

State

Pages 1415-1434



STATE OF
MINNESOTA

Register

HIGHLIGHTS:

PROPOSED RULES

Cost Share Program of the Soil and Water Conservation Board 1421

OFFICIAL NOTICES

Solicitation of Outside Opinion Sought on Rules for Minnesota School for Deaf and Braille and Sight-Saving School 1429

Filing of Applications for Ambulance Services 1429

Solicitation of Outside Opinion on Proposed Amendments to Rules Governing Community Mental Health Services 1429

Solicitation of Outside Opinion on Proposed Amendments to Rules Governing Vending and Business Enterprises of the Blind 1430

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A detailed table of contents appears inside.

VOLUME 2, NUMBER 30

January 30, 1978

State Register

Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 26, dated January 2, 1978, the Office of the State Register will be making the following enhancements in the *State Register* format:

- Highlights on the front cover will be arranged under section headings, as they appear within the *State Register*, and will include page numbers. The Highlights section will also include a notation directing readers to a more complete table of contents within the issue.
- An introductory statement will be included for each section of the *State Register*. These statements will give a brief explanation of the kinds of material contained in the section; effective lead times for notices of hearing, rules, or executive orders; and cites to applicable statutes.
- A new key using ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules will indicate changes from original language to proposed new language. Strike outs and underlining in adopted rules will indicate changes from proposed to adopted language.
- Guide rule-numbers will be printed, when applicable, at the outside top of each page to indicate the beginning rule number on the left hand pages and the ending rule number on the right hand pages.
- Chapter and rule numbers that begin the text of an adopted or proposed rule will be printed in bold face.

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The *State Register* is the official publication of the State of Minnesota. It contains all executive orders, rules and notices filed with the Office of the State Register as of noon of the second Wednesday preceding the Monday of publication. The text of documents published in the *State Register* is to be accorded the following presumptions:

- (1) The rule or order was duly adopted, issued or promulgated;
- (2) The rule or order was duly filed with the Secretary of State and available for public inspection; and
- (3) The copy of the rule or order published in the *State Register* is a true copy of the original.

Judicial notice shall be taken of material published in the *State Register*.

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CONTENTS

PROPOSED RULES

Soil and Water Conservation Board
Proposed Rules for the Cost-Share Program 1421

OFFICIAL NOTICES

Department of Education
Division of Special and Compensatory
Education
Notice of Intent to Solicit Outside Opinion Regarding
Rules for the Minnesota School for the Deaf and
the Minnesota Braille and Sight-Saving School . . 1429

Department of Health

Notice of Filing of Application by the Fuhr Flying
Service 1429
Notice of Filing of Application by the Hazelden
Foundation 1429

Department of Public Welfare

Notice of Intent to Solicit Outside Opinion
Regarding Proposed Amendments to DPW
Rule #28 1429
Notice of Intent to Solicit Outside Opinion
Regarding Proposed Amendments to DPW
Rule #79 1430

MCAR AMENDMENTS AND ADDITIONS

The following is a cumulative listing of all proposed and adopted rules published in the *State Register* from Volume 2, Issue 1, to the present issue. The listing is arranged in the same order as is the table of contents to the *Minnesota Code of Agency Rules (MCAR)*. All adopted rules published in the *State Register* and listed below amend and/or add to the rules contained in the MCAR set.

TITLE 1 CONSTITUTIONAL OFFICES

Part 2 Secretary of State

SecStat 301, 502-599, 601, 604-699, 902, 903, 1102, 1101-1199, 2101-2106, 2108-2111, 2113, 2115 (proposed) 784

Part 3 State Treasurer

TRE 1-14 (proposed) 662

TITLE 2 ADMINISTRATION

Part 1 Administration Department

SBC 101-111, 201-204 (proposed) 837
 SBC 6001-6006 (adopted) 173
 SBC 6101-6107 (adopted) 806
 SBC 6201-6205 (proposed) 1095
 ASHRAE Standard 90-75 pp. 22, 28, 34 (proposed) 1096

Part 2 Personnel Department

Persl 4, 9, 11-12, 19, 21-22, 24, 28-29, 31, 39-40, 46-47, 61, 65-66, 68, 82, 85, 97, 106, 109, 129, 131, 133, 135-136, 141, 144, 160-161, 166-168, 170, 172, 181-182, 203, 224-254 (proposed) 254
 Persl 4, 9, 11-12, 19, 21-22, 24, 28-29, 31, 39-40, 46-47, 61, 65-66, 68, 82, 85, 97, 106, 109, 129, 131, 133, 135-136, 141, 144, 160-161, 166-168, 170, 172, 181-182, 203, 224-254 (adopted) 1236
 Persl 9, 18-19, 24, 31, 39, 61, 109, 131, 141, 144, 181, 203 (proposed temporary rules) 50
 Persl 9, 18-19, 24, 31, 39, 61, 109, 131, 135-136, 141, 144, 181, 203 (adopted temporary rules) 308
 Persl 9, 18-19, 24, 31, 39, 61, 109, 131, 135-136, 141, 144, 181, 203 (adopted temporary rules) 949
 Persl 275-285 (proposed) 92

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR §§ 1.0109-1.0113 (proposed) 1394
 3 MCAR § 1.0338 (proposed) 1246
 3 MCAR §§ 1.0563-1.0568 (proposed) 248
 3 MCAR §§ 1.0563-1.0568 (adopted) 948
 Emergency Rules 1, 2 (adopted emergency rules) 128
 3 MCAR §§ 1.0583-1.0585 (proposed) 694

Part 2 Livestock Sanitary Board

3 MCAR §§ 2.002, 2.005, 2.042 (proposed) 194
 3 MCAR §§ 2.005, 2.042 (adopted) 1393
 3 MCAR §§ 2.002, 2.040 (proposed) 930
 3 MCAR § 2.041 (adopted) 915

TITLE 4 COMMERCE

Part 1 Commerce Department

BD 226, 227 (proposed) 177
 Ins 90, 92 (proposed) 183
 Ins 90, 92 (adopted) 1164
 Ins 150 (proposed temporary rules) 1051
 Ins 180-188 (proposed) 178

Part 3 Public Service Department

PSC 2, 5 (adopted) 977
 PSC 120, 122-124, 128 (adopted) 1050
 PSC 390-395 (adopted) 834

Part 4 Cable Communications Board

MCCB 2, 20, 46-55, 61-62, 64-77, 80, 91, 99, 103, 111-113, 121, 134, 136, 166-168, 170-171, 201, 225 (adopted) 1028

Part 5 Abstractors Board

Abs 1-10 (adopted) 1378

Part 6 Accountancy Board

Accy 5, 8, 12, 18-19, 30, 40, 43-46, 50, 60, 63, 70-74, 80-84, 110-112, 120-121, 140-141, 150-151, 220-429 (adopted) 145
 Accy 150, 160 (adopted) 1028

Part 7 Board of Architecture, Engineering, Land Survey and Landscape Architecture

AE&LS 9 (proposed) 678

Part 8 Barber Examiners Board

BE 1-15, 26-31, 33, 42-45, 56-66, 77-79 (proposed) 410
 BE 1-15, 26-31, 33, 42-45, 56-66, 77-79 (adopted) 1164

Part 9 Boxing Board

4 MCAR §§ 9.101-9.124, 9.201-9.215, 9.301-9.306, 9.401-9.411, 9.501-9.518, 9.601-9.611 (proposed) 916

Part 10 Cosmetology Board

MSBC 1-8, 20-29, 40-42, 60-66 (proposed) 35
 MSBC 1-8, 20-30, 40-42, 60-66 (adopted) 1029
 MSBC 64 (errata) 164

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR §§ 1.0741-1.0745 (proposed temporary rules) 1402
 5 MCAR §§ 1.720-1.725 (proposed temporary rules) 251
 EDU 44, 764, 767-769 (adopted) 915
 EDU 741, 743 (adopted) 693
 5 MCAR §§ 1.0010, 1.0720-1.0725 (proposed) 1051
 5 MCAR §§ 1.0070-1.00791, 1.00801, 1.00811, 1.00821, 1.00831, 1.0084-1.0086, 1.0100-1.0109, 1.01101, 1.0111-1.0116 (proposed) 1056
 5 MCAR §§ 1.0720-1.0724 (adopted temporary) 753
 5 MCAR §§ 1.0720-1.0724 (adopted temporary) 1236
 5 MCAR §§ 1.0764, 1.0767-1.0769 (adopted temporary) 305

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.0101-2.0108, 2.0301-2.0310, 2.0401-2.0407, 2.0501-2.0507, 2.0601-2.0607, 2.0801-2.0806 (proposed) 697
 5 MCAR §§ 2.1001-2.1008 (proposed) 1096
 HECB 101-103, 105-108, 301-310, 401-407, 501-507, 601-607 (proposed) 697

Part 3 Teaching Board

5 MCAR §§ 3.001, 3.003-3.015, 3.020-3.031, 3.041, 3.050-3.054, 3.060-3.086, 3.102-3.103, 3.130 (proposed) 311
 5 MCAR §§ 3.002-3.003, 3.106, 3.108-3.109 (adopted) 915

Part 4 State University Board

SCB 101-110, 201-212, 251-255, 301-309, 321-328, 401-404, 421-423, 431-433, 501-506, 601-604, 701-714, 751-753, 801-805, 901-904, 1001-1014 (proposed) 1223

Part 5 Arts Board

MSAB 1-8 (adopted) 31

Part 6 Zoological Garden

Zoo 101-105, 201-206, 301-307, 401-409, 501-505, 601-615, 701-702 (proposed) 1266

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

NR 51, 56 (proposed) 441
 NR 2600, 2610, 2620, 2630, 2640 (adopted) 174
 NR 5020-5026 (proposed) 201
 NR 5300 (proposed) 287
 NR 10 (proposed) 777

Part 2 Energy Agency

EA 301-315 (adopted) 1038

MCAR AMENDMENTS AND ADDITIONS

Part 3 Environmental Quality Board

MEQC 72, 73, 76-80, 82 (adopted emergency)	501
MEQC 71-82 (proposed)	508

Part 4 Pollution Control Agency

APC 4, 11 (errata)	135
WPC 43 (proposed)	94
HW 1-10 (proposed)	521
SW 1-4, 6, 7 (proposed)	616
WPC 38 (adopted)	833
WPC 40 (proposed)	710

Part 5 Water and Wastewater Operator Certification Council

WWOB 1 (proposed)	675
-------------------	-----

Part 6 Metropolitan Waste Control Commission

MWCC 2 (proposed)	518
MWCC 2 (adopted)	1287

Part 7 Soil and Water Conservation Board

SWC 1-5 (adopted emergency rules)	970
SWC 1-5 (proposed rules)	1422

TITLE 7 HEALTH

Part 1 Health Department

MHD 139 (proposed)	674
MHD 139 (adopted)	1200
MHD 145-149 (emergency rules)	381
MHD 145, 147, 149-150, 195, 198, 246-254 (adopted)	1046
7 MCAR §§ 1.174-1.178 (proposed)	1252
MHD 181-186 (adopted)	1284
MHD 220(a), 224 (proposed)	926
MHD 268, 279, 294, 304-306, 314-315, (proposed)	420
MHD 268, 279, 294, 304-306, 314-315 (adopted)	1165
7 MCAR § 1.370 (adopted)	832
7 MCAR §§ 1.521-1.527 (adopted)	829

Part 4 Medical Board

7 MCAR § 4.012 (proposed)	309
---------------------------	-----

Part 5 Nursing Board

7 MCAR §§ 5.1002-5.1004, 5.1032-5.1036, 5.1060-5.1061, 5.1063, 5.1080, 5.1091, 5.2002-5.2003, 5.2005, 5.2030-5.2036, 5.2040, 5.2050-5.2051, 5.2053, 5.2070, 5.2082 (proposed)	228
7 MCAR §§ 5.1010, 5.1011, 5.1030-5.1033 (proposed)	755

Part 7 Optometry Board

OPT 1-8 (proposed)	44
--------------------	----

Part 8 Pharmacy Board

PHARM 1-4, 6-13, 21, 25-28, 31, 33, 36-37, 40-41, 43-46, 51, 61, 101-106, 111-118 (adopted)	1136
---	------

Part 9 Podiatry Board

7 MCAR § 9.002 (proposed)	442
---------------------------	-----

Part 11 Veterinary Board

7 MCAR §§ 11.001-11.008 (adopted)	1243
-----------------------------------	------

TITLE 8 LABOR

Part 1 Labor and Industry Department

LS 1-9, 12, 14-18 (proposed)	189
LS 1-9, 12, 14-18 (adopted)	1139
FEA 1, 3, 7-8, 13, 16, 22, 27, 29, 44, 57 (proposed)	187
MOSHC 1 (emergency rule)	145
MOSHC 1 (adopted)	969
MOSHC 1 (withdrawn)	1378
MOSHC 1 (proposed)	1380
MOSHC 270-283, 290-306, 310-317, 320-336 (proposed)	149

Part 3 Public Employment Relations Board

PERB 1, 3, 10, 35, 40-41, 50, 55 (proposed)	931
---	-----

Part 4 Department of Economic Security

8 MCAR § 4.0010 (proposed)	1147
----------------------------	------

TITLE 9 LAW

Part 2 Hearing Examiners Office

HE 102-112, 203-206, 209-214, 216-218, 222 (proposed)	382
HE 401-418 (adopted temporary rules)	85
HE 401-418 (proposed)	382

TITLE 10 PLANNING

Part 1 State Planning Agency

10 MCAR §§ 1.305-1.306 (adopted temporary rules)	146
10 MCAR §§ 1.305-1.306 (adopted)	673

Part 3 Metropolitan Council

MC 1-11 (proposed)	1355
--------------------	------

TITLE 11 PUBLIC SAFETY

Part 1 Public Safety Department

DES 94, 129-130, 140-141 (adopted)	1167
DES 94, 129-130, 140-141 (proposed)	443
11 MCAR §§ 1.5067-1.5070 (proposed)	891
MoVeh 58 (adopted)	33
MoVeh 70-82 (adopted)	145
Liq 1-3, 24-35, 38-39, 56, 67, 71-77, 83-84, 92, 95, 98-100, 123 (proposed)	96

Part 2 Corrections Department

CORR 4-12 (adopted)	84
CORR 4 (errata)	135
CORR 200-203 (emergency rules)	407
CORR 200-203 (adopted temporary rules)	969

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

DPW 1 (adopted)	1168
DPW 3 (adopted)	1182
DPW 17 (proposed)	1404
DPW 30 (proposed temporary rule)	132
DPW 33 (proposed temporary rule)	133
DPW 30A, 33A (adopted temporary)	754
DPW 30 (30A), 33 (33A) (adopted)	1168
DPW 44 (errata)	998
DPW 47 (adopted)	353
DPW 47 (proposed)	677
DPW 49 (proposed temporary rule)	234
DPW 49 (proposed)	617
DPW 49 (adopted)	245
DPW 49A (adopted temporary)	507
DPW 52 (adopted)	34
DPW 56, 60-62 (proposed)	1100
DPW 60 (adopted temporary)	1239
DPW 94, 104, 116, 125, 128, 131-132, 140-141 (proposed)	455
DPW 94, 104, 116, 125, 128, 131-132, 140-141 (adopted)	1189
DPW 125, 126, 128, 130-132, 135, 140 (proposed)	633
DPW 160 (proposed)	60
DPW 160 (proposed)	160
DPW 160 (errata)	164
DPW 171, 200, 210-218 (adopted)	1093

Part 3 Housing Finance Agency

MHFA 1-17, 31-36, 51, 61-69, 111-115 (adopted)	306
MHFA 120 (proposed)	675
MHFA 131-135 (proposed)	1359

TITLE 13 TAXATION

Part 1 Revenue Department

Tax S&U 101, 104, 107-109, 112, 115-117, 202, 204, 207-208, 211-212, 302, 401, 404, 407, 408, 411, 415, 421-422, 508, 510-511, 601, 604, 607-610 (proposed)	1288
---	------

MCAR AMENDMENTS AND ADDITIONS

Part 2 Tax Court

13 MCAR §§ 2.001-2.00 (proposed) 1260

TITLE 14 TRANSPORTATION

Part 1 Transportation Department

14 MCAR §§ 1.4025-1.4028 (proposed temporary rules) 892

14 MCAR §§ 1.4025-1.4028 (adopted temporary rules) 1200

14 MCAR § 1.5041 (proposed) 1360

PROPOSED RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to 15.052, the *State Register* publishes notices of hearing on proposed new or amended rules, including the full text of the new or amended rules, including the full text of the new or amended rule proposed for adoption, at least 30 days before the date set for the hearing.

Pursuant to Minn. Stat. § 15.0412, subd. 4, an agency may, with approval of the chief hearing examiner, incorporate by reference into the text of a rule, provisions of federal law, or rule, or other material which are 3000 words or more in length or would require five or more pages of print in the *State Register* and which are conveniently available to interested persons.

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

Soil and Water Conservation Board Proposed Rules for the Cost-Share Program

Notice of Hearing

The Legislature has provided funds to be used to share the cost of implementing systems or practices for erosion control and water quality improvement which are designed to protect and improve the state's soil and water resources. Public hearings on proposed rules for the operation of the cost-share program will be held at the following dates and places.

March 1, 1978, in the conference room of the Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota.

March 2, 1978, in room 217 of the Lecture Center at Southwest State University, Marshall, Minnesota.

March 6, 1978, in the meeting room of the Department of

Transportation District Office, 1000 West Highway 10, Detroit Lakes, Minnesota.

March 7, 1978, in the Lecture Hall, room 137 Wilson Hall, Itasca Community College, Route 3, Grand Rapids, Minnesota.

Each hearing will begin at 8:00 p.m.

The proposed rules are authorized and required by Minn. Stat. § 40.036 (1977 Supplement), and will replace emergency rules which have already been promulgated. The rules establish the procedures by which the Soil and Water Conservation Board allocates cost-share funds to the Soil and Water Conservation Districts. They list which kinds of conservation practices are eligible for cost-sharing. They set the maximum percentage of the cost of a practice that the district can fund. They establish the procedures a land occupier is to follow in applying for cost-sharing, and the standards the District Board is to apply in reviewing and approving or denying the application. They specify the responsibilities of a land occupier to maintain a practice funded under this program.

All interested persons will have an opportunity to participate in the hearings. Statements may be made orally and written materials may be submitted at the hearings. In addition, written materials may be submitted to hearing examiner Myron Greenberg at the Office of Hearing Examiners, 1745 University Avenue, Saint Paul, Minnesota 55104, either before the hearing or within five (5) days after the hearing. The hearing will be conducted as described in Minn. Stat., § 15.0412 and in Minnesota Rules HE 101-109.

A free copy of the proposed rules may be obtained by writing to the Soil and Water Conservation Board, Centennial Building, Saint Paul, Minnesota 55155. Additional copies will be available at the hearings. A "statement of need" explaining why the agency feels the proposed rules are necessary, and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Office of Hearing Examiners twenty-five (25) days before 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 (5) days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

PROPOSED RULES

SWC 1

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, Saint Paul, Minnesota 55155, phone: (612) 296-5615.

Dated: January 16, 1978.

Soil and Water Conservation Board
Vernon F. Reinert
Executive Director

Rules as Proposed

Cost-Share Program Rules

SWC 1 Authority, scope, definitions.

A. Authority and scope. Minn. Stat., ch. 40, authorizes the State Soil and Water Conservation Board, in cooperation with the Soil and Water Conservation Districts, to administer a program of cost-sharing with land occupiers on the installation of soil and water conservation practices. These rules provide procedures and criteria to be followed by the State Board in allocating cost-sharing funds to districts, and standards and guidelines which the District Boards shall include in all cost-sharing contracts.

B. Definitions. For purposes of these rules, the following definitions in addition to those in ch. 40, shall apply:

1. "Agricultural Stabilization and Conservation Service" means the U. S. Agricultural Stabilization and Conservation Service, an agency of the U. S. Department of Agriculture.

2. "Annual plan" means a plan prepared by the district according to the "Guidelines for Annual Planning" published by the State Board.

3. "Approved practice" means a soil and water conservation practice which qualifies for state cost-sharing and has been approved by the State Board.

4. "Area Conservationist" means the Area Conservationist of the U. S. D. A. Soil Conservation Service.

5. "Assigned S. C. S. personnel" means the District Conservationist or U. S. D. A. — Soil Conservation Service personnel designated by the Area Conservationist to provide need and performance certification to the program.

6. "Chapter 40" means the Minnesota Soil and Water Conservation Districts Law as established in Minn. Stat., ch. 40.

7. "Comprehensive plan" means a long-range plan prepared by the district pursuant to Minn. Stat., § 40.07, subd. 9.

8. "District" means a Soil and Water Conservation District organized under the provisions of Chapter 40.

9. "District Board" means the five supervisors of a district authorized to carry out the functions of the district under Chapter 40.

10. "District Conservationist" means the District Conservationist of the USDA-Soil Conservation Service.

11. "District Cooperator" means a land occupier who has requested the assistance of a district in controlling conservation problems. Such request must be formalized by the signing of a District Cooperators Agreement provided by the State Board and approved by the District Board.

12. "District Technician" means a district employee or county employee assigned to the district who possesses expertise in the design and application of soil and water conservation practices. They shall perform under the technical supervision of the District Conservationist or other assigned SCS personnel.

13. "Enduring practice" means a soil and water conservation practice which is designed for an effective life in excess of 10 years.

14. "Field Office Technical Guide" means the document providing all standards and specifications necessary for technical requirements of soil and water conservation practices as provided by the Soil Conservation Service-USA and adopted by the District Board.

15. "Group spokesperson" means an individual designated by the several individuals involved in a group project, who may speak for the entire group in negotiations with a district for cost-share assistance.

16. "Lake" means an enclosed basin, 10 acres or more in area filled or partly filled with water and discernible on aerial photographs.

17. "Land occupier" means any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of Chapter 40, whether as owner, lessee, renter, tenant, or otherwise, including, during the life of a practice, successors of a land occupier who received a cost-share payment.

18. "Non-production practice" means a soil and water conservation practice which is installed or applied to control soil erosion, reduce sediment yield, or protect water

PROPOSED RULES

quality. Practices installed or applied primarily to bring land into production or to increase the short term productivity are excluded.

19. "Program plan" means a statewide plan developed by the State Board, in consultation with the districts, for control of the soil and water conservation problems in the state.

20. "Soil and water conservation practice" means those structural and vegetative practices applied to the land for the purpose of controlling soil erosion, sediment and other water pollutants.

21. "Soil Conservation Service" means the U.S. Soil Conservation Service, an agency of the U.S. Department of Agriculture.

22. "State Board" means the State Soil and Water Conservation Board as defined in Chapter 40.

23. "Stream" means a well defined channel or bed that has water in it at some time of the year under normal conditions. This includes natural perennial and intermittent rivers and creeks as well as man-made channels that meet these general criteria.

SWC 2 State board functions.

A. Establishing approved practices and maximum rates.

1. The State Board, in consultation with the districts, shall maintain a list of practices which are eligible for cost-share funds and a schedule of maximum rates. The list shall be contained in SWC 4 and the schedule in SWC 5. Changes to the list and schedule shall be made in the manner provided by the rules-making provisions of Minn. Stat., ch. 15.

2. Practices approved by the State Board must meet the following criteria:

a. Their primary purpose must be the control of soil erosion and sediment, and protection of water quality.

b. They must be enduring in nature. All practices cost-shared under this program shall be designed for a minimum effective life of 10 years.

c. They must be non-production practices.

3. The maximum cost-share rates established by the State Board represent the maximum per cent of the total cost

SWC 2

of a practice that may be funded by state cost-share funds. Where state and federal funds are cost-shared on the same project, their combined amount shall not exceed the maximum cost-share rate.

B. Allocation of funds.

1. Before the State Board can allocate cost-share funds to a district it must first approve the district's comprehensive plan.

2. Before the State Board can allocate cost-share funds to a district, it must first receive the district's annual application for cost-share funds. The application shall be made on forms provided by the State Board and received by the State Board by January 1. The application must be accompanied by the district's annual plan.

3. The State Board shall review all district applications for cost-share funds with respect to the following criteria:

a. Priorities for the control of soil erosion, sediment and other water pollutants as established in the Program Plan of the State Board.

b. Historical success of the district in applying soil and water conservation practices.

c. Availability of cost-share funds from other sources.

d. Readiness of the district to effectively utilize the funds.

4. Following review and approval, the State Board may provide grants to the districts for the purpose of cost-sharing with land occupiers for the application of approved practices.

C. Monitoring. For the purpose of monitoring the progress of the program and utilization of funds, the State Board shall receive from each district quarterly reports by October 15, January 15, and April 15, and an annual report of the year's accomplishments by July 15. The State Board may require such additional special reports as may be deemed necessary by the State Board to monitor the cost-sharing program. The reports shall be on forms provided by the State Board.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

PROPOSED RULES

SWC 3

SWC 3 District functions.

A. Application for funds by districts. Each district shall apply for funds as indicated in SWC 2. B.

B. Administration of funds.

1. Following receipt of grant funds from the State Board, the respective districts shall be responsible for administration of the funds in accordance with the provisions of Chapter 40 and all other applicable laws. The District Board shall have the authority to make all decisions concerning utilization of these funds within the rules established herein.

2. As a condition to receiving grant funds from the State Board, the district shall insure compliance of the maintenance provisions of Chapter 40 by monitoring all cost-share contracts made with land occupiers.

3. Prior to considering any applications from land occupiers for cost-share assistance, the District Board shall establish the cost-share rates for practices to be installed under the program, which shall not exceed the maximum rates established by the State Board. This decision shall be based on the following factors:

a. Advice of technical experts familiar with the district;

b. Cost-share rates currently in effect under the Agricultural Conservation Program administered by the U.S. Agricultural Stabilization and Conservation Service and other assistance programs;

c. District priorities as established in the districts' comprehensive and annual plans; and

d. Cost-share funds available.

C. Application for funds by land occupiers.

1. Land occupiers seeking assistance under this program shall apply to the districts on forms provided by the State Board and available from the district office. Each application shall be filled out in its entirety. The application must be signed by the land occupier and if the land occupier is not the owner it must also bear the owner's signature. Applications must be submitted not later than June 1 to be considered for cost-sharing from the funds available for the fiscal year beginning July 1. After initial screening by the District Board, assigned S. C. S. personnel shall be responsible for making a determination of need and cost estimate. Actual determination of need may be done by the District Technician. Additional information on the desired practice

which may be required by the District Board in their consideration of the application, shall be included.

2. A situation may arise where the cooperation of several land occupiers is required to solve a conservation problem. The district may share the cost of such a group project provided that all of the land occupiers are eligible as individuals and the practice or practices satisfy the criteria of the program. The land occupiers must reach agreement on the division of payments. The group spokesperson shall be identified on the application and shall file the form with the district, and shall negotiate with the district. Checks for the district share of the practice shall be issued to the group members based on the division of payment plan prepared by the group.

3. If the project involves land in more than one district, application shall be made to the district containing the most land affected by the practice.

D. Criteria for district board review.

1. The applicant must be a district co-operator.

2. The desired practice must be on the list of approved practices.

3. The primary purpose of the desired practice must be the control of soil erosion, reduction of sediment delivery, or protection of water quality. In cases where the "primary purpose" is questionable, the District Board shall make a determination of the acceptability of the application. Additionally, the District Board shall make determination of the need for supplemental practices to protect any practice installed under this program, e.g., fencing the water impoundment structures. If the District Board determines that supplemental practices are necessary, they may authorize cost-sharing for their installation.

4. The desired practice must be consistent with district plans and priorities.

5. The practice must be maintained by the land occupier, who shall be responsible for operation and maintenance of practices applied under this program.

6. Priority consideration shall be given to land occupiers or groups of land occupiers who demonstrate the ability to meet matching requirements.

7. The practice must comply with the specifications of the Field Office Technical Guide of the USDA-Soil Conservation Service as adopted by the Soil and Water Conservation Districts.

E. District approval. The District Board shall either approve or deny the application. If approved, the District

PROPOSED RULES

Board shall instruct the Chairman or acting Chairman to sign the application. Once signed, the application becomes the contract between the district and land occupier and serves as the authorization for work to proceed on the practice. If denied, the District Board shall notify the land occupier in writing within 30 days, of the reason for denial of the application. Changes in any provisions of the contract shall be subject to review and approval of the District Board.

F. District records. The district shall maintain a current ledger of all cost-share contracts on forms provided by the State Board. The ledger shall specify the land occupiers with whom the district has contracted, the practices involved, status of construction and a total of funds encumbered. The district shall monitor all cost-sharing contracts to insure compliance with the provisions of SWC 3,B.2. Districts having funds which are unencumbered by December 1 of each program period may be required to return those funds to the State Board for reallocation to districts requiring additional funds.

G. Payments.

1. Construction of practices shall be monitored by the District Board to insure compliance with the specifications in the Field Office Technical Guide. Upon completion, assigned S. C. S. personnel shall certify whether or not the practice has been satisfactorily performed, including a certification that the practice meets the requirements of the Field Office Technical Guide. No such certification shall be made until all specifications have been satisfied. Upon certification of completion, the land occupier shall contact the district for payment and shall present all receipts for cost of the practice.

2. In-kind services provided by the land occupier such as, but not limited to, earth work, seedbed preparation and seeding, can be credited toward the land occupier's share of the total cost of the practice. The District Board shall determine whether charges for such services are practical and reasonable.

3. In cases where the actual cost of the practice exceeds the estimated cost, the district may only share the approved percentage of the estimated cost, except when an amendment to the cost-share agreement has been approved. Because of extreme circumstances such as, but not limited to, weather and unforeseen geologic conditions, it may be desirable to increase the practice units and/or estimated cost, or to postpone the completion date of the practice. Such changes must be approved by the supervisors in ad-

SWC 4

vance of completion of the work with an amendment to the cost-share agreement covering the changes. Where the actual cost is less than the estimated cost the district shall only share the approved percentage of the actual cost of the practice. The District Board shall review the receipts provided by the land occupier to determine the actual cost of the practice. When the district determines that all claims are practical and reasonable, they shall authorize issuance of a check for the district share of the practice. Where the District Board determines that certain claims are not justified they shall notify the land occupier in writing of the unjustified claims within 30 days. The District Board shall then authorize the issuance of a check for the district share of the justified claims.

H. Maintenance. The land occupier is responsible for operation and maintenance of practices applied under this program. Should the land occupier fail to maintain such practices or willfully remove them during their effective life, the land occupier shall be liable for the amount of financial assistance received for their installation. The District Board may authorize the removal of a practice installed under this program provided the land occupier can show good cause for removal of the practice. The land occupier shall not be held liable for cost-share assistance received provided the failure was caused by reasons beyond the land occupiers control, or if soil and water conservation practices are applied which provide equivalent protection of the soil and water resources. In no case shall a district provide cost-share assistance to a land occupier for the reapplication of practices which were removed by the land occupier during their effective life or failed due to improper maintenance.

I. Appeals. In cases where a land occupier feels he has been treated unfairly, he may request that the District Board review its decision. Should the land occupier and District Board reach an impasse, the land occupier may petition in writing for a hearing before the State Soil and Water Conservation Board. If it grants the hearing, which shall be informal, the State Board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for 10 days after the hearing. The referee, if used, shall report his findings and recommendation to the State Board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the District Board.

J. Reports to state board. Each district shall submit to the State Board the reports identified in SWC 2.

SWC 4. Approved practices.

KEY: Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

PROPOSED RULES

SWC 4

A. Erosion control structures.

1. Definition: A structure such as, but not limited to, grade stabilization structures, floodwater retarding structures and multipurpose dams to (1) stabilize the grade or control head-cutting in natural or artificial channels; (2) provide temporary storage of floodwater; (3) control release rate providing downstream channel stability; or (4) impound water.

2. Purpose: To control soil erosion and sediment. An erosion control structure may provide multiple benefits including but not limited to water supply for livestock, recreation, flood control, channel stability, wildlife habitat and fire prevention.

3. Applicability: To any lands where such structures are necessary for the control of soil erosion and sediment.

4. Policies:

a. Cost-sharing is authorized only on erosion control structures that provide for reduction of soil erosion or sediment pollution.

b. Cost-sharing may be authorized for the installation of livestock watering facilities in conjunction with erosion control structures only if such facilities are necessary for the proper management and protection of the structure as determined by the District Board.

c. Cost-sharing may be authorized for permanent fencing of an erosion control structure as determined by the District Board.

d. Cost-sharing may be authorized for plantings and seeding required to stabilize the structure. Whenever possible, the District Board shall encourage the use of those species that provide wildlife habitat and visual enhancement.

e. Cost-sharing may be authorized for erosion control structures which provide multiple benefits provided the primary benefit is soil erosion and sediment control.

f. Cost-sharing is authorized for erosion control dams and ponds provided that a minimum of 50% of the contributing drainage area above the proposed project is "adequately treated" or treatment is being applied.

B. Stripcropping.

1. Definition: Stripcropping shall mean the development and application of a cropping system for a farming unit which provides for planting row crops with the contour

where practicable and incorporates alternate strips of row crops, close sown, and sod crops.

2. Purpose: To establish a system of farming with contour or field stripcropping to reduce wind and water erosion and sediment pollution. Stripcropping may provide additional benefits to wildlife.

3. Applicability: To any lands where stripcropping is necessary for the control of soil erosion and sediment.

4. Policies: Cost-sharing may be authorized for all costs associated with the delineation of strips and removal of obstructions.

C. Terraces.

1. Definition: An earth embankment, or a combination ridge and channel constructed across the slope at the required spacing.

2. Purpose: Terraces are constructed to:

a. reduce slope length;

b. reduce erosion;

c. reduce sediment content in runoff water;

d. intercept and conduct surface runoff at a non-erosive velocity to stable outlet;

e. retain runoff for moisture conservation;

f. prevent gully development;

g. re-form the land surface; and

h. reduce flooding.

Terraces may provide additional benefits by creating wildlife habitat.

3. Applicability: This practice applies where:

a. water erosion is a problem;

b. there is a need to conserve water;

c. the soils and topography are such that terraces can be constructed and farmed with a reasonable effort.

d. a suitable outlet can be provided.

4. Policies:

a. Cost-sharing is authorized for construction

PROPOSED RULES

necessary to properly establish the terraces including earth-work, material and seedings if necessary.

b. Cost-sharing is authorized for tile systems necessary to the establishment and operation of the terraces, including the outlet which shall be limited to 300 feet below the last terrace in a system.

D. Diversions.

1. Definition: A channel with a supporting ridge on the lower side constructed across the slope.

2. Purpose: The purpose of this practice is to divert water away from erosive areas to sites where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

3. Applicability: This practice applies to sites where:

a. runoff from higher lying areas is eroding cropland, pastureland, farmsteads, or is needed to support conservation practices such as terraces or stripcropping in the control of erosion or runoff;

b. surface and shallow subsurface flow is damaging sloping upland;

c. required as a part of a pollution abatement system, or to control erosion and runoff on urban or developing areas and construction sites.

4. Policies:

a. Cost-sharing is authorized for tile systems necessary for the establishment and operation of erosion control practices such as waterways, terraces or diversions.

b. Cost-sharing is authorized for seedings necessary to properly establish the practices or permanently stabilize critical areas.

E. Stormwater control systems.

1. Definition: A system of components such as, but not limited to, waterways, diversions, sediment control structures, stabilization structures, culverts, channels and floodways to convey storm runoff to a constructed or natural outlet in a non-erosive manner. This practice does not apply to areas for which the primary purpose is drainage to improve crop production.

2. Purpose: The purpose of this system of elements is

SWC 4

to provide a means of regulating and/or removing runoff to protect the area from flood damage and erosion, to prevent pollution of watersheds, lakes and streams, to protect natural scenic areas, and to provide for the conservation of the natural resources of the area. Additional benefit may be provided through creation of wildlife habitat.

3. Applicability: The provisions of this system of elements to convey runoff applies to all lands by utilizing vegetative and mechanical protection for control of erosion and pollution.

4. Policies:

a. Cost-sharing is authorized for practices required in a complete stormwater control system. Such practices shall include, but are not limited to: channel lining, chutes, drop spillways, vegetative filter strips, protective outlets, sod waterways, permanent sod cover, fencing and permanent vegetation including trees, shrubs and grasses that provide wildlife habitat and visual enhancement.

b. Cost-sharing is authorized for tile systems necessary for the establishment and operation of erosion control practices such as waterways, terraces or diversions.

c. Cost-sharing is authorized for seedings necessary to properly establish the practices or permanently stabilize critical areas.

F. Field windbreaks.

1. Definition: A strip or belt of trees, shrubs or grass barriers established within or adjacent to a field.

2. Purpose: To reduce soil blowing; to conserve moisture; to control snow deposition; to protect crops, livestock and wildlife and to beautify and otherwise enhance the landscape.

3. Applicability: In or around open fields which need protection against wind damage to soils.

Additional benefit may be realized from the creation of wildlife habitat.

4. Policies: Cost-sharing is authorized for land preparation, planting materials, planting, chemicals for weed control and other applicable costs necessary to establish the system. The land occupier shall be responsible for controlling competitive vegetation for two years following planting and shall bear the cost of control.

KEY: Existing rules are printed in standard type face. with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

PROPOSED RULES

SWC 4

G. Animal waste control systems.

1. Definition: A planned agricultural waste management system to contain and manage liquid and solid wastes including runoff from concentrated animal waste areas with ultimate disposal in a manner which does not degrade air, soil or water resources. This practice includes systems for safe disposal of livestock wastes through use of soil and plants.

2. Purpose: Agricultural waste management systems are used to manage wastes in rural areas in a manner which prevents or minimizes degradation of air, soil and water resources and protects public health and safety. Such systems are planned to preclude discharge of pollutants to surface or ground water and, to the fullest practicable extent, recycle wastes through soil and plants.

3. Applicability:

a. To any animal confinement area, any part of which is located within 300 feet of a stream or 1,000 feet of a lake or to an animal confinement area identified as a pollution problem by the District Board, and/or Minnesota Pollution Control Agency.

b. For other requests for this practice, the District may refer the request to Minnesota Pollution Control Agency for a priority needs determination.

4. Policies:

a. Cost-sharing is authorized for all structures and vegetative practices necessary to store animal wastes or control stormwater runoff from animal confinement areas including storage facilities, diversions, waste storage pond, and waterways. A complete system, controlling discharge of runoff from animal confinement areas to waters of the state, will be required.

b. Cost-sharing is authorized for tile systems necessary for the establishment and operation of a system.

c. Cost-sharing is authorized for seedings necessary to properly establish a system.

d. Cost-sharing is authorized for fencing necessary to protect a system.

e. Cost-sharing is prohibited on any costs normally incurred in the management of an animal confinement area. This shall include buildings, yards, pumps, tank wagons, etc.

f. Holding tanks, collection basins and other animal waste storage facilities, are eligible for cost-sharing pro-

vided the District Board determines that they are necessary to protect water quality and also provided that the entire system needed to control pollution is installed.

g. A holding tank which will become an integral part of a building is eligible for cost-sharing provided there is no other feasible alternative available for controlling pollution. The District Board, with technical review completed by technicians available to them, shall make the final decision concerning the cost-sharing eligibility of such a system. For purposes of determining the cost-share payment, the cost of the building foundation and the cost of the building is not eligible for cost-sharing. The cost attributable to the foundation shall be represented by the top four feet of the storage tank walls.

h. Equipment utilized in the handling or transfer of animal waste is ineligible for cost-sharing.

H. Critical area stabilization.

1. Definition: Planting vegetation such as trees, shrubs, vines, grasses or legumes on sites subject to severe erosion. (Does not include tree planting for wood products.)

2. Purpose: To provide permanent vegetative cover to stabilize the soil; to protect from wind and water erosion; reduce damage from sediment and runoff to downstream areas; improve wildlife habitat; enhance natural beauty.

3. Applicability: On sediment producing, highly erodible or severely eroded areas (including urban areas), such as, but not limited to, dams, dikes, abandoned mine spoil, levees, channels, waterways, terrace backslopes, and denuded or gullied areas where vegetation is difficult to establish.

4. Policies:

a. Cost-sharing for stabilizing roadside erosion is authorized only when it is a part of a larger stabilization project.

b. Cost-sharing is authorized for seed and seeding and other associated costs necessary to stabilize the area.

SWC 5 Cost-Share rates.

A. Maximum rates. The maximum per cent of the total cost of a practice that may be funded by state cost-share funds is 75 per cent. Where state and federal monies are cost-shared on the same project, their combined amount shall not exceed 75 per cent of the total cost of the project.

B. District rates. Each district shall establish its cost-share rates as provided in SWC 3. b. 2.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, when, in preparing to propose rules, an agency seeks to obtain information or opinion from sources outside of the agency, a notice of intent to solicit such information or opinion is published in the *State Register* and interested persons are afforded an opportunity to submit data and views on the subject.

The *State Register* also contains any other official notice requested to be published by an agency, pursuant to Laws of 1977, ch. 305 § 3.

Department of Education Division of Special and Compensatory Education

Notice of Intent to Solicit Outside Opinion Regarding Rules for the Minnesota School for the Deaf and the Minnesota Braille and Sight-Saving School

The Department of Education is drafting rules to implement Minn. Stat. § 128A.02, subd. 2 (1977), which permits the State Board of Education to promulgate rules regarding the operation of the Minnesota School for the Deaf and the Minnesota Braille and Sight-Saving School and the individuals in attendance; and to implement Minn. Stat. § 128A.06 (1977), regarding the admissions and discharge of hearing impaired and vision impaired students at the School for the Deaf and the Braille and Sight-Saving School respectively.

The Department invites interested persons or groups to provide information, comment, and advice on the subject in writing or orally to Will Antell, Assistant Commissioner of Education, Minnesota State Department of Education, 802 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101.

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

Department of Health Notice of Filing of Application

On January 3, 1978, Fuhr Flying Service, filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) emergency air ambulance service with a base of operation in Redwood Falls, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that Subdivision 2 of that statute states, in part: The Commissioner may grant

or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D. within the time period outlined by statute.

Department of Health Notice of Filing of Application

On December 27, 1977, the Hazelden Foundation, Inc., filed application with Warren R. Lawson, M.D., Commissioner of Health, for a license to operate a (an) nonemergency land ambulance service with a base of operation in Center City, Minn. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that Subdivision 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo. Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to Warren R. Lawson, M.D., within the time period outlined by statute.

Department of Public Welfare

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of

OFFICIAL NOTICES

Public Welfare is considering proposed amendments to DPW Rule 28, Community Mental Health Services. This rule governs Community services to the mentally ill, mentally retarded and chemically dependent and the requirements that community mental health board and human services boards must meet to obtain state grant-in-aid funds.

The proposed changes are: (1) establishment of mandatory minimum program requirements and standards; (2) establishment of optional programs and service standards for which state grant-in-aid funds may be used, and (3) conditions for boards receiving waiver of the minimum population requirement.

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. Alan Mathiason, Community Programs Division, Bureau of Community Services, Minnesota Department of Public Welfare, Centennial Building, St. Paul, Minnesota 55155.

Oral statements of information and comment will be received during regular business hours over the telephone at 612/296-6638.

All statements of information and comment must be received by February 15, 1978. Any written material received by the Department shall become part of the hearing record.

Department of Public Welfare

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Public Welfare is considering proposed amendments to DPW Rule 79, Rules to Govern all Vending Stands and Business Enterprises of the Services for the Blind. This

Rule governs the operation and management of all business enterprises operated by blind persons under license of the Department of Public Welfare. Legal authority for this program is pursuant to the Federal Randolph Sheppard Act as amended December, 1975 (specifically, paragraph 107 b (5) requiring issuing regulations) and Minn. Stat. § 248.07.

The proposed changes reflect requirements to comply to the amended Randolph Sheppard Act. Changes include:

- Eliminating the 21-years-of-age requirement for blind operators;
- Eliminating the Minnesota residence requirement for blind operators;
- Altering the formula for funds set aside by the Department of Public Welfare in the operation of each enterprise; and
- Rewriting the paragraph on Fair Hearings for blind operators.

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:

Ralph Rolland
Department of Public Welfare
Services for the Blind and Visually Handicapped
1745 University Avenue
St. Paul, Minnesota 55104

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6043.

All statements of information and comment must be received by February 9, 1978. Any written material received by the Department shall become part of the hearing record.

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