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HIGHLIGHTS:

- Operation of the Community Corrections Act
 - Adopted Rules from the Department of Corrections

- High Voltage Transmission Line Route Hearings
 - Adopted Temporary Rules from the Office of the Hearing Examiners

- Administration of the Intoxicating Liquor Act
 - Proposed Rules from the Department of Public Safety

- Code of Ethics for State Employees
 - Proposed Rules from the Department of Personnel

- Effluent Standards for Discharges into the South Fork of the Zumbro River
 - Proposed Rules from the Pollution Control Agency

- Anhydrous Ammonia, Aqueous Solutions of Nitrogen and Dry Fertilizer Materials
 - Public Opinion Sought by the Department of Agriculture

- Programs for Handicapped at the 4-21 Age Levels
 - Public Opinion Sought by the Department of Education

- Railroads Changes
 - Notices of Hearings from the Department of Transportation

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Department of Corrections Implementation and Operation of the Community Corrections Act

The rules published at State Register Vol. 1, No. 12, p. 576, October 12, 1976 (1 S.R. 576), are adopted and are identical in every respect to their proposed form, with the following amendments:

CORR 4 Development of a comprehensive plan.

[[A. Each county or group of counties electing to participate under the provisions of the Act shall prepare and submit to the Commissioner a comprehensive plan developed according to "The Guidelines for the Preparation of Comprehensive Plans," prepared by the Commissioner and made available to all participating counties. Deviation from the "Guidelines" is allowable providing the county can demonstrate to the Commissioner that sound and thorough planning procedures were utilized in the preparation of the plan.

B. The Commissioner shall ensure that the local corrections advisory board and administrative (correctional) staff of the county are provided with all necessary and available assistance, guidelines, and resources of the State Department of Corrections.]]

A. The Commissioner shall ensure that the local corrections advisory board and administrative (correctional) staff of the county are provided with all necessary and available technical assistance and resources of the State Department of Corrections in the development of a comprehensive plan.

CORR 5 Changes in the comprehensive plan and budget.

A. When a county wishes to change the comprehensive plan during the calendar year, it may do so by either amendment or transfer.

1. Amendments. Amendments shall be required when:

a. Units of service are being added or deleted from a Comprehensive Plan.

[[b. Subsidy funds in amount of \$5,000 or 5% of the total annual subsidy, whichever is greater, are being reallocated within or between units of service identified in the comprehensive plan.]]

b. Subsidy funds which exceed \$5,000 or 5% of the total annual subsidy, whichever is less, are being reallocated within or between units of service identified in the comprehensive plan.

c. Amendments to the comprehensive plan shall be processed and submitted in the same manner as the comprehensive plan, and shall be submitted at the end of any calendar quarter on forms provided by the Commissioner.

2. Transfers. [[Reallocation of subsidy funds less than \$5,000 or 5% of the total annual subsidy, whichever is greater,]] Any reallocation of subsidy funds within or between units of service identified in the comprehensive plan, which will not exceed \$5,000 or 5% of the total annual subsidy, whichever is less, shall be accomplished by transfer on forms provided by the Commissioner. The transfer process requires only the approval of the administrator or director of the local community corrections system. All transfers of subsidy funds must be attached to the quarterly financial report for the period in which the transfer was made.

CORR 6 Information systems and evaluation.

A. Each Community Corrections System shall develop and implement an Information System which shall be in compliance with applicable security and privacy regulations; shall be an offender based tracking system, including minimum data elements required for State and National reporting; and shall, on a quarterly basis, provide such data as may reasonably be requested by the Department of Corrections.

B. Each Community Corrections System shall develop and implement evaluation/research designs and processes. [[according to the "Evaluation/Research Guidelines" prepared by the Commissioner.]] All Research and Information Systems designs must be approved by the Commissioner prior to implementation. [[Deviation from the "Guidelines" is allowable provided that designs are approved by the Commissioner.]]

C. A sum no less than the equivalent of 5% of the total subsidy amount made available according to the provision of the Act shall be used to develop and implement the Information System and Evaluation/Research.

CORR 7 Training/Education.

A. Each county or group of counties participating in the Act shall implement training/education programs necessary to meet the appropriate needs of line staff, administrative staff, the local corrections advisory

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board or major components of the local criminal justice system and the community at large. [[The Commissioner shall provide guidelines for the development of a training/education component of the comprehensive plan. Deviation from these guidelines is allowable provided that sound and thorough planning procedures were developed and that training/education needs are met.]]

B. A sum no less than the equivalent of 5% of the total subsidy amount made available through the provisions of the Act shall be used to develop and implement this component of the comprehensive plan.

CORR 9 County assumption of state probation and parole cases.

[[A. Each county participating under the Act shall provide a level of service to all interstate and intrastate probation and parole clients no less than that previously provided by the Commissioner as outlined in the State Procedural Guidelines or as it may be modified by subsequent legislation.

B. The Department of Corrections Community Services Operating Procedures — Adult and Juvenile; the Minnesota Corrections Board — Policies and procedures; the Department of Corrections Juvenile Parole and Revocation Policies; shall serve as guidelines. Deviation from these guidelines is permitted provided said deviation is mutually agreeable between the affected agencies.]]

A. Each county participating under the Act shall provide service to all interstate and intrastate probation and parole clients.

B. [[C.]] The Commissioner will provide necessary orientation training for counties to assume probation and parole services previously provided by the State.

CORR 11 Program relevance to correctional objectives.

A. Each program specified in the comprehensive plan or designated to receive Community Corrections Act funds shall have a clear relationship to correctional objectives. Programs for which no [[reasonable]] direct relationship can be demonstrated between its activities and the protection of public safety or the prevention or reduction of criminal or delinquent behavior shall not be eligible for funds under the Community Corrections Act.

Office of Hearing Examiners Procedures for Hearings Relating to the Designation and Exemption of Routes for High Voltage Transmission Lines

Order Adopting Rules

WHEREAS, Laws of 1977, ch. 439, § 26, authorizes the Chief Hearing Examiner to adopt emergency rules pursuant to Minn. Stat. § 15.0412, subd. 5, within 30 days of the effective date of the act, establishing procedures for public hearings relating to the designation and exemption of routes for high voltage transmission lines; and

WHEREAS, Laws of 1977, ch. 439, § 28, provides that the act is to be effective the day following its final enactment; and

WHEREAS, Laws of 1977, ch. 439 was signed by Governor Rudy Perpich on June 2, 1977, causing the effective date of the act to become June 3, 1977; and

WHEREAS, Laws of 1977, ch. 439, § 22, provides that the Chief Hearing Examiner shall also, prior to January 1, 1978, adopt procedural rules relating to the site designation of large electric power generating plants; and

WHEREAS, it has been found to be in the best interest of the public to have a single set of rules governing procedures for both site and route designation and exemption.

NOW, THEREFORE, IT IS ORDERED, that these rules identified as Rules of the Office of Hearing Examiners, Chapter Four, Siting of Large Electric Power Generating Plants and Routing of High Voltage Transmission Lines Hearing Procedures are adopted, insofar as they apply to the designation and exemption of routes for high voltage transmission lines and shall remain in effect, pursuant to Laws of 1977, ch. 439, § 26, until either January 1, 1978, or until permanent rules are properly adopted pursuant to Minn. Stat. ch. 15, whichever occurs first, this First day of July, 1977, pursuant to authority vested in me by Laws of 1977, ch. 439, § 26.

Duane R. Harves
Chief Hearing Examiner

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

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Adopted Temporary Rules

HE 401 Scope and purpose. The procedures contained herein shall govern the conduct of all hearings conducted for the Environmental Quality Board involving the siting of large electric power generating plants, the routing of high voltage transmission lines and to the route exemption process contained in Minn. Stat. § 116C.57, subd. 5, provided, however, that the procedures for hearing concerning the revocation or suspension of a site certificate or construction permit shall be those contained in Minn. Rule HE Chapter Two.

HE 402 Definitions.

A. Board. Board means the Environmental Quality Board.

B. Intervenor. Intervenor means any person granted permission to intervene in any proceeding pursuant to these rules.

C. Party. Party means the applicant, the Board, citizen committees appointed by the Board, persons proposing routes or sites which the Board orders to be considered pursuant to Minn. Stat. ch. 116C., and persons granted permission to intervene pursuant to HE 407.

D. Person. Person means an individual, partnership, joint venture, private or public corporation, association or society, firm, public service company, cooperative, political subdivision, municipal corporation, governmental unit or agency, public utility district, or any other entity, public or private, however organized.

E. Proceeding/Proceedings. As used herein, these terms mean all events including prehearings, hearings, orders and reports issued necessary to the completion of the hearing process on any application by a utility for the siting of a power plant, the routing of a transmission line, or exemptions.

F. Service; Serve. Unless otherwise provided by law, service or serve means service by First Class United States mail, postage prepaid and addressed to the person to be served at his last known address. An affidavit of service shall be made by the person making such service. Service by mail is complete upon the placing of the item to be served in the mail. Service may also be made personally.

HE 403 Hearing examiners.

A. Request for appointment. When the Board desires to order a hearing under this Chapter, it shall first file with the Chief Hearing Examiner a request for ap-

pointment of a Hearing Examiner, together with the notice of hearing proposed to be published and served.

B. Appointment. Within ten days of receipt of a request pursuant to HE 403 A., the Chief Hearing Examiner shall appoint a Hearing Examiner to hear the case and the Hearing Examiner shall advise the Board as to the location at which and time during which a hearing should be held so as to allow for participation by all affected persons.

C. Duties. Consistent with law the Hearing Examiner shall perform the following duties:

1. Grant or deny motions for discovery or for the taking of depositions.
2. Receive and act upon requests for subpoenas.
3. Hear and rule on motions.
4. Preside at the hearing.
5. Administer oaths and affirmations.
6. Grant or deny continuances.
7. Examine witnesses where he deems it necessary.
8. Prepare findings of fact, conclusions and recommendations.
9. Make preliminary, interlocutory or other orders as he deems appropriate.
10. Do all things necessary and proper to the performance of the foregoing.

HE 404 Commencement. Proceedings under this chapter are commenced by the Board issuing a Notice of Hearing pursuant to the requirements of Minn. Stat. ch. 116C. The Notice of Hearing shall contain, but not be limited to the following:

- A. The date, time and place for each hearing.
- B. Name and address and telephone number of the Hearing Examiner.
- C. A citation to the Board's statutory authority to hold the hearing and to take the action proposed.
- D. A description of the proposed project together with a citation to the relevant statutes or rules.
- E. Notification of the right of all persons to be represented by legal counsel.

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F. A citation to these rules and to any applicable procedural rules of the Board and where they may be obtained.

G. The name, address and phone number of the Public Advisor designated by the Board pursuant to Minn. Stat. § 116C.59, subd. 3.

H. The name, address and phone number of the Board official or member of the Attorney General's staff who will be representing the Board or the State Planning Agency staff.

I. A statement advising all persons of the right of intervention, the procedures which must be complied with, the date by which the petition to intervene must be filed, and a description of the rights and responsibilities intervening parties have as opposed to persons wishing to participate.

J. The date, time and place of any prehearing conference.

K. The place where all interested persons may review all materials including all prefiled testimony and the date when such will be available.

L. A listing of the existing parties giving the name and address of the person designated to receive all notices.

M. A statement of the times and places where cross-examination by parties will occur, where questioning by interested persons will occur, and where direct testimony or comments from the public will occur.

N. A statement indicating that hearings may be recessed and reset by the Hearing Examiner pursuant to HE 413.

O. A listing of witnesses exempted from appearing throughout the hearing process pursuant to HE 413 B., and a listing of the dates and places such witnesses will be in attendance.

HE 405 Right to counsel. Any person may be represented by legal counsel throughout the proceedings.

HE 406 Time.

A. Computation of time. In computing any period of time prescribed by these rules or the procedural rules of

the Board, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday.

B. Additional time after service by mail. Whenever a person has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon him, or whenever such service is required to be made within a prescribed period before a specified event, and the notice or paper is served by mail, three days shall be added to the prescribed period.

HE 407 Public participation. At all proceedings conducted pursuant to this chapter, all persons who are not parties will be allowed to participate without the necessity of intervening as a party. Such participation shall include, but not be limited to:

A. Offering direct testimony with or without benefit of oath and without the necessity of prefiling as required of all parties by HE 413 I.

B. Offering direct testimony in written form at or following the hearings.

C. Questioning of all persons testifying. Persons other than parties desiring to submit questions in written form may do so prior to or during the hearings by handing them to the Hearing Examiner.

HE 408 Intervention.

A. Petition. Any person desiring to intervene in the hearings as a party shall submit a timely petition to intervene to the Hearing Examiner and shall serve the petition upon all existing parties. To be considered timely, a petition must be received by the Hearing Examiner no later than 4:30 p.m. on the date specified in the Notice of Hearing. The petition shall show how the petitioner's legal rights, duties or privileges may be determined or affected by the proceedings, how his rights, duties and privileges are not otherwise represented, and shall set forth the grounds and purposes for which intervention is sought and shall indicate petitioner's statutory right to intervene, if one should exist.

B. Objection. Any party may object to the petition for intervention by filing a Notice of Objection with the Hearing Examiner within seven days of service of the

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petition. The Notice shall state the party's reasons for objecting and shall be served upon all parties and the person petitioning to intervene.

C. Order. The Hearing Examiner shall allow intervention upon a proper showing pursuant to HE 407 A. unless the Hearing Examiner finds that the petitioner's interest is adequately represented by one or more parties participating in the case. In the event the Hearing Examiner finds that one or more petitions are similar, he may order the petitions to be consolidated as one, allowing all such petitioners intervention but only as one party.

D. Responsibilities of intervenors. Once a petition to intervene has been granted, an intervenor shall have all of the rights and responsibilities of a party and shall be subject to the requirement of prefiling all direct testimony.

HE 409 Disqualification. The Hearing Examiner shall withdraw from participation in the proceedings at any time if he deems himself disqualified for any reason. Upon the filing in good faith by a person of an affidavit of prejudice, the Chief Hearing Examiner shall determine the matter as a part of the record provided the affidavit shall be filed no later than 5 days prior to the date set for the first hearing date.

HE 410 Prehearing conference.

A. Purpose. The purpose of the prehearing conference is to simplify the issues to be determined, to obtain stipulations in regard to foundation for testimony or exhibits, and other matters that may be necessary or advisable.

B. Procedure. Upon the request of any party or upon his own motion, the Hearing Examiner may, in his discretion, hold a prehearing conference. The Hearing Examiner may require the parties to file a prehearing statement prior to the prehearing conference which shall contain such items as the Hearing Examiner deems necessary to promote a useful prehearing conference. A prehearing conference shall be an informal proceeding conducted expeditiously by the Hearing Examiner. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the Hearing Examiner.

HE 411 Depositions to preserve testimony. Upon the request of any person, the Hearing Examiner may order that the testimony of any witness be taken by deposition to preserve his testimony in the manner prescribed by law for depositions in civil actions. The request shall indicate the relevancy of the testimony and shall make a

showing that the witness will be unable or cannot be compelled to attend the hearing or show other good cause.

HE 412 Subpoenas. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Hearing Examiner and shall contain a brief statement demonstrating the potential relevance of the testimony or evidence sought and shall identify any documents sought with specificity.

A. Service of subpoenas.

1. A subpoena shall be served in the manner provided by the Rules of Civil Procedure for the District Courts of the State of Minnesota unless otherwise provided by law.

2. The cost of service, fees, and expenses of any witness subpoenaed shall be paid by the person at whose request the witness appears.

3. The person serving the subpoena shall make proof of service by filing the subpoena with the Hearing Examiner, together with his affidavit of service.

B. Motion to quash. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance therewith, the Hearing Examiner may quash or modify the subpoena if he finds that it is unreasonable or oppressive.

HE 413 Hearings.

A. Hearing procedures.

1. **Conduct of the proceedings.** The proceedings shall be conducted substantially in the following manner:

a. After opening the hearing, the Hearing Examiner shall indicate the procedural rules for the hearing including the following:

(1) All persons may present evidence and argument with respect to the issues and cross-examine witnesses.

(2) All persons have a right to be represented by an attorney at the hearing.

(3) The rules of evidence as set forth in HE 413 E.

b. Cross-examination shall be conducted in a sequence determined by the Hearing Examiner.

c. The record of the hearing shall be closed upon receipt of the final written comment, memorandum or proposed findings of fact, whichever is appropriate, at a date to be set by the Hearing Examiner at the close of the last hearing.

2. Sequence of the proceedings.

a. All hearings shall adjourn no later than 11:00 p.m. unless the Hearing Examiner determines that the public interest will best be served in any given proceeding by adjourning specific hearings at different times.

b. The hearing shall be scheduled in two stages. The first stage shall be for the purpose of introducing into evidence all of the prefiled direct testimony of the parties, and the cross-examination of each witness by all other parties. The subsequent stage shall be for the purpose of allowing all other interested persons to present their direct testimony and to question witnesses that offered testimony during the first stage of the hearing process.

c. Nothing contained herein shall be interpreted so as to prevent the public from being present during the first stage of the proceedings or to question witnesses at an appropriate time during the first stage of the proceedings, should time allow. It is the intended purpose of the two-stage process to establish specific hearing dates for the sole purpose of public participation in order to avoid inconveniencing the general public by requiring them to wait until late at each hearing before having opportunity to offer direct testimony and ask questions.

d. Nothing contained herein shall be interpreted so as to prevent the Hearing Examiner from establishing additional hearing dates on Motion or at his discretion.

3. Participation by state agencies. Any state agency which participates in the proceedings as a party may only participate through its designated representative or counsel. Exceptions to this rule may be allowed at the discretion of the Hearing Examiner for good cause shown.

B. Availability of witnesses. All witnesses who offer prefiled direct testimony in compliance with HE 413 I., shall be available for questioning by interested persons at each hearing date and place. In the event a witness cannot be available throughout the hearing process, the party on whose behalf the witness testified shall request an exemption from this rule of the Chief Hearing

Examiner prior to the publication of the Notice of Hearing. The request shall state the reasons why the witness cannot be present at each hearing, and the date, or dates, on which the witness can be available. For good cause shown, the Chief Hearing Examiner shall grant the exemption and shall immediately notify the Board. The Board shall then include in the Notice of Hearing a statement indicating the name of the witness, the nature of his testimony, and the dates and places where the witness will be available for questioning by all parties and persons. The party requesting the exemption shall do so in writing and shall serve a copy of the request on all other parties. Any party may object to the exemption by filing his written objection with the Chief Hearing Examiner and serving a copy on all parties within five working days of the date of the request. In the event an objection is made, the Chief Hearing Examiner shall immediately notify all parties of the date, time and place where he will hear arguments on the request, subsequent to which he shall issue an order granting or denying the request for exemption.

In the event a witness has prefiled testimony and fails to present himself for questioning, such prefiled testimony shall be given such weight as the Hearing Examiner deems appropriate.

C. Rights of persons. All persons shall have the right to present evidence, rebuttal testimony and argument with respect to the issues and to cross-examine witnesses.

D. Witnesses. Any person may be a witness or may present witnesses on his behalf at the hearings. Direct testimony shall be admitted as allowed by HE 408.

E. Rules of evidence.

1. General rules. The Hearing Examiner may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. The Hearing Examiner shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial or unduly repetitious may be excluded.

2. Evidence must be offered to be considered. All evidence to be considered in the case, including all records and documents (except tax returns and tax reports) in the possession of the Board or a true and accurate photocopy thereof, shall be offered and made a part

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of the record in the case. No other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case.

3. **Documentary evidence.** Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the Hearing Examiner.

4. **Notice of facts.** The Hearing Examiner may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any person to rebut.

5. **The burden of proof.** Any route or site proposer must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden.

Oral testimony received without benefit of oath or affirmation and written submissions that are not subject to cross-examination shall be given such weight as the Hearing Examiner deems appropriate.

F. The record.

1. **Preparation of record.** Pursuant to Minn. Stat. § 15.0418, the Office of Hearing Examiners, upon certification of the official record of the case by the Board to it, shall prepare and maintain the official record in each proceeding.

2. **What the record shall contain.** The record in a hearing shall contain:

- a. All pleadings, motions and orders;
- b. Evidence received or considered;
- c. Offers of proof, objections and rulings thereon;
- d. The Hearing Examiner's findings of fact, conclusions and recommendations;
- e. All memoranda or data submitted by any person and considered by the Hearing Examiner in connection with the case;

3. **The transcript of each hearing, if any.**

a. **Reporter.** Unless the Chief Hearing Examiner determines that the use of a court reporter is more appropriate, an audio-magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter.

b. **Transcription.** The verbatim record shall be

transcribed if requested by a person or in the discretion of the Chief Hearing Examiner. If a transcription is made, the Chief Hearing Examiner may require the requesting person and other persons who request copies of the transcript to pay a reasonable charge therefor. The charge shall be set by the Chief Hearing Examiner, and all monies received for transcripts shall be payable to the State Treasurer and shall be deposited in the State Office of Hearing Examiners account in the State Treasury.

4. **Environmental impact statement.** Any draft Environmental Impact Statement or Environmental Report required to be prepared by rules of the Board shall be entered into a record at a point during the hearing process which will allow all persons an opportunity to review and comment on the material.

G. **Continuances.** During a hearing, if it appears in the interest of justice that further testimony should be received, the Hearing Examiner, in his discretion, may continue the hearing to a future date and such oral notice on the record shall be sufficient.

H. **Motions.** No motions shall be made directly to or be decided by the Board subsequent to the appointment of a Hearing Examiner and prior to the completion and filing of the Hearing Examiner's report unless the motion is certified to the Board by the Hearing Examiner. Uncertified motions shall be made to the Hearing Examiner and considered by the Board in its consideration of the record as a whole subsequent to the filing of the Hearing Examiner's report.

I. **Prefiled testimony.** All direct testimony to be offered by any party shall be prepared in advance of the hearing in question and answer form and shall be filed 14 days prior to the hearing in the following manner:

1. The original and one copy with the Hearing Examiner;
2. One copy with the Board;
3. One copy with each party; and
4. One copy at a place in each county where a hearing is to be held pursuant to statute at a location designated by the Board for public review.

Said testimony will be part of the record in each proceeding as if read, but all of the witnesses shall be available for cross-examination and questioning at each and every hearing subject to the provisions of HE 413 B. Objections to such direct testimony may be made by any person, any time during the hearings conducted pursuant to this chapter. Five copies of the prefiled tes-

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timony of each witness shall be made available for the review by the public at each hearing.

J. Disruption of hearing.

1. **Cameras.** No television, newsreel, motion pictures, still or other cameras, other than those provided by the Office of Hearing Examiners or at its discretion, shall be operated in the hearing room during the course of the hearing unless permission is obtained from the Hearing Examiner prior to the opening of the hearing and then subject to such conditions as the Hearing Examiner may impose to avoid disruption of the hearing.

2. **Other conduct.** Pursuant to and in accordance with the provisions of Minn. Stat. § 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the Hearing Examiner shall read this rule to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

HE 414 The decision.

A. Basis for determination.

1. **The record.** No factual information or evidence, except tax returns and tax reports, which is not a part of the record shall be considered by the Hearing Examiner or the Board in the determination of a hearing.

2. **Administrative notice.** The Hearing Examiner may take administrative notice of general, technical or

scientific facts within their specialized knowledge in conformance with the requirements of Minn. Stat. § 15.0419, subd. 4.

B. **Hearing examiner's report.** Following the close of the record and the completion of the transcript, the Hearing Examiner shall make his report pursuant to Minn. Stat. § 15.052, subd. 3, and, upon completion, a copy of said report shall be served upon all parties by regular mail.

C. **Board decision.** Following receipt of the Hearing Examiner's report, the Board shall proceed to make its final decision in accordance with Minn. Stat. §§ 15.0421, 15.0422 and ch. 116C.

HE 415 Rehearing. A rehearing pursuant to Board order shall be commenced in the same manner as set forth for commencement of proceeding in HE 404. The rehearing shall be conducted in the same manner prescribed for a hearing.

HE 416 Emergency procedures. Nothing contained in these rules is intended to preempt, repeal or be in conflict with any rule or statute which provides for acts by the Board in an emergency or procedure for conduct by the Board in such a situation.

HE 417 Severability. If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

HE 418 Effective date. These rules shall be effective on July 1, 1977, and shall remain in effect until January 1, 1978, or until permanent rules are adopted, whichever occurs first.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

Department of Personnel A Code of Ethics for All Executive Branch State Employees

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Department of Personnel Large Conference Room, Third Floor, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101 on August 30, 1977 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, Officer of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8112 either before the hearing or within 5 working days after the close of the hearing.

The proposed rules, if adopted, would provide a Code of Ethics to which all employees of the executive branch of the State will be required to adhere. Specifically the proposed rules govern the acceptance of gifts and favors, the use of confidential information, outside employment, the use of state property, conflicts of interest and actions to avoid conflicts of interest. Copies of the proposed rules are now available and one free copy may be obtained by writing to Richard Cottrell, Department of Personnel, 3rd Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 43.05, subd. 2(13) (1976). A Statement of Need explaining why the agency feels the proposed rules are necessary and a Statement of Evidence outlining the testimony the department will be introducing at the hearing will be filed with the Office of Hearing Examiners at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical

Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Richard W. Session
Commissioner

Rules as Proposed

Readers should note that the following rule is totally new.

Chapter Nineteen: Code of Ethics

Persl 275 Policy: The observance of high moral and ethical standards by state employees is essential to the conduct of free government. The employee holds his or her position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

It is recognized that state employees should have equal opportunity with all citizens to develop private economic and social interests and that it is therefore necessary to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material and conflict with the employee's responsibility to the public.

The standards of conduct for employees in the performance of their official duties set forth in this chapter are intended to eliminate conflicts of interest, improve standards of public service and promote and strengthen the faith and confidence of the people of this state in their government. It is further intended that these standards shall serve both as a guide of official conduct for the state's employees and as a basis for disciplinary action.

Persl 276 Definitions: For the purposes of this chapter the following terms shall be given the meaning ascribed to them.

- A. "Anything of value" means a gift, favor, service or promise of future employment or other future benefit.
- B. "Agency" means a department, commission, board, institution or other entity in the executive branch in which all positions are under the same appointing authority.
- C. "Appointing Authority" means a person or group of persons empowered by the constitution, by statute or by lawfully delegated authority to make appointments to positions in state service.
- D. "Commissioner" means the State Commissioner of Personnel.
- E. "Business" means corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in non-profit or profit-making activities.

PROPOSED RULES

F. "Confidential information" means information obtained under government authority which has not become part of the body of public information.

G. "Employee" means any classified or unclassified employee of the executive branch except constitutional officers or their deputies.

H. "Personal and private interest" means an interest, including but not limited to a financial interest, which pertains to a person, firm, corporation or association whereby such person, firm, corporation or association would gain a special benefit, privilege, exemption, or advantage from the action of a state agency.

Persl 277 Acceptance of gifts or favors. An employee of a state agency shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity or anything of value from any source except the State of Minnesota for any matter or proceeding connected with or related to the duties of the employee unless otherwise provided for by law; however, honoraria or expenses paid for papers, talks, demonstrations or appearances made by employees on their own time for which they are not compensated by the State, shall not be deemed a violation of this section, provided such activity is approved in advance by the appointing authority.

Persl 278 Use of confidential information. An employee shall not disclose confidential information acquired in the course of or by reason of official position, shall not use such information to further his/her personal interest and shall avoid the acceptance of outside employment or involvement in business or professional activity which will require him/her to disclose confidential information.

Persl 279 Outside employment.

A. An employee shall not accept other employment which will impair his/her independence of judgment in the exercise of his/her official duties.

B. An employee of a state agency shall abstain from making or retaining personal investments in, or taking employment with, any business which is or which he/she has reason to believe may be directly involved in decisions to be made by the employee, or that will otherwise create substantial conflict between the employee's duty in the public interest and any private interest.

C. In determining whether such outside employment or activity for private gain constitutes a conflict with public

duties or is inconsistent or incompatible with public employment, the appointing authority shall consider whether such activity or employment involves:

1. The use for private gain or advantage of state time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of state office or employment;

2. Receipt or acceptance by the employee of any money or other thing of value from anyone other than the state for the performance of an act which the employee would be required or expected to perform in the regular course or hours of state employment or as part of the duties as an employee;

3. Employment by an enterprise which is subject to direct or indirect control, review, audit or enforcement by the agency of which she/he is an employee.

4. The performance of an act in other than his/her capacity as an employee, which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by the employee, serving as an official representative of the agency.

Persl 280 Conflict of interest.

A. An employee of a state agency shall not use or attempt to use his/her position to secure special privileges or exemptions for himself/herself or others.

B. An employee of a state agency shall not engage in any transactions as representative or agent of the state with any business entity in which he/she has a direct or indirect pecuniary interest.

C. Any business that an employee has a significant fiduciary relationship in may not enter into any contract with an agency which is to be paid in whole or in part out of state funds unless the contract has been awarded through public notice, competitive bidding or any other process as provided for by law.

D. No employee of any agency of the State of Minnesota may act as an agent or attorney for the prosecution of any claim before any court, commission, or other tribunal against the State of Minnesota, nor should the employee aid or assist in the prosecution or support of any such claim otherwise than in the proper discharge of official duties, nor receive a gratuity or any share of interest in any such claim. Nothing in this section shall be construed to prevent such an employee from pursuing a claim in his/her own behalf.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

E. A former employee of an agency shall not represent a client in any proceeding before that agency for one year from the date of last employment with the agency.

Persl 281 Use of state property. An employee shall not use or allow the use of state time, property, supplies, or equipment, including property leased by the State, for his private interests, except as provided by law or for any other use not in the interest of the State of Minnesota.

Persl 282 Action to avoid possible conflict. When an employee believes the potential for conflict of interest exists, or if the discharge of his/her official duties, an employee is required to take an action prohibited of this chapter, it is his/her duty to take action to avoid this situation. The employee should:

A. Cease the performance of duties that would create conflict of interest.

B. Prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision;

C. Deliver copies of this statement to his/her appointing authority, request clarification of the possibility for conflict of interest, and be guided by the opinion so rendered. The appointing authority may, in turn request an advisory opinion from the Commissioner or legal counsel.

or

Request an advisory opinion directly from the Commissioner. If it is determined that a conflict exists, the employee shall be relieved of the assignments and the appointing authority shall assign the matter to another qualified employee who does not have a conflict.

Persl 283 If any agency wishes to establish additional regulatory provisions affecting the conduct of its employees, it must do so by the rule making procedure; however, these rules shall be submitted to the Commissioner for approval. This additional code of conduct may not be adopted prior to approval by the Commissioner.

Persl 284 The rules of conduct hereinabove set forth shall be deemed conditions of employment in the state service. Violation of these rules of conduct may constitute just cause for disciplinary action. Employees who are disciplined under the provisions of this chapter shall have access to the same grievance procedures outlined in Persl 176.

Persl 285 It shall be the responsibility of each appointing authority to provide a copy of this code and any amendments thereto to all current employees and to new employees at the time of appointment.

Pollution Control Agency Effluent Standards for Disposal Systems Discharging to the South Fork of the Zumbro River

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Council Chambers of the City Hall, Rochester, Minnesota on Monday, August 29, 1977, commencing at 9:30 a.m., reconvening at 7:00 p.m., and continuing on subsequent days until all persons have had an opportunity to be heard. At this hearing the Minnesota Pollution Control Agency will present its witnesses and evidence in support of the adoption of the above-captioned rule.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109 either before the hearing or within 20 days after the close of the hearing. For those wishing to submit written materials, it is requested that at least three (3) copies be furnished. In addition, in the interest of efficiency it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

The proposed rule, if adopted, will establish effluent standards for all disposal systems discharging effluent into the waters of the South Fork of the Zumbro River from the dam at Silver Lake in Section 26, Township 107 North, Range 14 West in the City of Rochester to the beginning of Lake Zumbro in Section 23, Township 108 North, Range 14 West, Olmsted County. These effluent standards shall be in addition to those imposed by Minnesota Regulations WPC 14 and any other effluent standards imposed by any other regulations applying to these waters, and shall supersede any conflicting standards which may be less stringent. The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 115.44, subd. 4 (1976).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Lanny R. Peissig, Division of Water Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113. Additional copies will be available at the hearing. A "statement of need" explaining why the Agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony it will be introducing will be filed with the Hearing Examiner's Office at least 25 days

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prior to the hearing and will be available for public inspection.

Please be advised that Minnesota Statutes Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Sandra S. Gardebring
Executive Director

Rule as Proposed

Readers should note that the following rule is totally new.

WPC 43 The following standards of effluent quality and purity are hereby adopted and established for all of the intrastate waters of the South Fork of the Zumbro River from the dam at Silver Lake in Section 26, Township 107 North, Range 14 West in the city of Rochester to the beginning of Lake Zumbro in Section 23, Township 108 North, Range 14 West, Olmsted County.

A. Scope. These effluent standard requirements shall be in addition to the effluent standards imposed by WPC 14 and any other standards imposed by other regulations applying to these waters, and shall supersede any less stringent effluent standards conflicting with provisions of this regulation.

B. Severability. All provisions of this regulation shall be severable and the invalidity of any lettered paragraph or any subparagraph or subdivision thereof shall not void any other lettered paragraph or subparagraph, subdivision or any part thereof.

C. Definitions. The terms "seepage," "industrial wastes," "other wastes," "treatment works," "disposal systems," and "waters of the state," as well as any other terms for which definitions are given in the Water Pollution Control Statutes, as used herein have the meanings ascribed to them in Minn. Stat. §§ 115.01 and 115.41 (1976) with the exception that disposal systems or treatment works operated under permit of the Agency shall not be construed to be "waters of the state" as the term is used herein. Other

terms and abbreviations used herein which are not specifically defined in applicable federal or state law shall be construed in conformance with the context, and in relation to the applicable section of the statutes pertaining to the matter at hand, and current professional usage.

D. Standards of effluent quality and purity. It is herein established that the Agency shall require the treatment of all discharges of sewage, industrial waste or other waste effluent to meet the following effluent standards (see Section (c) (6), WPC 14 for additional effluent requirements):

<i>Substance or Characteristics**</i>	<i>Limiting Concentration or Range</i>
5-Day Biochemical Oxygen Demand*	10 milligrams per liter
Total Suspended Solids*	10 milligrams per liter
Minimum Dissolved Oxygen*	5 milligrams per liter
Ammonia (N)*	1.5 milligrams per liter

E. Determination of compliance. Compliance will be based on effluent samples which are representative of the discharge. In making tests or analyses of the sewage, industrial wastes or other wastes to determine compliance with the standards, samples shall be collected in such manner and place, and shall be of such type, number and frequency as may be considered satisfactory by the Agency from the viewpoint of adequately reflecting the condition of the composition of the effluents. Reasonable allowance will be made for dilution of the effluents, which are in compliance with Section D., to meet established water quality standards following discharge into waters of the state. The Agency by allowing dilution may consider the effect on all uses of the waters into which the effluents are discharged. The samples shall be preserved in accordance with procedures given in

*The concentration specified in Regulation WPC 14 Section (c) (6) may be used in lieu of the concentrations specified herein if the discharge of effluent is restricted to the spring flush or other high runoff periods when the stream flow rate above the discharge point is sufficiently greater than the effluent flow rate to insure that the applicable water quality standards are met during such discharge periods. The ammonia (N) and dissolved oxygen effluent standards are not applicable if a controlled form of discharge is utilized and the applicable water quality standards for ammonia (N) and dissolved oxygen, respectively, are not violated during the discharge period.

**If treatment works are designed and constructed to meet the specified limits given above for a continuous discharge, at the discretion of the Agency the operation of such works may allow for the effluent quality to vary between the limits specified above and in Regulation WPC 14 Section (c) (6), provided the water quality standards and all other requirements of the Agency and the U.S. Environmental Protection Agency are being met. Under this variability of treatment option the ammonia (N) effluent concentration could vary up to levels normally obtained by operation of secondary treatment facilities provided the applicable water quality standard for ammonia (N) is met. Such variability of operation must be based on adequate monitoring of the treatment works and the effluent and receiving waters as specified by the Agency.

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

the 1971 edition of Standard Methods for the Examination of Water and Waste-Water, by the American Public Health Association, American Water Works Association, and the Water Pollution Control Federation, and any revisions or amendments thereto. Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. Section 1314 (1972) and Minn. Stat. § 115.03, subd. 1(e) (7) (1976). The Agency may accept or may develop other methods, procedures, guidelines or criteria for measuring, analyzing and collecting samples. The arithmetic mean for concentrations of 5-day biochemical oxygen demand, total suspended solids, and ammonia (N) shall not exceed the stated values in Section D. of this regulation in a period of 30 consecutive days. The value of dissolved oxygen shall never be less than 5 milligrams per liter.

F. Variance from standards. In any case where, upon application of the responsible person or persons, the Agency finds that by reason of exceptional circumstances the strict enforcement of any provision of these standards would cause undue hardship, that disposal of the sewage, industrial waste or other waste is necessary for the public health, safety or welfare, and that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances, the Agency in its discretion may grant a variance therefrom upon such conditions as it may prescribe for prevention, control or abatement of pollution in harmony with the general purpose of these classifications and standards and the intent of the applicable state and federal laws. The U.S. Environmental Protection Agency will be advised of any permits which may be issued under this clause together with information as to the need therefor.

Department of Public Safety Liquor Control Division Standards for Administration of the Intoxicating Liquor Act

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Office Building, Room 81, Saint Paul, Minnesota on August 24, 1977, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to partici-

pate, by submitting either oral or written data, statements, or arguments. Written materials may be submitted by mail to William Seltzer, Office of Hearing Examiners, 1745 University Avenue, St. Paul, MN, either before the hearing or within five business days after the close of the hearing, unless the five day limitation is extended by the hearing examiner.

The Commissioner proposes to adopt rules relating to the transfer of responsibilities to the Department of Revenue, distiller and winer representatives, price filing by manufacturers, wholesalers and importers, sales by importers to wholesalers on an equal basis, price discounts to retailers, minimum proof of distilled spirits, advertising, brand label registration, discontinued brands, and standards of fill for wine, intoxicating liquor and malt beverages.

The Department's authority to promulgate the proposed rules is contained in Minn. Stat. § 299A.02, subd. 3 (1976). One free copy of the proposed rules is available and may be obtained by writing to Diane Hamilton, Department of Public Safety, 210 Transportation Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the need for and reasonableness of the proposed rules and a Statement of Evidence outlining the testimony the department will be introducing at the hearing will be filed with the Office of Hearing Examiners at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Edward G. Novak
Commissioner of Public Safety

Rules as Proposed

[Definitions] Introduction

Liq 1 In the statutes and [regulations] **rules** the following words and phrases will be used and shall have the meaning as hereinafter defined:

PROPOSED RULES

[(g)] **G.** Importer[,] means any [out of state] distiller, rectifier, winer, [brewer,] wholesale distributor or person **within or without the state** licensed to ship distilled spirits, wine[,] or ethyl alcohol [or beer] to Minnesota manufacturers and wholesale distributors. [Sections 340.113 and 340.493.]

Liq 2 As used in these rules the following words shall have the meanings as ascribed thereto:

A. "Commissioner" means the Commissioner of Public Safety or his duly appointed delegate.

B. "Department" means the Minnesota Department of Public Safety, Liquor Control Division.

C. "Office" or "this office" means the office of the Liquor Control Division.

Liq 3 If any paragraph, sentence, clause, or phrase of the rules of the department is declared invalid or unenforceable for any reason, such decision shall not affect the validity or enforceability of the remaining provisions of these rules.

Liq [2-4] 4-23 Reserved for future use.

Chapter Two: Excise and Surtaxes, was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws of 1976, ch. 5, and is therefore deleted from the Liquor Control Rules.

Chapter Three is renumbered to Chapter Two

Liq 24 Permits and fees.

[Minn. St. Section 340.11, Subd. 1 provides that no person shall manufacture, import, transport, sell, purchase for resale, or use in the manufacture of commercial products any alcoholic liquors fit for beverage use unless such person has applied and received from the Commissioner a license or permit authorizing the manufacture, importation, transportation, sale or the purchase for resale of such alcoholic liquors or for the use of such products and ethyl alcohol for industrial or non-industrial purposes.] Application forms for [such] licenses or permits **required by Minn. Stat. ch. 340** shall be furnished by the Commissioner **upon request. The Commissioner shall not issue any such license or permit unless the applicant therefor has paid the appropriate license and permit fees required by Minnesota law, and if required, has filed a corporate surety bond.**

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

[Liq 25 MINNESOTA MANUFACTURER OR WHOLESALER LICENSE FEE AND BOND REQUIRED.

(a) Minn. St. Section 340.11, Subd. 14 provides for a license fee for the manufacturer or wholesaler of distilled spirits and wine of \$5,000 and such license shall be in effect for one year from the date of issuance. Minn. St. Section 340.12 provides for a corporate surety bond in the amount of \$10,000 which shall accompany the license application and fee.

(b) The duplicate license fee for a manufacturer or wholesaler of distilled spirits and wine is \$3,000 and such duplicate license shall be in effect and run concurrently with the period of the parent license. No bond is required.

(c) Minn. St. Section 340.485, Subd. 2 provides that the license shall file a penal bond in the sum not to exceed \$50,000 effective July 1 of each year and which sum shall be determined by the Commissioner. Such bond shall be conditioned on the payment of taxes due the state for each month.

Liq 25 OUT STATE DISTILLERS, RECTIFIER, WINER OR WHOLESALER DISTRIBUTOR LICENSE FEE.

Minn. St. Section 340.113 provides for a license fee for any out of state distiller, rectifier, winer or wholesale distributor of distilled spirits, wine or ethyl alcohol of \$150 and such license shall be in effect for one year from the date of issuance. No bond required.

Liq 27 EXCLUSIVE MANUFACTURER OR WHOLESALER OF WINE LICENSE FEE AND BOND.

In addition to the provisions of Liq 25 (c) above, Minn. St. Section 340.11, subd. 14 provides for a license fee for the manufacturer or wholesaler of wine containing not more than 25 percent of alcohol by volume of \$500 and such license shall be in effect for one year from the date of issuance. Minn. St. Section 340.12 provides for a corporate surety bond in the amount of \$5,000 which shall accompany the license application and fee.

Liq 28 EXCLUSIVE WHOLESALER OF SACRAMENTAL WINE LICENSE FEE AND BOND.

Minn. St. Section 340.17 provides for a license fee for a wholesaler of sacramental wine of \$25 and such license shall be in effect for one year from the date of issuance. A corporate surety bond in the amount of \$1,000 shall accompany the license application and fee.]

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Liq 29 MINNESOTA BREWER LICENSE FEE AND BOND.

Minn. St. Section 340.402 provides for a license fee for a brewery manufacturing malt beverages containing more than 3.2 percent of alcohol by weight of \$1,000 and such license shall be in effect for one year from the date of issuance. Minn. St. Section 340.403, Subd. 1 provides for a corporate surety bond in the amount of \$5,000 which shall accompany the license application and fee.

Liq 30 WHOLESALE DISTRIBUTOR OF MALT BEVERAGE LICENSE FEE AND BOND.

(a) Minn. St. Section 340.402 provides for a license fee for a wholesaler of malt beverages containing more than 3.2 percent of alcohol by weight of \$200 and such license shall be in effect for one year from the date of issuance. Minn. St. Section 340.403, Subd. 1 provides for a corporate surety bond in the amount of \$1,000 which shall accompany the license application and fee.

(b) Minn. St. Section 340.402 provides for a duplicate license fee for a wholesaler of malt beverages containing more than 3.2 percent of alcohol by weight of \$15 and such license shall be in effect and run concurrently with the period of the parent license. No bond is required.

(c) Minn. St. Section 340.02, Subd. 5 provides for a license fee for a wholesaler of malt beverages containing not more than 3.2 percent of alcohol by weight of \$10 and such license shall be in effect for one year from the date of issuance. No bond is required.

Liq 31 OUT STATE BREWER LICENSE FEE AND BOND.

Minn. St. Section 340.493, Subd. 2 provides for a license fee for an out-of-state brewer or wholesale distributor of malt beverages of \$100 and such license shall be in effect for one year from the date of issuance. The applicant shall file a corporate surety bond in the amount of not less than \$1,000 and not more than \$5,000; whatever sum shall be required by the Commissioner.

Liq 32 COMMON CARRIER LICENSE FEES AND BOND.

(a) Minn. St. Section 340.11, Subd. 3 provides for a license fee for a common carrier selling at retail distilled spirits and wine to passengers of \$100 and such license shall be in effect for one year from the date of issuance. Minn. St. Section 340.12 provides for a corporate surety bond in the amount of \$1,000 which shall accompany the license application and fee.

(b) The duplicate license fee for a common carrier selling

at retail distilled spirits or wine to passengers is \$10 and such duplicate license shall be in effect and run concurrently with the period of the parent license. No bond is required.

(c) The Sunday license issued by the Commissioner to common carriers is provided by Minn. St. 340.14, Subd. 5, (c) shall run concurrently with the period of the parent license. No bond is required.

(d) Minn. St. Section 340.02 provides for a license fee for a common carrier selling at retail non-intoxicating malt beverages to passengers of \$25 and such license shall be in effect for one year from the date of issuance. No bond is required.

(e) The duplicate license fee for a common carrier selling at retail non-intoxicating malt beverages to passenger is \$2 and such duplicate license shall be in effect and run concurrently with the parent license.

Liq 33 PHARMACISTS' SPECIAL PERMIT.

Minn. St. Section 340.18 provides for a special permit of \$5.00 for pharmacists or druggists to sell intoxicating liquor for medicinal purposes on bona fide prescriptions.

Liq 34 BOTTLE CLUB FEES.

Minn. St. Section 340.119 provides for a permit fee of \$100.00 for private clubs and public places that qualify to permit their patrons to consume and display alcoholic beverages on the premises as covered by Chapter Eleven of these regulations. Such permits shall be in effect July 1 through June 30 each year.]

Liq [35] 25 Regulatory [Permit Fees.] permits and fees.

Any person engaged in the purchase, sale, or use for any purpose other than personal consumption, or any vehicle[s] used to transport intoxicating alcoholic beverages or ethyl alcohol shall obtain the appropriate regulatory permit and identification card from the Commissioner as provided in this [regulation] **rule**. The regulatory fee for each permit is \$5.00 and shall be submitted together with the appropriate application form provided by the Commissioner. All identification cards and permits shall expire on December 31st of the year issued and are not transferable. The authority to order, sell, purchase, solicit or deliver granted by the card or permit in this section may be revoked by the Commissioner upon evidence of a violation **by the holder of such a card or permit** of any of the provisions of Minn. [St.] Stat. ch. 340, [and] or any rule [or regulation] of the Commissioner made pursuant to law[.]. [by the holders of such cards or permits.]

[(a)] A. [Distillery Representative's Identification Card.] **Representatives' identification cards required.** Any dis-

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tiller, rectifier, winer, or wholesale distributor [located in other states and] having **one or more** assigned representatives in the State of Minnesota shall for each representative so assigned apply to the Commissioner on Form No. 46 for a [Distillery] Representative's Card. [Such distillery] **A distiller or winer representative, except as provided in subparagraph C. of this paragraph,** shall [neither solicit nor] **not, directly or indirectly,** take orders from retail licensees, **nor shall he give any financial inducement to any wholesaler's salesman to promote the sale to a retailer of any alcoholic beverage.** [Residents of Minnesota may apply for both Distillery Representative and Salesman's Cards and may be issued both cards subject to approval of the Commissioner.]

[(b)] **B.** Retailer's or pharmacist's identification card. Any "on-sale" or "off-sale" liquor dealer or any purchasing agent of any municipal liquor store or any pharmacist or druggist holding permits issued by the Commissioner to sell medicinal liquors on prescription shall apply to the Commissioner on Form No. 84 for a permit to purchase distilled spirits, wine or malt beverages containing more than 3.2 percent of alcohol by weight from any manufacturer or wholesale distributor or any agent or representative thereof. Such identification cards shall be presented to the manufacturer or wholesale distributor or the agent or representative thereof when ordering distilled spirits, wine or malt beverages. Manufacturers or wholesale distributors or any agent or representative thereof shall not sell distilled spirits, wine or malt beverages having alcoholic contents as hereinbefore described to any licensee, permit holder, or purchasing agent of a municipal liquor store unless such person presents a Retailer's or Pharmacist's Identification Card issued by the Commissioner for the current year.

[(c)] **C.** Salesman's identification card. Minnesota manufacturers, brewers, winers, and wholesale distributors shall for each employee acting in the capacity of a salesman or agent apply to the Commissioner on form No. 80 for a Salesman's Identification Card, which card shall be the authority for such employee to solicit orders from licensed retail dealers, permit holders, or municipal liquor stores. Salesman's Identification Cards shall not be issued to retail licensees, managers of clubs, municipal liquor store employees, or persons engaged in the sale of alcoholic beverages at retail in the regular course of their employment.

[(d)] **D.** Vehicle permit. All common carriers other than railroads, their motor affiliates, or public water transportation carriers, transporting into [and] **or** within the State of Minnesota, distilled spirits, wine, [and] **or** malt beverages containing more than 3.2 percent of alcohol by weight shall

apply to the Commissioner on Form No. 38 for vehicle permits for each vehicle used in the transportation thereof. Such permit shall be issued only to common carriers licensed by the Minnesota [Railroad and Warehouse Commission] **Department of Public Service** and to Minnesota manufacturers, winers, brewers, wholesale distributors, retail "off-sale" dealers licensed to sell intoxicating liquor, and other qualified persons, PROVIDED that no permits are required for trailers. Intoxicating liquor transported in any manner other than specified herein shall be confiscated and surrendered to the Commissioner for final disposition.

E. The following permits shall expire one year from date of issuance.

[(e)] **1.** Doctor's alcohol permit. Any physician, dentist, or veterinarian requiring ethyl alcohol in connection with their profession shall apply to the Commissioner on Form No. 44 for a permit to purchase ethyl alcohol.

[(f)] **2.** Food manufacturer's permit. Any manufacturer of food products requiring intoxicating liquors in connections with such manufacture shall apply to the Commissioner on Form No. 76 for a permit to purchase, possess and use intoxicating liquors.

[(g)] **3.** Hospital or sanatorium permit. Any hospital or sanatorium requiring medicinal liquors or ethyl alcohol to administer to patients on physician's prescription shall apply to the Commissioner on Form No. 47 for permit authorizing the purchase thereof.

[(h)] **4.** Pharmacist or druggist purchase alcohol permit. Any pharmacist or druggist requiring ethyl alcohol for the compounding of medicine shall apply to the Commissioner on Form No. 60 for a permit to purchase, use and possess ethyl alcohol.

[(i)] **5.** Purchase alcohol permit.

[1.] **a.** Any person engaged in the manufacture of medicinal, pharmaceutical, antiseptic, flavoring extract[s], syrup[s], food[s], scientific, chemical, mechanical, or industrial products, which are unfit for beverage use, or

[2.] **b.** any municipal, county[,] or state agency, **or** any university, college[,] or laboratory used exclusively for scientific research, **or any** hospital or sanatorium using ethyl alcohol in connection with manufacture or research shall apply to the Commissioner on Form No. 81 for a permit to purchase ethyl alcohol.

Liq [36] 26-37 Reserved for future use.

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PROPOSED RULES

Chapter Four is renumbered to Chapter Three.

Liq 38 The duties and restrictions upon each manufacturer and wholesale distributor are as follows:

[(a)] **A.** Sales to retailers. Manufacturers and wholesalers shall not sell at retail except[ing only] **in accordance with** with privileges granted to breweries by Minn. [St.] Stat. [Section] §§ 340.02, subd. 10 and 340.11, subd. 15. Manufacturers and wholesalers and their respective employees shall not sell or deliver alcoholic beverages to any person, club, or business establishment unless the purchaser is licensed or authorized to sell the respective beverages at retail. A sale to an unlicensed retailer shall be a violation subject to penalties provided by law or [regulations] **rules.**

[(b)] **B.** Written invoices. Manufacturers and wholesalers shall furnish a written invoice to each retailer for the alcoholic beverages sold and delivered to said retailers; the invoice shall clearly identify seller and purchaser, date, quantity, and brand names of products sold and the prices. When there are joint purchases as provided for in Minn. [St.] Stat. § 340.408 manufacturers and wholesalers shall, in addition to the above, itemize on the invoice each such retailer purchasing jointly or in lieu thereof shall invoice joint purchases to each retailer separately.

[(c)] **C.** Malt beverage invoices. All brewery and wholesalers' invoices of sale for malt beverages containing more than 3.2 percent of alcohol by weight shall have affixed thereto the signature of the retail dealer purchasing said beverages and also the number of the Retailer's Identification Card issued by the Commissioner for the current year. In addition thereto, such sales invoices shall designate the date of sale, the quantity sold, and the brand names. The failure of producers or wholesale distributors to comply with the provisions of this subsection shall be deemed a violation.

(d) Was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws of 1976, ch. 5, and is therefore deleted from the Liquor Control Rules.

[(e)] **D.** Financial interest forbidden. No manufacturer or wholesale distributor shall directly or indirectly or through any affiliate require by agreement or induce any licensed retail dealer to purchase intoxicating liquor from themselves to the exclusion in whole or in part of other manufacturers or wholesale distributors if the direct effect from such agreement or inducement is to prevent, hinder or restrict any other manufacturer or wholesale distributor from selling or offering for sale intoxicating liquor to any such licensed retail dealer. Manufacturers and wholesalers in respect to retail dealers are forbidden:

1. to acquire or hold any direct or indirect interest in any retail license or proprietary interest in the business of a retail dealer; or

2. to acquire any interest in real or personal property owned, occupied or used by any retail dealer in the conduct of his business; or

3. to furnish, give, rent, lend or sell to a retail dealer any equipment, fixtures, supplies, money, service or other thing of value, except to the extent permitted by statute; or

4. to pay or credit a retail dealer for any retailer's advertising, display, or distributing service, except to the extent permitted by statute; or

5. to guarantee any loan or repayment of any financial obligation of the retail dealer; or

6. to extend a retail dealer credit for a period in excess of the credit period usual and customary in the industry or in excess of the credit period permitted by law; or

7. to require the retail dealer to purchase and sell a specified quantity of any such products; or

8. to offer or pay a commercial bribe; or

9. to offer or make any gifts or to pay compensation to any proprietor, officer, employee or representative of a retail store; or

10. to coerce a retailer through threat of criminal prosecution, license discipline or denial; or

11. to sell, offer to sell, or contract to sell any licensed retail dealer any intoxicating liquor on consignment or under conditional sale or with the privilege of return on any basis otherwise than a bona fide sale. This subsection shall not apply to transactions involving solely the bona fide return of the product for ordinary and usual commercial reasons arising after the product has been sold.

[(f). Filing wholesale catalogs. Minnesota manufacturers and wholesale distributors of distilled spirits and wines shall file with the Commissioner a catalog or list of all such products which they offer for sale in this state showing brand names and 1 case wholesale prices before such products are sold to the retail dealers. Such catalogs or lists shall remain permanent until amended by the wholesaler. Any amendments to the permanent catalog or list shall be filed on the 10th day of each month. Note: Catalogs or lists will be used as a correlation between the permanent filed 1 case price and the filed "Varying Volume Price" (discount) schedule as provided for by Minn. St. 340.983.]

[(g)] **E.** [Price Posting "Varying Volume Prices" (dis-

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counts) and amendments.] **Filing of wholesale price schedules and amendments.**

[(1)] **1.** [Each manufacturer or wholesaler who sells or distributes distilled liquor or wine in this state to retailers shall file and maintain with the department in quadruple and in such form as the department shall prescribe, a written price schedule showing the "Varying Volume Prices" (discount) offered by such persons to retail licensees within the state.] **No brand owner or wholesaler of distilled liquor or wine shall sell, offer for sale, or solicit any order for distilled liquor or wine unless a schedule of wholesale prices for all distilled liquor and wine offered for sale by the brand owner or wholesaler is filed with the department, in such form as the department shall prescribe. No sale shall be made except in accordance with such price schedules.**

[(2)] **2.** [Such schedules shall be filed by eligible licensees at the time their license is issued and before any sales are made, and shall be effective immediately upon filing with the department. When a manufacturer wholesaler license is transferred from one legal entity to another, new one case price schedules and any "Varying Volume Price" (discount) schedules shall be submitted by the new license entity before any sales are made. Such schedules shall become effective immediately upon filing with the department.] **All wholesale price schedules shall be filed with the department not later than the first day of each month, and shall be effective from the first day of that month until the first day of the next month, provided that any filing may be amended within five business days after the first day of the month.**

[(3)] **3.** ["All Varying Volume Price" (discount) schedules shall be filed with the department on the tenth day of each month, and the schedule shall be effective from that day until the tenth day of the next month, provided that any filing may be amended within five days after its filing.] **All price schedules must be filed on Form PS 9024 or in such other format which must be approved by the Commissioner in advance of filing. All price schedules must indicate the one-case wholesale price of each brand of distilled liquor or wine being offered to retail licensees, together with all allowances, discounts (including varying volume discounts) or terms of any nature (including promptness of payment terms) which affect the wholesale price of such distilled liquor or wine to the retailer in any manner.**

[(4)] **4.** [Amendments to "Varying Volume Price" (discount) schedules may be deposited in the United States

Mail, addressed to the department or placed on file with the department after the tenth day of the month however on or before the fifteenth day of the month to become effective on the sixteenth day of the month and to remain so until the tenth of the following month.] **After expiration of the five-day period for amendment of the wholesale price schedules, as provided for in subsection 2 herein, any brand owner or wholesaler can meet the competitive price of the same or similar distilled spirits or wine offered for sale to retailers by any other brand owner or wholesaler by filing at any time an amendment to its effective price schedule which lowers its net price for that particular brand, type and size container to or above the net price offered for sale to retailers by its competitor. Such amendment shall also designate the offeror, the product, and the competitive price which the amendment is intended to meet. For the purposes of this section, "net price" shall mean the wholesale price, including all allowances, discounts (including varying volume discounts) or terms of any nature (including promptness of payment terms) which affect the wholesale price in any manner.**

[(5)] **5.** [For any month for which amendments are not filed by the deadline, the "Varying Volume Price" (discount) schedule previously filed shall remain in effect. For any month for which a "Varying Volume Price" (discount) schedule is not filed by the deadline the last such filed schedule shall remain in effect.] **All price schedules and amendments thereto shall be effective upon receipt by the department.**

[(6)] **6.** [The word brand as used herein means "brand, trade mark, label, or name". And if an additional secondary name or different form of label is used each will be considered to be a separate brand.] **All wholesale price schedules and amendments thereto must be understandable and enforceable by the department. If the department finds any such filing or amendment to be not understandable or not enforceable, or contrary to any statute or rule, it shall be rejected, setting forth the reason for such rejection.**

7. **No wholesale price schedule or amendment thereto shall list brands of distilled liquor or wine which are not in stock or on bona fide order at the time such schedule is filed with the department.**

[(7)] **8.** For purposes of this [regulation] rule, purchasers who are licensed as common carriers and military units qualified as government instrumentalities are not to be deemed "Retailers".

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[(8) No wholesaler of distilled spirits or wine shall file a catalog or list of one case prices, "Varying Volume Price" (discount) schedule or an amended "Varying Volume Price" (discount) schedule on which is shown a selling price per case at less than the cost thereof to such wholesaler. Cost shall include FOB price from importer, freight, state and federal taxes and duty on imported merchandise.

(9). An amended "Varying Volume Price" (discount) may be filed at below the wholesalers cost, and when such prices are filed to meet, in good faith, prices filed with the department on similar distilled spirits and wine by a competitive wholesaler.

(10). Any manufacturer or wholesaler can meet competitive prices on the same or similar distilled spirits and wine by mailing or filing with the department on or before the fifteenth day of any calendar month, an amendment to his effective "Varying Volume Price" (discount) schedule which lowers his price or prices per case or increases his quantity discounts. Such amended price schedule shall be come effective at the same time the competitive price for the same or similar item of the same or competitive brand shall become effective, or immediately if such competitive price schedule shall have become effective.

A quantity discount filed to meet competition may not be filed in an amount that would reduce the net price of the brand, type or size container below the net price of the competitive brand for the same quantity.]

[(11).] **9. Wine or other commodities** may not be offered on original or assorted cases with distilled spirits or vice versa, and any quantity discount may not exceed 300 bottles of quarts or smaller bottles, or the equivalent of any authorized standard of fill not to exceed 25 cases. **In addition, no manufacturer, wholesaler or importer of distilled spirits or wine may sell or offer to sell to any retailer any brand or brands of intoxicating liquor under circumstances wherein the purchase of any quantity thereof entitles the retailer to a discount on the purchase price of any other brand or brands of intoxicating liquor.**

[(12). All permanent prices, "Varying Volume Prices" (discount) and amended "Varying Volume Prices" (discount) are public record.

(13). All "Varying Volume Prices" (discounts) and or their filed amendments must be understandable and enforceable by the department. If the department find such filings to be not understandable and not enforceable, they will be rejected by the sixteenth day of the month, setting forth the reason for the rejection.]

[(14).] **10.** Any filing licensee who publishes, mails,

delivers, distributes, advertises or in any other way directly or indirectly, disseminates distilled spirits and or wine information on [one case permanent prices, "Varying Volume Price" (discounts) or amended "Varying Volume Price" (discounts) for any brand, to retailers served by him,] **its wholesale price schedule or amendments thereto,** shall, in any such material, include all such [discounts filed by him for such brand, and shall disseminate such information to all retailers served by him.] **allowances, discounts or terms, and shall disseminate such information to all retailers served by it.**

[(15).] **11.** The publication, mailing or delivering of any written material containing less than all of the ["Varying Volume Price" (discounts)] **wholesale price schedule** posted for any brand by a filing licensee shall be deemed a violation of this [regulation] **rule.**

(16) [The mailing or delivering of written lists of "Varying Volume Price" (discounts) to selective retailers rather than to all retailers served by the filing licensee shall be deemed a violation of the regulation.]

[(17).] **12.** The publication of [one case permanent prices and all "Varying Volume Prices" (discount)] **all wholesale price** schedules filed with the department by a filing licensee, on or before the effective date thereof, in any trade journal or industry price book of general circulation among retailers, shall be deemed sufficient compliance with the provisions of subparagraphs [(14), (15), (16),] **10 and 11** of paragraph [(g).] **E.**

(18). This regulation does not apply to a licensee's salesman who has in his possession a "Varying Volume Price" (discount) schedule, and from which he orally informs a retailer as to "Varying Volume Price" (discounts) filed with the department.]

[(19).] **13.** Any [manufacturer] **brand owner** or wholesaler may at any time file with the department written price schedules showing the one-case price [and the "Varying Volume Price" (discount) offered on any new brand, to become effective immediately.] **together with all allowances, discounts (including varying volume discounts) or terms of any nature (including promptness of payment terms) offered on any new brand being introduced into the state, to become effective immediately.**

[(20).] **14.** Whenever the [tenth] **first** day of the month [or the fifteenth day of the month] falls on a Saturday, Sunday or a legal holiday, the distilled spirits and wine schedules required to be filed with the department shall be received by the department not later than the close of the next business day[.]; [Consequently, this will extend the one case price and the amended filing five days from the first business day when the one case price and the "Varying Volume Price" (discounts) are received in this office,]

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however, the next month's filing will be filed on schedule as provided for by Statute and [Regulations.] **rules.**

[(21).] **15.** Pursuant to an order issued by the department any price filings may be changed at any time to reflect changes in Federal or State Excise Taxes on distilled spirits and wine, or to comply with the requirements of any order issued by the Federal Government relating to price control.

[(22).] **16.** [All manufacturers and wholesalers sales to retailers, whether it be individual or joint sales, shall ship every such sale in the full amount at one time during the month of that sale.] **All brand owners and wholesalers shall ship every sale to a retailer, whether such sales are individual or joint sales, in the full amount at one time during the month of that sale.**

[(23).] **17.** [Manufacturers or wholesalers close out sales.] Any [manufacturer] **brand owner** or wholesaler who desires to close out a brand or type of distilled spirits or wine below his cost for such products, shall apply to the Commissioner to do so. Permission will be granted at the discretion of the Commissioner, when the merchandise has been owned and possessed for a period of at least six months. All such authorized close outs shall be so noted as close outs on the filed ["Varying Volume Price" (discount)] **wholesale price** schedule. Any [manufacturer] **brand owner** or wholesaler who closes out a brand or type of spirits or wine may not restock such product for a period of twelve months.

[(24). If any paragraph, sentence, clause or phrase of this regulation is for any reason declared invalid, such decision shall not affect the validity of the remaining provisions of this regulation.]

[(h)] **F.** Gifts forbidden. No manufacturer, **importer**, or wholesale distributor of distilled spirits, wines, or malt beverages containing more than 3.2 percent of alcohol by weight, shall, **directly or indirectly, or through any officer, agent or employee**, offer or grant discounts, rebates, free goods, allowances or other concessions in wholesale prices unless the same terms are offered uniformly to each retailer in the wholesaler's or manufacturer's trade territory at the same time and for the same period, and any and all such discounts, rebates, free goods, allowances or other concessions made because of quantity purchases or for any other reason shall be specifically noted on the invoice of each and every retailer to whom such concessions are granted.

[(i)] **G.** Sales discrimination forbidden. **Minnesota** manufacturers and wholesale distributors shall not discrimi-

nate in the sale of their products to retail dealers except that manufacturers or wholesale distributors may refuse to sell intoxicating liquor or non-intoxicating malt liquor to a retail dealer who may have violated any law, [commissioner's regulation] **rule** or municipal ordinance relating to the sale of such liquor at retail, or who has breached a contract for sale with the manufacturer or wholesaler. Upon notice from the Commissioner, manufacturers and wholesale distributors shall not sell intoxicating liquor or non-intoxicating malt liquor to any "on-sale" or "off-sale" licensee who refuses to sell or serve alcoholic beverages to any person because of race, color, national origin, or who discriminates in the selection of its membership on the basis of race, color, or national origin.

[(j)] **H.** Peddling forbidden. No manufacturer or wholesale distributor of distilled spirits and wine or their employees shall transport such products in vehicles for the purpose of soliciting orders from retail dealers and filling such orders from stocks transported in such vehicles.

[(k)] **I.** Container limitation. No manufacturer or wholesale distributor shall sell distilled spirits to retailers in containers holding more than 64 ounces nor less than 8 ounces, **or their metric equivalents**, except wine may be sold in containers holding 1/20 gallon (6 2/5 oz.), **or its metric equivalent**, to on and off sale licensees.

[(1).] **1.** Miniature containers shall be sold only to licensed common carriers for dining facilities, licensees who have approved dispensing devices and pharmacists having a permit to sell medicinal liquors on prescription for dispensing to patients in hospitals and nursing homes.

[(2).] **2.** No containers of distilled spirits holding less than one-fifth of a gallon, **or 750 milliliters**, shall be sold to retail "on-sale" dealers.

[(3).] **3.** Still wines — case sales. Still wines shall be sold by Minnesota manufacturers and wholesalers to retail liquor dealers only in case lots. The cases shall be filled with wines of only one tax class, that is, wines of 14 percent or less of alcohol by volume shall not be combined in a case with wines of more than 14 percent of alcohol by volume.

[(l) Identification cards required. Minnesota licensed manufacturers, winers, brewers, wholesale distributors, and out-of-state manufacturers, wholesale distributors and brewers who import their products into Minnesota shall obtain a permit from the Commissioner for each employee acting in the capacity of salesman or sales representative. Such salesman or representative shall not solicit or accept orders from retail dealers unless the dealers exhibit a current Retailer's Identification Card.]

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[(m)] **J.** Sale or delivery prohibited in certain municipalities. No manufacturer or wholesale distributor shall sell or deliver distilled spirits, wine, ethyl alcohol or intoxicating malt beverages in any municipality prohibiting the sale thereof. However, intoxicating liquors and ethyl may be sold in such municipalities to persons who are holders of permits to sell such products for industrial or medicinal purposes, or for sacramental use.

[(n)] **K.** Transfer of business and license. Any manufacturer, wholesale distributor or brewer may transfer his business and his license with the approval of the Commissioner. When contemplating transfer the licensee shall submit his license to the Commissioner and all permits issued in connection therewith, together with a complete notarized inventory of alcoholic beverages on hand, giving the brand names, the size and number of containers. The request for transfer shall be accompanied by the license application and bond of the proposed purchaser.

NOTE: Any application for transfer of a license shall be accompanied by a transfer fee of \$10.00.

[(o)] **L.** Branch establishments. Manufacturers and wholesale distributors of distilled spirits, wine and malt beverages licensed by the Commissioner may maintain branch establishments provided that such establishments are directly owned and managed by said manufacturers and wholesale distributors, and that all employees of such establishments are paid only fixed salaries and/or commissions. No branch license shall be granted to holders of wholesale non-intoxicating malt liquor licenses.

[(p)] **M.** Withdrawal of distilled spirits and wine from wholesalers by their employees and distillers or winers representative. No persons employed by importers, distillers, rectifiers, winers, Minnesota licensed manufacturers or wholesalers, shall withdraw distilled spirits or wine from the premises of manufacturers or wholesalers unless such requisition has been approved by the Commissioner on a form prescribed by him.

Paragraph #2 was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws 1976, Chapter 5, and is therefore deleted from the Liquor Control Rules.

Liq 39 Sales to wholesalers and manufacturers.

A. All importers, including manufacturers and wholesalers licensed pursuant to ch. 340, are required to offer for sale to all Minnesota wholesalers and manufacturers all intoxicating liquor (except wines and malt beverages) brought into Minnesota. If such intoxicating liquor is further distilled, refined, rectified, blended, bottled, labeled or prepared in any manner subsequent to its importation into Minnesota, such importers are

required to offer for sale to all Minnesota wholesalers and manufacturers the finished product. All such offers shall be made on an equal basis to all such wholesalers and manufacturers.

B. No importer shall offer any intoxicating liquor for sale to any Minnesota wholesaler or manufacturer without first filing with the department, on a form approved by the Commissioner, an itemized list specifying the price, brand, type, container size, proof and age of the liquor so offered. These prices must be filed on the 15th of the month and shall become effective on the first day of the month next succeeding the first full month after the date of filing and shall remain in effect for a period of not less than 30 days and until changed by a subsequent price filing which shall take effect in like manner.

C. All prices filed shall be the lowest prices, as contemplated by Minn. Stat. § 340.114, subd. 3, at which such liquor is contemporaneously being sold by such importer in any other state or in the District of Columbia. All such liquor shall be offered for sale to all Minnesota wholesalers and manufacturers on an equal basis, and at the applicable filed price.

Liq [39 and] 40 Reserved for future use.

Chapter Five is renumbered to Chapter Four.

Chapter Six is renumbered to Chapter Five.

Liq 56 "On-Sale" dealers.

[(a)] **A.** Containers — minimum quantities[.]; **minimum proof of distilled spirits.** No "on-sale" dealer shall purchase or possess distilled spirits in containers of less than one-fifth gallon or its metric equivalent. Containers of less than one-fifth of a gallon, or its metric equivalent, shall be subject to confiscation provided, miniatures containing not more than two ounces, or their metric equivalent, may be purchased for dispensing devices, the use of which has been specifically approved by the Commissioner. **In addition, no "on-sale" dealer shall purchase distilled spirits other than cordials, liqueurs, or specialty items which are less than eighty (80) proof.**

[(b)] **B.** Liquor to be consumed on premises. "On-sale" liquor licenses shall sell intoxicating liquor to lawful consumers by the drink for consumption on the premises only. For purposes of this regulation the sale of miniatures in approved dispensing devices shall be considered sale by the drink in guest rooms of hotels as defined in Minn. [St.] Stat. § 340.07, subd. 12.

[(c)] **C.** Display forbidden. No "on-sale" liquor establishment shall display any intoxicating liquor when open to the public during hours when the sale of such liquor is

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prohibited by law, except as provided by Minn. [St.] Stat. § 340.119.

[(d)] **D.** Dilution or changing containers. No "on-sale" dealer[s], or [his] **their** employee[s], shall remove intoxicating liquor from the original containers and place said liquor in any other container, nor shall such persons dilute or in any manner tamper with the original contents thereof as provided by Minn. [St.] Stat. §§ 340.141 to 340.143 inclusive, except that wine may be withdrawn from tax paid containers and placed in decanters for service bar purposes.

[(e)] **E.** Containers subject to seizure. Intoxicating liquors in open containers which upon inspection indicate dilution, tampering, refilling or impurities shall be subject to seizure by Liquor Control Inspectors.

[(f)] **F.** Containers must be visible to public. All containers from which alcoholic beverages are sold or dispensed shall be clearly visible to the consuming public, except that malt beverages may be dispensed by tap from the keg when the keg itself is not in sight, and miniatures may be dispensed by approved mechanical devices, provided that the brand label appears on the tap handle or device. No container of intoxicating or malt liquor shall be dispensed from any mechanical or coin operated device, unless said device can be operated in full compliance with all provisions of state law and the [regulations] **rules** of the Commissioner and has been specifically approved for operation by the Commissioner. The Commissioner may impose such conditions as he deems necessary for any such approval and the failure to meet said conditions or the violation thereof shall terminate any approval.

Chapter Seven is renumbered to Chapter Six.

Liq 67 Statements or acts prohibited. All local advertising shall also be subject to the provisions of this chapter as hereinafter stated.

[(a)] **A.** No advertisement of alcoholic beverages shall contain:

[(1)] **1.** Any illustration of a female which is not dignified, modest, or in good taste, or depicts a female in provocative dress or consuming a drink. Any family scene in which is portrayed a child or objects (such as toys) suggestive of the presence of a child, or in any manner portrays the likeness of a child, or contains any matter to appeal to immature persons.

[(2)] **2.** Any statement that is false or misleading in any manner.

[(3)] **3.** Any statement, design, device or representation which is obscene or indecent.

[(4)] **4.** Any statement concerning a brand of intoxicating liquor that is inconsistent with any statement on the labeling thereof.

[(5)] **5.** Any statement, design, device, or representation relating to any guaranty unless such guaranty is enforceable.

[(6)] **6.** Any statement describing such liquor to be beneficial and healthful.

[(7)] **7.** Any statement or display relating to the price of such liquor except in windows and premises of licensed establishments.

[(8)] **8.** Any statement, design, or device relating to biblical characters or to any public official, agency or branch of the Federal, state or local governments, including former presidents of the United States.

[(9)] **9.** Any statement, design, device or pictorial representation capable of being construed as relating to the armed forces of the United States, or the American Flag, or any emblem, seal, insignia or decoration associated with such flag or armed force.

[(10)] **10.** Any statement relating to the giving away of alcoholic beverages, premiums or novelties in connection with the sale of any alcoholic beverages.

[(b)] **B.** Restrictions:

[(1)] **1.** No alcoholic beverages, prizes, or premiums shall be given away in connection with the sale of alcoholic beverages, except that consumer's advertising specialties, such as ash trays, bottle or can openers, corkscrews, paper shopping bags, matches, printed recipes, wine lists, leaflets, blotters, post cards, pencils, stirrers, glassware, calendars, notebooks, playing cards, greeting cards, folding knives, or any similar articles which bear advertising matter may be furnished or given to consumers. The distribution of such advertising specialties shall be limited to the licensed premises only. Such advertising specialties shall be submitted to and approved by the Commissioner before distribution.

[(2)] **2.** No advertisement or display of intoxicating or malt liquor shall contain any statement or illustration of or reference to a bank, bank deposit book, money, gambling, or quotations such as ["Saving," "Economy," "Better

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Buy's," "Will Not Be Undersold," "Cash and Carry," "Free Delivery," "Today's Feature," "Moving," "Going Out of Business," "Reduction of Stock," "Sale of Damaged Stock," "School or College Athletics," or "Pay Checks," [or similar illustrations or references] in any form of advertising. However, such references may be included in or on show windows in or on licensed premises.

[(3)] 3. No display of any intoxicating liquor shall be made in any place except the licensed premises.

[(4)] 4. No advertisement or display of malt beverages containing more than 1/2 of 1% of alcohol by weight shall contain any reference to price of malt beverages, except within windows and premises of licensed establishments.

Chapter Eight is renumbered to Chapter Seven.

Liq 71 Brand label approval.

[Minn. St. Section 340.62 provides that no] No brand of distilled spirits, wines, or fermented malt beverages containing more than one-half of one percent of alcohol by volume shall be imported into or sold within the State of Minnesota unless the brand label is approved by the Commissioner and registered in the manner provided.

A. For sample purposes only. A licensed importer or wholesaler may, with the prior approval of the Commissioner, import without registration reasonable amounts of alcoholic beverages to be used for sample purposes only. However, all such sample shipments must be manifested, as provided in Liq 83.

[(a)] B. Any alcoholic beverage[s] whose brand label is not approved and registered [as provided by Minn. St. 340.62 and Chapter Eight hereof and not located on a Minnesota licensed wholesaler's premises] shall be confiscated.

[Liq 72 BRAND LABEL OWNERSHIP.

The brand label will not be registered unless it is ascertained that the proposed registrant is the owner of the label, or has been assigned the brand label registration permission in writing by the brand owner pursuant to Federal and state laws.]

Liq [73] 72 Registration.

A written request for registration of a brand label shall be filed with the Commissioner, accompanied by the following items:

[(a)] A. A [certified] check payable to ["Liquor Control Commissioner"] "Director of Liquor Control" in the amount of \$10, for payment of the registration fee for each brand and for each type of product.

[(b)] B. A [duplicate] set of front and back labels, and any other labels to be affixed to the containers. In the case of imported [wines and distilled spirits,] **alcoholic beverages**, the name and address of the importer must be shown on the label.

[(c)] C. A [duplicate] set of photostatic copies of beer cans and lids.

[(d)] D. **If requested by the Commissioner**, [Two] two labeled and sealed containers of malt beverages for analysis. [by the Commissioner.]

[(e)] E. **If requested by the Commissioner**, [A] a complete, signed chemical analysis of the product and a verified statement that the product to be sold under the label will correspond in all respects to the sample and analysis.

[(f)] A verified statement by the brand owner or his authorized representative declaring ownership of the label and identifying the United States distributor, if other than the brand owner.]

Liq [74] 73 Commissioner to approve change. Any change of ownership or of contents of alcoholic beverages and the labeling in connection therewith from the original registration of such contents and labels shall be promptly submitted to the Commissioner for approval before the importation or sale of such beverages in the state.

Liq [75] 74 Abandonment. Any brand of alcoholic beverage for which Minnesota importation has been discontinued for two years or which has been abandoned shall not be imported in this state unless the brand label is re-registered in the manner provided in Liq [73] 72. [In the case of fermented malt beverages, it is required that the brand label registrant submit a letter to this office each month of each year indicating the brands of beer shipped into and/or sold in the State of Minnesota.]

Liq [76] 75 Importers to ascertain registration. Minnesota manufacturers and wholesale distributors shall ascertain before the importation of any alcoholic product into the state that said product has been registered and the analysis of the brand submitted to and approved by the Commissioner.

Liq [77] 76 Stock transfer shall be arranged before change in distributors. When there is a change in distributorship of the brand, the brand owner shall arrange for the transfer of the stock on hand to the new distributor or for shipment to the producer of the brand 5 days before the change is made. This shall not apply if the brand is distributed by more than one wholesaler in this state.

Liq [78] 77 Bulk containers. Distilled spirits and wine may be imported and sold to manufacturers in bulk containers without brand label registration.

PROPOSED RULES

Liq 78-79 Reserved for future use.

Chapter Nine is renumbered to Chapter Eight.

Liq 83 Manifest or invoice. Minn. [St.] Stat. [Section] § 340.485, subd. 3 provides that importers of distilled spirits, wines, ethyl alcohol or sacramental wine shall prepare a manifest in [quadruplicate] **duplicate** on forms prescribed by the Commissioner for each shipment into Minnesota, and shall forward the manifest to the Commissioner prior to the time of shipment.

[(a)] **A.** The manifest shall represent only the shipment of each single conveyance.

[(b)] **B.** The manifest shall designate the consignee and consignor, the date of shipment, name of common carrier, brand name, brand label registration number, the number of packages and the number of containers in each package, the size of each container, the proof of the product and the total gallonage[, and shall state whether or not Minnesota certification labels are affixed.]

(c) The shipment will not be released to the consignee unless the manifests are received by the Commissioner one or more days prior to the arrival of the shipment.]

Liq 84 Transportation. Only common carriers or duly licensed Minnesota manufacturers or wholesale distributors shall transport distilled spirits, wine, ethyl alcohol or malt beverages into this state.

[(a)] **A.** All common carriers except railroads, their motor affiliates and public water transportation carriers, shall obtain a permit as provided in Liq [35 (d),] **25 D,** for each vehicle used to transport alcoholic beverages into Minnesota.

[(b)] Common carriers may store shipments of alcoholic beverages in warehouses pending release by the Commissioner. Alcoholic beverages so stored shall be deemed to be in the carrier's possession.]

Chapter Ten is renumbered to Chapter Nine

Liq 92 Standards of fill for distilled spirits.

½ gallon	4/5 pint
1 quart	½ pint
4/5 quart	Miniatures containing no
1 pint	more than 2 ounces

or the metric equivalent of any of the above.

Tolerance in the herein-described standards of fill may be allowed by the Commissioner for distilled spirits [imported from foreign countries and for domestic cordials.] **upon prior application.**

The regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act governing standards of fill shall be followed in all bottling or selling of distilled spirits in the State of Minnesota.

Liq 95 Standards of fill for wine.

Gallon	128 ounces
½ Gallon	64 ounces
Quart	32 ounces
Fifth	25-3/5 ounces
Pint	16 ounces
Tenth	12-4/5 ounces
½ Pint	8 ounces
Twentieth	6-2/5 ounces

or the metric equivalent of any of the above.

Tolerance in the herein-described standards of fill may be allowed by the Commissioner [for wines imported from foreign countries, or for domestic sparkling wine.] **upon prior application.**

The regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act governing standards of fill shall be followed in all bottling or selling of wine in the State of Minnesota.

Liq 98 Labeling requirements and alcoholic content. [The] **For any** product that contains more than 3.2% of alcohol by weight, the alcoholic content shall be stated and the product labeled as follows: — “contains more than 3.2% of alcohol by weight” or “strong beer,” “strong ale,” “strong porter,” “strong stout,” etc.

[(a)] **A.** [The] **For any** product that is sold in cans, the word “strong” shall appear on one end of each can [in waterproof ink or paint] **in a permanent medium.** For cone type cans, however, such indication shall be placed on the side. The same indication of type shall also appear on cans of malt beverages containing not more than 3.2% of alcohol by weight and the alcoholic content shall be stated as provided for in [(b)] **B.** of this [section] **rule.**

[(b)] **B.** [The] **For any** product that contains more than ½ of 1 per centum of alcohol by volume and not more than 3.2% by weight, the alcoholic content shall be stated and

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

PROPOSED RULES

the product labeled as follows: "contains not more than 3.2% of alcohol by weight" or similar expression of like meaning.

[(c)] **C.** In place of submitting can containers for malt beverages, duplicate photostatic copies of each can shall be submitted for both "3.2%" and "strong" and such copies shall clearly show the label and the alcoholic content.

[(d)] **D.** The alcoholic content shall be stated if the product contains less than 1/2 of 1 per centum of alcohol by volume and shall be labeled "contains less than 1/2 of 1 per centum of alcohol by volume."

E. Any product not labeled in accordance with this rule shall be subject to confiscation by the Commissioner.

Liq 99 Alcoholic contents to be indicated on containers. Kegs or barrels sold in Minnesota shall have the contents identified by paper stickers or stencils affixed on the same surface as the brewer's identification stating either "strong beer" or "3.2 beer" or similar words which are appropriate to the content, or as an alternative the alcoholic contents of kegs or barrels may be identified with distinctive symbols which have been submitted to and approved by the Commissioner.

[(a)] **A.** Non-returnable and sealed cases of bottles or cans shall have imprinted in ink on the top or one side of the case either "strong beer" or "3.2 beer" or similar words which are appropriate to the content, or by the use of distinctive symbols which have been submitted to and approved by the Commissioner. This provision shall apply to the shipping case and need not apply to smaller cartons which may be contained therein. Each brewer and importer shall notify the Commissioner whether identification will appear on the top or side of the case.

[(b)] **B.** Unsealed returnable cases of bottles need no external marking to identify alcoholic content, if opening without breaking furnishes direct view of bottle which identify the alcoholic content pursuant to this [regulation] rule.

C. Any product not labeled in accordance with this

rule shall be subject to confiscation by the Commissioner.

Liq 100 Standards of fill for malt beverages. The standards of fill for malt beverages in containers, whether domestically manufactured or imported for sale within the State of Minnesota, shall be as hereinafter provided:

	1 Barrel
1/2 barrel	25-3/5 ounce container
1/4 barrel	24 ounce container
1/8 barrel	16 ounce container
288 ounce container	12 ounce container
144 ounce container	10 ounce container
128 ounce container	8 ounce container
64 ounce container	7 ounce container
32 ounce container	6 ounce container

or the metric equivalent of any of the above.

Tolerance in the herein-described standards of fill may be allowed by the Commissioner [for malt beverages imported from foreign countries.] upon prior application. The regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act governing standards of fill shall be followed in all bottling or selling of malt beverages in the State of Minnesota.

Chapter Eleven is renumbered to Chapter Ten.

Chapter Twelve is renumbered to Chapter Eleven.

Chapter Thirteen is renumbered to Chapter Twelve.

Liq 123 Permit holder's report. Permit holders shall report on Form No. 27 all purchases of ethyl alcohol, the amount used[,] and the balance at the end of the [month] year[, provided that this section shall not apply if the amount of ethyl alcohol used is less than one gallon per month, wherein an affidavit to that effect shall be submitted to the Commissioner when application is made for the renewal permit]. Manufacturers and wholesale distributors shall report the purchase and sales of ethyl alcohol on Form No. 29.

(Following is the proposed Form PS 9024, governing the format for brand owner or wholesaler price schedules. See Liq 38 E.)

PS 9024

MINNESOTA WHOLESALE PRICE FILING

Page No. _____

WHOLESALER _____

FOR MONTH OF _____ 19__

BRAND AND PROOF	SIZE	CASE LIST	CASE DISC.	CREDIT TERMS	CASE NET
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OFFICIAL NOTICES

Department of Agriculture

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Storage, Handling, and Distribution of Anhydrous Ammonia, Aqueous Solutions of Nitrogen and Dry Fertilizer Materials

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed rules governing the storage, handling, and distribution of anhydrous ammonia, aqueous solutions of nitrogen and dry fertilizer materials. In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Mr. John Halvorson
Minnesota Department of Agriculture
604 State Office Building
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-6121, and in person at the above address.

All statements of information and comment must be received by August 26, 1977. Any written material received by the Department shall become part of the hearing record.

The proposed rules, if adopted, would revise Agr 324 and set standards for the storage, handling, and distribution, including all modes of transport, of anhydrous ammonia, aqueous solutions of nitrogen, and dry fertilizer materials.

John Halvorson
Director
Agronomy Services Division

Department of Education

Notice of Intent to Solicit Outside Opinion Regarding the State Plan for the Operation and Funding of Programs for the Handicapped at the 4-21 Age Levels in Minnesota School Districts

The Department of Education has drafted a State Plan to meet the requirements of Public Law 94-142.

The Department invites interested persons or groups to provide information, comment, and advice on the subject, in writing, or orally either: to Dr. Wilfred Antell, Assistant Commissioner of Education, Minnesota Department of Education, 8th Floor, Capitol Square Building, 500 Cedar Street, St. Paul, MN 55101, or at any of the following meetings:

9:00 a.m.-12:00 p.m. — July 25, 1977
Bemidji Holiday Inn

9:00 a.m.-11:30 a.m. — July 28, 1977
Registry Hotel, Bloomington, MN

9:00 a.m.-12:00 p.m. — August 8, 1977
Mankato Holiday Inn

Copies of the State Plan may be received by calling (612) 296-7020 or by writing Dr. Wilfred Antell at the above address.

Written statements will be made part of the public review record.

Department of Transportation

Resolution of Koochiching County Requesting the Establishment of a Highway Railroad Grade Crossing between Section 31, T. 71N., R. 23W., and Section 6, T. 70N., R. 23W. Which would Traverse the Right of Way and Track of the Duluth, Winnipeg and Pacific Railway Company

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 28, 1977 at 10:00 A.M., in the City Council Chambers, Municipal Building, 3rd Street and 5th Avenue, International Falls, Minnesota.

The hearing will be held before Mr. George Deretich, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8116) a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted

OFFICIAL NOTICES

pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is that the County Board of Koochiching County has requested a public hearing be held to investigate the public safety conditions surrounding the grade crossing of the trackage of the Duluth, Winnipeg and Pacific Railway Company and County Road 113 located between Section 31, T. 71N., R. 23 W. and Section 6, T. 70N., R. 23W. Koochiching County pursuant to Minn. Stat. § 219.39.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 28, 1977 at 10:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE RESOLUTION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 28, 1977

Name and Telephone Number of Hearing Examiner:

Mr. George Deretich
1745 University Avenue
Saint Paul, Minnesota 55104
296-8116

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Petition of the City of Eden Prairie for the Reconstruction and Apportionment of the Cost of Said Reconstruction for the Chicago and Northwestern Transportation Company Bridge over Valley View Road in Eden Prairie, Minnesota

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 28, 1977 at 9:30 A.M., City Council Chambers, 8950 Eden Prairie Road, Eden Prairie, Minnesota 55343.

The hearing will be held before Mr. Richard DeLong, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8113, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney

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General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (telephone: 612-296-3257).

The purpose of the hearing is that the City of Eden Prairie has applied for an order requiring the Chicago and North-western Transportation Company to reconstruct its bridge over Valley View Road, Eden Prairie, Minnesota.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 28, 1977 at 9:00 A.M., the Notice of Appearance form enclosed with this order must be completed, and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 28, 1977

Name and Telephone Number of Hearing Examiner:

Mr. Richard DeLong
1745 University Avenue
Saint Paul, Minnesota 55104
296-8113

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Petition of Burlington Northern, Inc. to Remove the Base Agent and Close the Depot at Floodwood, Minnesota, and to Reassign Agency Service for Floodwood, Brookston, Paupores, Mirbat, Island, Wawina and Swan River, Minnesota

Order for Hearing and Notice Therof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 26, 1977 at 10:00 A.M., in the St. Louis County Board Room, St. Louis County Court House, Duluth, Minnesota.

The hearing will be held before Mr. George Deretich, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8116), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is to ensure that under the provisions of Minn. Stat. § 219.85 all parties and potential parties of interest are given an opportunity to be heard on the proposed discontinuance of agency service at Floodwood Minnesota. The petition recites, among other matters that the Petitioner proposes to discontinue base agency service at Floodwood, and to close and remove the depot thereat, and to assign Floodwood, Brookston, Paupores, Mirbat and Island as "blind sidings" to the base agent at

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Cloquet and to assign Wawina and Swan River as "blind sidings" to the base agent at Grand Rapids. Grand Rapids will continue to serve Cohasset as a "blind siding".

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 26, 1977 at 10:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 26, 1977

Name and Telephone Number of Hearing Examiner:

Mr. George Deretich
1745 University Avenue
Saint Paul, Minnesota 55104
296-8116

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove Track No. 12 Located at Echo, Minnesota

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 25, 1977 at 1:00 P.M., at the Offices of the Chief Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota.

The hearing will be held before Mr. Bernard Singer, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8110), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is to ensure that under the provisions of Minn. Stat. §§ 219.681 and 219.741 all parties and potential parties of interest are given an opportunity to be heard on the proposed retirement and removal by Chicago and North Western Transportation Company of ICC Track No. 12, 827 feet long with turnout at Echo, Minnesota.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 25, 1977 at 1:00 P.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEAR-

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ING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 25, 1977

Name and Telephone Number of Hearing Examiner:

Mr. Bernard Singer
1745 University Avenue
Saint Paul, Minnesota 55104
296-8110

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove ICC Track No. 4, 1,717 Feet Long Located at Dudley, Minnesota

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 25, 1977 at 11:00 A.M., at the Offices of the Chief Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota.

The hearing will be held before Mr. Bernard Singer, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8110), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is to ensure that under the provisions of Minn. Stat. §§ 219.681 and 219.741 all parties and potential parties of interest are given an opportunity to be heard on the proposed retirement and removal by the Chicago and North Western Transportation Company of ICC Track #4, 1,717 feet long, located at Dudley, Minnesota. The petition recites among other matters that the subject track is no longer needed for rail transportation services, and constitutes a continuing and burdensome maintenance problem and expense.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 25, 1977 at 11:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the

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procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 25, 1977

Name and Telephone Number of Hearing Examiner:

Mr. Bernard Singer
1745 University Avenue
Saint Paul, Minnesota 55104
296-8110

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

**Petition of Burlington Northern, Inc. for
Authority to Remove 1,876 Feet of
Spur Track Formerly Serving the Deep
Rock B & H Oil Company at St. Cloud,
Minnesota**

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 25, 1977 at 9:00 A.M., at the Office of the Chief Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota.

The hearing will be held before Mr. Bernard Singer, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8110), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is to ensure that pursuant to Minn. Stat. §§ 219.681 and 219.741 all parties and potential parties of interest are given an opportunity to be heard on the proposed removal by Burlington Northern, Inc. of 1,876 feet of spur track at St. Cloud, Minnesota, formerly serving the Deep Rock B & H Oil Company. The petition recites among other matters that removal of said trackage will eliminate two public grade crossings at Fifteenth Avenue South and Sixteenth Avenue South.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 25, 1977 at 9:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

OFFICIAL NOTICES

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 25, 1977

Name and Telephone Number of Hearing Examiner:

Mr. Bernard Singer
1745 University Avenue
Saint Paul, Minnesota 55104
296-8110

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

Petition of Chicago and North Western Transportation Company to Retire and Remove the West 960 Feet of ICC Track No. 260 Located at St. Charles, Minnesota

Order for Hearing and Notice Thereof

It is hereby ordered, and notice is hereby given that a contested case hearing concerning the above-entitled matter

will be held on July 25, 1977 at 10:00 A.M., at the Offices of the Chief Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota.

The hearing will be held before Mr. Bernard Singer, 1745 University Avenue, Saint Paul, Minnesota 55104, (Telephone: 612-296-8110), a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. § 15.0411 through Minn. Stat. § 15.052 and Minn. Rule HE 201 through 222. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Frederick S. Suhler, Jr., 5th Floor Transportation Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-3257).

The purpose of the hearing is to ensure that under the provisions of Minn. Stat. §§ 219.681 and 219.741 all parties and potential parties of interest are given an opportunity to be heard on the proposed retirement and removal by the Chicago and North Western Transportation Company of the West 960 feet of ICC Track No. 260 located at St. Charles, Minnesota. The petition recites that "removal of the subject track will result in a safer grade crossing, and will permit the removal of two track crossings, and that there is no prospect that the subject track will be needed in the future."

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 25, 1977 at 10:00 A.M., the Notice of Appearance form enclosed with this order must be completed and returned to the Hearing Examiner at least 10 days before the hearing date. **SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.**

The above cited procedural rules are available at the Office of Hearing Examiners or may be purchased from the Documents Section of the Department of Administration, 140 Centennial Building, Saint Paul, Minnesota 55155 (Telephone: 612-296-2874). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing

OFFICIAL NOTICES

Examiner at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

Jim Harrington
Commissioner of Transportation

Notice of Appearance

Date of Hearing: July 25, 1977

Name and Telephone Number of Hearing Examiner:

Mr. Bernard Singer
1745 University Avenue
Saint Paul, Minnesota 55104
296-8110

TO THE HEARING EXAMINER:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

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