

178 Sept. 4



STATE REGISTER

STATE OF MINNESOTA

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RULES

PROPOSED RULES

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OFFICIAL NOTICES

VOLUME 3, NUMBER 9

SEPTEMBER 4, 1978

Pages 329-376

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 | | | |
| 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.

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

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Landmark Center, the restored Old Federal Courts Building at 75 West Fifth Street in St. Paul, will open to the public on September 8 and 9, 1978. Constructed over a 10-year period from 1892-1902, the original building cost \$2.5 million, including furnishings. Cass Gilbert, designer of the Minnesota State Capitol, was supervising architect during part of that time. Landmark Center will be used as a cultural center for St. Paul citizens.

MCAR AMENDMENTS AND ADDITIONS

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

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Located on Government Road in Taylors Falls, this New England style home was built in 1855 by William Henry Carman Folsom, a lumberman who was a member of the 1857 constitutional convention and served several terms in the Minnesota legislature. (Drawing by Ron Hunt reprinted, with permission, from *A Living Past: 15 Historic Places in Minnesota*, copyright 1973, 1978 by the Minnesota Historical Society.)

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 Education Board of Education Adopted Rules Governing the Financial Accounting Reporting Requirements

The proposed rules governing the issuance and renewal of licenses for school superintendents and principals and the repeal of EDU 330 is being held for further consideration by the board.

The rules regarding the financial accounting reporting requirements 5 MCAR § 1.0762, subdivision F., has been adopted and is identical to its proposed form as published at *State Register*, Volume 2, Number 33, pp. 1539-1540, February 20, 1978 (2 S.R. 1539) with the following amendment:

Rules as Adopted

Chapter Thirty-Eight Financial Accounting Reporting Requirements

RULES

5 MCAR § 1.0762 Fund accounting.

F. General fund assets may be used for any general or special operating purpose of a school district and may be transferred permanently by local governing board action to any other operating fund where the resources of that other fund are not adequate to finance approved expenditures from such fund or to eliminate a negative unappropriated fund balance in a building construction fund being discontinued.

The amount of general fund assets to be used to eliminate a negative unappropriated building construction fund balance shall not exceed the amount of such unappropriated fund balance reduced by the sum, if greater than zero, of

(a) The unappropriated fund balance in the capital expenditure fund, projected to the end of the current fiscal year, plus

(b) The under levies for capital expenditures in the five previous levies.

The portion of the general fund unappropriated fund balance permanently transferred to eliminate a negative building construction fund unappropriated fund balance must be reduced by

(a) The capital expenditure fund year-end unappropriated fund balance, plus

(b) The difference between the capital expenditure levy limitation and the certified capital expenditure levy for the three previous years.

Department of Education Board of Education

Adopted Temporary Rules Governing Educational Aids for Pupils Attending Nonpublic Schools

The State Board of Education adopted the temporary rules relating to pupils attending nonpublic schools on August 1, 1978. These rules, 5 MCAR §§ 1.0745-1.0756, are identical to those published at *State Register*, Volume 3, Number 1, pp. 30-34, July 10, 1978 (3 S.R. 30) with the

5 MCAR § 1.0752

amendments listed below. The attorney general approved the rules on August 9, 1978.

Temporary Rules as Adopted

Chapter Thirty-Seven A Textbooks and Standardized Tests for Pupils Attending Nonpublic Schools

5 MCAR § 1.0748 A. 1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who ~~will~~ may be enrolled as of September 15 of the following school year and who ~~will~~ may be signing pupil request forms for textbooks and standardized tests.

F. Reimbursement. Upon completion of the distribution of the textbooks and standardized tests, each public school district or intermediary service area may claim from the Department of Education (1) the cost of materials and (2) a sum for the actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the vendor shall be included in the allocation for textbooks and standardized tests for each nonpublic school. A public school district shall not be considered a vendor.

Chapter Thirty-Seven B: Instructional Materials for Pupils Attending Nonsectarian Nonpublic Schools

5 MCAR § 1.0749 Policy. Instructional materials, as provided by Minn. Stat. § 123.938 (1978), shall be made available to pupils attending nonsectarian nonpublic schools, provided such schools have an enrollment less than 200 pupils and are not primarily preschools. The instructional materials aid shall be supplemental to the educational aids and services available to nonpublic school pupils as provided by Minn. Stat. §§ 123.931-123.937 (1976 as amended).

5 MCAR § 1.0752 A. 1. An estimate of the nonpublic school pupils, kindergarten through grade twelve, who ~~will~~ may be enrolled as of September 15 of the following school year and who ~~will~~ may be signing pupil request forms for instructional materials.

F. Reimbursement. Upon completion of the distribution of the instructional materials, each public school district or intermediary service area may claim from the Department of Education (1) the cost of the materials and (2) a sum for the

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5 MCAR § 1.0756

actual cost of administration which shall not exceed five percent of the cost of the materials distributed. The administrative costs shall be in addition to the allocation available for textbooks and standardized tests. Handling and shipping charges by the supplier shall be included in the allocation for each nonpublic school. A public school district shall not be considered a vendor.

Chapter Thirty-Seven C Health Services for Pupils Attending Nonpublic Schools

5 MCAR § 1.0756 A. Preliminary application. On or before April 1 the nonpublic school shall submit to the district or intermediary service area a preliminary application for health services beginning with the following school year. The preliminary application shall be on forms provided by the Department of Education and shall include an estimate of the nonpublic school pupils, kindergarten through grade twelve, who ~~will~~ may be enrolled as of September 15 of the following school year and who ~~will~~ may be signing pupil request forms for health services. The preliminary application may also include an assessment of the type and level of health services desired for the following school year.

Board of Education Instruction Division

Adopted Rules for Experimental Programs for Elementary and Middle Schools; and Pre-School Health and Developmental Screening

The rules published in the *State Register*, Volume 2, Number 21, pp. 1051-1055, November 28, 1977 (2 S.R. 1051), are adopted and are identical to their proposed form, with the following amendments. (Only the sections which have been changed appear here.)

Chapter One Classification for State Aids, Minimum Requirements for Elementary and Secondary Schools

5 MCAR § 1.0010 C. If the evaluation at the end of the course or program is positive, the state Board of Education ~~may~~ shall authorize continuation of the program. When such continuation is granted, the state Board of Education shall stipulate the specific rules from which the program shall continue to be exempt.

Chapter Thirty-Six Pre-school Health and Developmental Screening

5 MCAR § 1.0720 C. Parent or parents included: 1) a biological mother or father, 2) an adoptive mother or father, 3) a legally appointed guardian, 4) in the event that a child is a ward of the Commissioner of Public Welfare or other public official, the commissioner or such official; or 5) when the parent or guardian is unknown or cannot be found after reasonable efforts have been made, then such agency or other person appointed pursuant to Minnesota statutes or court order.

5 MCAR § 1.0721 D. The pre-school screening program and follow-up shall be coordinated as far as possible with other health screening programs to eliminate duplication of services and provide more efficient administration. School districts shall arrange for exchange of information on students with other health screening programs. Such exchange shall be consistent with 5 MCAR § 1.0724 D.

5 MCAR § 1.0722

A. 7. Referral procedures to be utilized when a condition is identified in need of ~~diagnosis or treatment-~~ further evaluation.

A. 8. Procedures to be utilized to determine whether or not referral resources were ~~utilized-~~ used in accordance with 5 MCAR § 1.0724 F.

D. Exceptions to the ~~statutorily~~ required screening components ~~may~~ shall be made by the state board upon submission to it of evidence that a local board is not able to supply such screening due to financial limitations.

5 MCAR § 1.0723 Staffing. Screening shall be performed by qualified personnel. In selecting personnel to implement the pre-school screening program, school districts shall give first priority to volunteers. Second priority shall be given to others possessing minimum qualifications who can provide services determined to be most cost effective. A person may perform one or more of the functions described in A. through F. of this section provided appropriate qualifications are met. Each pre-school health and developmental screening program shall include the following screening personnel meeting the state minimum qualifications:

A. Nurse.

1. ~~Who must be registered and currently licensed in the state of Minnesota-~~ A nurse currently licensed to practice professional nursing in the State of Minnesota shall be qualified to perform those pre-school screening functions permitted under the state nurse practice act, and

RULES

E. Clinic assistant.

5 MCAR § 1.0724

1. Who has been trained by Department of Education or Department of Health professional staff in administering one or more of the health or developmental screening measures, or

2. Who has been trained by a program providing equal preparation as determined by the Department of Health or the Department of Education.

F. Dental screener.

2. Registered nurse ~~who~~ who has been trained by the Minnesota Department of Health or approved by the Minnesota Department of Health as having been trained to perform dental screening.

5 MCAR § 1.0724

A. Screening procedures shall, ~~to the extent the school board determines they are financially feasible,~~ include the following components:

1. An individual review of past and present health status including perinatal, psychosocial, family health, ~~nutrition intake~~ and immunizations.

2. b. Direct observation of the child's functioning utilizing standardized developmental screening instruments approved by the Minnesota Department of Education and which have:

4. c. Muscle balance screening procedures include at least observation, cover test, and the Hirschberg test ~~and the Worth 4 Dot~~ or a test with equivalent standards as determined by the Department of Health or the Department of Education, which is appropriate for the age group being screened.

d. Test for visual acuity. A test such as the Screening Test for Young Children and Retardates (STYCAR), the Snellen E cube, the Snellen Alphabet Chart, ~~and plus lenses~~ or a test with equivalent standards, as determined by the Department of Health or Department of Education, must be used.

B. As of July 1, 1978, the screening procedure shall, in addition to the components included in A of this section, ~~and to the extent the school board determines they are financially feasible~~ include the following components:

1. Assessment of the unclothed child including an inspection of pulse, respiration, blood pressure, head, eyes, ears, nose, pharynx, neck, chest, heart, lungs, abdomen, spine, extremities, joints, muscle tone, skin and neurological reaction according to normal procedures.

2. b. Urine ~~and bacteriuria~~ (bililabstix; ~~culturia~~ assay).

C. No pre-school screening program shall provide laboratory tests, a health history or physical assessment to any child who has been provided with those laboratory tests, a health history, physical assessment or physical examination within the previous 12 months. The school district shall request the results of any laboratory test, health history or physical examination within the 12 months preceding a scheduled pre-school screening clinic, if requested by the parent, health history and physical examination completed by a personal physician within the previous 12 months or within 60 days after the provision of other screening tests shall be accepted by the school district for inclusion in the school records in lieu of comparable information collected in the screening program. Procedures shall be developed for exchange of student information in accordance with 5 MCAR § 1.0724 D.

F. A minimum of two attempts shall be made, at least one of which shall be in writing with return postage, to determine whether recommended referrals were utilized.

~~F. G.~~ Data on individual students obtained in the screening program shall be incorporated into school district records, except as indicated in D of this section.

H. Local school districts shall request information from parents concerning medical assistance eligibility to make it possible for the district to comply with 5 MCAR § 1.0725 C.

~~G. I.~~ Diagnosis, treatment or therapy shall not be provided in the pre-school screening program but this does not preclude provision of such services as a part of a related program.

5 MCAR § 1.0725 A. Payment of aids for the costs of screening conducted in accordance with an approved plan shall be made as provided for by legislative appropriations.

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Department of Personnel Recruitment and Selection Division

Extension of Adopted Temporary Rules Governing Examination and Referral of Candidates for Classified Positions in State Civil Service and Emergency Appointments to Classified Positions

The temporary rules published at *State Register*, Volume 2, Number 43, pp. 1954-5, May 1, 1978 (2 S.R. 1954) and adopted effective June 5, 1978 as amended at *State Register*, Volume 2, Number 51, pp. 2307-8, June 26, 1978 (2 S.R. 2307) are continued in effect until permanent rules are adopted or December 2, 1978, whichever comes first.

August 15, 1978

Clarence E. Harris
Commissioner of Personnel

Office of the Secretary of State

Adopted Rules on Preparation of the White Ballot and on Voter Registration

The rules proposed and published at *State Register*, Volume 2, Number 15, pp. 784-796, October 17, 1977 (2 S.R.

784) are now adopted. Rules SecStat 2101-2106, 2108-2111, 2113 and 2115 regarding preparation of the white ballot are adopted are identical to their proposed form. Rules SecStat 301, 502-513, 601, 604-607, 902, 903, 1002 and 1101 regarding voter registration are adopted and are identical to their proposed form, with the following amendments:

SecStat 301 Specifications.

A. Voter registration cards printed for the purpose of distribution and mailing shall be printed in the following manner:

1. The size shall be 6" × 12-3/4" (including 3/4" stub).
2. The paper shall be approximately at least white 100 lb. offset.
3. The ink shall be blue with red Xs next to the line indicating the voter's name, address, last previous registration address (if any) and signature. The certification also shall be printed in red on the original voter registration card.
4. The duplicate card shall have a very light blue screen.
5. The card shall have three 1/16" perforations that result in the three equal size cards 6" × 4".
6. The top stub shall have a substance applied to it so that the card can be sealed when it is folded together for mailing.

B. The original voter registration cards shall be in the following form:

RULES

VOTER REGISTRATION CARD

SecStat 301

Please type or print in ink

Read instructions before completing

X Name _____
Last First Middle

W _____ P _____

X Legal Residence _____
Street or Route No.

S.D. No. _____

OFFICE USE ONLY

Apt. No. and Rural Box No.

Election day voter
registration proof:

City or Township County Zip
(check whichever is applicable)

- Driver's License
- Minn. Ident. Card
- Witness
- Prior Registration
- Ineffective Notice
- Student Identification

Mailing Address (if different from above)

Street or Route No. Apt. No. and

Number (if applicable)

Rural Box No. City or Township County Zip

Telephone Number _____

Date of Birth (optional) _____

Previous Name _____
(if changed since last registration)

X ~~Your-Address-at-Your-Most-Recent-Prior-Registration~~ Address of Your

Last Registration If Any _____
Street or Route No. Apt. No.

City or Township County State Zip

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

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

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I certify that I will be at least 18 years old on election day and the above facts are correct. I understand that giving false information to procure a registration is a felony punishable by not more than 5 years imprisonment and a fine of not more than \$5,000, or both.

____/____/____
Date

X _____
Legal Signature of Voter
Be sure to sign the blue card

In the upper right hand corner of the card there shall be a box marked for "office use only". In the box there shall be "W _____", "P _____" and "S.D. No. _____". (These initials stand for "ward", "precinct" and "school district".) Other information may also be included. Judges of election shall record the type of election day registration proof and its number, if any, in the "office use only" box.

C. The duplicate voter registration card shall be in the following form:

DUPLICATE VOTER REGISTRATION CARD

Sign this card -- DO NOT COMPLETE

The information will be typed by the voter registration office.

X Name _____
Last First Middle

W _____ P _____

X Legal Residence _____
Street or Route No.

S.D. No. _____

OFFICE USE ONLY

Apt. No. and Rural Box No.

Election-day-voter registration-proof:

- Driver's License
- Minn.-Ident.-Card
- Witness
- Prior-Registration
- Ineffective-Notice
- Student-Identification

City or Township County Zip
(check whichever is applicable)

Number-(if-applicable)

RULES

SecStat 301

Mailing Address (if different from above) _____
Street or Route No.

| | | | |
|----------------------------|------------------|--------|-----|
| Apt. No. and Rural Box No. | City or Township | County | Zip |
|----------------------------|------------------|--------|-----|

Telephone Number _____

Date of Birth (optional) _____

Previous Name _____
(if changed since last registration)

~~X Year-Address-at-Your-Most-Recent-Prior-Registration~~ Address of Your
Last Registration If Any _____
Street or Route No. Apt. No.

| | | | |
|------------------|--------|-------|-----|
| City or Township | County | State | Zip |
|------------------|--------|-------|-----|

BE SURE TO CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER

_____/_____/_____
Date X _____
Legal Signature of Voter (for identification only)

In the upper right hand corner of the card there shall be a box marked for "office use only". In the box there shall be: "W _____", "P _____" and "S.D. No. _____". (These initials stand for "ward", "precinct" and "school district".) Other information may also be included.

D. The instruction card shall be in the following form:

INSTRUCTIONS FOR VOTER REGISTRATION
READ CAREFULLY BEFORE REGISTERING

Lines indicated by an (X) must be completed by the registrant before his or her registration may be accepted.

1. Print in ink or type all information requested on white card.
2. Print or type your legal name — Do not use nicknames.
3. Your residence should be that place where you ac-

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tually live. Check the appropriate box indicating whether you live in a city or township.

4. Print or type your mailing address if it is different from your residence address.

5. Place your telephone number (optional) on the appropriate line.

6. Place your date of birth (optional) on the appropriate line.

7. If your name has been changed through marriage, divorce or decree or order of court since your last voter registration, print or type your former name on the appropriate line.

8. Address of last previous registration — Print or type the address from which you were last registered to vote. If you have never been registered to vote before, print or type "none".

9. After the white card is completed, sign your full name in ink and fill in the date on the white card.

10. SIGN THE BLUE CARD.

11. The blue card must be signed in ink on the line where it is required, but do not fill in the blue card. It will be typed in by the voter registration office.

12. After the white card is completed and both cards are signed, seal using sealing tab attached.

13. Complete the address on the reverse of the white registration card by filling in the name of the county where you reside and the name of the city which is the county seat. Mail or deliver to the office of the county auditor.

An eligible voter is a person who at the time of any election

- (a) is 18 years of age or older,
- (b) is a citizen of the United States and
- (c) has resided in Minnesota for 20 days.

The following persons are not eligible voters:

- (a) any person who has been convicted of a felony or treason, who has not been restored to his civil rights;
- (b) any person who is under guardianship over his person;
- (c) any person who is adjudicated to be not mentally competent; and
- (d) any person who is not properly registered, in areas that provide for voter registration.

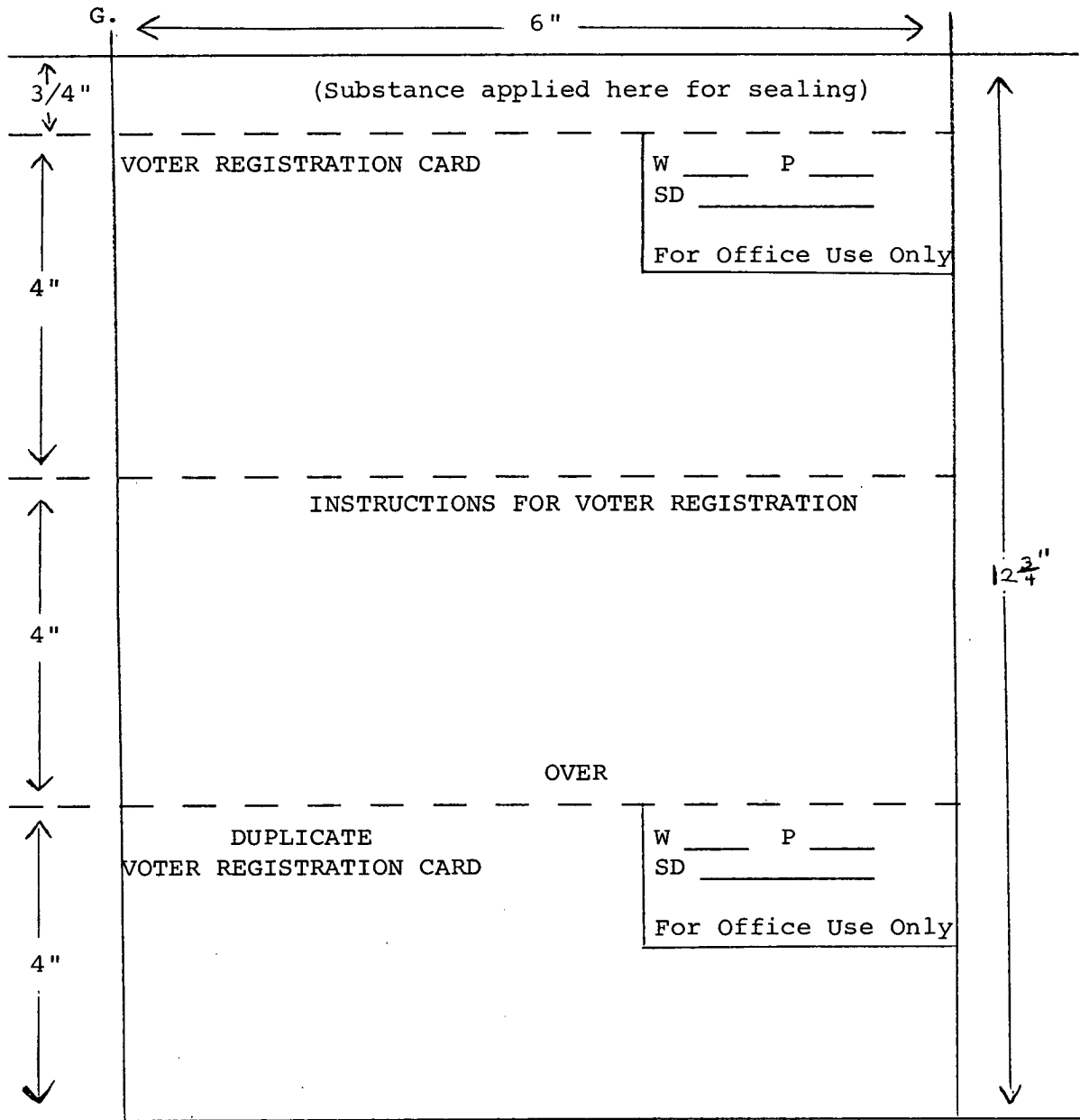
E. The reverse side of the original (white) registration card shall be in the following form:

first
class
postage

RETURN TO:

(here the county auditor shall supply the address)

F. The reverse side of the duplicate (blue) registration card shall be lined horizontally to create spaces 1/4" wide and divided vertically into four sections to allow the judges of election to record the date of the election in which the voter voted.



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RULES

SecStat 301

H.

PLACE
STAMP
HERE

RETURN: TO:

INSTRUCTIONS FOR VOTER REGISTRATION - Continued

| | | | |
|---------------|---------------|---------------|---------------|
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| ELECTION DATE | ELECTION DATE | ELECTION DATE | ELECTION DATE |

Record of Voting
For Office Use Only

RULES

SecStat 506 Ineffective registration. Upon receipt of a voter registration card that is faulty or defective, filed with the wrong office or filed during a period when pre-election day voter registrations cannot by law be accepted, the following notice of ineffective registration shall be mailed to the person requesting to become registered. The notice shall require that it be returned if not deliverable.

NOTICE OF INEFFECTIVE REGISTRATION

IMPORTANT INFORMATION ABOUT YOUR VOTER REGISTRATION

To: _____

Your Voter Registration cannot be accepted by this office for the following reason(s):

1. Wrong County. Your registration has been forwarded to _____ County.

2. Incomplete: _____

3. Your registration was received fewer than 20 days before the upcoming election. It will be effective on ___/___/___ (day after next election).

4. Minnesota law provides that pre-election day registration for the upcoming ___/___/___ election be received in this office by ___/___/___ . You may register to vote at the polling place on election day by presenting either

(a) this mailed notice;

(b) a valid Minnesota Driver's License or receipt thereof;

(c) a Minnesota Identification Card or receipt thereof;

(d) a student identification card that contains the student's valid address;

(e) a student fee statement that contains the student's valid address ~~or~~;

SecStat 1101

(f) a copy of a student registration card that contains the student's valid address;

(g) ~~by having~~ a registered voter in your precinct ~~witness your registration~~ who can attest to your address; or

(h) ~~by having~~ a valid registration in the same precinct under a different address; ~~or by presenting this mailed card.~~

Your polling Place is _____

_____ County Auditor ___/___/___
(signature) (date)

SecStat 604 Notation. When a voter uses either a Minnesota Driver's License or Minnesota Identification Card to prove residence when registering on election day, the election judge who is registering voters shall ~~write~~ record the number on the card ~~and the letters D.L. (Driver's License) or M.I. (Minnesota Identification)~~ in the "office use only" area of original card.

SecStat 1002 Compatibility. Any voter registration records maintained on electronic or automatic data processing systems and provided to registered voters within the county shall include; ~~in this order, horizontally across form:~~ registrant name, address (including street or route number, city or township and zip code) and telephone number when provided by the registrant. ~~Each entry in a precinct shall be arranged in alphabetical order by last name of registrant.~~ Each precinct shall be entered in the municipality listing in numerical order by precinct number. Each municipality shall be entered in alphabetical order by municipality name within the county. Standards for data entry shall be compatible with secretary of state standards.

Chapter Eleven: Violations

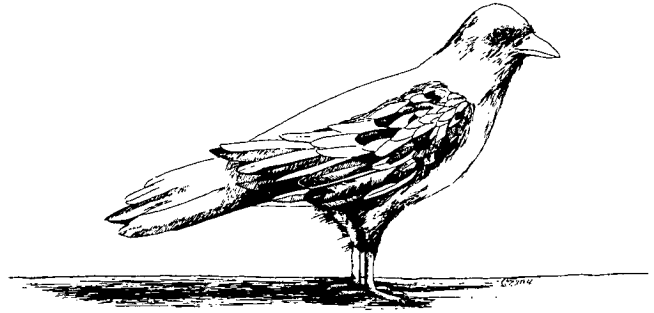
SecStat 1101 County attorneys to report. County attorneys shall report the outcome of any investigation of alleged violations of voter registration laws to the ~~commissioner~~ Secretary of State within 10 days of the determination.

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

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.



Representing the most highly developed stage in avian evolution, the crow breeds in colonies and has a high degree of social organization. It is omnivorous, and in addition to vegetables, it feeds on the eggs and young of other birds. Most crows have a loud, harsh cry, but some species have a melodious "whisper song" which can be heard only at close range. In captivity, crows exhibit a talent for mimicry. (Drawing by Brian Conway)

Department of Administration Data Privacy Unit Proposed Rules Governing the Enforcement and Administration of the "Minnesota Data Privacy Act"

Order for Hearing

It is hereby ordered that a public hearing on the above-captioned rules be held in Room 83, State Office Building, St. Paul, Minnesota on October 31, 1978 commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

It is further ordered that a Notice of Hearing be mailed to all persons or representatives of association or other interested groups who have registered their names with the Secretary of State for that purpose.

It is further ordered that the Notice of Hearing be published in the *State Register*.

August 21, 1978

Richard L. Brubacher
Commissioner

Notice of Hearing

Notice is hereby given that the public hearing in the above entitled matter will be held in the Auditorium Hearing Room, Room Number 83, State Office Building, St. Paul,

Minnesota, on October 31, 1978, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted by mail to Steve Mihalchick, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8112 either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, define terms used in Minn. Stat. §§ 15.162 through 15.1671, establish procedures concerning collection, use and dissemination of data on individuals and define and implement duties of state and local officials who are responsible for data on individuals. One copy of the proposed rules will be mailed to each state agency and political subdivision as required by Minn. Stat. § 15.1671 and to each person registered with the Secretary of State as required by Minn. Stat. § 15.0412. Copies of the proposed rules are available and one free copy may be obtained by writing to the Data Privacy Unit, Room 203 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules are contained in Minn. Stat. § 15.1671.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1976), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the Ethical Practices Board, Room 41, State Office Building, St. Paul, Minnesota (612) 296-1720 as a lobbyist within five days of the commencement of such activity by the individual.

PROPOSED RULES

2 MCAR § 1.201

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 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 Hearing Examiners at a minimal charge.

Pursuant to Minn. Stat. § 15.0412, subd. 7, notice is hereby given that the Department of Administration's reasonable estimate of the total cost to all local public bodies in the state to implement the attached proposed rules for the two years immediately following adoption may exceed \$100,000 in either of the two years.

An exact figure of the costs to each local unit of government is virtually impossible to present. The cost for each local unit will depend on, among other factors, the size of the population served by the local unit, the number of records retained and maintained by the unit, and the degree of the unit's current compliance with the "Data Privacy Act" and with other statutes and regulations governing data on individuals.

August 21, 1978

Richard L. Brubacher
Commissioner

Rules as Proposed

2 MCAR § 1.201. Scope and purpose. These rules relate to and shall apply to the provisions of Minn. Stat. §§ 15.162 through 15.1671.

A. These rules shall apply to those governmental entities as defined by Minn. Stat. § 15.1671, subd. 5, 7, and 8,

which collect, create, use, store, and disseminate data on individuals as defined in Minn. Stat. § 15.162, subd. 3.

B. Nonprofit social service agencies meeting the requirements of Minn. Stat. § 15.162, subd. 5 shall include, but are not limited to, agencies providing mental health, physical health, counseling and day-activities services.

1. These rules shall only apply in the instance where such an agency is required, by the terms of a written contract with a state agency, political subdivision, or statewide system to collect, create, store, use, or disseminate data on individuals.

2. In the event of such a contract, these rules shall only apply to the data on individuals that is actually generated by the social service agency because of the contract.

3. Any data generated by activities of the social service agency that are independent of the contractually based activities shall not be subject to these rules.

4. These rules shall not apply to personnel data maintained on employees of such social service agencies.

C. These rules shall not apply to any governmental data collected, created, used, stored, or disseminated which is not data on individuals as defined in Minn. Stat. § 15.162, subd. 3, except these rules shall apply to summary data.

D. Nothing in these rules shall limit the discovery procedures available at law to any party in a civil or criminal action or administrative proceeding as described in the Minnesota Rules of Civil Procedure and the Minnesota Rules of Criminal Procedure as adopted by the Minnesota Supreme Court or in Minnesota Statutes.

E. Nothing in these rules shall restrict or limit the scope or operation of any judicial order or rule issued by a state or federal court.

F. Nothing in these rules shall be construed to diminish the rights conferred on subjects of data by Minn. Stat. § 15.165, or any other statute.

G. The purpose of these rules is to aid governmental entities in implementing and administering Minn. Stat. §§ 15.162 through 15.1671. These rules are intended to guide entities so that while protection is given to individual privacy, neither necessary openness in government nor the orderly and efficient operation of government is curtailed.

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PROPOSED RULES

2 MCAR § 1.202

2 MCAR § 1.202 Definitions. All terms shall have the meanings given them by Minn. Stat. § 15.162. Those terms and additional terms as used in these rules shall have the meanings as follows:

A. Act means Minn. Stat. §§ 15.162 through 15.1671, as amended, commonly referred to as the "Data Privacy Act" or the "Minnesota Fair Information Practices Act".

B. Arrest Information means only those elements of data that are expressly listed in § 15.162, subd. 1a of the Act. Arrest information shall only include data which is collected, created, or maintained by an entity whose officers, employees, or agents are given arrest powers by statute, or the power to take into custody any person arrested by another citizen of this state.

1. Such entities include, but are not limited to, municipal police departments, county sheriff departments, the Minnesota State Patrol, and officers deputized as game wardens under the provisions of Minn. Stat. § 97.50.

C. Data means "data on individuals" as defined in § 15.162, subd. 3 of the Act, unless stated otherwise.

1. Data can be maintained in any form, including, but not limited to, paper records and files, microfilm, computer medium, or other processes.

2. The duration of the existence of data, including whether certain data is temporary rather than permanent, is not relevant to compliance with these rules.

3. All data, in whatever form it is maintained, is "data on individuals" if it can in any way identify a unique individual.

4. Code numbers representing unique individuals in certain data constitute "data on individuals", provided a list or index of any type is made available by which the code number can be cross referenced to identify unique individuals. Such data may qualify for treatment as summary data, pursuant to 2 MCAR § 1.209.

a. Code number means the labeling or enumeration of data by use of a letter, number, or combination thereof, which is used in place of an individual's name, including but not limited to index numbers, dummy numbers, SOUNDEX codes, and social security numbers.

5. Data is "data on individuals" if it identifies an individual in itself, or if it can be used in connection with other data elements to uniquely identify an individual. Such data shall include, but is not limited to, street addresses, job

titles and so forth where the particular data could only describe or identify one individual.

D. Confidential Data as defined in § 15.162, subd. 2a of the Act, shall only include data which is expressly classified by either a state statute, including the provisions of § 15.1642 of the Act, or federal law.

1. Data is confidential only if a state statute or federal law provides substantially that:

a. Certain data shall not be available either to the public or to the data subject; or

b. Certain data shall not be available to anyone for any reason except agencies which need the data for agency purposes.

2. Data is not confidential if:

a. A state statute or federal law provides that the data is confidential, but the context of the statute or federal law, in which the term confidential appears, reasonably indicates the data is accessible by the data subject.

3. A state agency rule, an executive order, an administrative decision, or a local ordinance shall not classify data as "confidential", or use wording to make data inaccessible to the data subject unless there is a state statute or federal law as the basis for the classification.

E. Private Data, as defined in § 15.162, subd. 5a of the Act, shall only include data which is expressly classified by either a state statute, including the provisions of § 15.1642 of the Act, or federal law.

1. Data is private if a state statute or federal law provides substantially that:

a. Certain data shall not be available to the public but shall be available to the subject of that data;

b. Certain data shall not be available to anyone, except the data subject or his designated representative such as an attorney;

c. Certain data shall be confidential and the person the data is about may view the data at reasonable times; or

d. Certain data shall be confidential and may be shown to the data subject at the discretion of the person holding the data. Such data shall be private if the state statute or federal law does not provide standards which limit the exercise of the discretion of the person maintaining the data.

2. Data is not private if:

PROPOSED RULES

a. Absent a statutory or federal law basis for classification, a state agency rule, an executive order, an administrative decision or a local ordinance provides substantially that certain data shall be private, pursuant to Minn. Stat. § 15.162, subd. 5a, or any other similar wording.

b. A federal agency rule provides substantially that as a part of its plan for implementation of a certain federal program, a state agency, statewide system, or political subdivision must provide for the confidentiality of data obtained from program subjects.

F. Public Data shall mean "data on individuals", as defined in § 15.162, subd. 5b of the Act, which is neither private nor confidential data, and which is data that is an official record pursuant to Minn. Stat. § 15.17.

1. Data is public if:

a. a state statute or federal law substantially provides that certain data shall be made available to the public, pursuant to Minn. Stat. § 15.17, or any other similar wording;

b. a state statute or federal law substantially requires the collection of certain data by a state agency, political subdivision or statewide system, and does not classify that data as private or confidential;

c. a state agency, statewide system, or political subdivision, without any express enabling authority to do so, collects certain data because that data is necessary to its operations; as defined at 2 MCAR § 1.216 B.1.

2. This rule shall not limit the ability of an entity to apply for emergency classifications of data pursuant to § 15.1642 of the Act.

G. Designee means any person designated by a responsible authority to be in charge of individual file(s) or system(s) containing "data on individuals".

H. Entity means any governmental agency subject to the requirements of the Act, including state agencies, political subdivisions, and statewide systems as those terms are defined in § 15.162 of the Act.

1. State agency shall include any entity which is given power of statewide impact by statute or executive order.

2. Political subdivision shall include those local gov-

2 MCAR § 1.202

ernment entities which are given powers of less than statewide impact by statute or executive order.

3. Statewide systems shall include, but are not limited to, recordkeeping and data administering systems established by statute, federal law, administrative decision or agreement, or joint powers agreement.

a. Statewide systems shall include, but are not limited to, the Criminal Justice Information System administered by the Bureau of Criminal Apprehension, the Statewide Accounting System, the Minnesota Education Computing Consortium, and the various welfare systems primarily administered by the Department of Public Welfare.

I. Federal Law means United States Code, rules of federal agencies as published in the *Federal Register*, and federal case law, including decisions of any court in the federal judicial system.

J. Individual means any living human being. Individual shall not include any fictional entity or business such as a corporation, association, partnership, or sole proprietorship even in those instances where the name of such an entity or business includes the name of a natural person.

K. Records Management Act means Minn. Stat. § 138.17.

L. Responsible Authority means the individual in each entity who is designated or appointed pursuant to § 15.162, subd. 6 of the Act.

1. In state agencies, the Responsible Authority shall be as follows:

a. Departments: the commissioner of the department.

b. Constitutional Offices: the constitutional officer.

c. University of Minnesota: the individual appointed by the Board of Regents.

d. All other state agencies: the chief executive officer, or if none, then an individual chosen by the agency's governing body.

2. In political subdivisions, the Responsible Authority shall be as follows:

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PROPOSED RULES

2 MCAR § 1.202

a. Counties: each elected official of the county shall be the Responsible Authority for his respective office. An individual who is an employee of the county shall be appointed by the county board to be the Responsible Authority for any data administered outside the offices of elected officials.

b. Cities: the city council shall appoint an individual who is an employee of the city.

c. School Districts: the school board shall appoint an individual who is an employee of the school district.

d. Nonprofit Corporations or Nonprofit Social Service Agencies: unless a statute or the governmental entity which created the corporation or agency appoints an individual, the governing body of the corporation or agency shall appoint an individual. If no appointment is made, the chief executive officer of the nonprofit corporation or agency shall be the Responsible Authority. If the corporation or agency is part of a statewide system, the Responsible Authority for the statewide system shall be the Responsible Authority for the corporation or agency as determined by this rule.

e. All other political subdivisions: the governing body shall appoint an individual who is an employee of the political subdivision.

3. In Statewide Systems, the Responsible Authority shall be as follows:

a. The commissioner of any state department or any executive officer designated by statute or executive officer designated by statute or executive order as responsible for such a system; or

b. If a state statute or executive order does not designate an individual as Responsible Authority, the Commissioner of Administration shall appoint the Responsible Authority after the entities which participate in the system jointly apply for such an appointment in a form provided by the Commissioner of Administration.

M. Summary Data, as defined in § 15.162, subd. 9 of the Act, means data which has been extracted, manipulated, or summarized from private or confidential data, and from which all data elements that could link the data to a specific individual have been removed.

1. Summary data includes, but is not limited to, statistical data, case studies, reports of incidents, and research reports.

2. Data is summary data if any list of numbers or other data which could uniquely identify any individual in the

summary data is physically separated from the summary data and is not made available to persons who gain access to, or possession of the summary data.

2 MCAR § 1.203 Access to Public Data. The Responsible Authority shall comply with the following general rules governing access to public data.

A. The Responsible Authority shall provide access to public data to any person, regardless of that person's interest in the data.

1. The Responsible Authority shall establish procedures to describe how such access may be gained.

a. In such procedures, the Responsible Authority may limit the time that public access is available to the normal office hours of the agency.

b. In such procedures, the Responsible Authority shall provide for a response to a request for access within a reasonable time.

c. The Responsible Authority shall charge a reasonable fee for providing copies of public data, unless the costs incurred by the entity in providing the copies are minimal.

d. In determining the amount of the reasonable fee, the Responsible Authority shall be guided by the following:

1. The cost of materials, including paper, used to provide the copies.

2. The cost of the labor required to prepare the copies.

3. Any schedule of standard copying charges as established by the agency in its normal course of operations.

4. Any special costs necessary to produce such copies from machine based record keeping systems, including but not limited to computers and microfilm systems.

5. Mailing costs.

2 MCAR § 1.204 Access to private data. Pursuant to §§ 15.1641 and 15.162, subd. 5a of the Act, the Responsible Authority shall comply with the following rules concerning access to private data:

A. Access to private data shall be available only to the following:

1. The subject of such data.

2. Individuals within the entity, whose work assignments reasonably require access.

PROPOSED RULES

2 MCAR § 1.205

3. Entities and agencies as determined by the Responsible Authority who are authorized by statute, including § 15.1641 (c) of the Act, or federal law to gain access to that specific data.

4. Entities or individuals given access by the express written direction of the data subject.

B. The Responsible Authority shall establish written procedures to assure that access is gained only by those parties identified in Part A of the rule.

1. In those procedures, the Responsible Authority shall provide for reasonable measures that will assure that the person seeking to gain access to the private data is actually the subject of that data or the authorized representative of the data subject.

2. Such reasonable measures include, but are not limited to, the following:

a. Requiring the person seeking to gain access to appear at the offices of the entity to gain such access or requiring the notarized signature of any data subject who is unable to appear at the offices of the entity.

b. Requiring the person to provide reasonable identification.

C. The Responsible Authority may limit the time that access is available to the data subject to the normal working hours of the agency.

D. The Responsible Authority shall not charge the data subject any fee in those instances where the data subject only desires to view private data.

E. The Responsible Authority shall charge the data subject a reasonable fee for providing copies of private data.

1. In determining the amount of the reasonable fee, the Responsible Authority shall be guided by the criteria set out in 2 MCAR § 1.203 concerning access to public data.

2 MCAR § 1.205 Access to private data concerning data subjects who are minors. Pursuant to §§ 15.1641 and 15.162, subd. 4 and 5a of the Act, the Responsible Authority shall comply with the following rules concerning access:

A. In addition to the particular requirements of this rule, access to private data concerning a minor data subject shall

be subject to the requirements of 2 MCAR § 1.204 concerning access to all private data.

B. Access to private data concerning minors shall be available only to the following:

1. Those parties identified as having access to private data under part A. of 2 MCAR § 1.204.

2. Subject to the provisions of Minn. Stat. § 15.162, subd. 4, any other applicable statute, and the exception set out at subd. C.1. below, the parents of the minor data subject.

a. For purposes of this rule, the Responsible Authority shall presume the parent has the authority to exercise the rights inherent in the Act unless the Responsible Authority has been provided with evidence that there is a state law or court order governing such matters as divorce, separation, or custody, or a legally binding instrument which provides to the contrary.

C. Pursuant to the provisions of Minn. Stat. § 15.162, subd. 4, the Responsible Authority shall establish procedures to provide access by the parents of a minor data subject to private data concerning that minor, subject to the following:

1. The Responsible Authority may deny parental access to private data when the minor, who is the subject of that data, requests that the Responsible Authority deny such access.

a. The Responsible Authority may require the minor data subject to submit a written request that the data be withheld. The written request shall set forth the reasons for denying parental access and shall be signed by the minor.

2. Upon receipt of such a request, the Responsible Authority shall determine if honoring the request to deny parental access would be in the best interest of the minor data subject.

a. In making the determination, the Responsible Authority shall be guided by at least the following:

(1) Whether the minor is of sufficient age and maturity to be able to explain the reasons for and to understand the consequences of the request to deny access.

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PROPOSED RULES

2 MCAR § 1.205

(2) Whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm.

(3) Whether there is ground for believing that the minor data subject's reasons for precluding parental access are reasonably accurate.

(4) Whether the data in question is of such a nature that disclosure of it to the parent could lead to physical or emotional harm to the minor data subject.

(5) Whether the data in question is subject to the right of parental access outlined in the "Family Educational Rights and Privacy Act of 1974," Public Law 93-380, and the rules promulgated thereunder.

(6) Whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§ 144.341 through 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

2 MCAR § 1.206 Access to confidential data. Pursuant to Minn. Stat. §§ 15.1641 and 15.162, subd. 2a, the Responsible Authority shall comply with the following rules concerning access to confidential data:

A. Access to confidential data is available only to the following:

1. Individuals within the entity, whose work assignments reasonably require access.

2. Entities and agencies who are authorized by statute, including § 15.1641 of the Act, or federal law to gain access to that specific data.

B. The Responsible Authority shall establish written procedures to assure that access may be gained only by those parties identified in Part A. of this rule.

1. In the drafting and administration of those procedures, the Responsible Authority shall provide measures by which data subjects shall be informed, upon request, if they are the subjects of confidential data.

a. The Responsible Authority shall not disclose the actual confidential data to the data subjects, but shall inform them whether confidential data concerning them is or is not retained.

b. The Responsible Authority shall take reasonable measures to assure that the person making inquiry is actually the individual data subject.

c. Reasonable measures may include, but are not limited to:

(1) Requiring the inquiring person to appear at the office of the entity to make his/her request.

(2) Requiring the inquiring person to provide identification.

(3) Requiring the notarized signature of any data subject who is unable to appear at the offices of the entity.

2 MCAR § 1.207 Access to arrest information. Pursuant to § 15.162, subd. 1a, 2a, and 5a of the Act, the Responsible Authority shall comply with the following rules concerning access to arrest information:

A. For the duration of time, defined in Part B of this rule, that immediately follows the creation of data constituting arrest information, the Responsible Authority shall make such information available to anyone who requests it in writing, by personal appearance, by telephone inquiry, or any other means.

B. For purposes of this rule, "duration of time" commences with the creation or recording of the arrest information subsequent to the actual detention or citation of the arrested party. "Duration of time" ends at that point in time when an arrested party is:

1. Either released without a criminal complaint being filed against him/her; or

2. Appears before a judicial officer for the offense for which he/she was arrested, or any lesser included offense as described in the Rules of Criminal Procedure as adopted by the Minnesota Supreme Court.

C. During the duration of time described in Part B. of this rule, the Responsible Authority shall not be limited to publicly releasing only arrest information, as defined by § 15.162, subd. 1a of the Act. The Responsible Authority may release additional information after consideration of at least the following:

1. Whether the status afforded to certain data as investigative data, pursuant to § 15.162, subd. 2a of the Act, is no longer needed to protect the integrity of an investigation.

2. Whether there is concern and interest on the part of the public in the person arrested or the alleged crime committed.

3. Whether the release of additional data and its subsequent publication may prejudice the arrested individual's right to a fair and impartial trial.

PROPOSED RULES

4. Whether the data subject has requested that arrest disposition data pertaining to that data subject be disseminated.

5. Whether the identity of any victims of or witnesses to the crime should be protected.

D. The Responsible Authority shall not make available to the public any data concerning the detention of a juvenile individual, unless that juvenile is judicially certified to be tried as an adult as described in the Minnesota Rule of Criminal Procedure. The Responsible Authority shall make any data concerning the detention of a juvenile available to the parents of the juvenile.

2 MCAR § 1.208 Access to Investigative Data. Pursuant to Minn. Stat. §§ 15.162, subd. 2a and 15.1641 of the Act, the Responsible Authority shall comply with the following general rules concerning access to investigatory data:

A. Investigatory data is confidential data, pursuant to § 15.162, subd. 2a(b). The Responsible Authority shall comply with the provisions of 2 MCAR § 1.206, concerning access to confidential data.

B. The Responsible Authority shall determine that data maintained by his entity is investigative data only if all criteria set out in Parts 1, 2, and 3 of this section are met.

1. Collecting agency criteria. The data is collected, created, or maintained by or at the direction of one of the following entities, or by an agent of such entity:

a. Law enforcement agencies, whose agents are given arrest powers, including, but not limited to, those entities listed in 2 MCAR § 1.201 B.1.

b. Public attorneys, who are given the statutory or constitutional authority to prosecute or to defend civil or criminal actions as defined by the Minnesota Rules of Civil Procedure and the Minnesota Rules of Criminal Procedure including, but not limited to, municipal and county prosecutors and members of the Attorney General's staff.

c. Judicial entities, whose agents are given the statutory or constitutional authority to adjudicate cases and to render sentences.

d. Any agency given statutory authority to revoke or suspend licensure.

e. Any entity which has a reasonable expectation

2 MCAR § 1.208

that certain data in its possession may become the subject of a legal action, as set forth in Part 2 of this section.

2. Purpose of collection criteria. The data is collected or created for the purpose of the commencement of a legal action. Any of the following shall constitute a "legal action", for the purposes of this rule, and as used in Minn. Stat. § 15.162, subd. 2a(b):

a. Arrest of any individual.

b. Issuance of a citation, complaint, or an indictment as described in Minnesota Rules of Criminal Procedure.

c. Service of a civil complaint on behalf of the state, a state agency, or a political subdivision.

d. Service of a civil answer on behalf of the state, a state agency, or a political subdivision.

e. Maintaining or prosecuting a civil or criminal action on behalf of the state, a state agency, or political subdivision.

f. Conducting any arbitration proceeding pursuant to Minn. Stat. ch. 572.

g. Conducting any proceeding which may lead to the suspension or revocation of any type of license issued by a state agency or political subdivision.

3. Active data criteria. Active data includes:

a. Data collected for the purpose of the commencement of a criminal action in which all perpetrators of the criminal violation have not been apprehended, the matter has not been fully adjudicated, the statute of limitations for the alleged violation has not run, or all rights of appeal in the judicial system have not been exhausted.

b. Data collected for the purpose of bringing or defending a civil action where that action has not been finally resolved, including exhaustion or extinguishment of all rights of appeal in the judicial system.

c. Data collected for the purpose of participation in an arbitration proceeding where that proceeding has not resulted in a binding decision, including exhaustion of all rights of appeal in the judicial system.

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PROPOSED RULES

2 MCAR § 1.208

d. Data collected for the purpose of participation in a license revocation or suspension proceeding where that proceeding has not resulted in a binding decision, including exhaustion of all rights of appeal in the judicial system.

2 MCAR § 1.209 Access to Summary Data. Pursuant to Minn. Stat. § 15.641 (d), the Responsible Authority shall comply with the following general rules concerning access to summary data:

A. Summary data is public data. The Responsible Authority shall comply with 2 MCAR § 1.203, concerning access to public data.

B. The Responsible Authority shall prepare and implement procedures in his/her agency to assure that access to summary data is given to anyone who requests such data. In the preparation and administration of such procedures, the Responsible Authority shall comply with the following:

1. Preparation of summary data may be requested by any person. The request shall be in writing in a form provided by the Responsible Authority. Within ten days of the receipt of such a request, the Responsible Authority shall inform the requestor of the estimated costs if any, pursuant to subd. B.2 of this rule and subject to the provisions of that subd. either:

- a. Provide the summary data requested; or
- b. Provide a written statement to the requestor, describing a time schedule for preparing the requested summary data, including reasons for any time delays; or
- c. Provide access to the requestor to the private or confidential data for the purpose of the requestor's preparation of summary data, pursuant to § 15.1641 (d) of the Act and subd. B.4. of this rule.

2. Any costs incurred in the preparation of summary data shall be borne by the requesting person. In assessing the costs associated with the preparation of summary data, the Responsible Authority shall:

- a. Be guided by the provisions of 2 MCAR § 1.203 in determining costs.
- b. Provide to the requesting person an estimate of the costs associated with the preparation of the summary data.
- c. Prior to preparing or supplying the summary data, collect any funds necessary to reimburse the entity for its costs.
- d. Charge no more than reasonable copying costs

when the summary data being requested requires only copying and no other preparation.

e. Take into account the reasonable value to the entity of the summary data prepared.

3. For the purposes of administering Minn. Stat. § 15.1641 (d), the following terms shall have the meanings given them.

a. "Administrative officer" includes, but is not limited to, the entity's research director, statistician, or computer center director.

b. "Person outside" the entity includes the person requesting the summary data or any other person designated by the person requesting the data.

4. A nondisclosure agreement, as required by § 15.1641 (d) of the Act, shall contain at least the following:

a. A general description of the private or confidential data which is being used to prepare summary data.

b. The purpose for which the summary data is being prepared.

c. A statement that the preparer understands he/she may be subject to the civil or criminal penalty provisions of the Act in the event that the private or confidential data is disclosed.

5. Methods of preparing summary data include, but are not limited to, the following:

a. Removing from a set of data, a file, or a record keeping system all unique personal identifiers so that the data that remains fulfills the definition of summary data as defined by § 15.162, subd. 9 of the Act.

b. Removing from the entity's report of any incident, or from any collection of data similar to an incident report, all unique personal identifiers so that the resulting report fulfills the definition of summary data in § 15.162, subd. 9 of the Act.

c. For purposes of this rule, "removing all unique personal identifiers" includes but is not limited to:

(1) Blacking out personal identifiers on paper records.

(2) Tearing off or cutting out the portions of paper records that contain the personal identifiers.

(3) Programming computers in such a way that

PROPOSED RULES

printed or terminal output does not contain personal identifiers.

2 MCAR § 1.210 Classification of data. In order to comply with the provisions of §§ 15.162, 15.1641, 15.165 and 15.163 of the Act the Responsible Authority shall:

A. Review and identify all of the types of data maintained by the entity, including data retained as active and inactive.

B. Determine the private, confidential, or public classification for each type of data, according to the definitions of those terms pursuant to § 15.162 of the Act and 2 MCAR § 1.202.

C. Identify either a state statute or provisions of federal law supporting any determination that certain data is either private or confidential.

B. Administer all agency data in accordance with the determinations made under 2 MCAR § 1.210 B.

2 MCAR § 1.211 Authority of the Responsible Authority. Jurisdiction, as that term is used in § 15.1641 (a) of the Act, means that the Responsible Authority shall have the authority to:

A. Implement the Act and these rules in each entity.

B. Make good faith attempts to resolve all administrative controversies arising from the entity's practices of creation, collection, use, and dissemination of data.

C. Prescribe changes to the administration of the entity's programs, procedures, and design of forms to bring those activities into compliance with the Act and with these rules.

D. Take all administrative actions necessary to comply with the general requirements of the Act, particularly Minn. Stat. § 15.165, and these rules.

E. Where necessary, direct designees to perform the detailed requirements of the Act and these rules under the general supervision of the Responsible Authority.

2 MCAR § 1.212 Appointment of the Responsible Authority.

A. Pursuant to § 15.162, subd. 6 of the Act, the governing body of each political subdivision and the governing body of each state agency whose activities are subject to the

2 MCAR § 1.214

direction of a governing body shall, within 30 days of the effective date of these rules, appoint a Responsible Authority.

1. This rule shall not affect the appointments of Responsible Authorities made previous to the adoption of this rule.

2. The governing body shall confer on the Responsible Authority full administrative authority to carry out the duties assigned by the Act and by these rules.

3. Governing bodies may use the forms set forth in the appendix to these rules to appoint the Responsible Authority.

2 MCAR § 1.213 Appointment power of the Responsible Authority. Pursuant to § 15.1641 (a) of the Act, the Responsible Authority shall, if he deems it to be in the best interest of the administration and enforcement of the Act, appoint designees who shall be members of the staff of the entity. In the exercise of this appointment power, the Responsible Authority shall comply with the following:

A. The appointment order shall be in writing and copies of the order constitute public data on individuals, pursuant to Minn. Stat. § 15.162, subd. 5(b) of the Act.

B. The Responsible Authority shall instruct any designees in the requirements of the Act and of these rules. If the Responsible Authority deems it necessary, such instruction shall include:

1. Distribution to designees of written materials describing the requirements of the Act and of these rules.

2. Preparation of training programs whose objective is to familiarize agency personnel with the requirements of the Act and of these rules.

3. Requiring attendance of designees and other entity personnel at training programs held within or outside the entity.

2 MCAR § 1.214 Duties of the Responsible Authority relating to public accountability. Pursuant to § 15.163 of the Act, the duties of the Responsible Authority shall include, but not be limited to, the following:

A. For the purposes of public accountability, the Responsible Authority shall, within sixty days of the effective

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2 MCAR § 1.214

date of these rules, or until August 1 of each year when the requirements of subd. B. of this rule are fully complied with, place his/her name, job title and business address, and the name(s) and job titles of any designees selected by the Responsible Authority on a document.

1. Such document shall be made available to the public and/or posted in a conspicuous place in each entity.

2. The document shall identify the Responsible Authority or designees as the persons responsible for answering inquiries from the public concerning the provisions of the Act or of these rules.

B. In the public document to be prepared or updated by August 1 of each year as required by § 15.163 of the Act, the Responsible Authority shall identify and describe all records, files, or processes maintained by his entity, which contain private or confidential data.

1. In addition to the items to be placed in the public document as required by § 15.163 of the Act, the Responsible Authority shall include the following:

a. The name, title, and address of designees appointed by the Responsible Authority.

b. Identification of the files or systems for which each designee is responsible.

c. A citation of the state statute or federal law which classifies the data as private or confidential.

2. The Responsible Authority shall draft the descriptions of records, files, and processes in easily understandable English. Technical or uncommon expressions, understandable only by a minority of the general public, shall be avoided except where required by the subject matter.

3. The Responsible Authority may use the form set forth in the appendix to these rules to prepare this public document.

2 MCAR § 1.215 Duties of the Responsible Authority relating to the administration of Private and Confidential Data. In order to administer the requirements of § 15.1641 (c) of the Act, the Responsible Authority shall determine for each record, file, or process identified in 2 MCAR § 1.214 whether the data contained therein was collected prior or subsequent to August 1, 1975.

A. For each record, file, or process containing data collected prior to August 1, 1975, the Responsible Authority shall:

1. Review the federal, state or local legal enabling

authority which mandated or necessitated the collection of the private or confidential data.

2. Based on that review, determine the lawful purpose for the collection of the data at the time it was originally collected.

3. Direct the staff of the entity that private or confidential data collected prior to August 1, 1975, shall not be used, stored, or disseminated for any purpose, unless that purpose is authorized by the enabling authority.

B. For each record, file, or process containing private or confidential data collected subsequent to August 1, 1975, the Responsible Authority shall:

1. Review the legal enabling authority which mandates or necessitates the collection of the data.

2. Identify the purposes for the collection of and the intended uses of all private or confidential data that have been communicated to data subjects or should have been communicated to data subjects at the time of data collection, pursuant to § 15.165, subd. 2 of the Act.

C. Using the purposes and uses identified in subds. A. and B. of this rule, the Responsible Authority shall:

1. Prepare lists which identify the uses of and purposes for the collection of private or confidential data for each type of record, file, or process identified in 2 MCAR § 1.214.

a. Each list shall identify all persons, agencies, or entities authorized by state or federal law to receive any data disseminated from the particular record, file or process.

2. Pursuant to § 15.165, subd. 2 of the Act, either:

a. Attach each list identifying purposes, uses and recipients of data to all agency forms which collect the private and confidential data that will be retained in each record, file or process; or

b. Communicate, in any reasonable fashion, the contents of each list to data subjects at the time particular data that will be retained in each record, file, or process is collected from them. For purposes of this section, "reasonable fashion" shall include, but not be limited to:

(1) Oral communications made to data subjects.

(2) Providing data subjects with brochures that describe the entity's purposes for the collection of and the uses to be made of private and confidential data.

D. In administering the entity's private or confidential

PROPOSED RULES

data consistent with the provisions of the rules, the Responsible Authority shall:

1. Educate entity personnel as to authorized purposes and uses.
2. Prepare administrative procedures that will acquaint entity personnel with authorized purposes and uses.
3. Distribute policy directives requiring compliance with the entity's determination of authorized purposes and uses.

E. The Responsible Authority shall authorize a new purpose for the collection of private or confidential data or a new use for private or confidential data under any one of the following conditions:

1. If passage of federal or state legislation requires initiation of a new or different purpose or use pursuant to § 15.1641 (c) (2) of the Act; or

2. The Responsible Authority, prior to initiation of the new or different purpose or use, complies with the provisions of either § 15.1641 (c) (1) or (3) of the Act.

a. For the purposes of administration of Minn. Stat. § 15.1641 (c) (1), the Responsible Authority shall file a statement on a form provided by the Commissioner of Administration. A Responsible Authority shall not initiate a new or different purpose or use of private or confidential data until the Responsible Authority receives written approval from the Commissioner of Administration.

b. For the purposes of Minn. Stat. § 15.1641 (c) (3) the following term shall have the meaning given it:

(1) "Informed consent" means the data subject possesses and exercises sufficient mental capacity to make a decision which reflects an appreciation of the consequences of allowing the entity to initiate a new purpose or use of the data in question.

c. For the purposes of the administration of Minn. Stat. § 15.1641 (c) (3), the Responsible Authority shall comply with the following:

(1) The Responsible Authority shall not take any action to coerce any data subject to give an "informed consent." The Responsible Authority shall explain the necessity for or consequences of the new or different purpose or use.

2 MCAR § 1.216

(2) All informed consents shall be given in writing. Prior to any signature being affixed to it by the data subject, such writing shall identify the consequences of the giving of informed consent.

(3) If the Responsible Authority makes reasonable efforts to obtain the informed consent of a data subject and if those efforts are not acknowledged in any way, the Responsible Authority shall interpret the silence of the data subject as the giving of an implied consent to the new or different purpose or use of the data.

(a) For purposes of this section, "reasonable efforts" shall include:

(i) Depositing in the United States Mail, postage pre-paid and directed to the last known address of the data subject, at least two communications requesting informed consent.

(ii) Waiting for a period of not less than 60 days for a response to the second request.

(4) The data subject may give informed consent to less than all of the data elements in any list of data elements presented by a Responsible Authority, thereby giving only partial consent.

(a) Only those elements that the data subject has expressly consented to shall become part of the new or different purpose or use.

2 MCAR § 1.216 Duties of the Responsible Authority as they relate to the administration of all Entity Data. Pursuant to § 15.1641 (b) of the Act, the Responsible Authority shall, within eighteen months of the effective date of these rules, formulate a plan that will provide for the review and analysis of the data administration practices of the entity.

A. In the formulation of this plan, the Responsible Authority shall at least provide for the preparation of a list of or index to all data or types of data currently collected, stored, used, or disseminated by the entity.

1. The list or index developed shall include the identification of the state statute(s), federal law(s), or local ordinance(s) that authorize(s) the programs or functions for which data is collected, or which authorize(s) the actual data collection, storage, use or dissemination.

a. The plan shall further provide for the list or index

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2 MCAR § 1.216

to be updated when new or different data collection, storage, use, or dissemination is authorized.

b. This list or index shall be available to members of the general public, upon request.

B. The Responsible Authority shall use this plan and the list or index developed to aid in the determination of whether collection and storage of data and use and dissemination of private and confidential data is necessary.

1. For purposes of this section, data is necessary if:

a. The particular data is both:

(1) Required to carry out programs and functions that are expressly or impliedly authorized by a provision of state statute, federal law or a local ordinance; and

(2) Periodically examined, updated, modified or referred to by the entity; or

b. The entity would be unable to fulfill its duties without undue or increased burden or expense, if the particular data were not collected, stored, used or disseminated; or

c. Retention of the particular data is required in the event that a legal action is brought against or by the entity; or

d. Retention of the particular data is essential to comply with a state or federal requirement that data be retained for a specified period for the purposes of auditing, records retention, historical interest, and other similar purposes.

C. For any data determined to be not necessary pursuant to subd. B., of this rule, the Responsible Authority shall provide for the following activities in the entity's plan.

1. Taking all actions which include making changes to forms designs, rewriting procedures, and so forth, to assure that all such data is no longer collected and stored and all such private and confidential data is no longer used and disseminated. Private data shall continue to be disseminated upon request by the data subject.

2. Disposing of such data pursuant to the procedures of the Records Management Act.

a. Inquiries concerning procedures for disposition of data may be directed to the Records Management Division, Department of Administration, St. Paul, Minnesota, 55155.

D. In the formulation of the plan described in subd. A. of this rule, the Responsible Authority shall provide for the establishment of administrative mechanisms and procedures that comply with § 15.1641 (e) of the Act. For purposes of this subdivision,

1. "Accurate" means that the data in questions is reasonably correct and free from error.

2. "Complete" means that the data in question reasonably reflects the history of an individual's transactions with the particular entity. Omissions in an individual's history that place the individual in a false light shall not be permitted.

3. "Current" means that the data in question must be logically related to the entity's required and actual use of the data in its day-to-day operations.

2 MCAR § 1.217 Duties of the Responsible Authority as they relate to computerized data. For the purposes of the administration of § 15.1641 (e) of the Act, the Responsible Authority shall be guided by the following:

A. "Directly accessible files" means files maintained by any entity which contain private or confidential data, to which access can be made or updating performed through the use of any type of communication terminal, including, but not limited to, teletypewriters and cathode ray tube terminals.

B. Within 180 days of the effective date of these rules, the Responsible Authority shall perform an audit of the physical and software security measures that the entity has installed to protect the integrity of "directly accessible files."

C. The nature and extent of the audit shall be at the discretion of the Responsible Authority, subject to the following:

1. The audit shall emphasize a review of any measures taken to assure that private or confidential data is not accessible to the public through the use of a communications terminal.

2. The audit shall include a review of the measures taken to assure all of the entity's computer based data is protected from tampering by unauthorized persons.

D. If it reasonably appears to the Responsible Authority that there are weaknesses in the entity's data security procedures, the Responsible Authority shall:

1. Provide for terminal security and system and data integrity through the establishment of appropriate security measures.

PROPOSED RULES

a. Appropriate security measures include, but are not limited to, usage of password systems, establishment of procedures to assure physical security of terminals, utilization of system usage audits, and update verification routines, and establishments of limits on the system usage capabilities given to terminals.

E. Auditing security measures on an annual basis shall be a part of the ongoing administration of the entity's computerized data system.

2 MCAR § 1.218 Administrative appeal. Pursuant to § 15.165, subd. 4 of the Act, an individual may appeal an adverse determination of a Responsible Authority to the Commissioner of Administration.

A. The appeal shall follow the procedures established in Minn. Stat. ch. 15, as amended, and the rules of the Office of Hearing Examiners relating to Contested Case Proceedings.

B. Notice of an appeal must be submitted to the Commissioner of Administration within a reasonable time of the determination made by the Responsible Authority pursuant to § 15.165, subd. 4 of the Act.

1. The notice shall be in writing and addressed to the Commissioner of Administration, State of Minnesota, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

2. The notice shall contain the following information:

a. The name, address, and phone number, if any, of the appealing party.

b. The name of the Responsible Authority and the entity which he or she represents.

c. A description of the nature of the dispute, including a description of the data.

d. A description of the desired result of the appeal.

3. The Commissioner of Administration may require additional information if it is reasonably necessary in order to establish the Contested Case Proceeding.

4. Upon written request of the data subject stating reasons, the appeal may be processed under the name of a pseudonym.

C. The Department of Administration shall be reim-

2 MCAR § 1.220

bursed for all costs associated with the Contested Case Proceeding by the entity whose Responsible Authority has been the impetus for the individual's appeal to the Commissioner of Administration.

1. The commissioner shall establish appropriate accounting procedures to provide to the entity an itemized invoice.

2 MCAR § 1.219 General powers of the Commissioner of Administration. Pursuant to § 15.163, subd. 2 of the Act and to assist in the general implementation and enforcement of the Act; the commissioner shall have the following powers:

A. If the commissioner determines that certain information is relevant to monitoring any entity's data collection and handling practices, policies and procedures, the commissioner shall require the Responsible Authority of such entity to submit the information.

B. Any inquiries concerning the Act or these rules and any information submissions required to be made by subd. A. of this rule shall be directed to the Data Privacy Unit, Department of Administration, State of Minnesota, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

C. The Data Privacy Unit shall respond promptly to all inquiries within personnel and budgetary limitations.

2 MCAR § 1.220 Duties of the Commissioner of Administration relating to emergency classification of Data. Pursuant to Minn. Stat. § 15.1642, the commissioner and Responsible Authorities shall comply with the following:

A. The Responsible Authority, pursuant to § 15.162, subd. 6 of the Act, shall prepare any application for emergency classification in writing in a form provided by the commissioner.

1. The form for an application is set out in the appendix to these rules. Copies of the form are available from the Data Privacy Unit.

B. For the purposes of the administration of § 15.1642 of the Act, the following terms have the meanings given to them:

1. "Days" means calendar, not working days.

2. "Upon filing" means upon receipt of either an original or amended application by the commissioner.

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3. "Date of disapproval" means the date the Responsible Authority actually receives the disapproval notification from the commissioner.

4. "Within 20 days of submission to the Attorney General" means within 20 days of the date that the Attorney General's Office in the Department of Administration actually receives the record from the commissioner.

C. Application for emergency classification of data shall be submitted to the Data Privacy Unit, Department of Administration, State of Minnesota, St. Paul, Minnesota 55155.

D. If the Data Privacy Unit requires the Responsible Authority to submit additional information in support of the application, that application is deemed to have been filed on

the date the additional material is received by the Data Privacy Unit. The commissioner shall return any application to the applicant if the additional information requested is not received within 30 days.

E. The provisions of this rule shall terminate and cease to have force and effect on whichever of the following dates or events occurs later:

1. On August 1, 1979; or

2. On the effective date of a statute that repeals the commissioner's authority to rule on emergency classification of data, pursuant to Minn. Stat. § 15.1642, subd. 3.

2 MCAR § 1.221 Severable provisions. If any provisions of these rules are found invalid for any reason, the remaining provisions shall remain valid.

PROPOSED RULES

2 MCAR § 1.220

ADVISORY FORM A

RESOLUTION APPOINTING A COUNTY RESPONSIBLE AUTHORITY

State of Minnesota

County of _____ (name of county)

WHEREAS, Minnesota Statutes, Section 15.162, Sub-division 6, requires that _____ (name of county) County appoint one person as the Responsible Authority to administer the requirements for collection, storage, use and dissemination of data on individuals within the county and,

WHEREAS, the _____ (name of county) County Board of Commissioners shares the concern expressed by the legislature on the responsible use of all County data and wishes to satisfy this concern by immediately appointing an administratively and technically qualified Responsible Authority as required under the statute.

BE IT RESOLVED, the County Board of Commissioners appoints _____ (name of individual) as the Responsible Authority for the purpose of meeting all requirements of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on _____ (insert appropriate date).

ADOPTED BY _____ (name of county) COUNTY COMMISSIONERS
ON _____ (date).

ATTESTED TO: _____ (signature of appropriate official)
_____ (title of appropriate official)

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2 MCAR § 1.220

ADVISORY FORM B

RESOLUTION APPOINTING A CITY RESPONSIBLE AUTHORITY

State of Minnesota

City of (insert name of city)

Resolution Title: Appointment of Responsible Authority

WHEREAS, Minnesota Statutes, Section 15.162, Sub-division 6, as amended, requires that the City of (insert name of city) appoint one person as the Responsible Authority to administer the requirements for collection, storage, use and dissemination of data on individuals, within the City and,

WHEREAS, the (insert name of city) City Council shares concern expressed by the legislature on the responsible use of all City data and wishes to satisfy this concern by immediately appointing an administratively qualified Responsible Authority as required under the statute.

BE IT RESOLVED, the City Council of (insert name of city) appoints (name of individual appointed) as the Responsible Authority for the purposes of meeting all requirements of Minnesota Statutes, Section 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on (insert appropriate date) .

ADOPTED BY (insert name of city) CITY COUNCIL ON (date) .

ATTESTED TO BY THE:

 (Signature of Mayor) on (date)
 (Signature of City Clerk) (date)

PROPOSED RULES

2 MCAR § 1.220

ADVISORY FORM C

RESOLUTION APPOINTING A SCHOOL DISTRICT RESPONSIBLE AUTHORITY

State of Minnesota

(name of district) School District

School District Number

Pursuant to the provisions of Minnesota Statutes, Section 15.162, Subdivision 6, as amended, (Insert name of individual), is hereby appointed Responsible Authority for the (insert name of district) School District Number .

(insert name of individual appointed) is hereby authorized to take all actions necessary to assure that all programs, administrative procedures and forms used within School District (insert number) are administered in compliance with the provisions of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration as published in the State Register on (insert appropriate date).

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ADVISORY FORM D

RESOLUTION APPOINTING A RESPONSIBLE AUTHORITY FOR STATE
OR LOCAL BOARDS OR COMMISSIONS

State of Minnesota

(insert name of board or commission)

Under the provisions of Minnesota Statutes, Section 15.162, Subdivision 6, as amended, (name of individual is hereby appointed Responsible Authority for (insert name of board or commission).

(insert name of individual appointed is hereby authorized to take all actions necessary to assure that all programs, administrative procedures and forms used by the (insert name of board or commission are administered in compliance with the provisions of Minnesota Statutes, Sections 15.162 through 15.169, as amended, and with rules as lawfully promulgated by the Commissioner of Administration and published in the State Register on (insert date.

PROPOSED RULES

ADVISORY FORM E

2 MCAR § 1.220

PUBLIC DOCUMENT AS REQUIRED BY MINNESOTA STATUTES, SECTION 15.163

GOVERNMENTAL (Name of Entity)
 ENTITY: (Address)

RESPONSIBLE (Name)
 AUTHORITY: (Title)
(Address)

| NAME OF RECORD, FILE, SYSTEM OR PROCESS | DESCRIPTION OF RECORD, FILE, SYSTEM OR PROCESS | CLASSI- FICATION | CITATION OF STATUTE OR FEDERAL LAW THAT CLASSI- FIES THE DATA | NAME, TITLE AND ADDRESS OF DESIGNEE, IF ANY FOR FILE, ETC. |
|---|---|--|--|--|
| (Insert a name sufficient to identify.) | (Describe in terms under- standable by the general public.) | (Insert private or confident- ial.) | (Insert citation to state or fed- eral statute, fed- eral rule, case law) | (Insert name, etc. of per- son appointed to be in charge of this file,etc.) |
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PROPOSED RULES

2 MCAR § 1.220

ADVISORY FORM F

APPLICATION FOR EMERGENCY CLASSIFICATION OF DATA

Check One: NEW APPLICATION AMENDED APPLICATION

APPLICATION FOR EMERGENCY CLASSIFICATION

Instruction: This application must be completed in full. Information requested is based on the requirements of M.S. 15.1642. This application cannot be processed unless it is complete. Submit this application to:

Commissioner, Department of Administration
% Data Privacy Unit
2nd Floor, State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

If questions arise, contact the Data Privacy Unit, (612) 296-6729 or 296-6733.

THIS APPLICATION IS A PUBLIC RECORD

It is strongly recommended that an agency or subdivision prepare this application in consultation with its legal advisor. Preparation of responses to certain questions, such as "compelling need," deal with legal standards for which legal guidance is indicated.

1. This is an application for emergency classification of data as:

PRIVATE CONFIDENTIAL

pursuant to M.S. 15.162. (Only one box may be checked. An agency cannot apply for both types of classification on the same form. Separate applications must be prepared requesting private or confidential emergency classifications.)

2. Name and address of requesting agency:

3. Is this application for: (Check one)

This agency only or for all similar agencies ?

ADVISORY FORM F

APPLICATION FOR EMERGENCY CLASSIFICATION OF DATA - PAGE 2

- 4. Name and title of Responsible Authority making the application.

M.S. 15.1642 states that only the Responsible Authority for an agency or subdivision, as described in M.S. 15.162, subdivision 6 can prepare this application.

- 5. Describe all data or types of data to be covered by this classification. This description must be as explicit and detailed as possible. Although item by item listings of data items are not required, general terms such as "all personnel records", "all police records", etc., are not acceptable. Where possible specific file or record titles may be used.

As part of your description you may exempt specific items that are public information. Attach separate sheet, if necessary.

- 6. Is there a Minnesota statute or federal law which currently allows classification of this data as non-public?

YES NO

If you are able to specifically cite such a statute or federal law, there is NO need to submit this application. The data you desire to classify is already classified by law.

- 7. Applicants must clearly establish that "data similar to that for which the emergency classification is sought has been treated as either private or confidential by other state agencies or political subdivisions and by the public." Please describe below, or on a separate attached sheet, how this data has been treated by other similar agencies, including examples where possible.

PROPOSED RULES

2 MCAR § 1.220

ADVISORY FORM F

APPLICATION FOR EMERGENCY CLASSIFICATION OF DATA - PAGE 3

8. Has any of the data covered by this application ever been made available to the general public, including the media, in the past?

_____ YES _____ NO

If yes, explain below, or on separate sheet and attach.

9. Describe, on a separate sheet and attach, why your agency feels an immediate emergency classification is needed. Pay close attention to the provisions of M.S. 15.1642, Subdivision 2 (c) which states: "That a compelling need exists for immediate emergency classification, which is not granted could adversely affect the public interest or the health, safety, wellbeing or reputation of the data subject."

Consult with your legal advisor about the meaning of the phrase "compelling need". It is not sufficient to merely affirm that a "compelling need" exists. You are required to state explicitly the nature of the compelling need and to cite facts supporting your assertions. For example, how might the data damage an individual's reputation if released?

I affirm that all of the above statements are true, to the best of my knowledge, and that I am aware that any classification made under this application expires July 31, 1979.

Date: _____

Signature of Applicant

All Applicants please note:

Pursuant to M.S. 15.1642 (as amended 1978), upon the filing of a NEW application, the data for which private or confidential classification has been requested is deemed to receive the requested classification for a period of 30 days, or until the commissioner approves or disapproves the application, (whichever is earlier). In the case of an AMENDED application, the time period is 15 days.

Your agency will be notified shortly regarding the progress on your application.

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.



Known as "Bluff Alex," Alexander Ramsey was appointed governor of the Minnesota Territory in 1872 by President Zachary Taylor. In 1855 he was mayor of St. Paul and built a home there. He became the second governor of the state in 1860, served for 12 years as a U.S. senator, and later was Secretary of War under President Rutherford B. Hayes. (Minnesota Historical Society)

Energy Agency

Notice of Request for Proposals for Consultant Services

Notice is hereby given of a Request for Proposals from qualified consultants for preparation of a book summarizing results of a Design Competition for energy efficient homes.

An amount not to exceed \$15,000 is available for this project. All proposals must be received by September 25, 1978, by the close of business.

For additional information contact:

Jan Nicklay
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-5769

Energy Agency

Data and Analysis Division

Notice of Request for Proposals for Consulting Engineering Work to Help Develop Outdoor Display Lighting Standards

Proposals are requested from lighting engineers to help develop rules governing the permissible hours of operation, the quantity and efficiency, and the definition of outdoor display lighting. Proposals must be submitted no later than September 29, 1978. The estimated amount of the contract is \$3,000.

Direct inquiries to:

Richard A. Wallen (612) 296-7457
Division of Data and Analysis
Minnesota Energy Agency
150 East Kellogg Blvd.
St. Paul, MN 55101

Notice of Availability of Contract for the Development of a Computer Based Systems Model

Notice of availability of contract is hereby given for the development of a computer based systems model for com-

munity decision-making in solid waste management and resource recovery, with an emphasis on energy and economic assessments.

The contractor shall provide a computer model capable of handling solid waste optimization procedures which will include different paths for handling wastes from source to ultimate disposal. The model must be flexible, capable of covering a range of resource recovery facility types. The contractor will also provide training in the use of the model along with operating manuals. Proposals must be submitted no later than September 21, 1978. The estimated amount of the contract is \$8,000.

Direct inquiries to:

Tom Abeles (612) 296-1001
Division of Data and Analysis
Minnesota Energy Agency
150 East Kellogg Blvd.
St. Paul, MN 55101

Housing Finance Agency Notice of Request for Proposals for Annual Report

The Minnesota Housing Finance Agency is seeking proposals to write, edit and prepare the layout for its 1978 annual report. The report is expected to be approximately 30 pages long, including approximately 10-12 pages of financial statements, and 18-20 pages of photographs and text describing agency activities. Photographs will be supplied by the agency and will be kept to a minimum.

The text should include descriptions of agency programs, figures on volume of activities and features on the impact of agency activities on local communities. Preparation of the text will involve interviews with local officials, lenders, builders, tenants and borrowers in the Twin Cities area as well as out-state areas.

The final product should be submitted to the agency by November 1, 1978.

General inquiries and proposals should be directed to:

Ms. Riva Lee
Minnesota Housing Finance Agency
Director of Research and Information Division
333 Sibley Street, Nalpak Building — Suite 200
St. Paul, Minnesota 55101
(612) 296-9820

The cost is expected to be in the range of \$5,000-\$7,500.

Proposals should be submitted to the agency by 4:30 p.m., September 19, 1978.

The City of Minneapolis Acting as An Agent to the Minnesota Department of Transportation

Notice of Availability of Contract for Preliminary Engineering for Highway Corridor Studies

The City of Minneapolis requires the services of a qualified consultant to perform preliminary engineering services for the following segment of T.H. 55:

T.H. 55 (Hiawatha Ave.) from Franklin Ave. to C.S.A.H. 62 in south Minneapolis.

The work will consist of conducting project development studies in accordance with the Minnesota Department of Transportation's "Action Plan" for a major project with significant environmental impacts. The work will include data collection and analysis, draft and final environmental statements, location study report, design study reports, public hearings and any auxiliary reports (i.e., air, noise, water quality) as may be necessary.

The estimated fee is anticipated to be in excess of \$500,000 for this project. Firms based or having established offices in the State of Minnesota are to be given first consideration.

Firms desiring consideration shall express their interest and submit their current Federal Forms 254 and 255 to the City of Minneapolis before September 15, 1978.

This is not a request for proposals. Send your response to:

Marvin A. Hoshaw
Director, Engineering Design and Planning
1800 A Government Center
Minneapolis, Minnesota 55487
(612) 348-2456

**Department of Public
Welfare
Social Services Division**

**Notice of Availability of Contract for
Day Care Services**

The Department of Public Welfare/Division of Social Services is seeking an agency to develop a procedural handbook for members of local child care advisory committees and training seminars for the purpose of introducing and explaining the handbook topics to committee members.

The handbook and seminars should include, but are not limited to, the following topics: purpose of Child Care Advisory Committees, Child Care Facilities Act Funding Process, other funding sources, relationship of local committees to county social services agencies, Minnesota Child Care and Development Advisory Council and the Department of Public Welfare, DPW rules relating to CCFA process, child development training resources, public information, needs assessment, and priority setting.

The applicant will act as consultant and coordinator of the training seminars. Primary training responsibilities will be handled by DPW — Division of Social Services personnel. Funds allocated for training seminars will be used primarily by local committee members for expenses related to attending the training seminars.

Project funding level: \$25,000

Final submission date: September 22, 1978

Inquiries and formal expressions of interest should be directed to:

Jerry Ferguson
Division of Social Services
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155
(612) 296-5766

**Notice of Availability of Contract for
Migrant Child Day Care Services**

The Department of Public Welfare/Division of Social Services is seeking an agency to organize and implement a short-term bilingual/bicultural day care service program for the children of Minnesota's migrant farm workers.

It is expected that a total of 38,660 days of developmental day care services would be provided to approximately 1,200 Spanish-speaking children (0-5 years of age) of migrant farm workers in Minnesota. Direct services shall be provided between the months of May and September, 1979, in cooperation and coordination with Department of Education — Migrant Special Education Programs, Minnesota Migrant Head Start Programs, USDA Summer Feeding Program, and Migrant Health Services, Inc.

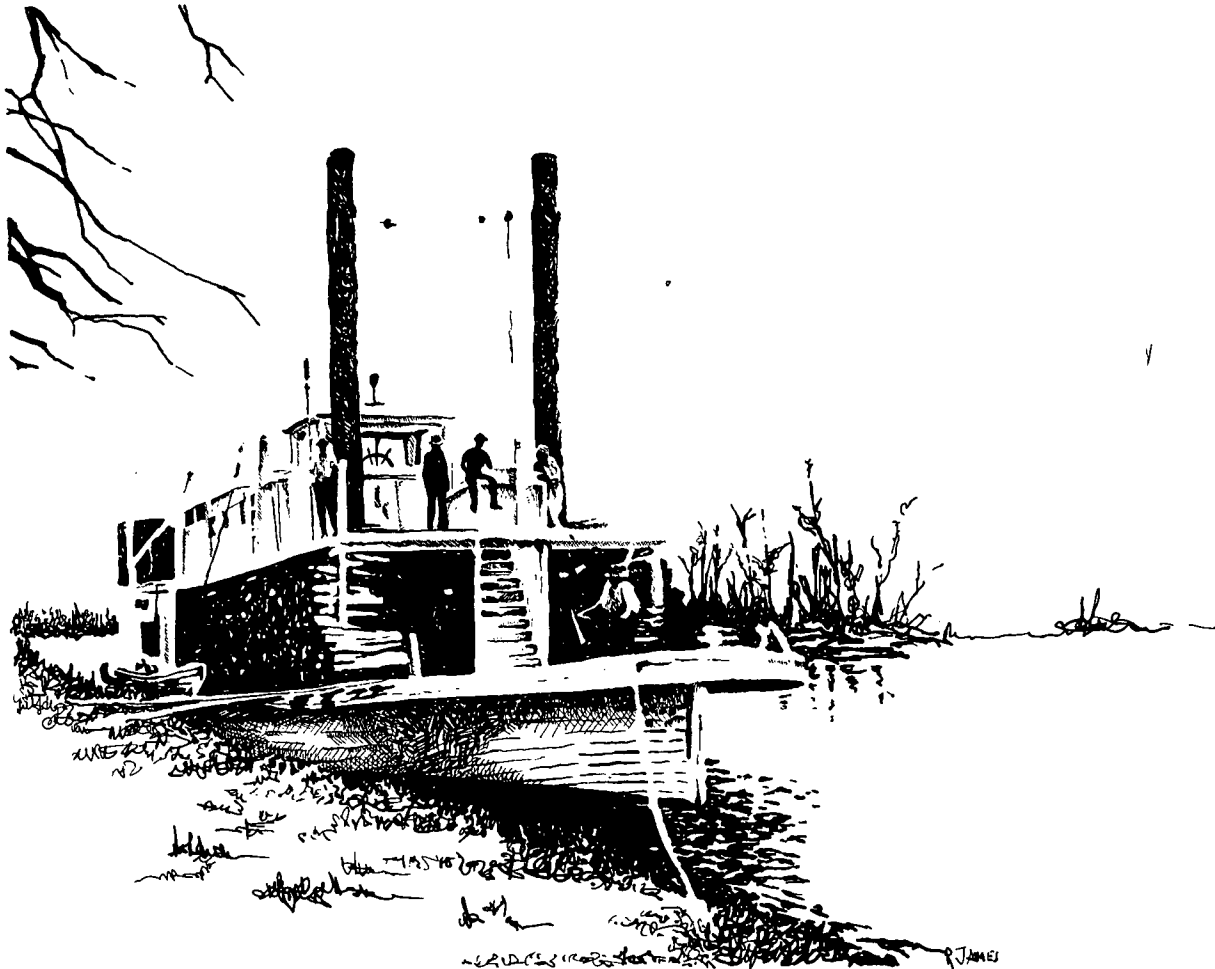
Project funding level: \$600,000

Final submission date: September 22, 1978

Inquiries and formal expressions of interest should be directed to:

Cherie Kotilinek
Division of Social Services
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155
(612) 296-3929

OFFICIAL NOTICES



From the mid-1880s to its peak period in 1905, lumbering in Minnesota was second only to fur trading as an industry. Sternwheel steamboats carried logs and towed lumber rafts down the state's many rivers to sawmills such as the one built in 1839 at Marine-on-the-St. Croix, which fostered the town of Stillwater, and the sawmill built at St. Anthony Falls in 1848. (Drawing by Rick James)

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.

Cable Communications Board

Notice of Intent to Solicit Outside Opinion Regarding Rules Governing the Length of Municipal Franchise Renewal Terms

Whereas the Minnesota Cable Communications Association has requested that the Minnesota Cable Communications Board (MCCB) modify its rules so as to change the maximum length of a franchise renewal term from 10 to 15 years, through a rulemaking petition re: 4 MCAR §§ 4.121 B. 2. and 4.134 filed with the Board on July 14, 1978; and,

OFFICIAL NOTICES

Whereas the MCCB subsequently determined to seek outside opinion prior to proposing a change in the above-cited rules:

Notice is hereby given that the MCCB is seeking opinion and information from sources outside the MCCB regarding the length of a franchise renewal term. The Board is especially interested in obtaining financial data supporting a need to lengthen the franchise renewal term from 10 to 15 years.

A hearing on this matter is scheduled for Friday, October 13, 1978, 1:00 p.m., at 500 Rice Street, St. Paul, Minnesota. Interested persons are invited to submit data or views on this subject at this hearing, or by writing to the Minnesota Cable Communications Board, 500 Rice Street, St. Paul, MN 55103 by October 13, 1978.

Any written material received by the MCCB on or before October 13, 1978 shall become a part of a hearing record in the event rules governing this subject are promulgated.

August 21, 1978

Robert J. McDonald
Executive Director

Department of Natural Resources

Notice of Intent to Solicit Outside Opinion Regarding Inclusion of the Minnesota River (Franklin to Le Sueur) in the Minnesota Wild Scenic and Recreational Rivers System

Notice is hereby given that the Department of Natural Resources has begun consideration of the possible designation of the Minnesota River (Franklin to Le Sueur) as a state Wild and Scenic River. In order to adequately determine the nature and utility of any rules associated with this designation, the Department of Natural Resources hereby requests information and comments from all interested individuals or groups concerning the subject matter of this proposed designation.

All interested or affected persons or groups are requested to participate. Statements of information and comments may be made orally or in writing.

Please address these comments to:

Department of Natural Resources
Rivers Section
B-95 Centennial Office Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-4780, and in person at the above address.

No final action on this proposal can be taken until public hearings are conducted according to the rulemaking provisions of Minn. Stat. ch. 15. Sixty days notice of these public hearings will be published in the *State Register*. All statements of information and the comments will be received until the hearing record closes.

Any proposed rules, if adopted, could regulate land uses, recreational development, and use of this river. Designation as a state Wild and Scenic River would also give the Department of Natural Resources the authority to purchase riverside lands or interests in land from willing sellers.

Theresa Bailey-Morrow
Office of Regulation

Office of the Secretary of State

Administration Division

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

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

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. Applications due by September 22, 1978.

Occupational Safety and Health Advisory Council: One vacancy for person knowledgeable in safety and safety regulation; open immediately.

Minnesota Board of Psychology: One vacancy for masters level psychologist; open immediately.

OFFICIAL NOTICES

Veterans Advisory Committee: One vacancy for a public member; open immediately.

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

Notice of Regular Meeting of Board

The regular September meeting of the Board of Architecture, Engineering, Land Surveying, and Landscape Architecture will be held in the Department of Commerce Hearing Room, 500 Metro Square, St. Paul, Minnesota at 9:00 a.m., Friday, September 29, 1978 pursuant to Section 326.07, Minnesota Statutes.

ERRATA

1. At 2 S.R. 2312: Adopted rules PSC 410-418 were incorrectly cited as published at "(1 S.R. 988)" and should read "(1 S.R. 998)".
2. At 2 S.R. 3212: PSC 410 D. should read, "Public utility" is defined in Minn. Stat. § 216B.02, subd. 4, as amended by Laws of 1978, ch. 795, and shall also include municipally owned utilities.
3. At 2 S.R. 2313: PSC 412 B.9. should read, "taxes accrued, prepaid and charged during the year."
4. At 2 S.R. 2314: Change "of" to "or" in paragraph following PSC 415 B.9.
5. At 2 S.R. 2314: Do not strike out the colon following "include" in seventh line of PSC 416 B.
6. At 2 S.R. 2315: Insert comma following "filing" in third line of PSC 418.
7. At 2 S.R. 2315: Delete "Rules" following "PSC" in second line of PSC 420.

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

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

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