The State of Minnesota has reserved a copyright to cross-reference tables, tables of contents, indices, numerical lists and codification guides, as provided in RGSTR 7 of the rules of the Office of the State Register.

Copyright © 1978 State of Minnesota

Rudy Perpich
Governor

Carol Anderson Porter
Editor

Richard L. Brubacher
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 Peterson
Secretarial Staff

Acknowledgements: Graphics for this issue were provided courtesy of Minnesota Historical Society, Department of Natural Resources, Department of Transportation, and the following artists: Ann Rauvola, Kelly Thompson, Rick James, Jane Gstalder and Ron Hunt.

CONTENTS

MCAR AMENDMENTS AND ADDITIONS 289

RULES

**Department of Public Service
Public Service Commission**
Adopted Rules Relating to Gas and Electric Utilities
Change in Rates, PSC 400-407 290

PROPOSED RULES

Cable Communications Board
Proposed Rules Governing Board Meetings,
Franchising Procedures, Franchise Standards,
and Cable Service Territories 296

Housing Finance Agency
Proposed Rules Relating to the Home Improvement
Loan, Accessibility Improvement Grant, and
Warranty Claim Programs 309

Livestock Sanitary Board
Proposed Rules Governing Importation of Goats,
Control of Goat Brucellosis in Minnesota, and
Control of Goat Tuberculosis in Minnesota 313

STATE CONTRACTS

**Department of Administration
Bureau of Real Estate and
Transportation Management**
Notice of Request for Proposals for Realty,
Economic and Functional Analyses for Office
Space Study 319

**Energy Agency
Administration Division**
Notice of Request for Proposals for Auditing
Services 319

**Department of Health
Environmental Health Division**
Notice of Request for Proposals for Consultant
Services 320

**Pollution Control Agency
Water Quality Division**
Notice of Extension of Deadline for Receipt of
Proposals 320

**Department of Public Welfare
Mental Health Bureau**
Notice of Request for Proposals Concerning Cost
Containment Measures within the State Hospital/
Nursing Home System 320

OFFICIAL NOTICES

**Department of Agriculture
Food, Meat and Poultry Division**
Notice of Intent to Solicit Outside Opinion on Rules
Relating to Nonalcoholic Beverages; Definitions;
Standards; Restrictions; Labeling; and
Manufacturing Requirements 321

**Department of Commerce
Board of Architecture, Engineering,
Land Surveying and Landscape
Architecture**
Notice of Intent to Solicit Outside Information
Regarding Proposed Adoption of a Rule
Governing the Intern Development Program 322

Livestock Sanitary Board
Notice of An Addition to the Hearing Notice for
Proposed Rules of the Livestock Sanitary Board
Governing Importation of Goats, Control of Goat
Brucellosis in Minnesota, and Control of Goat
Tuberculosis in Minnesota 322

**Department of Transportation
Administration Division**
Notice of Application and Opportunity for Hearing
Regarding Petition to Abandon and Remove ICC
Track No. 37 at Austin, Minnesota 323
Notice of Application and Opportunity for Hearing
Regarding Removal of Spur Trackage Known as
"Sanatorium Spur" at Walker, Minnesota 323

Metropolitan Health Board
Notice of Meetings 324

**Minnesota Teachers Retirement
Association**
Notice of Meeting of Board of Trustees 324



The magnificent Canada goose is an extremely adaptable bird, nesting in a variety of habitats ranging from remote wilderness areas to wetlands within cities. With a wingspan of up to six feet, it may weigh over eighteen pounds. In the fall, Canadian geese gather in spectacular concentrations of thousands and fly in V formations. They are often seen near Minnesota lakes and wetlands where they stop to rest and feed during their southern migration. (Drawing by Jane Gstalder)

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.

TITLE 3 AGRICULTURE

Part 2 Livestock Sanitary Board

3 MCAR §§ 2.003, 2.022-2.023 (proposed) 313

TITLE 4 COMMERCE

Part 3 Public Service Commission

PSC 400-407 (adopted) 290

TITLE 4 COMMERCE

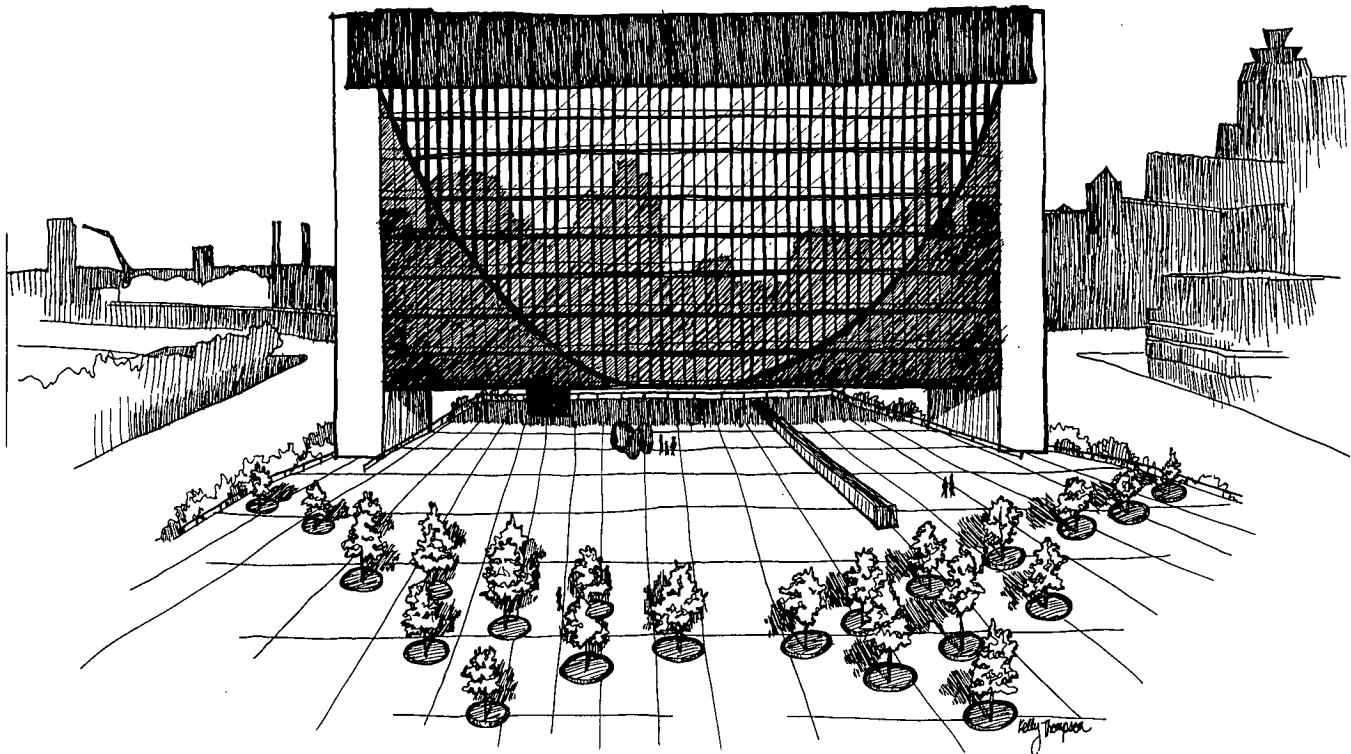
Part 4 Cable Communications Board

4 MCAR §§ 4.026, 4.111, 4.121, 4.221-4.226 (proposed) 296

TITLE 12 SOCIAL SERVICE

Part 3 Housing Finance Agency

12 MCAR §§ 3.051, 3.063, 3.065, 3.069-3.072, 3.140-3.144
(proposed) 309



Overlooking Nicollet Mall, the Federal Reserve Bank of Minneapolis was designed by Gunnar Birkherts and completed in 1972 at a cost of \$30.9 million. Its brace suspension scheme, featuring catenary arches formed by cables, is a model for future multi-layered urban design. With office space above and vehicular traffic below, the plaza level is reserved for pedestrians. (Drawing by Kelly Thompson)

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.

Department of Public Service Public Service Commission

Adopted Rules Relating to Gas and Electric Utilities Change in Rates, PSC 400-407

Minn. Rules PSC 400-407 were initially proposed at a hearing held on February 12, 1975 and therefore were not previously published in the *State Register*. The following rules were adopted and filed with the Secretary of State on July 14, 1978 and are identical to their proposed form, with the following amendments:

PSC 400 ~~DEFINITIONS FOR CHANGES IN RATES~~
Definitions for changes in rates. For the purposes of

RULES

Rules 400-403 and 405-406, the following definitions shall apply.

(a) A. "Average" means a thirteen-month average or a simple average of beginning and end of year data when data is not available to calculate a thirteen-month average.

(b) B. "Average Prime Interest Rate" means the daily average of the daily prime lending rates offered to preferred customers at the largest bank in the Ninth Federal Reserve District ~~over~~ during the period for which the rate refund is applicable the utility's proposed rates are suspended. The largest bank is that bank with the greatest total outstanding deposits as of the end of the calendar year preceding the notice of change in rates.

(c) C. "Capital Structure" means the total capitalization of the public utility as defined in Section 49, Subdivision 2 of the Minnesota Public Utilities Act and including short-term securities.

(d) D. "Embedded Cost" of long-term debt or preferred stock means the average cost for all outstanding issues of debt or preferred stock at a given date.

(e) E. "General Rate Change" means an overall change in rates for which the determination of the utility's gross revenue requirements is necessary in assessing the appropriateness of the change in rates.

(f) F. "Gross Revenue Conversion Factor" means the incremental amount of gross revenue required to generate an additional dollar of operating income.

(g) G. "Jurisdictional" means the utility's total Minnesota operations.

(h) H. "Miscellaneous Rate Change" means a change in any compensation, charge, fare, toll, tariff, rental or classification, demanded, observed, charged, or collected for any service and any rules, regulations, practices, or contracts affecting any such compensation, charge, fare, toll, rental, tariff, or classification for which a determination of the utility's gross revenue requirements is not necessary in determining the reasonableness of a proposed change in rates. Miscellaneous rate changes as used herein shall not include changes in amounts charged which the utility has effectuated pursuant to an existing automatic adjustment clause in accordance with the provisions of PSC 390-395.

(i) I. "Most Recent Fiscal Year" is the utility's prior

PSC 400

fiscal year unless notice of a change in rates is filed with the ~~Public Service~~ Commission within the last three months of the current fiscal year and at least nine months of historical data is available for presentation of current fiscal year financial information, in which case the most recent fiscal year is deemed to be the current fiscal year.

(j) J. "Projected Fiscal Year change" is means the fiscal year immediately following the most recent fiscal year change from the normalized most recent fiscal year reflecting growth and known changed operating conditions from those existing in the most recent year.

K. "Projected fiscal year" is the fiscal year immediately following the most recent fiscal year.

(k) L. "Proposed" means utility proposed.

(l) M. "Rate" is as defined in Section 2, ~~Subdivision~~ subd. 5, Minnesota Public Utilities Act.

(m) N. "Rate Base" for the most recent fiscal year and the projected fiscal year shall be an original cost rate base.

(n) O. "Short-term debt" means short-term security as defined in PSC 370.

(o) P. "Test Year" is the twelve-month period selected by the utility for the purpose of expressing its need for a change in rates.

(p) Q. "Total Utility," when used to describe information requirements, means either:

(1) the combined jurisdictional and, if any, nonjurisdictional gas or electric operations of a utility, and excluding nonutility property; or

(2) The gas or electric operations of a utility's wholly-owned subsidiary operating within Minnesota and excluding nonutility operations.

(q) R. "Utility" is defined as in Section 2, ~~Subdivision~~ subd. 4, of the Minnesota Public Utilities Act and shall include the controlling corporation of any Minnesota public utility.

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."

RULES

PSC 400

(+) S. "Weighted Cost of Capital" is the total cost of capital determined by weighting the cost of each component of the capital structure by the ratio of the capital represented by that component to total capital.

PSC 401 RATE CHANGE PROCEDURES Rate change procedures.

(+) A. Notice of change in rates. A utility filing for a change in rates shall serve notice to the Commission at least ~~thirty~~ ninety (90) days prior to the proposed effective date of the modified rates. Such notice shall include the items prescribed below for:

(+) 1. General rates changes:

(aa) a. Proposal for change in rates as prescribed in PSC 402.

(bb) b. Modified rates as prescribed in PSC 403.

(ee) c. Expert opinions and supporting exhibits as prescribed in PSC 404.

(dd) d. Supplemental Informational requirements as prescribed in PSC 405.

(ee) e. Statement indicating the method of insuring the payment of refunds as prescribed in PSC ~~(b)~~ B.

(+) 2. Miscellaneous rate changes:

(aa) a. Proposal for change in rates as prescribed by PSC 402.

(bb) b. Substantiating documents and exhibits supporting the change requested.

(ee) c. Modified rates as prescribed in PSC 403.

(dd) d. Statement indicating the method of insuring the payment of refunds as prescribed in PSC 401~~(b)~~ B.

(b) B. Methods and procedures for refunding.

(+) 1. In the event that a hearing is ordered by the Commission as a result of the change in rates and proposed rates are suspended, the Commission shall allow the utility to place suspended rates into effect, as to services to be rendered on or subsequent to the effective date of the change in rates, subject to refund of the increase in rates or part thereof determined to be unreasonable by the Commission provided that the payment of refunds is insured under either of the following methods:

(aa) a. File with the Commission on bond, signed by an authorized official of the utility, in an amount and with sureties approved by the Commission; or

(bb) b. File with the Commission an unqualified agreement, signed by an authorized official of the utility, to refund any portion of the increase in rates determined to be unreasonable together with interest thereon.

(+) 2. Any increase in rates or part thereof determined by the Commission to be unreasonable shall be refunded to customers or credited to customers' accounts within ninety (90) days from the effective date of the Commission order and determined in a manner prescribed by the Commission including interest at the average prime interest rate computed from the effective date of the proposed rates through the date of refund or credit.

(e) C. Procedures subsequent to notice:

(+) If a notice or an amended notice of a change in rates is not complete in all material respects as prescribed by PSC 400-405, it shall not constitute a valid notice and a statement as to the deficiencies shall be sent to the utility within ten days of receipt of the notice or amended notice giving the utility an opportunity to serve an amended notice. If such a statement is not sent, the notice or amended notice shall be deemed complete.

(+) 1. Any amended notice shall be served at least ninety (90) days prior to the proposed effective date of modified rates.

(+) 2. If a notice or an amended notice is complete in all material respects as prescribed by PSC 400-405, the Commission shall follow the procedures outlined in the Rules of Practice, PSC 500-517.

(+) 3. Upon acceptance of the notice and the determination that a hearing shall be conducted, but before the proposed effective date of the modified rate schedules, the Commission may, by written directive, explaining the reasons therefor, signed by the authority of the Commission, and served upon the utility, suspend the operation of the utility's modified rate schedules but not for a longer period than ninety (90) days beyond the time when the modified rates would otherwise go into effect unless the Commission shall find that a longer time will be required, in which case the Commission may further extend the period for not to exceed a total of nine (9) months.

(+) 4. Such directive shall include authority for the utility to place suspended rates into effect, subject to refund, provided that the bond and sureties or that the agreement to refund as specified in PSC 401~~(b)~~(+)B.1 is approved by the Commission.

RULES

(6) In the event that evidence is offered by a utility in a hearing which has been ordered by the Commission for the purpose of determining the reasonableness of proposed rates, such evidence which in the opinion of the Commission or presiding officer contradicts or materially alters information included in the notice as defined in PSC 402-404 will be received only upon good cause shown.

PSC 402 PROPOSAL FOR CHANGE IN RATES Proposal for change in rates. The utility's proposal for a change in rates shall summarize the notice of change in rates and shall include the following information:

(a) A. Name, address, and telephone number of the utility without abbreviation and the name and address and telephone number of the attorney for the utility, if there be one.

(b) B. Date of filing and date modified rates are effective.

(c) C. Description and purpose of the change in rates requested.

(d) D. Effect of the change in rates expressed in gross revenue dollars and as a percentage of test year gross revenue if appropriate.

(e) E. Signature and title of utility officer authorizing the proposal.

PSC 403 MODIFIED RATES Modified rates.

(a) A. All proposed changes in rates shall be shown by filing revised or new pages to the rate book previously filed with the Commission and by identifying those pages which were not changed.

(b) B. Each revised or new page of the rate book shall contain the information required for each page of the rate book and shall be in a format consistent with the currently filed rate book. In addition, each revised page shall contain the revision number and the page number of the revised page.

PSC 404 EXPERT OPINIONS AND SUPPORTING EXHIBITS Expert opinions and supporting exhibits.

(a) A. Expert opinions and supporting exhibits shall include written statements, in question and answer format, together with supporting exhibits of utility personnel and other expert witnesses as deemed appropriate by the utility in support of the proposal.

(b) B. At a minimum, expert opinions shall include a

PSC 405

statement by the chief executive officer or other designated official in support of the proposal.

(c) C. Supporting exhibits may be the same as those prescribed by PSC 405 or may make reference where appropriate to the ~~supplemental~~ information requirements prescribed by PSC 405.

PSC 405 SUPPLEMENTAL INFORMATION REQUIREMENTS Information requirements. The following information shall be supplied as a part of the utility's notice of a change in rates. Information requirements (a),

(b)(1), (c)(1), (d)(1), (e)(1) and (e)(2) A, B.1, C.1, D.1, E.1 and E.2 as defined herein shall be supplied by all gas and electric utilities and all other ~~supplemental~~ information requirements prescribed by PSC 405 shall be supplied where applicable to the utility. Illustrative forms for filing this information shall be available from the Minnesota Department of Public Service.

(a) A. A jurisdictional financial summary schedule shall be filed showing:

(1) 1. The proposed rate base, operating income, overall rate of return, and the calculation of income requirements, income deficiency, and revenue requirements for the test year.

(2) 2. The actual unadjusted average rate base consisting of the same components as the proposed rate base, unadjusted operating income, overall rate of return, and the calculation of income requirements, income deficiency and revenue requirements for the most recent fiscal year.

(3) 3. The projected unadjusted average rate base consisting of the same components as the proposed rate base, unadjusted operating income under present rates, overall rate of return, and the calculation of income requirements, income deficiency, and revenue requirements for the projected fiscal year.

(b) B. Rate base schedules:

(1) 1. A rate base summary schedule by major rate base component (e.g. plant in service, construction work in progress, and plant held for future use) showing the proposed rate base, the unadjusted average rate base for the most recent fiscal year and unadjusted average rate base for the projected fiscal year. The totals for this schedule shall agree with the rate base amounts included in the financial summary.

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."

RULES

PSC 405

(2) 2. A comparison of total utility and Minnesota jurisdictional rate base amounts by detailed rate base component showing:

(aa) a. Total utility and the proposed jurisdictional rate base amounts for the test year including the adjustments, if any, used in determining the proposed rate base.

(bb) b. The unadjusted average total utility and jurisdictional rate base amounts for the most recent fiscal year and the projected fiscal year.

(e) 3. Adjustment schedules, if any, showing the title, purpose and description, and the summary calculations of each adjustment used in determining the proposed jurisdictional rate base.

(4) 4. A summary by rate base component of the assumptions made and the approaches used in determining average unadjusted rate base for the projected fiscal year. REA cooperatives may substitute Form 325, Schedule L for this filing requirement. Such assumptions and approaches shall be identified and quantified into two categories: known changes from the most recent fiscal year and projected changes.

(5) 5. For multi-jurisdictional utilities only, a summary by rate base component of the jurisdictional allocation factors used in allocating the total utility rate base amounts to the Minnesota jurisdiction. This summary shall be supported by a schedule showing for each allocation factor the total utility and jurisdictional statistics used in determining the proposed rate base and the Minnesota jurisdictional rate base for the most recent fiscal year and the projected fiscal year.

(e) C. Operating income schedules:

(4) 1. A summary schedule of jurisdictional operating income statements which reflect proposed test year operating income, and unadjusted jurisdictional operating income for the most recent fiscal year and the projected fiscal year calculated using present rates.

(2) 2. For multi-jurisdictional utilities only a schedule showing the comparison of total ~~company~~ utility and unadjusted jurisdictional operating income statement for the test year, for the most recent fiscal year and the projected fiscal year. In addition, the schedule shall provide the proposed adjustments, if any, to jurisdictional operating income for the test year together with the proposed operating income statement.

(3) 3. For investor-owned utilities only, a summary schedule showing the computation of total utility and allo-

cated Minnesota jurisdictional federal and state income tax expense and deferred income taxes for the test year, the most recent fiscal year, and the projected fiscal year. This ~~summary~~ summary schedule shall be supported by a detailed schedule, showing the development of the combined federal and state income tax rates.

(4) 4. A summary schedule of adjustments, if any, to jurisdictional test year operating income and detailed schedules for each adjustment providing an adjustment title, purpose and description of the adjustment and summary calculations.

(5) 5. A schedule summarizing the assumptions made and the approaches used in projecting each major element of operating income ~~for the projected fiscal year. REA cooperatives may substitute Form 325, Schedule L for this filing requirement. Such assumptions and approaches shall be identified and quantified into two categories: known changes from the most recent fiscal year and projected changes.~~

(6) 6. For multi-jurisdictional utilities only, a schedule providing, by operating income element, the factor or factors used in allocating total utility operating income to Minnesota jurisdiction. This schedule shall be supported by a schedule which sets forth the statistics used in determining each jurisdictional allocation factor for the test year, the most recent fiscal year and the projected fiscal year.

(4) D. Rate of return/cost of capital schedules:

(4) 1. A rate of return/cost of capital summary schedule showing the calculation of the weighted cost of capital using the proposed capital structure and the average capital structures for the most recent fiscal year and the projected fiscal year. This information shall be provided for the unconsolidated parent and subsidiary corporations, or for the consolidated parent corporation.

(2) 2. Supporting schedules showing the calculation of the embedded cost of long-term debt, if any, and the embedded cost of preferred stock, if any, at the end of the most recent fiscal year and the projected fiscal year.

3. Schedule showing average short-term securities for the proposed test year, most recent fiscal year and the projected fiscal year.

(e) E. Rate structure and design information:

(4) 1. A summary comparison of test year operating revenue under present and proposed rates by customer class of service showing the difference in revenue and the percentage change.

RULES

PSC 407

(2) 2. A detailed comparison of test year operating revenue under present and proposed rates by type of charge including minimum, demand, energy by block, gross receipts, automatic adjustments and other charge categories within each rate schedule and within each customer class of service.

(3) 3. A cost of service study by customer class of service, by ~~rate block~~ geographic area, or other ~~appropriate~~ categorization as deemed appropriate for the change in rates requested, showing revenues, costs, and profitability for each rate category selected class of service, geographic area, or other appropriate category, identifying the procedures and underlying rationale for cost and revenue allocations. Such study is appropriate whenever the utility proposes a change in rates which results in a material change in its rate structure.

(4) F. Other supplemental information:

(1) 1. Annual report to stockholders or members including financial statements and statistical supplements for the most recent fiscal year. If a utility is not audited by an independent public accountant, unaudited financial statements will satisfy this filing requirement.

(2) 2. For investor-owned utilities only, a schedule

showing the development of the gross revenue conversion factor.

(3) 3. For cooperatives only, REA Form 7 — Financial and Statistical Report for the last month of the most recent fiscal year.

(4) 4. For cooperatives only, REA Form 7A — Annual Supplement to Financial and Statistical Report.

(5) 5. For REA cooperatives only, REA Form 325 — Financial Forecast.

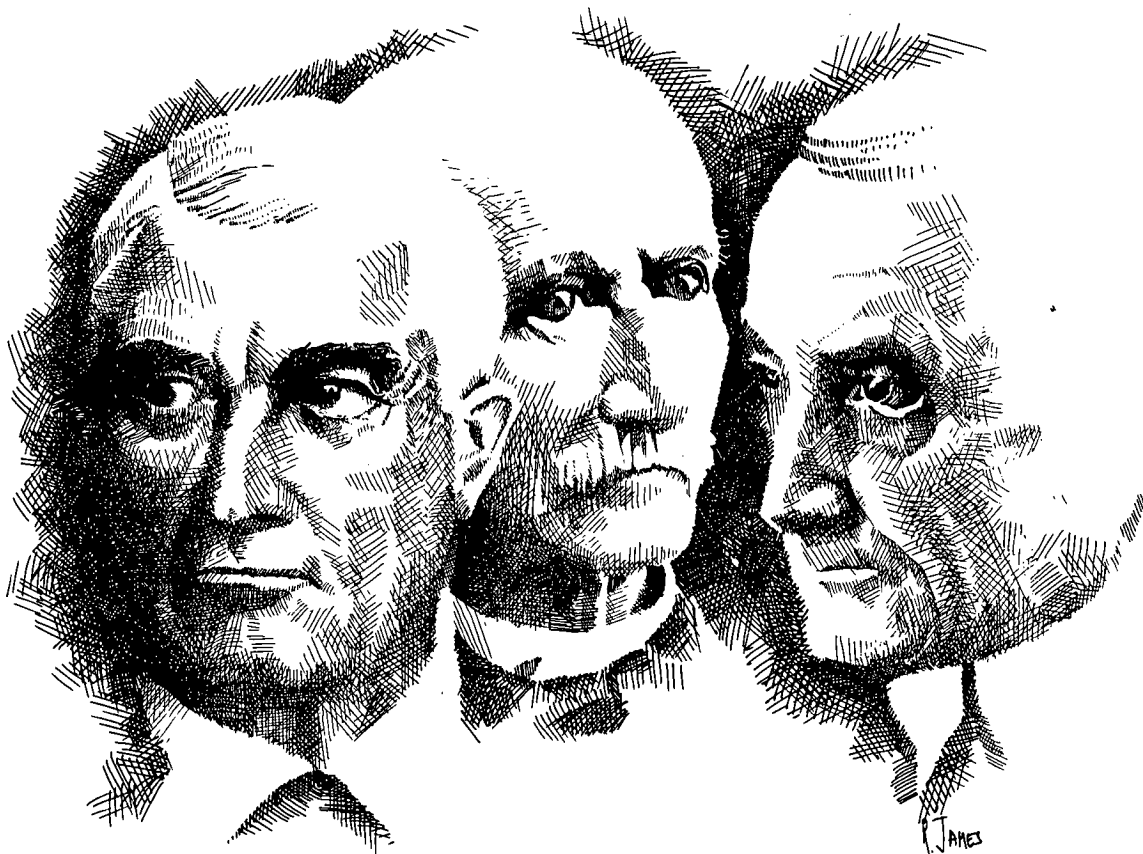
PSC 406 ~~ADDITIONAL INFORMATION REQUESTS~~

Additional information requests. Upon review of a utility's notice of a change in rates or subsequent thereto, the ~~C~~commission may request a utility to provide, ~~within thirty days of request, or such longer period determined by the Commission to be reasonable for good cause shown, additional information to supplement the information prescribed by PSC 405~~ additional information to supplement the information prescribed by PSC 405 within a reasonable time as determined by the commission.

PSC 407 Waiver. The commission may waive any requirement contained in these rules, upon written application, for good cause shown.

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



Dr. William Worrall Mayo came to Minnesota from England in the 1850s and worked as a frontier doctor before helping to establish St. Mary's Hospital and the Mayo Clinic at Rochester, Minnesota. Along with his sons William James and Charles Horace, who received their medical degrees in the 1880s, he created the Mayo Foundation in 1915 in affiliation with the Graduate School of the University of Minnesota. Both centers are world famous for their contributions to medical science, both in practical application of skills and in education and research. (Drawing by Rick James)

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.

Cable Communications Board

Proposed Rules Governing Board Meetings, Franchising Procedures, Franchise Standards, and Cable Service Territories

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the conference room of

PROPOSED RULES

the Minnesota Cable Communications Board Offices, 500 Rice Street, St. Paul, Minnesota 55103, on October 17, 1978, commencing at 9:30 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 Mr. Peter Erickson, State Office of the Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8118, either before the hearing, within 5 working days after the close of the hearing, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner.

The following is a summary of changes in board rules proposed for adoption:

Board Meetings:

Amend rules by deleting reference to Saturday meetings in even numbered months, so that regular meetings will be scheduled on the second Friday of every month, both even and odd numbered.

Franchising Procedures:

Amend rules by deleting the requirement that an invitation for applications contain a statement that “. . . applications must be made on a form specified by and available from the franchising authority.”

Franchise Standards:

Amend rules by deleting the requirement that a franchise contain a provision that “. . . any changes in residential subscriber monthly service charges be approved by the franchising municipality in full public proceeding affording reasonable notice and a reasonable opportunity to be heard. . . .” Add a requirement that a franchise contain “. . . a provision stating the procedure by which residential subscriber service charges may be changed.”

Cable Service Territories:

1. Amend definition of the term “cable service territory” by providing for proposed boundaries to include projected service extension areas in which service is not immediately feasible.

2. Amend procedures for establishing a cable service territory by:

a. including specific mention of expansion of existing cable service territories;

b. clarifying the language pertaining to cable communications company eligibility to propose a cable service territory;

c. substituting a requirement of written notice for the present requirement that a copy of the complete proposal be submitted to the appropriate regional development commission;

d. stating what information must be contained in a notice of the proposal of a cable service territory;

e. stating that the submitting of a cable service territory proposal to the board shall occur at substantially the same time as notice is given to interested parties, instead of 30 days after such notice is given as required under the existing rule;

f. clarifying what information shall be included in a cable service territory proposal.

g. stating that copies of the proposal shall be made available upon request to any interested party.

h. reducing from 30 days to 20 the minimum length of time between submitting a proposal and board approval or rejection of the proposal.

i. requiring the board to approve or reject a proposal at its first regularly scheduled meeting after expiration of the required comment period.

j. reducing from 60 days to 30 the time in which the board must issue a written statement of its reasons for rejection of a proposal.

3. Amend the section concerning factors and criteria to be used by the board in determining approval or rejection a cable service territory by:

a. deleting criteria relating to impact on plans or systems of nearby governmental units, to governmental and school district boundaries, and to technical feasibility;

b. adding criteria relating to impact on prospects for development of cable in areas within or contiguous to the proposed territory and relating to the possibility of overly expansive boundaries.

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

4 MCAR § 4.026

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Cable Communications Board, 500 Rice Street, St. Paul, Minnesota 55103. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 238.05, subds. 2, 6 and 7 and 238.06, subd. 1 (1976).

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 rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of the Hearing Examiner at a minimal charge.

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 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 who spends more than \$250 per year, or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

August 8, 1978

Robert J. McDonald
Executive Director

Rules as Proposed

Chapter Two §§ 4.026-4.045 Board Meetings

4 MCAR § 4.026 Regular meetings. Regular meetings shall be held on the second Friday in each ~~odd~~ **even** numbered

month and on the second Saturday in each even numbered month. The time and place of each regular meeting shall be designated by the chairman of the board, who shall require the executive director of the board to give written notice of the time and place of each meeting to all members of the board not less than five days prior to any regular meeting. The chairman of the board may direct that any regular meeting be postponed or advanced and require the executive director to give written notice of the time and place of the meeting to all board members not less than five days prior to the regular date if postponed. The executive director shall give notice of the time and place of a regular, advanced or postponed meeting to the public at such time in advance thereof and in such form as under all the attendant circumstances is reasonable, provided that the executive director shall at least notify, three days in advance of any regular, advanced or postponed meeting, those members of the public who have caused their names, addresses and telephone numbers to be placed on file with the executive director of the board for purposes of such notice.

Chapter Seven §§ 4.111-4.120 Franchising and Franchise Renewal Procedures

4 MCAR § 4.111 Initial franchise.

A. The procedure described in 4 MCAR § 4.111 of this chapter shall be observed by all franchising authorities before and during the awarding of any cable communications franchise, except as provided in Minn. Stat. § 238.09, subd. 3, 4, 5 and 9 (1976), and rule of this chapter.

B. The proposed boundaries for all cable service territories must be approved by the board in accordance with rules of the board pertaining to cable service territories before a franchising authority shall adopt an invitation for applications for a cable communications franchise as described in 4 MCAR § 4.111 C. of this rule.

C. Except as provided in 4 MCAR § 4.111 A. of this chapter, no cable communications franchise may be awarded, nor may any application for any such franchise be invited, without the research and planning required by this rule. The franchising authority shall appoint a group of persons residing within the boundaries of the franchising authority as an advisory body to make recommendations on cable communications to the franchising authority. Persons commercially involved in cable communications activities or other communications media shall not serve as member of the advisory body, but may offer information and advice to the advisory body. The advisory body shall inform itself about cable communications through at least a review of published information, state and federal statutes and rules and regulations, and the experience of other municipalities that have or have studied cable communications. The advisory body shall also assess the communications needs of the persons residing within the franchising authority, make a

PROPOSED RULES

4 MCAR § 4.111

report to the franchising authority, and make publicly available the procedures and results of such study. The advisory body shall make recommendations to the franchising authority on the means to satisfy the communications needs of the persons residing within the franchising authority. After consideration of the recommendations of the advisory body, the franchising authority shall determine the advisability of continuing the franchising process. If the franchising authority determines that the franchising process should continue, then the franchising authority shall officially adopt in a public hearing, affording reasonable notice and a reasonable opportunity to be heard, an invitation for applications for a cable communications franchise which invitation shall include, but not necessarily be limited to the following items:

1. the desired system design and services for the franchising authority including statements with respect to at least the following items: channel capacity; requirement for access channels and related staff and facilities; construction requirements; and two-way capability;

2. criteria and priorities which the municipality has developed to review franchise applications;

3. information regarding applications for the cable communications franchise including:

~~a.~~ A statement that the applications must be made on a form specified by and available from the franchising authority;

~~b.~~ a. the closing date for submission of applications;

~~e.~~ b. a statement of the application fee, if any, and the method for its submission;

~~d.~~ c. the name, address and telephone number of a municipal official who may be contacted for further information.

The franchising authority within 10 days after adoption of an invitation for applications for a cable communications franchise shall mail a copy of the invitation to the board and make a copy available for public inspection at the city offices during normal business hours.

The franchising authority shall consult with the board and may consult with the appropriate regional development commission. The franchising authority may assign to the advisory body such other duties as it deems appropriate.

D. Not less than 45 days prior to the holding of the public meeting on the franchise as required by 4 MCAR § 4.111 F. of this rule, the franchising authority shall give public notice of the availability of the invitation for applications for a cable communications franchise. The notice shall be published at least once in a newspaper of general circulation within the boundaries of the franchising authority and at least once in at least two publications contained in a list approved by the board and on file with the executive director of the board. The published notice shall contain the following information: the name(s) of the municipalities within the franchising authority inviting the application; the date by which all applications must be submitted; the name, address and telephone number of the municipal official from whom the invitation for applications for a cable communications franchise may be obtained; the amount of any application fee; and a statement that the application for a cable communications franchise must be submitted taking into account the system design and services as outlined by the franchising authority in its invitation for a cable communications franchise. In addition to the published notice, the franchising authority should mail copies of the invitation for applications for a cable communications franchise to any persons it has identified as being potential candidates for the franchise. A copy of the notice shall be provided to the board on the date of initial publication together with an affidavit of publication.

E. A franchising authority shall require that all applications for a cable communications franchise be notarized and contain, but not necessarily be limited to, the following information:

1. plans for channel capacity, including both the total number of channels capable of being energized in the system and the number of channels to be energized immediately;

2. a statement of the television and radio broadcast signals for which permission to carry will be requested from the Federal Communications Commissions;

3. description of the proposed system design and planned operation, including at least the following items:

a. general area for location of antenna(e) and headend(s);

b. schedule for activating two-way capability;

c. type of automated services to be provided;

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

4 MCAR § 4.111

d. number of channels and services to be made available for access cablecasting, and a schedule of charges for facilities and staff assistance for access cablecasting.

4. the terms and conditions under which particular service is to be provided to educational and governmental entities;

5. a schedule of proposed rates in relation to the services to be provided, and a proposed policy regarding unusual or difficult connection of service;

6. a time schedule for construction of the entire system with the time sequence for wiring the various parts of the franchising authority;

7. a statement indicating the applicant's qualifications and/or experience in the cable communications field, if any;

8. an identification of the municipalities in which the applicant either owns or operates any cable communications system, directly or indirectly, or has outstanding franchises for which no system has been built;

9. plans for financing the proposed system, which shall indicate every significant anticipated source of capital and any significant limitations and/or conditions with respect to the availability of the indicated sources of capital;

10. a statement of ownership detailing the corporate organization of the applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director; and intracompany relationship including a parent, subsidiary or affiliated company;

11. a notation and explanation of any omissions or other variations with respect to the requirements of the proposal.

F. A public hearing before the franchising authority affording reasonable notice and a reasonable opportunity to be heard with respect to all applications for the franchise shall be completed at least 27 days prior to the introduction of the franchise ordinance in the proceedings of the franchising authority.

G. The franchise shall be granted by ordinance and within 10 days of the date on which the ordinance takes effect, the franchising authority shall forward a copy of the franchise ordinance to the board for approval in accordance with Minn. Stat. § 238.09, subd. 1 (1976), as amended by Laws of 1977, ch. 396, § 3.

H. Nothing in these rules shall be construed to prohibit a franchising authority from recovering the reasonable and

necessary costs of the entire process of awarding the cable communications franchise from the successful applicant.

I. Nothing contained in any rule of the board shall prohibit a franchising authority from franchising a nonprofit or municipally-operated system provided that pursuant to Minn. Stat. §§ 238.01-238.16 (1976), as amended by Laws of 1977, ch. 414, § 14, ch. 444, § 16, and ch. 396, §§ 3 and 4.

Chapter Eight §§ 4.121-4.130 Franchise Standards

4 MCAR § 4.121 Required contents of franchises. Where a cable communications franchise is awarded or renewed after April 1, 1973, except as provided in Minn. Stat., § 238.09, subds. 3, 4, 5, and 9, (1976), a regular or renewal of a certificate of confirmation will be issued only if the franchise ordinance contains recitations and provisions consistent with the following requirements:

A. A statement that:

1. the franchisee's technical ability, financial condition, legal qualification, and character were considered and approved by the municipality in a full public proceeding affording reasonable notice and a reasonable opportunity to be heard;

2. the franchisee's plans for constructing and operating the cable communications system, including specific consideration of all sections of the area to be served, were considered and found adequate and feasible in a full public proceeding affording reasonable notice and a reasonable opportunity to be heard;

3. the franchise complies with the board's franchise standards; and

4. the franchise is non-exclusive.

B. A provision:

1. limiting the initial franchise term to not more than fifteen years;

2. providing that any renewal of the franchise shall be for a term of not more than ten years; and

3. providing for renegotiation periods mutually agreed to between the municipality and the company, such renegotiation periods to occur at least at the end of any franchise term, unless the governing body determines not to reissue the franchise to the franchisee or desires to consider additional applicants for a franchise.

C. A provision stating that no signals of a Class IV cable communications channel may be transmitted from a sub-

PROPOSED RULES

subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revokable at any time by the subscriber without penalty of any kind whatsoever. Such authorization shall be required for each type or classification of Class IV cable communications activity planned for the purpose. For the purposes of this provision, a Class IV cable communications channel means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.

D. A provision specifying all subscriber charges and, if existent, the length of residential subscriber contracts, which contracts may not exceed 12 months in duration unless after 12 months the contract may be terminated by the subscriber, at any time at his option, with no penalty to the subscriber; ~~and a provision stating that any changes in residential subscriber monthly service charges be approved by the franchising municipality in full public proceeding affording reasonable notice and a reasonable opportunity to be heard, and a provision stating the procedure by which residential subscriber service charges may be changed.~~ Nothing in this provision shall be construed to limit the length of subscriber contracts with entities operated for profit.

E. A provision specifying the procedure for the investigation and resolution by the franchisee of all complaints regarding quality of service, equipment malfunction, billing disputes, and any other matters.

F. A provision requiring that at least a long distance toll-free telephone number for the reception of complaints be provided to the subscriber and that the franchisee maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. The provision shall also provide that whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments or installation, the franchisee shall do so during periods of minimum use of the system by subscribers. Unless such interruption is unforeseen and immediately necessary the franchisee shall give reasonable notice thereof to the subscribers affected. All costs incurred in making such repairs,

4 MCAR § 4.121

adjustments or installations shall be borne by the franchisee unless otherwise provided for in the franchise ordinance or subscriber contract.

G. A provision establishing the minimum system-wide channel capacity that the franchisee shall make available.

1. For each system served by a single headend that: is located in the Twin Cities metropolitan area; or is located in a franchise territory having a population of 15,000 or more persons; or serves 3,500 or more subscribers,

a. the provision shall require the construction of a cable system with channel capacity, available for immediate or potential use, equal to a minimum of 120 MHZ of bandwidth (the equivalent of 20 television broadcast channels).

b. Systems that are already constructed pursuant to a pre-existing franchise requiring fewer than 120 MHZ of bandwidth (the equivalent of fewer than 20 television broadcast channels) shall have until June 21, 1986 to increase the system's channel capacity to minimum of 120 MHZ of bandwidth. However nothing in this rule shall be construed so as to preclude the parties to a franchise from negotiating an agreement calling for an increase to a minimum of 120 MHZ of bandwidth prior to June 21, 1986.

c. For the purposes of this rule, a cable system with a channel capacity, available for immediate or potential use, equal to a minimum of 120 MHZ bandwidth shall mean: the provision of a distribution system designed and constructed so that a minimum of 120 MHZ of bandwidth (the equivalent of 20 television broadcast channels) can be put into use with only the addition of the appropriate headend and subscriber terminal equipment.

2. For each system served by a single headend that: is located outside of the Twin Cities metropolitan area; and is located in a franchise territory having a population of fewer than 15,000 persons, and serves fewer than 3,500 subscribers,

a. the provision shall require the construction of a cable system with a channel capacity, available for immediate or potential use, equal to a minimum of 72 MHZ of bandwidth (the equivalent of 12 television broadcast channels).

b. For the purposes of this rule, a cable system with a channel capacity, available for immediate or potential use,

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

4 MCAR § 4.121

equal to a minimum of 72 MHZ of bandwidth shall mean: the provision of a distribution system designed and constructed so that a minimum of 72 MHZ of bandwidth (the equivalent of 12 television broadcast channels) can be put into use with only the addition of the appropriate headend equipment.

H. A provision establishing the minimum number of public, educational, governmental and leased access channels that the franchisee shall make available.

1. For each system served by a single headend that: is located in the Twin Cities metropolitan area; or is located in a franchise territory having a population of 15,000 or more persons, or serves 3,500 or more subscribers,

a. the provision shall require that the franchisee shall, to the extent of the system's available channel capacity, provide to each of its subscribers who receive all, or any part of, the total services offered on the system, reception on at least one specially designated noncommercial public access channel available for use by the general public on a first come, nondiscriminatory basis; at least one specially designated access channel for use by local educational authorities; at least one specially designated access channel for local government use; and at least one specially designated access channel available for lease on a first come nondiscriminatory basis by commercial and noncommercial users. The VHF spectrum shall be used for at least one of the specially designated noncommercial public access channels required in this subdivision. The provision shall require that no charges shall be made for channel time or playback of prerecorded programming on at least one of the specially designated noncommercial public access channels required by the subdivision provided, however, that personnel, equipment, and production costs may be assessed for live studio presentations exceeding five minutes in length. Charges for such production costs and any fees for use of other public access channels shall be consistent with the goal of affording the public a low-cost means of television access.

b. Those systems which offer subscribers the option of receiving programs on one or more special service channels without also receiving the regular subscriber services may comply with this rule by providing the subscribers who receive the special service only at least one specially designated composite access channel composed of the programming on the specially designated noncommercial public access channel, the specially designated educational access channel, and the specially designated local government access channel required in this rule.

c. On those systems without sufficient available channel capacity to allow for activation of all the specially

designated access channels required in this subdivision, or where demand for use of the channels does not warrant activation of all the specially designated access channels required in this subdivision, public, educational, governmental, and leased access channel programming may be combined on one or more cable channels. To the extent time is available therefor, access channels may also be used for other broadcast and nonbroadcast services, provided that such services are subject to immediate displacement if there is demand to use the channel for its specially designated purpose. Each such system shall, in any case, provide at least one full channel on the VHF spectrum for shared access programming.

2. For each system served by a single headend that: is located outside of the Twin Cities metropolitan area; and is located in a franchise territory having a population of fewer than 15,000 persons; and serves fewer than 3,500 subscribers,

a. the provision shall require that the franchisee shall provide to each of its subscribers who receive all, or any part of, the total services offered on the system, reception on at least one specially designated access channel available for use by the general public on a first come, nondiscriminatory basis. Channel time and playback of prerecorded programming on this specially designated access channel shall be provided without charge to the general public, provided, however, that personnel, equipment, and production costs may be assessed for live studio presentations exceeding five minutes in length. Charges for such production costs shall be consistent with the goal of affording the public a low-cost means of television access. The specially designated access channel may be used by local educational authorities and local government of a first come, nondiscriminatory basis during those hours when the channel is not in use by the general public. During those hours that the specially designated access channel is not being used by the general public, local educational authorities, or local government, the franchisee shall lease time to commercial or noncommercial users on a first come, nondiscriminatory basis if the demand for such time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by the general public, local educational authorities, local government, or commercial or noncommercial users who have leased time on this specially designated access channel. The VHF spectrum shall be used for the specially designated access channel required in this subdivision.

3. The provision shall require that whenever the specially designated noncommercial public access channel, the specially designated educational access channel, the specially designated local government access channel, or the specially designated leased access channel required in 4 MCAR § 4.121 H.1.a., b., and c. of this rule or the spe-

PROPOSED RULES

cially designated access channel required in 4 MCAR § 4.121 H.2.a., of this rule is in use during 80 percent of the weekdays (Monday-Friday), for 80 percent of the time during any consecutive 3 hour period for six weeks running, and there is demand for use of an additional channel for the same purpose, the system shall then have six months in which to provide a new specially designated access channel for the same purpose, provided that provision of such additional channel or channels shall not require the cable system to install converters. However, nothing in this rule shall be construed so as to preclude the installation of converters by the system on a voluntary basis, or as a result of an agreement arrived at through negotiation between the parties to a franchise, or by a potential access user who wishes to install converters in order to make use of an additional channel or channels.

4. The provision shall also require that the franchisee shall establish rules pertaining to the administration of the specially designated noncommercial public access channel, the specially designated educational access channel, and the specially designated leased access channel required in 4 MCAR § 4.121 H.1.a., b., and c. of this rule or in the specially designated access channel required in 4 MCAR § 4.121 H.2.a. of this rule. The rules shall be consistent with the requirements of the Federal Communications Commission rules and regulations relating to operating rules for access channels. The operating rules established by the franchisee governing the specially designated noncommercial public access channel, the specially designated educational access channel, and the specially designated leased access channel required in 4 MCAR § 4.121 H.1.a., b., and c. of this rule or the specially designated access channel required in 4 MCAR § 4.121 H.2.a., of this rule shall be filed with the Minnesota Cable Communications Board within 90 days after any such channels are put into use.

I. A provision establishing the minimum equipment that the franchisee shall make available for public use.

1. For each system served by a single headend that: is located in the Twin Cities metropolitan area; or is located in a franchise territory having a population of 15,000 or more persons; or serves 3,500 or more subscribers,

a. the provision shall require that the franchisee shall make readily available for public use at least the minimal equipment for the production of programming and playback of prerecorded programs for the specially designated noncommercial public access channel required by 4 MCAR § 4.121 H.1.a. of this rule. The franchisee shall also make readily available, upon need being shown, the

4 MCAR § 4.121

minimum equipment necessary to make it possible to record programs at remote locations with battery operated portable equipment. Need within the meaning of this rule shall be determined by subscriber petition. The petition must contain the signatures of at least 10 percent of the subscribers of the system, but in no case more than 500 nor fewer than 100 signatures.

2. For each system served by a single headend that: is located outside of the Twin Cities metropolitan area; and is located in a franchise territory having a population of fewer than 15,000 persons; and serves fewer than 3,500 subscribers,

a. the provision shall require that the franchisee shall make readily available for public use upon need being shown, at least the minimal equipment necessary to perform good quality playback of prerecorded programming, and to make it possible to record programs at remote locations with battery operated portable equipment. Need within the meaning of this rule shall be determined by subscriber petition. The petition must contain the signatures of at least 10 percent of the subscribers of the system, but in no case more than 350 nor fewer than 100 signatures.

J. A provision pertaining to the franchisee's construction and maintenance of a cable communications system having the technical capacity for non-voice return communications which, for purposes of this rule, shall mean the provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary non-voice communications electronic modules:

1. For municipalities which are within a major television market as defined by the Federal Communications Commission in Section 76.51 of its rules and regulations relating to cable television, and as the same may be modified from time to time, the franchisee shall provide a cable communications system having the technical capacity for non-voice return communications;

2. ~~a.~~ For municipalities which are not within a major television market as defined by the Federal Communications Commission in Section 76.51 of its rules and regulations relating to cable television, and as the same may be modified from time to time, and will be served by a cable communications system that will not have been constructed at the time the franchise is to be granted, the provision shall require the franchisee to provide a cable communications system having the technical capacity for non-voice return communications;

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

4 MCAR § 4.121

~~2. b.~~ 3. For municipalities which are not within a major television market as defined by the Federal Communications Commission in Section 76.51 of its rules and regulations relating to cable television, and as the same may be modified from time to time, and are served by a cable system already constructed pursuant to a pre-existing franchise without the technical capacity for non-voice return communications, the municipality shall determine when and if the technical capacity for non-voice return communications is needed after consultation with the appropriate regional development commission and the Minnesota Cable Communications Board and appropriate public proceedings at the municipal level giving reasonable notice and a reasonable opportunity to be heard.

K. A provision requiring the franchisee to conform to all federal and state laws, rules and regulations regarding cable communications not later than one year after their promulgation.

L. A provision establishing the minimum operational standards by which the franchisee shall install and maintain the cable communications system. The provision shall provide at a minimum that:

1. the system shall deliver to the subscriber's terminal a signal that is capable of producing a black and white or colored picture without visual material degradation in quality within the limitations imposed by the technical state of the art;

2. the system shall transmit or distribute signals without causing objectionable cross-modulation in the cables or interfacing with other electrical or electronic networks or with the reception of other television or radio receivers in the area not connected to the network.

M. A provision requiring the franchisee to indemnify and hold harmless the municipality at all times during the term of the franchise, and to maintain throughout the term of the franchise, liability insurance in such amount as the municipality may require insuring both the municipality and the franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise.

N. A provision granting the municipality authority to audit the franchisee's accounting and financial records upon reasonable notice and requiring that the franchisee file with the municipality annually reports of gross subscriber revenues and other information as the municipality deems appropriate.

O. A provision prohibiting transfer of the franchise or ownership except at the approval of the franchising municipality which approval shall not be unreasonably withheld.

P. A provision requiring that upon termination or forfeiture of a franchise, the franchisee remove its cable, wires, and appliances from the streets, alleys and other public places within the municipality, and a procedure to be followed in the event the franchisee fails to remove its cable, wires, and appliances from the streets, alleys and other public places within the municipality.

Q. A provision that upon expiration of the franchise term, or upon revocation of the franchise, or upon other termination of the franchise as provided for in these rules or upon receipt of an application for approval of an assignment of the franchise, the municipality shall have the non-exclusive right to purchase the system.

R. A provision granting the municipality the right to terminate and cancel the franchise and all rights and privileges of the franchise in the event that the franchisee substantially violates any provision of the franchise ordinance, or any rule, order, or determination of the municipality or attempts to evade any of the provisions of the franchise ordinance or practices any fraud or deceit upon the municipality. Conditions or circumstances for the municipality's termination of the franchise shall include, but not necessarily be limited to, the following:

1. if the franchisee should default in the performance of any of its obligations under the franchise, and shall fail to act on the default within 30 days after receiving written notice of the default;

2. if a petition is filed by the franchisee under the Bankruptcy Act, or any other insolvency or creditors rights law, state or federal, or the franchisee is adjudged a bankrupt or insolvent under any insolvency or creditors rights law, state or federal.

The municipality shall provide the franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the franchisee a minimum of thirty days subsequent to receipt of the notice in which to correct the violation. The franchisee shall be provided with an opportunity to be heard at a public hearing before the governing body of the municipality prior to the termination of the franchise. In the event that the municipality determines to terminate the franchise, the franchisee shall have a period of thirty days, beginning the day next following the date of the conclusion of the public hearing at which the termination of the franchise is considered, within which to file an appeal with the board, pursuant to Minn. Stat. § 238.14 (1976). During such thirty day period and until the board determines the appeal, if an appeal is taken, the franchise shall remain in full force and effect, unless the term thereof sooner expires. If the board approves of the action of the municipality, the franchise shall terminate immediately; if the board disapproves of the action of the municipality, the franchise shall remain in full force and

PROPOSED RULES

effect during the term thereof unless sooner terminated in accordance with law or these rules. Any such appeal to the board is a contested case to which the board is not a party.

S. A provision that at the time the franchise becomes effective and at all times thereafter, until the franchisee has liquidated all of its obligation with the municipality, the franchisee shall furnish a bond to the municipality in such amount as the municipality deems necessary in such form and with such sureties as shall be acceptable to the municipality conditioned upon the faithful performance of the franchisee according to the terms of the franchise and upon the further condition that in the event the franchisee shall fail to comply with any law, ordinance or regulation governing the franchise, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the municipality as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the franchisee, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, and further guaranteeing payment by the franchisee of claims, liens and taxes due to the municipality which arise by reason of the construction, operation, or maintenance of the cable communications system. The rights reserved by the municipality with respect to the bond are in addition to all other rights the municipality may have under the franchise or any other law. The municipality may, from year, to year, in its sole discretion, reduce the amount of the bond.

T. A provision that there be full description of the system proposed for construction and a schedule showing:

1. that for municipalities which will be served by a system proposed to have 100 plant miles of cable or more:

a. that engineering and design shall be completed within one year after the granting of the franchise and that a significant amount of construction shall be completed within one year after the franchisee's receipt of all necessary governmental permits, licenses, certificates and authorizations;

b. that energized trunk cable shall be extended substantially throughout the authorized area within five years after commencement of construction; and that persons along the route of the energized cable will have individual "drops" within the same period of time, if the same is desired;

c. that the requirement of this rule be waived by the governing body of the municipality only upon occurrence of unforeseen events or acts of God;

4 MCAR § 4.121

2. that for municipalities which will be served by a cable communications system having less than 100 miles of cable:

a. that within 90 days of the granting of the franchise the franchisee shall apply for all necessary governmental permits, licenses, certificates and authorizations;

b. that energized trunk cable shall be extended substantially throughout the authorized area within one year after receipt of all necessary governmental permits, licenses, certificates and authorizations; and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time;

c. that the requirement of this rule may be waived by the governing body of the municipality only upon occurrence of unforeseen events or acts of God.

U. Unless otherwise already provided for by local law, a provision that the franchisee obtain the permission of the proper municipal authority before commencing any construction of a cable communications system. The franchisee shall give the municipality reasonable written notice of proposed construction so as to coordinate all work between the municipality and the franchisee.

V. Unless otherwise provided for by local law, a provision that the franchisee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any purpose without first having obtained a permit to do so from the proper municipal authority, for which permit the municipality may impose a reasonable fee to be paid by the franchisee. The lines, conduits, cables and other property placed in the streets and public places pursuant to such permit shall be located in the streets or portions of the streets and public places as shall be determined by the proper municipal authority. The franchisee shall, upon completion of any work requiring the opening of any street or public place, restore the same, including the paving and its foundations, to as good a condition as formerly, and in a manner and quality approved by the proper municipal authority, and shall exercise reasonable care to maintain the same thereafter in good condition. Such work shall be performed with due diligence and if the franchisee shall fail to perform the work promptly, to remove all dirt and rubbish and to put the street or public place back in good condition, the municipalities shall have the right to put the street or public place back into good condition at the expense of the franchisee and the franchisee shall upon demand, pay to the

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

4 MCAR § 4.121

municipality the cost of such work done or performed by the municipality, together with an additional sum as liquidated damages to be determined by the municipality.

W. Unless otherwise already provided for by local law, a provision that all wires, conduits, cables and other property and facilities of the franchisee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the municipality. The franchisee shall keep and maintain all of its property in good condition, order and repair, so that the same shall not menace or endanger the life or property of any person. The municipality shall have the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the franchisee. The franchisee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records as requested by the municipality.

X. Unless otherwise already provided for by applicable local law, a provision that all wires, cables, amplifiers and other property of the franchisee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering considerations.

Y. Unless otherwise already provided for by local law, a provision that all construction, installation, maintenance and operation of any cable communications system or any facilities enjoyed in connection therewith shall be in compliance with the provisions of the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, the Bell Telephone System's Code of Pole Line Construction, any standards issued by the Federal Communications Commission or other federal or state regulatory agencies in relation thereto, and local zoning regulations. Every cable communications system installed, constructed, maintained or operated in a municipality shall be so designed, constructed, installed, maintained and operated as not to endanger or interfere with the safety of persons or property in the municipality.

Z. Unless otherwise already provided for by local law, a provision that whenever the municipality shall undertake any public improvement which affects cable communications equipment, it shall, with due regard to reasonable working conditions, direct the franchisee to remove or relocate its wires, conduits, cables and other property located in said street, right-of-way, or public place. The franchisee shall relocate or protect its facilities at its own expense. The municipality shall give the franchisee

reasonable notice of the undertaking of public improvements which affect the franchisee's cable communication equipment.

AA. A provision that nothing contained in the franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the franchisee's facilities while performing any work connected with grading, regrading, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

BB. A provision creating an advisory body to be appointed by the governing body of the municipality to monitor the performance of the franchisee in executing the provisions of the franchise. The advisory body may be a joint undertaking of more than one municipality served by the same system from a single headend as long as at least one representative from each municipality served is on the committee.

1. The advisory body shall submit an annual report to the municipality, to the cable communications system operator and to the board, assessing the franchisee's performance according to the terms of the franchise and make recommendations to the municipality regarding the apparent or likely need for upgrading the system to meet the current state of the art.

2. Three months prior to the expiration of a franchise and to the expiration of a certificate of confirmation, the advisory body shall submit a report to the municipality which report shall include a written appraisal of the performance of the franchisee over the entire length of the franchise with regard to the provisions of the franchise. The report shall also include recommendations for revised or additional provisions of the franchise, considering at least the following items: channel capacity, channels for access cablecasting; facilities and staff assistance available for access cablecasting; two-way capability; and the need for further service to be extended within the franchised area based upon a reassessment of the communications needs of the municipality in relation to the services generally offered by the cable industry. A copy of the report shall be sent, within 10 days of its submission to the franchising authority, to the cable communications system operator and to the board.

CC. A provision indicating by title the office or officer of the municipality that is responsible for the continuing administration of the franchise.

DD. A provision incorporating by reference as a minimum the technical standards promulgated by the Federal Communications Commission relating to cable communications systems contained in subpart K of part 76 of the Federal Communications Commission's rules and regulations relating to cable communications systems, as the same

PROPOSED RULES

now provide and may hereafter be amended or modified from time to time. The results of any tests required by the Federal Communications Commission shall be filed within 10 days of the conduct of such tests with the franchising authority and the board.

EE. A provision that no cable communications company, notwithstanding any provision in a franchise, may abandon any cable communications service or any portion thereof without having given three months prior written notice to the franchising authority and the board. No cable communications company may abandon any cable communications service or any portion thereof without compensating the municipality for damages resulting to it from such abandonment.

FF. A provision that the franchise shall cease to be of any force and if the franchisee fails to obtain either a regular certificate of confirmation or renewal of a certificate of confirmation from the board, provided, however, that the franchisee may operate his cable communications system while the board is considering the application for the renewal of his certificate of confirmation.

GG. A provision establishing how the franchising authority and the cable communications company shall determine who is to bear the costs of any required special testing.

Chapter Sixteen §§ 4.221-4.236 Cable Service Territories

4 MCAR § 4.221 Policy. These rules shall be liberally construed to effectuate the purposes and provisions of Minn. Stat. § 238.05 (1976).

4 MCAR § 4.222 Definitions.

A. As used in these rules, the following phrase shall have the meaning given it herein unless a different meaning clearly appears in the text.

B. “Cable service territory” means that geographic area, as defined by existing political or metes and bounds description, within which cable communications service(s) is (are), or is (are) scheduled to be, made available from a single cable communications system. “Cable service territory” means the geographic area, as may be defined by political, metes and bounds, or other appropriate description, which encompasses a cable communications system’s entire projected service area. The boundaries may include areas in which, in the judgement of the board and the party proposing the cable service territory, extension of service is not immediately feasible but may be in the future.

4 MCAR § 4.225

4 MCAR § 4.223 Approved cable service territories. The board hereby recognizes as an approved cable service territory the area of any municipality or group of contiguous municipalities which have granted franchise(s) to a single cable communications company and for which a special certificate of confirmation has been or may be issued pursuant to Minn. Stat. § 238.09, subs. 3, 4, or 5 (1976), or for which an interim certificate of confirmation has been or may be issued pursuant to Minn. Stat. § 238.09, subd. 9 (1976).

4 MCAR § 4.224 Expansion of approved cable service territories. The board shall approve or disapprove the expansion of an approved cable service territory. Any such expansion shall be subject to the procedures provided for in this chapter.

4 MCAR § 4.225 Board procedures.

A. Pursuant to the requirements of 4 MCAR § 4.111 B., a cable service territory or expansion of a cable service territory may be proposed to the board by a municipality, a group of municipalities in a joint powers agreement, a cable communications ~~operator applicant~~ company, or any party who has announced an intention to form a cable communications company. At least 30 days prior to submitting a cable service territory proposal to the Board for approval, the party or parties proposing the cable service territory shall deliver written notice of its intentions to propose a cable service territory to the governing body of each adjacent municipality and may discuss with such officials the feasibility and advisability of developing a cable service territory and the adoption of a procedure to pursue this objective. At substantially the same time as written notice is delivered to the governing bodies of each adjacent municipality, the party(ies) proposing the cable service territory shall publish or cause to be published at least once in a newspaper of general circulation in the proposed territory, a statement indicating the intention of submitting a cable service territory proposal to the Board. The party proposing the cable service territory or expansion of a cable service territory shall deliver written notice of its proposal to the governing body of each municipality which is within or contiguous to the proposed cable service territory and to the appropriate regional development commission or the Metropolitan Council. At substantially the same time as written notice is delivered, the party proposing the cable service territory or expansion of a cable service territory shall cause to be published in a newspaper of general circulation in the proposed territory, a notice of its proposal of a cable service territory to the board. The

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

4 MCAR § 4.225

written and published notices shall include at least the following information:

1. identity of the party proposing the cable service territory or expansion of a cable service territory;
2. date, time and place of the board meeting at which the proposal is expected to be considered;
3. a statement that interested parties may submit written or oral comments on the proposal to the board;
4. name, address and telephone number of a person representing the party making the proposal who may be contacted for the purpose of obtaining information or making comments about the proposal;
5. a brief description of the boundaries of the proposed cable service territory or expansion of a cable service territory.

B. All proposals must be in the form of a written application containing the following information: a map showing the boundaries of the cable service territory to be franchised and areas within this territory for which cable communications service is planned, provided that if a cable service territory is proposed which encompasses less than 100% of the area within a municipality or group of municipalities, the Board shall require and consider the plans for franchising the remaining unserved area; detailed demographic data; resolutions from the governing bodies of all municipalities contacted by the party or parties proposing the cable service territory stating their approval or disapproval of such a proposal; a statement describing the efforts of the party or parties proposing the cable service territory made to contact all adjacent municipalities and the results of such contacts; and any other information which the Board may deem necessary. All proposals shall be submitted to the board at substantially the same time as notice is provided pursuant to Paragraph A and shall be in the form of a written application containing at least the following information:

1. a map (county or township map if available) showing the boundaries of the total proposed cable service territory and boundaries of the area within this territory in which service is to be initially provided;
2. population and number of dwelling units in the total service territory and in the area in which service is expected to be initially provided;
3. population density data or other information to demonstrate to the board that all areas in which service is, or

may become feasible are being included in the cable service territory and in the area within the cable service territory that is to be initially served;

4. proof of written notice required by Paragraph A, which proof may be in the form of copies of the written notices, an affidavit, or other such certificate of service;

5. an affidavit of publication of the required notice, which may be submitted separately, but no later than five days prior to the board meeting at which the proposal is to be considered.

C. A copy of the proposal shall be submitted simultaneously to the Metropolitan Council or the appropriate regional developments commission, the Board and the governing body of each adjacent municipality, made available upon request to any interested party. If the proposed cable service territory or expansion of a cable service territory, in whole or part, is within the seven county metropolitan area, a copy of the proposal shall be submitted to the Metropolitan Council and to each included or contiguous municipality at the same time as the proposal is submitted to the board.

D. The appropriate regional development commission shall have 30 days to submit written comment on the proposal to the Board, which period of time may be extended by the Board for another 30 day period for good cause shown. If the proposed boundaries, in whole or part, are within the seven county metropolitan area, the Metropolitan Council shall be allowed 90 days to review and comment on the proposed boundaries. The Board shall also accept written comment from any other interested persons during these periods. Before considering a proposal, the board shall allow a comment period of at least 20 days from the date of compliance with the notice requirements set forth in Paragraph A of this rule or submission of the proposal to the board, whichever occurs last. The appropriate regional development commission, an affected municipality or cable communications company or any other party having clear interest shall, upon good cause shown, be allowed 30 additional days for comment. If the proposed boundaries, in whole or part, are within the seven county metropolitan area, the Metropolitan Council shall be allowed 90 days from the date a copy of the proposal is submitted to it to review and comment on the proposed boundaries.

E. The Board shall take initial action within sixty days after the thirty day period set forth in D. Before taking final action, the Board shall hold a public meeting upon reasonable notice and accept oral and written comments. The board shall accept written and oral comment and approve or reject a proposed cable service territory at its first regularly scheduled meeting after expiration of the applicable comment period, or additional comment period if allowed. The

PROPOSED RULES

board may, upon good cause shown, postpone action on a cable service territory proposal until its next regularly scheduled meeting.

F. If the board determines not to approve a proposal, it shall specify its reasons for rejection in a written statement within sixty thirty days of such rejection, or at its first regularly scheduled meeting thereafter.

G. A proposal rejected by the board may be introduced with appropriate modifications at any time after such rejection. All reintroduced proposals shall be subject to the same procedures of this chapter as the original proposal.

4 MCAR § 4.226 Factors and criteria to be considered.

~~The Board shall consider the following factors in determining its approval or rejection of a proposal for a cable service territory: the impact of such a territory on the Cable Board's plans or systems of other governmental units which are contiguous to or in close proximity to the proposed boundaries; the impact of the proposed territory on plans and reports adopted by the Metropolitan Council or other appropriate regional development commission; the economic viability of such proposed territories; the relationship of the cable service territory to cooperative arrangements between municipalities; the relationship of the cable service territory to municipal, county and school district boundaries; the technical feasibility of a cable communications system in the proposed cable service territory; and any other factors the Board deems relevant. In determining its approval or rejection of a proposal for establishment or expansion of a cable service territory, the board shall consider the following: impact on prospects for development of cable communications service in areas which are within and contiguous to the proposed cable service territory; whether the proposed boundaries encompass any areas which would be more appropriately included in another cable service territory; impact of the proposed territory on any related policies or plans adopted by the Metropolitan Council or other appropriate regional development commission; the economic viability of the proposed cable service territory or expansion of an existing cable service territory; any other factors the board or applicant deems relevant.~~

4 MCAR §§ 4.227-4.236 Reserved for future use.

Housing Finance Agency Proposed Rules Relating to the Home Improvement Loan, Accessibility Improvement Grant, and Warranty Claim Programs

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held at Conference Room D, Veterans Service Building, St. Paul, Minnesota, on September 27, 1978 commencing at 9:30 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 or by mail to Steve Mihalchick, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 either before the hearing or within 5 working days after the close of the hearing, or 20 days if ordered by the hearing examiner.

The proposed rules, if adopted, would establish guidelines for the Home Improvement Loan, Accessibility Improvement Grant, and Warranty Claim Programs, as authorized by Minn. Stat. §§ 462A.05, subd. 14, 462A.05, subd. 15, and 462A.05, subd. 16 respectively.

A copy of the proposed rules is attached hereto and one additional free copy may be obtained by writing to the Minnesota Housing Finance Agency, 333 Sibley, St. Paul, Minnesota, 55101. Additional copies will be available at the door at the date of the hearing.

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).

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

12 MCAR § 3.051

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 the 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. 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 a year or five (5) hours per month for lobbying. 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.

July 31, 1978

James Solem
Executive Director

Rules as Proposed

12 MCAR § 3.051 Eligible applications. Applications for Home Improvement Loans shall satisfy the following requirements:

A. Each applicant must be an individual fee owner or contract for deed purchaser of, or the holder of a life estate in, the property to be improved. All persons who, individually or collectively, possess the type of ownership upon which the application is based, or whose income is to be included for the purpose of determining the Adjusted Income, and spouses of all such persons, must join in the application and must execute the loan documents. However, occupancy of the property by the applicant shall not be required.

B. Each applicant must be a Person or Family (including nonrelated individual adults) of Low or Moderate Income.

C. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation, as determined by the Agency or by the lending institution, if any, servicing the loan on behalf of the Agency.

D. The structure to be improved must be at least 15 years old, or in need of repair to correct damage resulting from a natural disaster, or in need of repair to correct defects or deficiencies which are hazardous to health or safety, or to directly improve energy efficiency.

E. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

F. The property must be used primarily for residential purposes and must not contain more than six dwelling units. Mobile homes and trailers shall not be eligible for Home Improvement Loans.

G. Home Improvement Loan proceeds must be used to finance only improvements upon or in connection with existing structures.

H. All improvements must be reasonably capable of being completed (except for causes beyond the applicant's reasonable control, such as fire, strike, and shortages of materials) within nine months of the date of the first disbursement of funds pursuant to the Home Improvement Loan.

I. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

J. Each applicant who is an owner of residential housing occupied in whole or in part by renters, shall enter into such agreement as the Agency shall require to ensure that for the term of the loan Persons and Families of Low and Moderate Income will occupy at least one of the units in the case of a two unit residence, two of the units in the case of a three unit residence, three of the units in the case of a four unit residence, and four of the units in the case of a five or six unit residence.

12 MCAR § 3.063 — Amount of grant. The amount of the rehabilitation grant shall not exceed the lesser of

A. \$5,000, or in the case of an Accessibility Improvement Grant, \$7,500, or

B. the actual cost of the work performed, or

C. that portion of the cost of rehabilitation which the Agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

If a grant is made both for Accessibility Improvements and for other eligible improvements pursuant to these Rules, then the portion of the grant which is for such eligible improvements shall not exceed \$5,000, and the aggregate cost

PROPOSED RULES

of such other eligible improvements and the Accessibility Improvements shall not exceed \$7,500.

12 MCAR § 3.065 D. Reletter as 12 MCAR § 3.071.

12 MCAR § 3.065 E. Reletter as 12 MCAR § 3.065 D.

12 MCAR § 3.069 Emergency Home Improvement Grant Fund. The Agency may establish a separate fund known as the Emergency Home Improvement Grant Fund. Grants from the Emergency Home Improvement Grant Fund shall be made to eligible applicants ~~provided that the dwelling contains defects or deficiencies which~~

~~A. are the direct result of an occurrence which took place within a reasonably recent period of time prior to the grant application, and~~

~~B. if left uncorrected would render the dwelling immediately uninhabitable.~~

for rehabilitation necessitated by an emergency occurrence whereby the dwelling:

A. was rendered immediately uninhabitable, or

B. suffered severe structural damage, or

C. became imminently hazardous to a Handicapped Person.

An emergency occurrence is an event which took place within a reasonably recent period of time prior to the grant application and which caused a defect or deficiency in the dwelling proposed to be rehabilitated, or which resulted in a resident of that dwelling becoming handicapped.

Before an application to the Emergency Home Improvement Grant Fund is accepted, the Administering Entity in the region in which the dwelling is located must establish that it has no funds available from its regular grant fund and, if applicable, that no funds are available from the Accessibility Improvement Fund, to cover the cost of repairs. Such funds may also be used to correct serious defects or deficiencies in the dwelling other than the specific defect or deficiency which rendered the dwelling immediately uninhabitable. Grants from the Emergency Home Improvement Fund shall be made to eligible applicants pursuant to the procedures set forth in Chapter Seven of these Rules, provided however, that the Emergency Home Improvement

12 MCAR § 3.072

Fund shall not be subject to the allocation requirements of 12 MCAR § 3.061 D.

12 MCAR § 3.070 Accessibility Improvement Fund.

With funds appropriated by the Legislature from time to time for that purpose, the Agency may establish an Accessibility Improvement Fund from which Home Improvement Grants may be made to eligible applicants for the purpose of making Accessibility Improvements to dwelling units occupied by Handicapped Persons of low or moderate income, as defined in 12 MCAR § 3.002 O.3. Grants from the Accessibility Improvement Fund shall be made pursuant to the procedures set forth in Chapter 7 of these Rules, provided, however, that the Accessibility Improvement Grant Fund shall not be subject to the reservation and allocation requirements of 12 MCAR § 3.061.

12 MCAR § 3.071 Maximum grant.

A. No property shall be eligible for a Home Improvement Grant if it has been improved by such a grant within the five-year period next preceding the date on which application for such grant is made, except in extraordinary circumstances relating to (i) for rehabilitation necessitated by damage to the property as a result of unforeseen events beyond the control of the applicant or the failure of plumbing, heating, or electrical systems, as determined by the Agency in its sole discretion, or (ii) for Accessibility Improvements to aid a Handicapped Person who became handicapped or established residency in the dwelling after the date of approval of the initial Home Improvement Grant.

B. A dwelling which was occupied by a Handicapped Person and improved prior to September 1, 1977, by Home Improvement Grant Funds shall be eligible for an Accessibility Improvement Grant within the five-year period following receipt of the original Home Improvement Grant, provided that the cumulative total of all grants for Accessibility Improvements for a single dwelling permitted under this subsection shall not exceed \$7,500 within such five-year period.

12 MCAR § 3.072 Definitions.

A. With respect to Home Improvement Grants pursuant to Chapter Six of these Rules, "Handicapped Person" means a person who has a permanent physical condition which is not correctable and which substantially reduces such person's ability to function in a residential setting. A

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

12 MCAR § 3.072

person with a physical condition which does not require the use of a device to increase mobility shall be deemed a Handicapped Person only upon the written certification of a licensed physician that the physical condition substantially limits such person's ability to function in a residential setting.

B. "Accessibility Improvement" means an interior or exterior improvement or modification to a residential dwelling in Minnesota which is necessary to enable a Handicapped Person to function in a residential setting.

Chapter 12 Warranty Claim Program

12 MCAR § 3.140 Defects covered by Warranty Claim Program. The Agency may make payments to correct defects in construction or rehabilitation of residential housing financed by Agency mortgage loans for Limited-Unit Developments or Home Improvement Loans, if the defects:

A. result in actual damage to load-bearing portions of the dwelling (including damage due to subsidence, expansion, or lateral movement of the soil), to the extent that their load-bearing function is affected and the use of the dwelling for residential purposes is vitally affected or is imminently likely to be vitally affected; or

B. create an emergency condition under which the safety or the residential use and livability of the dwelling is so substantially impaired (or is imminently likely to be so substantially impaired) that an average reasonable person would not, economic considerations aside, remain in the dwelling; or

C. create an imminent hazard for a Handicapped Person.

12 MCAR § 3.141 Eligible recipients for Warranty Claim Payments. To qualify for a payment the applicant must satisfy the following requirements:

A. The applicant must be a Person or Family of Low or Moderate Income as defined in 12 MCAR § 3.002 O.1. at the time of the application for the payment.

B. The applicant must either:

1. have received an Agency mortgage loan for a Limited-Unit Development or an Agency Home Improvement Loan for the construction or rehabilitation of the dwelling containing the defect; or

2. have purchased, from a recipient of an Agency mortgage loan for a Limited-Unit Development or an

Agency Home Improvement Loan, a residential dwelling constructed or rehabilitated through the proceeds of such loan.

C. The applicant must be an individual fee owner or, in the case of an Agency Home Improvement Loan, a contract for deed purchaser of, or holder of a life estate in, the dwelling containing the defect and must occupy the dwelling as the applicant's principal place of residence.

D. The applicant must have taken all steps necessary to maintain the Agency approved warranties and all other applicable warranties in full force and effect.

E. The applicant must agree to cooperate with the Agency in any action to recover from the person responsible for the defect, execute all documents necessary to secure the Agency's right of subrogation to the applicant's claim, and assist the Agency in the prosecution of any legal action for breach of warranty that the Agency may deem appropriate.

12 MCAR § 3.142 Eligible applications — rehabilitation. An application for Agency payment under this Chapter which is based upon rehabilitation financed by an Agency Home Improvement Loan must demonstrate that the defects:

A. if caused by faulty workmanship or defective materials due to noncompliance with building standards, arose within one year after completion of the rehabilitation work; or

B. if caused by faulty installation of plumbing, electrical, heating, or cooling systems, or if affecting the load-bearing portions of the dwelling, arose within two years after completion of the rehabilitation work.

In no event may an application be made to the Agency more than two years after the issuance of the Home Improvement Loan, or after any applicable statute of limitations has expired.

12 MCAR § 3.143 Eligible applications — Limited-Unit Mortgage Loans. An application for Agency payment under this Chapter which is based upon new construction financed by an Agency mortgage loan for a Limited-Unit Development must show that the defects:

A. if caused by faulty workmanship or defective materials due to noncompliance with building standards, arose within one year after the date of initial occupancy of the dwelling by the loan recipient; or

B. if caused by faulty installation of plumbing, electrical, heating, or cooling systems, arose within two years

PROPOSED RULES

after the date of initial occupancy of the dwelling by the loan recipient; or

C. if affecting the load-bearing portions of the dwelling, arose within four years after the date of initial occupancy of the dwelling.

In no event may an application be made to the Agency more than four years after the issuance of the mortgage loan, or after any applicable statute of limitations has expired.

12 MCAR § 3.144 Exclusions. Agency payments under this Chapter will not extend to the following:

A. loss caused by defects in design, installation, or materials which the loan recipient or subsequent purchaser supplied, installed, or had installed under his/her direction;

B. secondary loss including personal injury or property damage, other than damage to the dwelling itself, caused by the defect or omission; incidental loss such as the cost of alternate shelter during repair of the dwelling; and consequential loss such as the diminution in the value of the dwelling caused by the defect or omission;

C. loss from normal wear and tear;

D. loss from normal shrinkage caused by drying of the dwelling within tolerances of building standards;

E. loss from dampness and condensation due to insufficient ventilation after occupancy;

F. loss from negligence, improper maintenance, or alteration of the dwelling by parties other than the contractor;

G. loss from changes in grading of the ground around the dwelling by parties other than the contractor;

H. landscaping or insect loss;

I. loss from failure to maintain the dwelling in good repair;

J. loss which the loan recipient or purchaser has not taken timely action, whenever feasible, to minimize;

K. accidental loss usually described as acts of God, in-

12 MCAR § 3.144

cluding, but not limited to: fire, explosion, smoke, water escape, windstorm, hail or lightning, falling trees, aircraft, vehicles, flood, and earthquake, except when the loss is caused by defects in construction or rehabilitation financed by Agency loans;

L. loss from soil movement which is compensated by legislation or covered by insurance;

M. loss due to soil conditions where construction is done upon land which is owned by the loan recipient or subsequent purchaser and which was obtained by him/her from a source independent of the contractor.

Livestock Sanitary Board Proposed Rules Governing Importation of Goats, Control of Goat Brucellosis in Minnesota, and Control of Goat Tuberculosis in Minnesota

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 (1976), in Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, commencing at 10:00 a.m., or as soon thereafter as possible, Thursday September 28, 1978, and continuing until all interested or affected persons have had an opportunity to be heard.

Relevant statements or written material may be submitted for the record at the hearing or to Peter C. Erickson, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, phone 612-296-8118, before the hearing, until the record is closed 5 to 20 working days after the close of the hearing, as ordered by the Hearing Examiner.

Statutory authority to promulgate the proposed rules is vested in the Livestock Sanitary Board by Minn. Stat. § 35.03 (1976).

The Livestock Sanitary Board proposes to amend 3 MCAR § 2.003, Importation of Goats, to permit entry of

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

3 MCAR § 2.003

goats without tests for brucellosis if from Certified Brucellosis Free Goat Herds, without tests for tuberculosis if from Accredited Tuberculosis Free Goat Herds.

The Livestock Sanitary Board proposes to adopt rule 3 MCAR § 2.022, Control of Goat Brucellosis in Minnesota, to provide for establishment of Certified Brucellosis Free Goat Herds and for quarantine and retesting of infected herds and suspects and to adopt rule 3 MCAR § 2.023, Control of Goat Tuberculosis in Minnesota to provide for the establishment of Accredited Tuberculosis Free Goat Herds and for quarantine and retest of infected herds and suspects.

Free copies of the proposed rules are available and can be obtained from the Minnesota Livestock Sanitary Board, 555 Wabasha, St. Paul, Minnesota 55102. Additional copies will be available at the hearing.

A Statement of Need explaining why the board feels the proposed rules are necessary and a Statement of Evidence outlining the testimony they will introduce will be filed with the Hearing Examiner at least 25 days prior to the hearing and will be available for public inspection.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within 5 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 exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone 612-296-5615.

August 24, 1978

J. G. Flint, D.V.M.
Secretary and Executive Officer

Rules as Proposed

~~3 MCAR § 2.003 Importation of goats. No goats shall be imported into the State of Minnesota unless accompanied by a health certificate issued by an approved or accredited veterinarian. The health certificate shall include a description of each animal included in the shipment by age, sex, color, and markings. It shall also include a statement that the goats are free from symptoms of contagious, infectious, or communicable disease, and a record of a negative test for tuberculosis and Bangs disease, (brucellosis), such test to be made not more than 30 days previous to date of importation. A copy of~~

~~the health certificate approved by the sanitary officials of the state of origin shall be immediately forwarded to the office of the State Livestock Sanitary Board.~~

A. Goats shall not be imported into Minnesota from herds under quarantine for infectious diseases except that goats may be sent to slaughtering establishments operating under federal inspection from such herds and areas when accompanied by a shipping permit.

B. All goats imported into Minnesota for purposes other than slaughter shall be accompanied by a health certificate showing:

1. Individual identification by eartag number, tattoo or registration number for all goats six months of age and over.

2. Results of tests required in D. 1 and D. 2.

3. Certified brucellosis-free herd number and date of last herd test and accredited tuberculosis-free herd number and date of last herd test, if originating from such herds.

C. A copy of the health certificate approved by the animal health official of the state of origin shall be immediately forwarded to the State Livestock Sanitary Board.

D. All goats six months of age and over imported into Minnesota shall be:

1. Negative to an official brucellosis agglutination test within 30 days prior to importation or originate from a Certified Brucellosis-Free Goat Herd.

2. Negative to an intradermal tuberculin test within 60 days of importation or originate from an Accredited Tuberculosis-Free Goat Herd.

3 MCAR § 2.022 Control of goat brucellosis in Minnesota. (All new material)

A. Definitions.

1. Test and testing mean and refer to the Brucella Buffered Antigen (BBA or Card) test or other tests approved by the board on serums from blood samples collected and submitted by a veterinarian.

2. Negative means a goat showing no reaction on the test.

3. Suspect means a goat showing a reaction to a test that does not qualify as a reactor or negative.

4. Reactor means a goat showing a positive reaction

PROPOSED RULES

on the test or proven infected by other diagnostic procedures. Diagnosis may be deferred on a goat showing a positive reaction when held under quarantine until subjected to additional tests and investigation to determine its disease status.

5. Other tests means test other than the card test approved by the Board which shall be conducted and interpreted as outlined in 3 MCAR § 2.011, Eradication of Bovine Brucellosis in Minnesota.

6. Negative herd means one in which all goats six months of age and over are tested and negative and which herd is not under an infected herd quarantine.

7. Suspect herd means one in which one or more suspects but no reactors were diagnosed on the last test and which is not under an infected herd quarantine.

8. Infected herd means one in which one or more reactors has been disclosed and which has not regained a negative herd status.

9. Certified Brucellosis-Free Goat Herd means one for which the owner holds an unrevoked and unexpired Certified Herd certificate.

B. General requirements.

1. An agreement to comply with these rules shall be signed by the owner and filed with the Board.

2. Testing.

a. Tests shall be made at owner's expense except tests conducted to release quarantines may be made by veterinarians of the Board or U.S.D.A. if personnel and funds are available.

b. All goats six months of age and over shall be included on a herd test.

c. Goats tested shall be individually identified by ear tag, tattoo or registration number.

3. Quarantines on infected herds.

a. A herd shall be under quarantine when owner receives notice that reactors were disclosed. An official quarantine will be issued to the owner.

b. No goats shall be removed from a quarantined

3 MCAR § 2.022

herd unless a permit is issued by the Board for shipment directly to a slaughter plant where the federal government maintains meat inspection.

c. The Board may authorize the movement of goats from a quarantined herd to a public stockyard or to a rendering plant.

d. Quarantines are released after the Board has been furnished evidence that the reactors have been destroyed and that the herd has passed two consecutive negative tests. The first test may be conducted no sooner than 30 days after reactors are destroyed and the second test no sooner than 90 days after first negative test.

4. Quarantines on suspects held in suspect herds.

a. Suspects shall be under quarantine when owner receives notice that suspects were disclosed. An official quarantine will be issued to the owner.

b. No suspects shall be removed from quarantine unless a permit is issued by the Board for shipment directly to a slaughter plant where the federal government maintains meat inspection.

c. The Board may authorize the movement of suspects to a public stockyard or to a rendering plant.

d. Quarantines are released if suspects are negative to a retest or after the Board has been furnished evidence that suspects have been destroyed. If suspects are not available for retest, the herd shall be tested by a veterinarian of the Board or U.S.D.A. if personnel and funds are available.

C. Certified Brucellosis-Free Goat Herds.

1. Initial certification.

a. When two consecutive negative herd tests of all goats six months of age and over are conducted not less than ten months or more than 14 months apart, the herd will be certified for a period of one year and a certified herd certificate issued.

b. The expiration date on the certificate will be one year after date of final test for herd certification.

c. Tests made for release of quarantine shall not be used for herd certification.

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

3 MCAR § 2.022

2. Recertification.

a. A negative herd test on all goats six months of age and over within 60 days prior to each anniversary of the certificate date is required for continuous Certified Herd status. If the negative recertification test is conducted within 60 days following the anniversary date, the recertification is for 12 months from the anniversary date.

3. Additions to certified herds and herds in process of certification shall:

a. Originate from certified herds.

b. Originate from negative herds tested within one year; added animals shall also be negative to a test conducted more than 60 days following herd test and within 30 days prior to joining the herd.

c. Goats from all other herds shall be negative to a test made within 30 days prior to being brought to premises and then kept in isolation until negative to a retest made no sooner than 30 days from previous test.

d. Additions to herd shall not receive certified herd status until they have been members of the herd for at least 30 days and are included in a complete herd test.

4. Temporary transfer of males or females for breeding to a certified herd or a herd in the process of certification.

a. The animals shall originate from a herd with the status described in C. 3. a. or 3. b. of this rule.

5. Goats originating directly from a certified herd will be eligible for public exhibitions without the test for brucellosis required by 3 MCAR § 2.040, Public Exhibition of Livestock and Poultry in Minnesota, and it is recommended that such goats be isolated from the certified herd until tested negative 30 to 60 days after their return.

6. Revocation of certified brucellosis-free certificate.

a. Certificate will be cancelled by the Board if:

(1) One or more reactors are disclosed in the herd.

(2) One or more reactors disclosed in animals removed from the herd within 30 days following date such animals were removed.

(3) One or more animals are added to the herd contrary to C. 3. or 4. of this rule.

b. If a certificate is cancelled, the herd may be re-certified providing the requirements for initial certification described in C. 1. of this rule are met.

D. Tests other than those made under the agreement described in B. 1. of this rule to establish certified brucellosis-free goat herds.

1. The provisions of B. 2., B. 3., and B. 4. shall apply to all goats tested in Minnesota if such tests disclose suspects or reactors.

3 MCAR § 2.023 Control of goat tuberculosis in Minnesota. (All new material)

A. Definitions.

1. Test and testing mean the intradermic injection of tuberculin in the caudal fold by an accredited veterinarian or a veterinarian of the U.S.D.A. and the injection site observed and palpated 72 hours after injection. On all goats which respond to the caudal fold injection, a comparative cervical test will be made within ten days or after 60 days following date of caudal fold injection by a veterinarian of the Board or U.S.D.A.

2. Negative means no tissue response to the caudal fold injection or a negative diagnosis on comparative cervical test.

3. Suspect means a suspect diagnosis on comparative cervical test.

4. Reactor means a reactor diagnosis on comparative cervical test.

5. Negative herd means no reactors or suspects were diagnosed in the last herd test and the herd is not under an infected herd quarantine.

6. Suspect herd means one or more suspects, but no reactors were diagnosed in the last herd test and the herd is not under an infected herd quarantine.

7. Infected herd means one or more reactors were diagnosed on the last herd test, or the herd is under an infected herd quarantine.

8. Accredited Tuberculosis-Free Goat Herd means one for which the owner holds an unrevoked and unexpired accredited herd certificate.

B. General requirements.

1. An agreement to comply with these rules shall be signed by the owner and filed with the Board.

PROPOSED RULES

3 MCAR § 2.023

2. Testing.

a. Tests, except comparative cervical tests, shall be made at owner's expense. Tests conducted to release quarantines may be made by veterinarians of the Board or U.S.D.A. if personnel and funds are available.

b. All goats six months of age and over shall be included on a herd test.

c. Goats tested shall be individually identified by ear tag, tattoo or registration number.

d. Veterinarians shall report to the Board by telephone immediately following observation when goats respond to caudal fold injection. Negative tests shall be reported within 14 days of observation on forms furnished by the Board.

3. Quarantines.

a. Suspects maintained in suspect herds shall be under quarantine until diagnosed negative or reactor by a comparative cervical test which test may be made 60 days after suspect is disclosed. An official quarantine will be issued to the owner.

b. Infected herds shall be under quarantine which will remain in force until reactors are destroyed and the herd passes three consecutive negative tests. The first test to be made no sooner than 60 days following date reactors are destroyed, the second test no sooner than 60 days following the first negative test, and the third test no sooner than six months following the second negative test. An official quarantine will be issued to the owner.

c. No goats shall be removed from a quarantined herd unless a permit is issued by the Board for shipment directly to a slaughter plant where the federal government maintains meat inspection.

d. The Board may authorize the movement of goats from a quarantined herd to public stockyard or to a rendering plant.

C. Accreditation of goat herds tuberculosis-free.

1. Initial accreditation.

a. When two consecutive negative herd tests of all goats six months of age and over are conducted not less than ten months or more than 14 months apart, the herd will be

accredited for a period of one year and an accredited herd certificate issued.

b. The expiration date on the certificate will be one year after date of final test for herd accreditation.

2. Reaccreditation.

a. A negative herd test on all goats six months of age and over within 60 days prior to each anniversary of the certificate date is required for continuous accredited herd status. If the negative reaccreditation test is conducted within 60 days following the anniversary date, the reaccreditation is for 12 months from the anniversary date.

3. Additions to accredited herds and herds in process of accreditation shall:

a. Originate from accredited herds.

b. Originate from negative herds tested within one year; added animals shall also be negative to a test conducted more than 60 days following herd test and within 60 days prior to joining herd.

c. Goats from all other herds shall be negative to a test made within 60 days prior to being brought to premises and then kept in isolation until negative to a retest made no sooner than 60 days from previous test.

d. Additions to herd shall not receive accredited herd status until they have been members of the herd for at least 60 days and are included in a complete herd test.

4. Temporary transfer of males or females for breeding to an accredited herd or a herd in the process of accreditation.

a. The animals shall originate from a herd with the status described in C. 3. a. or 3. b. of this rule.

5. Goats originating directly from an accredited herd will be eligible for public exhibitions without the test for tuberculosis required by 3 MCAR § 2.040, Public Exhibition of Livestock and Poultry in Minnesota and it is recommended that such goats be isolated from the accredited herd until tested negative 60 to 120 days after their return.

6. Revocation of accredited tuberculosis-free certificate.

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

3 MCAR § 2.023

a. Certificate will be cancelled if:

(1) One or more reactors are disclosed in the herd.

(2) One or more reactors disclosed in animals removed from herd within 30 days following date such animals are removed.

(3) One or more animals are added to the herd contrary to C. 3. or C. 4. of this rule.

b. If a certificate is cancelled, the herd may be re-accredited providing the requirements for initial accreditation described in C. 1. of this rule are met.

D. Tests other than those made under the agreement described in B. 1. of this rule to establish Accredited Tuberculosis-Free Goat Herds.

1. The provisions of B. 2. and B. 3. shall apply to all goats tested in Minnesota if such tests disclose suspects or reactors.

STATE CONTRACTS

Pursuant to the provisions of Laws of 1978, ch. 480, 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.



Often sighted in Minnesota marshlands, the yellow-headed blackbird is as easily identified by its unique call, which sounds like a squeaky hinge, as it is by its coloration. (Drawing by Jane Gstalder)

Department of Administration Bureau of Real Estate and Transportation Management

Notice of Request for Proposals for Realty, Economic and Functional Analyses for Office Space Study

The Department of Administration is requesting proposals for a study of Minnesota State office space needs and physical proximity requirements, a system to update these forecasts, economic strategies for the state, economic impacts of strategies on metropolitan locations, alternative courses of action and recommendations to best meet the state's requirements.

Responders are to estimate the total costs and time needed to complete such a study.

A Request for Proposals is to be obtained by calling or writing:

John Walley
Assistant to the Commissioner
Department of Administration
2nd Floor, Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
(612) 296-6778

Proposal responses must be submitted no later than 4:30 p.m. on October 2, 1978.

Energy Agency Administration Division

Notice of Request for Proposals for Auditing Services

The Minnesota Energy Agency is seeking the services of a Certified Public Accountant to audit grants made under the Energy Conservation and Production Act and to provide an expression of opinion on related financial reports. The audit is to be performed in accordance with the U.S. Department of Energy's "Audit Guide for State Energy Conservation Grants." For further information contact:

STATE CONTRACTS

Mary M. Elverum
Manager, Administrative Support
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-8276

Final submission date for completed proposals is September 22, 1978.

Department of Health Environmental Health Division

Notice of Request for Proposals for Consultant Services

The Minnesota Department of Health is requesting proposals from consultants to perform the following function:

Visually inspect electrical grounds on conductive objects (e.g., fences and buildings) in the right-of-way of the \pm 400 kilovolt direct current transmission line being constructed by Cooperative Power Association and the United Power Association. The transmission line runs from the North Dakota border in Traverse County to the Dickinson Converter Station near Delano, Minnesota.

The contract will be for a period of two months from the date of project authorization. One contract will be made for the sum of \$5,000.00. Persons wishing the Request for Proposals package as well as persons submitting proposals should contact: Larry D. Gust, Research Scientist, Section of Health Risk Assessment, Minnesota Department of Health, 717 S. E. Delaware Street, Minneapolis, Minnesota 55440, telephone (612) 296-5508.

Final date for the completed proposals is September 18, 1978, at 4:30 p.m.

Pollution Control Agency Water Quality Division

Notice of Extension of Deadline for Receipt of Proposals

The Pollution Control Agency announced two Notices of Request for Proposals concerning nuclear power plants in the July 31, 1978 *State Register*. Those notices were entitled:

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

2. Notice of Request for Proposals for Assessment of Risk Associated with Radioactive Air Emissions from Minnesota Nuclear Power Plants and Efficacy of Environmental Radioactive Monitoring Programs.

The deadline for proposals is extended to September 29, 1978.

Persons desiring further information should contact:

Dr. John W. Ferman
Nuclear Engineer
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Department of Public Welfare Mental Health Bureau

Notice of Request for Proposals Concerning Cost Containment Measures within the State Hospital/Nursing Home System

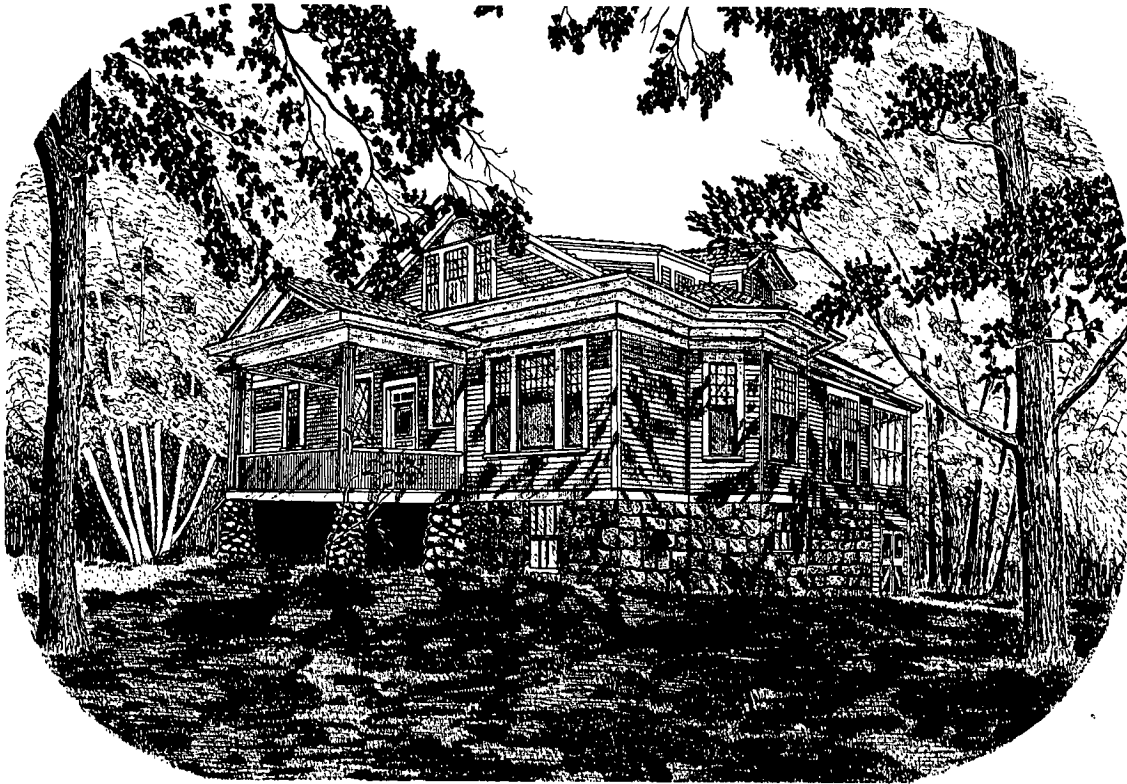
Notice is hereby given that the Department of Public Welfare, Mental Health Bureau, is soliciting professional assistance in implementing a pilot project focusing on more efficient utilization of support staff involved in laundry, dietary, housekeeping and maintenance functions at Ah-Gwah-Ching Nursing Home, Brainerd State Hospital, and Fergus Falls State Hospital. Estimated cost of this project is \$200,000.

Responders, interested in obtaining additional information regarding the specific scope of the project, should contact:

Harvey G. Caldwell
Assistant Commissioner
Mental Health Bureau
Department of Public Welfare
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-2791

All proposals must be received by 3:30 p.m., September 18, 1978.

OFFICIAL NOTICES



Aviator Charles A. Lindbergh, Jr. spent most of his boyhood summers on the family farm south of Little Falls. After his non-stop flight from New York to Paris in 1927, the house was stripped by souvenir hunters. The Lindbergh family donated the house and 110-acre farm to the state in 1931 as a memorial to Charles A. Lindbergh, Sr., who served in Congress

from 1907 to 1917 and twice ran for governor of Minnesota. (Drawing by Ron Hunt reprinted, with permission, from *A Living Past: 15 Historic Places in Minnesota*, copyright 1973, 1978 by the 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 Agriculture Food, Meat and Poultry Division

Notice of Intent to Solicit Outside Opinion on Rules Relating to Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; and Manufacturing Requirements

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1977) that the Minnesota Department of Agriculture is considering amending Agr 4801-4804 relating to the above-captioned matter.

All interested parties desiring to submit data or views relating to said rule amendments should address their comments to the department by writing or calling the person designated below. Evidence submitted for consideration

OFFICIAL NOTICES

should be pertinent to the matter at hand. Any materials received by the department will become a part of the hearing record.

All interested parties may submit comments to:

Bernard J. Steffen, Director
Food, Meat and Poultry Division
530 State Office Building
Saint Paul, Minnesota 55155
(612) 296-2627

Any materials submitted shall be reviewed and considered by the Department of Agriculture during the preparation of proposed amendments. Notice of the public hearing on this matter will be published in the *State Register* and given to all interested parties registered with the Secretary of State in accordance with the provisions of the Administrative Procedure Act.

All comments and materials must be received by 4:30 p.m., September 29, 1978.

Under the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1977), any individual representing persons or associations attempting to influence administrative action, such as the adoption of proposed rules, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity. The Ethical Practices Board is located at Room 41, State Office Building, Saint Paul, Minnesota 55155.

Bill Walker
Commissioner

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Information Regarding Proposed Adoption of a Rule Governing the Intern Development Program

Notice is hereby given that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture

is seeking information or opinion from sources outside the Board in preparing to propose the adoption of a rule governing the participation of potential applicants for admission to the Architectural Registration Examination in the Intern Development Program (IDP). The Intern Development Program is a training program designed to qualify its participants for the entry into practice of architecture. Any interested persons may submit data or views on the subject in writing or orally to:

Lowell E. Torseth
Executive Secretary
Board of AELS & LA
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the Board shall become part of the hearing record in the event the rule governing this subject is promulgated.

Livestock Sanitary Board Notice of An Addition to the Hearing Notice for Proposed Rules of the Livestock Sanitary Board Governing Importation of Goats (3 MCAR § 2.003), Control of Goat Brucellosis in Minnesota (3 MCAR § 2.022) and Control of Goat Tuberculosis in Minnesota (3 MCAR § 2.023)

The following paragraph is to be added to and incorporated in the Hearing Notice published on these rules in this issue of the *State Register* (3 S.R. 313):

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).

**Department of
Transportation
Administration Division**

**Notice of Application and
Opportunity for Hearing
Regarding Petition to Abandon
and Remove ICC Track No. 37 at
Austin, Minnesota**

Notice is hereby given that Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company with offices at 900 First National Bank Building, 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 abandon and remove ICC track No. 37 at Austin, Minnesota.

The petition recites among other matters that: "Petitioner has operated and maintained ICC Track No. 37 at Austin, Minnesota. . . ." "The property served by this track is now leased to Rayman Lumber Company, who has requested the removal of this track. . . ."*** "This trackage is no longer required by any shippers or receivers of freight by rail, and its removal will therefore not harm or prejudice any shippers."

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 September 18, 1978. 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. Reg. 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.

August 18, 1978

Jim Harrington
Commissioner of Transportation

**Notice of Application and
Opportunity for Hearing
Regarding Removal of Spur
Trackage Known as "Sanatorium
Spur" at Walker, Minnesota**

Notice is hereby given that the Burlington Northern Inc., with offices at 176 East Fifth Street, St. Paul, Minnesota 55101 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 remove 426.3 track feet of spur trackage known as the "Sanatorium Spur" at Walker, Minnesota. The petition recites among other matters that: "Your applicant has maintained for several years a spur track . . . known as the Sanatorium Spur at Walker, Minnesota." "Said spur track has not been used since the year 1972 and the Department of Public Welfare by letter dated July 12, 1978 . . . indicates no objection to removal of the trackage." "Said trackage served exclusively the Department of Public Welfare and its removal will not inconvenience any member of the shipping public nor does public convenience and necessity require the continued maintenance of said trackage."

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 September 18, 1978. 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. Reg. 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

OFFICIAL NOTICES

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.

August 18, 1978

Jim Harrington
Commissioner of Transportation

Metropolitan Health Board Notice of Meetings

The Metropolitan Health Board of the Twin Cities Area meets regularly on the second and fourth Wednesdays of each month at 4 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. The subcommittees of the Metropolitan Health Board usually meet at various starting times on these same days prior to the Metropolitan Board meetings. The public is cordially invited to attend

any of these meetings. For additional information or questions on any of these meetings with regard to time, locations or agendas, please contact the Metropolitan Health Board, 300 Metro Square Building, St. Paul, Minnesota 55101, telephone 291-6352.

Coral Houle, Chairperson
Metropolitan Health Board

Minnesota Teachers Retirement Association Notice of Meeting of Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Friday, September 15, 1978, at 9 a.m. in the office of the Association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the Board.

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules, notices and executive orders.

- _____ Annual subscription \$110.00
- _____ Additional subscription \$85.00
- _____ Single copy \$2.25 each

State Register Binder. Durable 3½ inch, forest green binders imprinted with the State Register logo.

- _____ State Register Binder \$5.00 + \$.20 (sales tax) = \$5.20* each

Guidebook to State Agency Services. The 53rd issue of the State Register, a how-to-get-it guide to state services. Detailed information about every service available to the public, in clear, simple English.

- _____ Single copy \$4.95 + \$.20 (sales tax) = \$5.15*

Minnesota Code of Agency Rules (MCAR). The permanent, 15 volume set of state agency rules. An indispensable reference work for the practice of administrative law.

- _____ 15 volume set \$325.00, includes the annual update service subscription for the year of order (a \$105.00 value) and a set of MCAR binders.

MCAR Binders. A set of 15 sturdy, three inch, three-ring binders in attractive forest green, imprinted with the MCAR logo.

- _____ 15 volume set \$35.00 + \$1.40 (sales tax) = \$36.40*

*To avoid Minnesota sales tax, please include below your tax exempt number.

Please enclose full amount of items ordered. Make check or money order payable to "Minnesota State Treasurer "

Name _____

Attention to: _____

Street _____

City _____ State _____ Zip _____

Telephone _____

Tax Exempt Number _____

Legislative Reference Library
Attn: Stephen Plumb
Room 111 State Capitol
INTEROFFICE

I