

178 Nov. 20

# STATE REGISTER



STATE OF MINNESOTA

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VOLUME 3, NUMBER 20

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\*\*Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

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# MCAR AMENDMENTS AND ADDITIONS

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

## **TITLE 4 COMMERCE**

### **Part 9 Boxing Board**

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The St. Paul Chamber Orchestra is recognized as one of the country's leading chamber orchestras. Since it became a full-time professional orchestra 11 years ago, its annual season has grown to 40 weeks, 12 of which it spends on tour. The SPCO has toured in 23 states, Washington, D.C., Canada, the Netherlands, West Germany, Eastern Europe and the U.S.S.R. Robert Commanday of the *San Francisco Chronicle* said, "Its 26 musicians play with high ensemble skill and a consistent freshness and vitality, which mark the group proudly as Americans." (Courtesy of the St. Paul Chamber Orchestra)

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

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

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

## Minnesota State Arts Board Adopted Rules Relating to the Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance

The rules proposed in the *State Register*, Volume 2, Number 46 pp. 2088, May 22, 1978 (2 S.R. 2088) are adopted as proposed with the following amendments.

### Rules as Adopted

The Contents Page is amended to read as follows:

## Review of Requests for and Distribution of Grants, Loans and Other Forms of Assistance

### Contents

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Rule  
(5 MCAR § 5)

~~MSAB 4:~~ 5 MCAR § 5.001 Authority for the rules.

~~MSAB 2:~~ 5 MCAR § 5.002 Purpose of the rules.

~~MSAB 3:~~ 5 MCAR § 5.003 Whom the rules govern.

~~MSAB 4:~~ 5 MCAR § 5.004 Definitions.

~~MSAB 5:~~ 5 MCAR § 5.005 Requests for information.

§ 5.006 Eligibility requirements for individuals and organizations.

~~MSAB 6:~~ 5 MCAR § 5.007 Procedure for obtaining grants, loans and other forms of assistance.

§ 5.008 Procedures for obtaining regional arts council status, regional arts council review procedures, and regional arts council reporting requirements.

§ 5.009 Appeals process.

§ 5.010 Standards for requests for grants, loans and other forms of assistance.

~~MSAB 7:~~ 5 MCAR § 5.011 Responsibilities of grantee.

~~MSAB 8:~~ 5 MCAR § 5.012 Advisory committees.

Section 5.001 is amended to read as follows:

~~MSAB 4:~~ **5 MCAR § 5.001 Authority for the rules.** These rules are adopted pursuant to Minn. Stat. ch. 139.10, subds. (e) and (f) (1976).

Section 5.002 is amended to read as follows:

~~MSAB 2:~~ **5 MCAR § 5.002 Purpose of the rules.** The purpose of these Rules is to set forth procedures and standards to be followed by the Board in receiving and reviewing requests for and distribution of grants, loans, and other forms of assistance. Any actions taken by the Board, its staff and advisory committees must be clearly based on the standards in rule form. Explanations of actions requested by applicants must be offered in the context of the standards in rule form.

Section 5.003 is amended to read as follows:

~~MSAB 3:~~ **5 MCAR § 5.003 Whom the rules govern.**

A. These Rules govern the Board; advisory committees; regional arts councils; and all individuals, ~~sponsoring~~ organizations, departments, and agencies of the state and

political subdivisions who wish to receive grants, loans or other forms of assistance from the Board and/or from regional arts councils.

B. Regional arts council receiving block grants from the Board are required to follow Board rules pertaining to eligibility requirements and general standards in distributing local/regional arts development grants, loans and other forms of assistance which utilize Board funds.

Section 5.004 is amended to read as follows:

B. "Block Grant" means grants to regional arts council for the purpose of providing program service, re-grants, and direct programming for local/regional arts development.

E. "Direct programming" means the implementation by a regional arts council of arts production or arts sponsorship activities.

F. "Local" means program or service distribution and organizational impact within a specific municipality or county.

G. "Local/regional arts development" means programs or projects which are for the development or enhancement of local or regional artists or art resources.

H. "Multi-regional" means program or service distribution and organizational impact over more than one of the State's official development regions.

I. "Other forms of assistance" means publications or staff consultation or workshops with individuals or groups who have developed or are interested in developing projects or programs in the arts but need advice on matters such as, but not limited to, budgeting, administration, production and technology.

J. "Program information" means a document(s) issued annually describing programs and services of the Board which includes instructions, deadlines, and other aids for the applicant seeking Board assistance. Program information may clarify and explain standards contained in rule form, but such clarification shall not be considered standards or criteria itself.

K. "Program services" means non-grant activities including, but not limited to, information services, technical and consultative services, planning, reporting, evaluation, and other program development efforts.

L. "Regional" means program or service distribution and organizational impact within the geographic area served by a regional arts task force or regional arts council. Formal

## RULES

combinations of two or more development regions under one regional arts council will be regarded as one region for this purpose.

M. "Regional arts council" means an organization or a group designated by the Board to make final decisions on block grant funds granted to them for local/regional arts development.

N. "Regional arts task force" means an advisory committee of the Board which reviews applications for local arts development projects serving the region(s) the arts task force represents. A regional arts task force may also be an advisory committee to a regional development commission or the Metropolitan Council originating within its district. The state is divided into thirteen regional development commission districts.

O. "Re-granting" means the process of allocating block grant funds to arts funding applicants to a regional arts council for the purpose(s) described in the application.

P. "State-wide" means program or service distribution and organizational impact throughout most or all of the development regions of the state.

5.007 is amended to read as follows:

J.1. Recommend approval of full requested amount.

a. Individual Artist committee recommendations can only be for the full requested amount.

b. The Regional Arts Development committee recommendations can only be for the full requested amount.

4. Recommend that the Board table, pending receipt of additional information, or modifications.

Section 5.008 is amended to read as follows:

**5 MCAR § 5.008 Procedures for obtaining regional arts council status, status, regional arts council review procedures and regional arts council reporting requirements.**

A. The procedure for review of a block grant application developed by a regional arts council is as follows:

1. Each regional arts council shall develop an annual

plan to be submitted by an annually announced date, determined by the Board. Regional arts task forces wishing to become regional arts councils must also submit an annual plan.

2. The annual plan will include:

a. Statement of goals established by the regional arts council. This shall be periodically reviewed and updated by the regional arts council.

b. Needs assessment which will be carried out in a manner which ensures input from the arts community and the general public. This needs assessment will be updated at intervals determined and announced by the Board and the results included in the plan. The needs assessment will be conducted to determine the need to develop new or continued program services offered by the regional arts council.

c. Description of the planning process including a list of the steps in the development of the plan and the participants in the planning process. Before the plan is submitted to the Board at least one public meeting must be held for the purpose of soliciting public reaction to the plan.

d. Work plan which includes a description of program services, if any.

e. Program information which will describe grants and other forms of assistance available, the methods for such assistance, eligibility requirements, review standards, the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying grant recipients, and the responsibilities of the grantees.

f. Organizational structure and membership must include bylaws, an identification of the arts experience and background requirements for the members of the regional arts council, a description of rotation system which will ensure replacement of members on a regular basis, and an outline of the open nominations process used to appoint the members.

g. When applicable, a memorandum of agreement with the regional development commission(s) or the Metropolitan Council, a letter of agreement between the regional arts council and a fiscal agent or the tax-exemption letter for non-profit organizations will be included. A memorandum of agreement shall include that application

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## RULES

decisions on artistic merit, applicant ability, and need for project or program must be reserved for consideration only by citizen advisory committees appointed for their expertise and experience in the arts.

h. General description of all programs and services provided with, or independent of Arts Board funds; budget which will be a total projected budget identifying all local, regional, state and federal sources of support, public and private.

3. All regional arts council annual plans shall be reviewed by a regional arts development advisory committee of the Board.

4. A representative of the regional arts council shall have the opportunity to present the plan and respond to questions raised by either the regional arts development advisory committee, the Board staff, or the Board.

5. The Regional Arts Development advisory committee shall submit its recommendations to the Board for final review.

6. The Board shall approve, defer or reject annual plans submitted by the regional arts councils.

7. After the Board review, but prior to final action, the regional arts council shall have at least 30 days to make any revisions in the plan required by the Board.

8. The Board will award only one regional block grant in each region during a fiscal year.

9. Copies of the Board approved regional arts council annual plan will be available for distribution to the public by the regional arts council.

10. Each regional arts council shall submit an annual fiscal report and evaluation by 60 days, after the end of the Board's fiscal year which shall include:

a. Total fiscal statement, not an audit, for the year in which the annual plan was in effect.

b. Review of the relationship between the proposed annual plan and the actual grants, and other forms of assistance provided during the year with Arts Board block grant funds.

Section 5.009 is amended to read as follows:

**5 MCAR § 5.009 Appeals process.** Any applicant for a grant, loan, or other form of assistance who believes that the

established grant review procedures have not been followed may appeal the decision of the Board. This appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. ch. 15.0418-.0422.

Section 5.010 is amended to read as follows:

### **5 MCAR § 5.010 Standards for requests for grants, loans, and other forms of assistance.**

A. The Board and advisory committees and regional arts councils in reviewing applications on a competitive basis will consider the following factors generally as well as specific factors or conditions set by the guidelines in order of priority:

#### 1. For organizations

a. Merit and artistic quality of project or program in the case of project applications. ~~Of necessity this must be a subjective recommendation by committee members.~~ In the case of service programs and projects the merit and quality of that service to the arts will be reviewed.

b. ~~Technical skills of applicant or ability of applicant to retain individual with the necessary technical skills.~~

b. The ability of the organization to accomplish the project or program they describe or the organizational goals as presented. This is demonstrated by providing evidence of a planning process, qualifications of personnel, marketing and publicity efforts and previous successful efforts.

c. ~~Demand or need for the project.~~ Applicants must demonstrate demand or need for the project or program.

d. ~~If In the sponsor assistance category the matching funds statement are required of an applicant, must show whether applicant has obtained these funds from local community or region. Support from local community or region is highly desirable.~~ evidence of match from the participants or beneficiaries of the project or program, or the reason why such match cannot be obtained.

#### 2. For individual artists

a. The quality of the creative work submitted by the artist.

b. The ability of the artist to accomplish the project or plan described in the application.

c. The relationship of the application to the artist's career goals.

## RULES

B. Applications for general support, (subsidy grants), will be reviewed on the following standards with the first standard listed as top priority, and the remaining five of lower priority, but not differentiated among each other. These standards shall be demonstrated using the indicators specified in program information and through the application form.

### 1. Artistic Excellence and Leadership.

a. Service to the organization's principal art form(s), i.e., preservation of artistic heritage(s), presentation of new works, new artists.

b. Serving as an example of excellence for others — setting standards. Recognition and impact in state and nation.

c. Uniqueness of service, in nature or method.

d. Sharing of expertise.

e. Variety of program offering.

f. Qualifications and achievements of artistic leadership.

g. Qualifications, achievements and methods of selection of other principal artistic personnel.

### 2. Financial Position/Condition, including Need

a. Total fiscal condition — assets and liabilities (review of audits).

b. Operational plan and budget for fiscal year of grant. Longer range plans and budget would enhance review of one-year plan.

c. Projections of all income sources including MSAB; relative changes in all categories with justifications and plans for achievements.

d. Building ownership and operations as factors in financial activity.

e. Programmatic activities of importance which are regarded as most financially vulnerable or least remunerative; amounts of costs and projected levels of effort.

f. Relationship of projected earnings to earning capacity — potential for growth of earnings.

g. Special financial conditions or considerations of short-range nature, i.e., other special fund-raising, change of leadership, location, building program, etc.

h. Ability to sustain short-term financial short-fall.

### 3. Fiscal responsibility and management

a. Board membership and responsibilities.

b. Staff qualifications and achievements; levels of compensation; methods of recruitment; standards for recruitment.

c. Job descriptions and role relationships of Board and staff.

d. Comparison of previous program and financial projections with achievements.

e. Budgeting and controlling functions; financial planning.

f. Long-range fiscal stability; endowment or capital assets.

### 4. Commitment to education

a. Of its regular public/market; percentage of effort to education as opposed to public programming.

b. Funds expended for education vs. earned income from educational programs.

c. In collaboration with schools and colleges; services in schools; services to students at arts organization's headquarters; services to educators.

### 5. Extension to broad audiences/public; formats and marketing

a. Touring.

b. Publications.

c. Recordings, films, broadcasting.

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d. Marketing efforts — types; financial commitments to marketing.

e. Special and non-traditional programming.

6. Size and distribution of audience/public

a. Number served, by program type, if possible.

b. Numbers of subscribers and/or regular members; enumeration of individuals served.

c. Numbers of persons served divided by those served in headquarters facilities and those served away from home (tour).

d. Indications of audience/public demographics, if available.

e. Special efforts for economically disadvantaged.

C. Other forms of assistance will be available on a case by case basis dependent upon the nature of the request, and the availability of Board resources in response to the request.

D. Regional arts council annual plans submitted to the Board will be reviewed on the following standards:

1. Consistency with Board legislation and rules.

2. Community participation in the planning process.

3. Equitability, fiscal accountability and accessibility to the grants process and other forms of assistance.

4. Consistency in the relationship among the regional arts council's goals, needs assessment and work plans.

5. Demonstrated ability of the region to carry out its plan.

6. Evidence that decisions on artistic merit, applicant ability and need for the project or program, are made only by citizen committees appointed for their expertise and experience in the arts according to MCAR 5.008, sec. A, 2.g.

E. Applications for grants assistance will not be accepted for review when one of the following conditions exists:

1. Artists are required to pay entry or exhibition fees in order to exhibit and/or perform in the project or program.

2. Funds are requested for capital improvement or construction, purchase of real property or endowment funds.

3. Funds are requested to account for fund deficiencies in projects completed prior to the application deadline.

4. Funds are requested to pay fees for touring costs, performances or exhibitions carried out exclusively by student organizations or schools.

F. The Board in addition to the criteria set forth above may allocate grant funds on a first-come, first-served basis to applicants who meet the procedures and standards contained herein during each fiscal year.

G. The Board may give priority to one form of assistance over others during a fiscal year.

Section 5.011 is amended to read as follows:

### **MSAB ~~7~~ 5 MCAR § 5.011 Responsibilities of Grantee.**

A. Grantee or authorizing official must sign ~~or~~ and return to the Board, within 30 days from date of mailing, one copy of the ~~grant~~ notification letter, if notification is of grant approval. No action required on notification of rejection.

B. Grantee must acknowledge assistance by the Board on all written materials relating to the project or program such as programs, news releases and posters ~~etc.~~ Grantee must use the acknowledgement statement as found in the notification letter. Grantees of regional arts councils must also use the Board acknowledgement statement on all materials relating to the project or program.

C. Grantee must notify the Board in writing if the program or project is changed in ~~any way~~, at ~~any time~~ from the way in which it was described in the grant application.

D. Grantee must permit the Board a reasonable opportunity to view the project or program at any time for purposes of evaluation.

D. Grantee must comply with all Federal regulations specified in the grant notification letter.

E. Grantee must submit, upon request by the Board, may be required to submit a certified audit report at any time during the project or after completion of the project of the organization or of a project funded by the Board.

F. A grant contract may be terminated at any time upon the written request of the grantee, but such termination shall

## RULES

not necessarily relieve the grantee of its responsibilities as set forth in the grant contract.

G. A grant contract may be terminated by the Board at any time upon the failure of the grantee to comply with one or more of the conditions of the grant contract. Such termination shall be effective upon receipt of written notice by the grantee.

H. A grant contract may be terminated at any time by mutual written agreement of the Board and grantee.

I. A grant commitment to a grantee may be rescinded by the Board if one of the following conditions exists:

1. The grantee does not return the signed notification letter, within 30 days of the date of the Board letter.

2. The grantee does not return a revised budget and/or project description within 45 days of the date of the notification of Board action by letter.

3. The grantee does not request the grant amount within 30 days of the date of the grant notification letter.

J. Grantee must submit a final report, within 30 days of the completed project or program, to be completed by grantee or authorizing official on forms provided by the Board.

K. The Board may require that regional arts councils, which have not committed all of their grant funds by April 15 of a given fiscal year, return the uncommitted grant funds to the Board by May 1 of the same fiscal year.

Section 5.012 is amended to read as follows:

### ~~5-008~~ 5 MCAR § 5.012 Advisory committees.

A. The Board ~~shall~~ may appoint advisory committees in each of the following areas of the arts to review grant applications and provide recommendations on policy issues. The Board ~~shall~~ may appoint advisory committees in each of the following areas of the arts, to review applications in those areas:

- ~~1-~~ architecture
- ~~2-~~ dance
- ~~3-~~ music

~~4-~~ literature

~~5-~~ theatre

~~6-~~ visual arts

~~7-~~ special projects

~~8-~~ film/video

~~9-~~ regional arts task force

general operating support (subsidy), individual artist assistance, production assistance, sponsor assistance, regional arts development and also regional arts task forces.

B. The Board may appoint advisory committees in additional areas of the arts or discontinue the advisory committees in any of the above listed areas as it deems necessary.

C. The Board will appoint an advisory committee to review applications for subsidy grants.

~~C. D.~~ Members of each advisory committee shall be individuals with special have expertise and/or experience in that a particular area of the arts, arts support or administration. Committee members will be selected by the Board from among practitioners, administrators, educators, volunteer directors of arts organizations, trustees of arts organizations and consumers of arts forms. At least one of the regional arts development panel from each region will be appointed from nominees of the designated regional arts task force or arts council. The remaining members will be selected from among the previously listed groups through the open nominations process.

~~D. E.~~ Appointments to advisory committees shall be made by majority vote of the Board. Members shall serve at the pleasure of the Board for three year terms. One-third of the terms of the members of each committee shall expire each year.

~~E. F.~~ At least sixty days prior to expiration of terms of advisory committee members, the Board will publish and post notice of such openings. Nominations will be actively solicited and accepted by the Board. Nominations ~~should~~ must be in writing and should include all pertinent information including nominees' qualifications and experience in the arts generally and in the particular area of the arts of the advisory committee on which the advisory committee on which the nominee will serve.

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F. G. Advisory committees will, insofar as reasonably possible, be geographically balanced. However, the regional arts development panel shall have two members from each of the regions represented by a regional arts council or regional arts task force.

G. H. Members of the advisory committees and regional arts task forces shall be compensated for expenses incurred to attend advisory committee meetings as provided in Minn. Stat. ch. 15.059, subd. 3, except that they shall not be eligible for the per diem.

H. The Board and advisory committees, in reviewing applications, will consider the following factors generally as well as specific factors or conditions set by guidelines:

## Board of Boxing Adopted Rules Governing Amateur and Professional Boxing

### Rules as Adopted

#### Chapter One: General Rules

##### 4 MCAR § 9.101 Purpose.

These rules are adopted pursuant to Minn. Stat. § 341.05, subd. 1 and § 341.11 (1976) and are designed to supervise and regulate all amateur and professional boxing and sparring exhibitions, matches, and contests occurring in the State of Minnesota. They are a complete recodification of the prior rules of the Board.

##### 4 MCAR § 9.102 Definitions.

A. 'Board' means the Board of Boxing.

B. 'Exhibition' means any boxing or sparring event or bout at which direct or indirect admission is charged or at which prizes or compensation are given to the boxers.

C. 'Contest' means any boxing or sparring bout at which scoring is done.

D. 'Match' means any boxing or sparring bout at which victory is sought or declared.

##### 4 MCAR § 9.103 Applicability.

These rules shall apply to all amateur and professional boxing and sparring exhibitions, matches, and contests and related activities occurring in or affecting professional and

amateur boxing and sparring exhibitions, matches, and contests held or proposed to be scheduled and held in the State of Minnesota.

##### 4 MCAR § 9.104 Construction and interpretation.

These rules shall be construed to effectuate the purposes of Minn. Stat. §§ 341.01-.15 (1976), as amended from time to time. Where ambiguities or conflicts appear, they may be interpreted by the Board.

##### 4 MCAR § 9.105 Cases not covered.

If questions or situations arise which are alleged not to be provided for by these rules, they shall be determined by at least a quorum of the Board in such a manner as they think best, just and conformable to the usage and best interests of the State of Minnesota and the sport of boxing.

##### 4 MCAR § 9.106 Complaints and investigations.

The Board shall entertain and dispose of duly submitted complaints as specified in Minn. Stat. § 214.10 (1976), as amended.

##### 4 MCAR § 9.107 Basic prohibitions.

A. Franchise license required. No amateur or professional boxing or sparring exhibition, match, or contest shall occur or be promoted or sponsored except by a current and valid licensee of the Board.

B. Prior approval of dates, places, and contestants required. No amateur or professional boxing or sparring exhibition, match, or contest shall occur or be promoted or sponsored within the State of Minnesota without the prior approval of the Board as to date, place, and participants. Any such exhibition, match, or contest receiving such approval shall be conducted strictly in accordance with these rules and such conditions as the Board may see fit to impose.

C. Licenses and registrations required. No professional or amateur franchise, sponsor, organization, promoter, nor any manager, referee, judge, timekeeper, assistant timekeeper or other official, nor any professional boxer or second shall participate in any boxing or sparring exhibition, match, or contest in the State of Minnesota without a current license or approval, as the case may be, from the Board and no amateur boxer or coach shall participate in any boxing or sparring exhibition, match, or contest in the State of Minnesota without a current registration with the Board. All activity conducted pursuant to such licenses, registrations, or approval shall be conducted strictly in accordance with these rules and such conditions as the Board may see fit to impose.



## RULES

D. Amateur sponsorships and professional promotions distinguished. No amateur boxing or sparring exhibition, match, or contest shall be sponsored by other than an amateur franchise licensee and no professional boxing or sparring exhibition, match, or contest shall be promoted by other than a professional franchise licensee.

### 4 MCAR § 9.108 Applications.

All applications for licenses and registrations shall be in writing and all questions propounded by the Board shall be answered fully and truthfully. All applications shall be accompanied by a certified check in the amount of the appropriate fee. All papers and documents filed with the Board shall be the property of the Board. Prior to acting upon any application, the Board may, in its discretion, examine under oath the applicant, any officer thereof, and any other witnesses. The form of the application shall be prescribed by the Board.

### 4 MCAR § 9.109 Granting, suspending and revoking licenses and registrations.

The granting of all licenses, registrations, and approvals is a matter of Board discretion and the Board may impose such conditions as it sees fit as a part of any license, registration, or approval.

All licenses, registrations, or approvals granted by the Board may be suspended or revoked at the pleasure of the Board. Suspensions and revocations shall occur according to such procedures as the Board deems necessary under all the circumstances and in light of the regulatory powers and purposes of the Board.

### 4 MCAR § 9.110 Non-assignability.

No license, registration, or approval granted by the Board is assignable in any respect.

### 4 MCAR § 9.111 Compliance with other agency rules and statutes.

All licensees of the Board shall comply with pertinent statutes and rules of the other agencies of the State of Minnesota.

### 4 MCAR § 9.112 Supervision of contests.

All amateur and professional exhibitions, matches, and contests shall be officiated by licensed and approved referees and judges. At all boxing or sparring exhibitions,

matches, and contests contestants, referees, timekeepers, assistant timekeepers, seconds, examining physicians, and announcers shall at all times be subject to the control of the Board. The Board may appoint an official representative to insure that the rules of the Board are strictly observed. No amateur or professional boxing or sparring exhibition, match, or contest shall occur or take place except in the presence and supervision of the Board or its official representative.

### 4 MCAR § 9.113 Inspectors.

The Board or its duly authorized representatives shall have the authority upon demand to inspect all boxing or sparring facilities, training camps, gymnasiums, and auditoriums in Minnesota; all related activities and all books and records pertaining to any aspect of boxing or related activity occurring or proposed to occur in whole or in part in the State of Minnesota.

### 4 MCAR § 9.114 Advance reports.

Each promoter of any professional boxing exhibition, match, or contest must file with the Board a statement in writing prior to any public announcement of an exhibition, match, or contest and, in any case, at least five days prior to the holding of any such exhibition, match, or contest, which shows the name of the club, the place or city where such exhibition, match, or contest shall be held, the name and location of the building wherein the same shall be held, the estimated seating capacity thereof, the names, addresses, and weights of the main event and semi-windup contestants, together with such other information as the Board may require.

### 4 MCAR § 9.115 Filing of contracts.

Each promoter of any professional boxing exhibition, match, or contest must file with the Board at least five days prior to the holding of any such contest, exhibition, match, or contest any and all contracts involving contestants. All professional contestants must be signed to a written contract. Contracts with professional main event boxers must be accompanied by certified checks for the amounts of forfeits at the time of filing said contracts with the Board.

### 4 MCAR § 9.116 Minnesota championships.

No bout may be advertised as a Minnesota championship unless the Board, in its sole discretion, declares the bout to be for the Minnesota championship.

### 4 MCAR § 9.117 Tickets.

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## RULES

A. Admission. No person shall be admitted to a boxing or sparring exhibition, match, or contest without a ticket, except duly authorized Board inspectors who shall be admitted with proper badge and credentials.

B. Press tickets. All press tickets issued shall be marked "Press." All complimentary tickets shall be marked "Complimentary." Twenty tickets marked "Press" shall be reserved for members of the Board, its counsel, and a representative of the Department of Revenue. No more than sixty "Press" tickets may be issued for any one fight in cities of the first class, not more than thirty in Rochester, and not more than ten elsewhere, outside of Board tickets.

C. Price. All tickets, exclusive of press and complimentary tickets, shall have the price plainly printed thereon and shall have a coupon attached which may be held by the purchaser thereof. The price of tickets shall be printed in large type and displayed at all ticket sellers' windows and shall not be varied.

#### **4 MCAR § 9.118 Seating — media, commissioners, and officials.**

Holders of press tickets, commissioners, and officials shall be seated at ring side tables. It shall be the promoter's responsibility to place name tags or designations on the tables to insure orderly seating. At bouts expected to draw large media attention, two rows of ring side tables shall be provided. There shall be at least four feet between the ring side tables and the first row of seats. If said seating and designations are not in place at least three hours prior to the first exhibition, match, or contest, the Board or its official representative may arrange for same without notice and at the promoter's expense. A maximum of four photographers may be at ring side at any one time and then only at designated places and subject to the control of the Board.

#### **4 MCAR § 9.119 Security and ushers.**

It shall be the duty of the promoter or sponsor to keep order and to provide adequate security and adequate ushers to insure proper seating.

#### **4 MCAR § 9.120 Fund raising and announcements.**

No fund raising shall be permitted and no public announcements made at any boxing or sparring exhibition, match, or contest, except with the prior approval of the Board or its official representative.

#### **4 MCAR § 9.121 Post-contest reports.**

The franchise licensee who promotes each amateur or professional boxing or sparring exhibition, match, or contest shall furnish in writing to the Board within forty-eight

hours following the event a statement showing the names of all contestants and the result of each contest held, together with the amount of the gross gate.

#### **4 MCAR § 9.122 Medical examinations.**

Whenever an examination of a contestant by a physician is required by these rules, such examination shall include all matters the examining physician may deem necessary and appropriate. All examining physicians and physicians attending exhibitions, matches, or contests shall be assigned by the Board of Boxing and licensed by the Minnesota Board of Medical Examiners and shall report their written findings for each contestant to the Board of Boxing. All examinations, attendance of a physician, and reports shall be at the expense of the promoter or sponsor.

#### **4 MCAR § 9.123 Payments to boxers.**

No payments may be made by a promoter or sponsor to a boxer until approved by the Board or its official representative.

#### **4 MCAR § 9.124 Repealer.**

The prior rules of the Board not contained herein are hereby repealed.

### **Chapter Two: Rules Governing Amateur Boxing**

#### **4 MCAR § 9.201 Jurisdiction.**

All amateur boxing or sparring exhibitions, matches, and contests are under the jurisdiction of the Board and subject to such conditions as it may in its discretion impose.

#### **4 MCAR § 9.202 Amateur registration and licenses.**

All amateur boxers and coaches must be registered with the Board in a form to be specified by the Board and amateur referees, judges, seconds, and franchises must be licensed by the Board.

#### **4 MCAR § 9.203 Licenses, registrations, and license fees.**

All amateur licenses for referees, judges and seconds, franchises, and registrations of boxers expire one year from the date of issue unless revoked by the Board. The fees shall be:

Referees .....	\$10.00
Judges .....	\$10.00
Seconds .....	\$ 2.00
Boxers .....	no fee

#### **4 MCAR § 9.204 Amateur franchise licenses.**

## RULES

A. Amateur franchise licenses shall be granted in conformity with these rules and the laws of the State of Minnesota.

B. Such licenses shall have a duration of one year unless otherwise specified by the Board.

C. The fee for said license in cities of the first class having a population of over 150,000 shall be \$150.00; in cities of the first class having a population of less than 150,000, \$50.00; in all other cities and towns, \$25.00.

#### 4 MCAR § 9.205 Form of amateur franchise license.

The form of amateur franchise license shall be as follows:

“State of Minnesota, Board of Boxing. To all whom it may concern: Amateur Franchise License No. \_\_\_\_\_. WHEREAS, due application was made for an amateur franchise license in accordance with the laws of the State of Minnesota and the rules of the Minnesota Board of Boxing, and the said Board of Boxing having duly considered said application and ordered the issuance of the license thereon.

NOW, THEREFORE, the State of Minnesota, by and through its Board of Boxing, does hereby grant unto \_\_\_\_\_ a license to conduct, hold, or give amateur boxing and sparring exhibitions, matches, and contests within the city, village, or township of \_\_\_\_\_, State of Minnesota, and not elsewhere, in accordance with the provisions of law aforesaid, and subject to such rules and regulations, and amendments thereof, as the Board of Boxing may from time to time prescribe.

Unless revoked or suspended, this license is for a period of one year from the date set forth hereunder.

This license may be suspended or revoked at the pleasure of the Board.

This license is not assignable to any other party.

All amateur boxing or sparring exhibitions, matches, and contests conducted under the auspices of this license shall be governed by the rules of the Board of Boxing, the laws of the State of Minnesota, and, to the extent not in conflict, the rules of the Amateur Athletic Union.

IN TESTIMONY WHEREOF, the Board of Boxing has caused these presents to be signed by its Chairman and Secretary and has affixed its seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL)

BOARD OF BOXING

By \_\_\_\_\_  
Chairman

And \_\_\_\_\_  
Secretary

#### 4 MCAR § 9.206 Financial statements and returns.

Financial statements and returns shall be filed by each amateur franchise licensee as required by the laws and promulgated rules of the State of Minnesota and its respective agencies.

#### 4 MCAR § 9.207 Ten day rule.

An amateur desiring to box as a professional must file written notice ten days prior to the date on which his application for a professional license shall be entertained.

#### 4 MCAR § 9.208 Managers.

No amateur is required to have a manager. No manager of an amateur boxer will be recognized unless he has presented a legally valid contract with the boxer to the Board and such contract has been approved and filed with the Board and a manager's license issued.

#### 4 MCAR § 9.209 Compensation.

A. Limit. The maximum compensation paid to an amateur shall not be in excess of \$5.00, exclusive of travel and subsistence.

B. Special prizes. Sponsors of any tournament or inter-city match shall be allowed to give a special prize to the contestants in addition to the regular compensation, providing such prize has the prior approval of the Board.

C. Advance filing. Sponsors of any tournament, exhibition, match, or contest to be attended by boxers from outside the place of their legal residence must file in the office of the Board at least 24 hours preceding the time of the event a schedule of compensation, travel, and subsistence money proposed to be paid each boxer.

D. Sworn statement. With 48 hours after the holding of the event, the franchise holder, sponsor, or promoter shall forward to the Board in a form specified by the Board a sworn statement that the rules of the Board pertaining to compensation, travel, and subsistence paid and promised to

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be paid to each amateur boxing was not in excess of the amount set forth in the schedule filed with the Board.

## 4 MCAR § 9.210 Rules.

The official rules of the Amateur Athletic Union shall govern all amateur exhibitions, matches, and contests except when in conflict with these rules.

## 4 MCAR § 9.211 Officials.

All amateur exhibitions, matches, and contests shall be officiated by a referee and judges licensed by the Board. Unless waived by the Board, all such exhibitions, matches, and contests shall be conducted only in the presence of the Board or its official representative. All other officials shall be approved by the Board.

## 4 MCAR § 9.212 Rules governing safety.

A. Junior class amateurs — Limits. Junior Class amateurs are those amateurs who have not reached sixteen years of age. Junior Class amateurs shall not be allowed to box more than three rounds of one minute duration.

B. Senior class amateurs — Limits. Senior Class amateurs are those between sixteen years of age and twenty-six. Senior Class amateurs shall not be allowed to box more than three rounds of two minute duration except in authorized tournaments.

C. Medical examination. No amateur boxer shall be permitted to take part in a boxing or sparring exhibit, match, or contest unless he has been examined and passed immediately before the contest by a physician.

D. Frequency. No amateur boxer shall be permitted to participate in any boxing or sparring exhibition, match, or contest on more than two days in five, or more than one contest on any one day except in duly sanctioned and authorized tournaments.

E. Attendance of physician. A physician must be in attendance at each amateur boxing or sparring exhibition, match, or contest. He shall examine each contestant immediately before the contest and after each knockout or technical knockout and during the course of each contest at the request of the referee.

F. Authority to stop bout. A referee must stop a bout when either contestant shows marked superiority and the other opponent is outclassed.

G. Cut eyes. In a tournament, when a bout is stopped because of a cut eye, the decision shall go to the boxer then leading on points. In a non-tournament bout, the bout shall be ruled no contest if one of the participants suffers a cut eye

in the first round. If the injury occurs in the second or third round, the boxer leading on points shall be awarded the decision.

## 4 MCAR § 9.213 Equipment.

Equipment shall be as required by A.A.U. rules.

## 4 MCAR § 9.214 Ring names.

No ring names shall be allowed.

## 4 MCAR § 9.215 Acts or takeoffs.

Any acts or take-offs or insincerity on the part of an amateur boxer may subject the boxer to immediate suspension.

## Chapter Three: Rules Governing Professional Boxing

## 4 MCAR § 9.301 Jurisdiction.

All professional boxing or sparring exhibitions, matches, and contests are under the jurisdiction of the Board and subject to such conditions as it may in its discretion impose.

## 4 MCAR § 9.302 Licenses.

All referees, judges, boxers, managers and seconds shall be licensed in accordance with the following schedule. Such licenses shall expire one year from the date of issuance unless suspended or revoked by the Board.

Referees .....	\$25.00
Judges .....	\$10.00
Boxers .....	\$ 5.00
Managers .....	\$10.00
Seconds .....	\$ 5.00

## 4 MCAR § 9.303 Professional franchise licenses.

A. Professional franchise licenses shall be granted in conformity with these rules and the laws of the State of Minnesota.

B. Such licenses shall have a duration of thirteen weeks (one-quarter year) unless otherwise specified by the Board.

C. The fee for said license shall be \$250.00 per quarter in Minneapolis, St. Paul, and Bloomington. In other locations the fee shall be:

1. In cities of the first class having a population of less than 150,000, but more than 100,000, \$125.00 per quarter.

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2. In municipalities having a population of less than 100,000 but more than 10,000, \$50.00 per quarter.

3. In municipalities having a population of less than 10,000, \$25.00 per quarter.

### 4 MCAR § 9.304 Form of professional franchise license.

The form of professional franchise license shall be as follows:

“State of Minnesota, Board of Boxing. To all whom it may concern: Professional Franchise License No. \_\_\_\_.

WHEREAS, due application has been made for a license in accordance with the terms of the laws of the State of Minnesota and the rules of the Board of Boxing, and said Board having duly considered the said application and ordered the issuance of a license thereon,

NOW, THEREFORE, the State of Minnesota, by and through the Board of Boxing, does hereby grant unto: \_\_\_\_\_ a license to conduct, hold, or give boxing and sparring exhibitions, matches, and contests within the city, village, or township of \_\_\_\_\_, State of Minnesota, and not elsewhere, in accordance with the provisions of law aforesaid, subject to such rules and amendments thereof as the Board of Boxing may from time to time prescribe, for a period of thirteen weeks (one-quarter year) from the date hereof unless revoked or suspended or unless a different duration is specified herein.

No boxing or sparring exhibition, match, or contest shall be of more than fifteen rounds not to exceed three minutes each.

All boxing or sparring exhibitions, matches, and contests held pursuant to this license shall be governed by the rules of the Board of Boxing and the laws of the State of Minnesota.

This license may be suspended or revoked at the pleasure of the Board.

This license is not assignable to any other party.

In the event this license pertains to a city or governing entity other than a city of the first class, the consent required by Minnesota Statutes § 341.08 must be obtained from the governing body thereof.

IN TESTIMONY WHEREOF the Board of Boxing has

caused these presents to be signed by its Chairman and Secretary and has affixed its seal this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL)

BOARD OF BOXING

By \_\_\_\_\_

Chairman

And \_\_\_\_\_

Secretary”

### 4 MCAR § 9.305 Rules governing safety.

A. Age and length of bout. No professional boxer shall be permitted to engage in any boxing or sparring exhibition, match, or contest without a license issued by the Board. No license will be granted to any boxer under eighteen years of age. No license will be granted to any boxer over thirty-six years of age without a specific review by the Board of said boxer's medical condition and ability to further engage in boxing. Professional boxers only eighteen years of age shall be limited to ten round bouts or less. No bout shall exceed fifteen rounds.

B. A-1 condition. Each contract between a promoter and a boxer shall include a clause in which the boxer and his manager certify that the boxer is in A-1 condition and is not concealing an illness or injury.

C. Medical examination; attendance of physician and authority to stop bout. Each contestant shall be examined by a physician prior to entering the ring. One physician must be in attendance at each exhibition, match, or contest. Such physician shall examine each contestant immediately before the bout and after each knockout or technical knockout and at other times as indicated. The referee shall be the judge in cooperation with the ring physician as to the fitness of a contestant to continue when he is seemingly taking undue punishment or is badly injured.

D. Intervals. No boxer participating in a bout of less than ten rounds shall be permitted to engage in consecutive bouts with less than three days intervening between such contests. Boxers engaging in main events shall not engage in such bouts without an intervening period of seven days.

A minimum of sixty days interval shall be required before a boxer who has been knocked unconscious shall be allowed to box again. When a bout is stopped because it has become one sided or a serious facial laceration has occurred, an interval of thirty days is required before a boxer shall be allowed to box again.

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E. Medical investigations. In case of repeated knockouts or severe beatings, a boxer shall be retired for his own physical welfare. Any boxer who has sustained six consecutive defeats or who has received a serious concussion shall be subject to investigation, review, and examination by the Board with the advice of its physician.

F. Main event contestants. In each application for a main event bout, the results of the last six bouts for each contestant shall be included in a sworn statement signed by the boxer, his manager, and promoter.

#### **4 MCAR § 9.306 World boxing association.**

The Board shall presume, unless rebutted, that all suspensions issued by the World Boxing Association shall be recognized.

### **Chapter Four: Equipment Rules Governing Professional Exhibitions, Matches, and Contests**

#### **4 MCAR § 9.401 Ring, ropes, posts.**

The ring shall be no less than 16 nor more than 20 feet square within the ropes, the ring floor to extend beyond the ropes a distance of not less than 18 inches. The ring floor, height of ring, ring posts and ring ropes shall meet standards and be approved by the Board or its official representative.

#### **4 MCAR § 9.402 Gong.**

The gong must be not less than eighteen inches in diameter, to be adjusted securely on a level with the ring platform, the timer to use a metal hammer in indicating the beginning and the end of rounds, so that the contestants and referee can hear the sound of the bell.

#### **4 MCAR § 9.403 Buckets, etc.**

Three hours in advance of the first exhibition, match, or contest, there shall be provided by the sponsor or promoter a sufficient number of buckets and water bottles, fans, powder resin, resin box, stools for seconds, and such other articles as are required in the conduct of the bouts. The official representative of the Board shall have authority to order same without notice to the promoter and at the promoter's expense if they are not so supplied. The Board may require at the time of filing for a franchise a deposit of \$200.00 to cover said expenses should they arise. Said deposit shall be refunded if no expenses arise.

#### **4 MCAR § 9.404 Gloves.**

Each glove shall weigh not less than eight ounces for contestants from 112 to 175 pounds, and not less than 10 ounces for contestants over 175 pounds. Gloves for princi-

pal contestants shall be adjusted in the ring under the supervision of the referee, the laces to be knotted on the back of the wrist.

#### **4 MCAR § 9.405 Scales.**

Scales for weighing contestants shall be provided by the sponsor or promoter and shall be thoroughly tested and approved prior to use.

#### **4 MCAR § 9.406 Protective equipment.**

No contestant shall be allowed to enter the ring without all normal and suitable protective equipment as determined and approved by the Board or its official representative, including equipment which shall obviate the necessity of making any claims for low blows.

#### **4 MCAR § 9.407 Bandages.**

Each hand shall be allowed 10 yards of gauze bandage. Each boxer shall be permitted to use as much tape, one inch in width, as the Board decides shall be necessary. Only one layer of the tape shall be permitted across the knuckles of each hand to hold the gauze in place.

#### **4 MCAR § 9.408 Shoes.**

Shoes shall be of soft material and shall not be fitted with spikes, cleats, hard soles, or hard heels.

#### **4 MCAR § 9.409 Ring costume.**

Contestants shall box in normal and suitable ring costume which shall be approved by the Board or its official representative. Said costume shall include protective equipment, and shall be firmly adjusted previous to entering the ring. Long hair shall be secured.

#### **4 MCAR § 9.410 Shaving.**

Boxers must be clean shaven twenty-four hours before participating in any bout unless this requirement is waived by the Board.

#### **4 MCAR § 9.411 Inspections — foreign substances, equipment.**

The referee or the Board's official representative shall inspect the bandages, gloves and protective equipment of the contestants and make certain that no foreign substances have been applied either to the gloves, bandages, protective equipment or to the body of the contestant to the detriment of an opponent, and that the contestant's equipment is in order.

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## Chapter Five: Rules Governing the Conduct of Professional Exhibitions, Matches, and Contests

### 4 MCAR § 9.501 Weights.

Unless authorized by the Board, all exhibitions, matches, and contests shall be conducted only in the following weight classifications, the difference in weights allowable indicated in parenthesis:

Flyweight . . . . .	(3)	112 pounds
Bantamweight . . . . .	(4)	118 pounds
Featherweight . . . . .	(5)	126 pounds
Lightweight . . . . .	(6)	135 pounds
Welterweight . . . . .	(7)	147 pounds
Middleweight . . . . .	(8)	160 pounds
Light Heavyweight . . . . .	(10)	175 pounds
Heavyweight . . . . .		All Over

### 4 MCAR § 9.502 Weigh-ins and examinations.

Weigh-ins shall occur at 12 noon on the day of the exhibition, match, or contest under the supervision of the Board or its official representative. All boxers shall be examined by a physician. Failure to appear at a scheduled weigh-in and examination may subject the contestant to a fine in an amount to be determined by the Board.

### 4 MCAR § 9.503 Professional main event boxers — reporting.

Professional main event boxers must appear in the city in which the exhibition, match, or contest is to be held 72 hours before fight time unless excused by the Board.

### 4 MCAR § 9.504 Officials.

All boxing or sparring exhibitions, matches, and contests shall be officiated by a licensed referee and two licensed judges, who shall be appointed by the Board. Unless waived by the Board, the judges shall be licensed referees. They shall be seated at ring side opposite each other.

### 4 MCAR § 9.505 Officials' fees.

Officials' fees shall be in a uniform amount approved by the Board and shall be the obligation of the promoter.

### 4 MCAR § 9.506 Announcer.

The announcer shall announce the names of the contestants, their correct weights, and such other matters as shall

be directed or approved by the Board or its official representative.

### 4 MCAR § 9.507 Timekeeper and assistant timekeeper.

There shall be a timekeeper and a separate knockdown assistant who must be seated outside the ring close to the gong. The timekeeper shall indicate the beginning and ending of each round by striking the gong with a metal hammer. The knockdown assistant shall begin his count when a contestant is knocked down and shall continue counting unless the opponent does not occupy the farthest neutral corner. The timekeeper shall provide himself with a whistle and accurate stopwatch before the bout. Ten seconds before the beginning of each round the timekeeper shall give warning to the seconds of contestants by the blowing of a whistle.

### 4 MCAR § 9.508 Scoring, scorecards, and decisions.

All professional bouts shall be to a decision or draw, scored on the so-called "ten point system." The decision shall be given to the contestant obtaining the majority vote of the referee and the two judges. Following each bout, scorecards shall be deposited with the Board or its official representative.

### 4 MCAR § 9.509 Officials' decisions final.

The decisions of the referee and judges shall be final.

### 4 MCAR § 9.510 Seconds.

A. Designation and seating. Seconds shall be designated prior to a bout and only seconds shall be allowed in the corners. A chair or stool shall be made available for each second, taped "seconds," and seconds shall sit on the main floor and not the platform during the rounds; provided, however, that seconds shall be seated in such location as shall assure them good vision and ample room. It shall be the duty of the referee to enforce this rule.

B. Number. There shall not be more than three seconds for each contestant.

C. Coaching. Seconds shall not coach boxers during the progress of rounds.

D. Other activity. Seconds must remain seated and silent during rounds and shall not spray or forcefully throw water on a boxer or in any other way assist him. Fans may be used between rounds. The swinging of towels is prohib-

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ited. During a bout, seconds shall permit no one in the ring except as allowed by these rules.

E. Substances. Excess grease, oil, or other substances which might handicap an opponent are prohibited.

### **4 MCAR § 9.511 Referee discretion.**

The referee shall have the discretion: to stop a bout at any stage and make a decision if he considers it too one-sided or one contestant is apparently outclassed; to stop a bout if he considers the competitors are not in earnest, in which case he may disqualify one or both the contestants; to disqualify a contestant who commits a major foul and to award a decision to the opponent; to determine in cooperation with the ring physician the fitness of a contestant to continue and to stop a bout if he is seemingly taking undue punishment or is badly injured; to declare a technical knockout when a contestant fails for any one of numerous reasons, such as cuts, injuries, or admission of overwhelming superiority on the part of his opponent, to answer the bell for a succeeding round; to disqualify a boxer for continuously and deliberately striking an opponent with low blows; to disqualify the offender for a fourth offense after warning said boxer three times for minor fouls; to disqualify a boxer for hitting an opponent who is down or who is getting up; and to declare a knockout.

### **4 MCAR § 9.512 Knockdowns, mandatory eight count, standing eight count and waiver thereof.**

A. Clear knockdowns. When a boxer is clearly knocked down, he shall be required to take a mandatory count of eight whether or not he has regained his feet before the count of eight has been reached. Should a boxer slip or fall down or be pushed down, he shall be ordered to his feet immediately. Failure to rise may subject him to disqualification.

B. Mandatory eight count. While a mandatory eight count is in progress, the boxer scoring the knockdown must retire to the farthest neutral corner indicated by the referee and remain there until the eight count is completed. Should he fail to do so, both the referee and timekeeper shall stop counting until he returns to the corner.

C. Counting. When a contestant is down, the timekeeper shall immediately begin counting while the referee sends the boxer scoring the knockdown to the farthest neutral corner. The referee shall then return to the fallen boxer and pick up the count from the timekeeper and count in unison. The count shall not continue while the opponent does not occupy the farthest neutral corner.

D. Deemed knockdowns. A contestant shall be deemed down when any part of his body other than his feet is on the ring floor, he is hanging helplessly over the ropes, or he is

rising from a down position, provided that a boxer hanging over the ropes is not officially down until so announced by the referee.

E. Standing eight count rule. The standing eight count rule shall be in effect unless both contestants shall agree before the start of each bout that it shall be waived. The "standing eight count rule" provides that in the event a contestant is standing but is clearly without proper reflexes to the point of being defenseless, helpless, and subject to the clear and distinct probability of undue punishment, the referee shall proceed as if the contestant had been knocked down and the contestant shall be deemed "down" and subject to an eight count.

### **4 MCAR § 9.513 Knockouts.**

If the contestant fails to rise before the count of ten, the referee shall declare him the loser by knockout. Should a contestant who is down arise before the count of ten is reached and again go down without being struck, the referee shall resume the count where he left off. When a boxer is knocked out, the referee should count the full ten, thus avoiding the recording of a technical knockout which would be confusing and misleading to commissions in the other states. When a boxer has been knocked out, he shall not be touched or moved except by the direction of the ring physician. Should a contestant leave the ring during the one-minute period between rounds and fail to be in the ring when the gong rings to resume boxing, the referee shall count him out the same as if he were down. If a contestant who has been knocked or fallen out of the ring during a contest fails to return immediately, the referee may count him out as if he were down.

### **4 MCAR § 9.514 Technical knockouts.**

If the referee stops a contest because it is one-sided, or because of a badly cut eye, or should a contestant finish any one round of a contest and fail for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority on the part of his opponent, to answer the bell for the succeeding round, the proper termination of the bout shall be a technical knockout. Should a contestant be knocked down three times in the same round, the contest shall be terminated and ruled a TKO, unless this rule is waived by the Board for a specific contest.

### **4 MCAR § 9.515 Minor fouls.**

Contestants shall break clean and must not strike a blow while breaking from clinches. Contestants must not hold and hit. Butting with the head or shoulders, wrestling or clinching, or illegal use of elbows shall not be allowed. There shall be no unsportsmanlike conduct on the part of the contestants. This shall include the use of abusive or insulting language.



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A penalty of one point may be imposed by the referee for the following deliberate conduct: maintaining a clinch; holding an opponent with one hand and hitting with the free hand; butting with the head, or illegal use of the shoulders and elbows; hitting on the breakaway after being ordered to break clean by the referee; hitting with the inside or heel of the hand and wrist; wrestling or roughing at the ropes; use of the rabbit and backhand punches; striking at that part of the body over the kidneys, except when an opponent deliberately turns his back to avoid being hit in the stomach over the liver and over the heart; use of abusive or profane language; refusal to obey warnings of the referee or any physical actions which might injure a contestant by illegal tactics; biting or kicking.

#### 4 MCAR § 9.516 Major fouls and disqualifications.

A boxer may be disqualified by the referee if: he deliberately knees an opponent in the groin, deliberately hits an opponent who is down or who is getting up or continuously and deliberately strikes an opponent with low blows, or for a fourth minor foul after three warnings.

#### 4 MCAR § 9.517 Low blows.

A bout shall not be terminated by a low blow. A boxer may be penalized three points for low punching. The referee shall count out boxers who fall to the floor claiming fouls as a result of the low blow. A boxer may be disqualified for continuously and deliberately striking an opponent with low blows.

#### 4 MCAR § 9.518 Miscellaneous penalties.

A. Deliberate fouls. If a bout is terminated by the referee because of a deliberate foul, the offending contestant shall receive only such percentage of his compensation or purse as the Board shall designate. The remainder of such purse shall be deemed a fine and be forfeited to the Board of Boxing.

B. Refusal to enter ring. If a boxer refuses to enter the ring unless he is paid in advance, his purse shall be turned over to the Board or its official representative. If he then refuses to enter the ring he shall be barred from boxing in Minnesota.

C. Forfeiture of fees. In the case of suspension or revocation of a license, the license fee shall be forfeited to the Board.

### Chapter Six: General Rules Governing Women's Professional Boxing

#### 4 MCAR § 9.601 Jurisdiction.

All professional women's boxers, promoters, managers, seconds, and boxing or sparring exhibitions, matches, and contests are under the jurisdiction of the Board.

#### 4 MCAR § 9.602 Incorporation.

Except to the extent inconsistent with specific provisions of Chapter Six of these rules, Chapters One, Three, Four, and Five of these rules shall apply to women's professional boxers, promoters, managers, seconds, and boxing or sparring exhibitions, matches, and contests.

#### 4 MCAR § 9.603 Certain exhibitions, matches, and contests prohibited.

There shall be no boxing exhibitions, matches, or contests between a male and a female boxer.

#### 4 MCAR § 9.604 Pre-bout physical examination and affidavit of non-pregnancy.

The pre-bout physical examination of each female contestant shall include all matters the examining physician may deem necessary and appropriate. Each contract involving a female contestant must contain the attestation by each contestant that she is not pregnant and each contestant shall so attest by affidavit to the Board.

#### 4 MCAR § 9.605 Annual physical examination.

Prior to receipt of an original boxing license or the annual renewal of said license, each female boxer shall have a medical examination which includes a pelvic examination.

#### 4 MCAR § 9.606 Weights.

Unless authorized by the Board, all exhibitions, matches, and contests shall be conducted only in the following weight classifications, the difference in weights allowable indicated in parentheses:

Flyweight	(5)	113 pounds
Bantamweight	(6)	121 pounds
Featherweight	(6)	129 pounds
Lightweight	(6)	137 pounds
Welterweight	(7)	146 pounds
Middleweight	(8)	154 pounds
Light Heavyweight	(8)	162 pounds
Heavyweight	(8)	170 pounds
Super Heavyweight		all over

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### **4 MCAR § 9.607 Separate dressing room facilities.**

Promoters shall provide ~~adequate separate dressing room facilities for female boxers~~ dressing room facilities for female boxers which are separate from the men's facilities.

### **4 MCAR § 9.608 Uniform.**

The female boxing uniform shall consist of body shirt, blouse, and shorts.

### **4 MCAR § 9.609 Protective equipment.**

No contestant shall be allowed to enter the ring without a

breast protector whose suitability shall be approved by the Board in addition to such other normal and suitable protective equipment as determined and approved by the Board or its official representative.

### **4 MCAR § 9.610 Gloves.**

Each glove shall weigh not less than ten ounces.

### **4 MCAR § 9.611 Rounds.**

Each exhibition, match, or contest shall have two minute rounds with a one minute rest between rounds. No exhibition, match, or contest shall be more than ten rounds.

# PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

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

## Department of Natural Resources

### Proposed Rules Concerning Dam Safety

#### Notice of Hearing

A public hearing on the above-captioned rules will be held on Wednesday, December 20, 1978, beginning at 9:30 a.m., in Room 57 of the State Office Building, which is located in the State Capitol complex at St. Paul, Minnesota.

The proposed rules are authorized and required by Laws of 1978, ch. 779, § 8. They make specific the manner in which the Commissioner of Natural Resources exercises his authority over the construction, enlargement, repair, alteration, maintenance, operation, transfer of ownership, and abandonment of dams.

The proposed rule defines "dam" to mean any artificial barrier, together with appurtenant works, which does or may impound water and/or waste materials containing water and which is greater than six (6) feet in height and has a storage capacity of more than fifteen (15) acre-feet at maximum storage elevation; any artificial barrier which is not in excess of six (6) feet in height regardless of storage capacity or which has a storage capacity not in excess of fifteen (15) acre-feet regardless of height, shall not be con-

sidered a dam. No circular tank or tank elevated above the ground to store water and/or waste shall be considered a dam.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without personally appearing at the hearing.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted by mail to William Seltzer, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8105 and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date



Cataract House hotel was built in 1887 at Washington Avenue and Cataract Street (now Sixth Avenue South). According to a history of Minneapolis written in 1895, the hotel was overshadowed by the posh Nicollet House at Washington and Nicollet avenues, which "had a better location and better patronage of town and travellers." (Minnesota Historical Society)

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## PROPOSED RULES

on which the hearing examiner's report will be available after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

One free copy of the proposed rules may be obtained by writing to Department of Natural Resources, Division of Waters, Box #32, Centennial Office Building, Saint Paul, Minnesota, 55155. Additional copies will be available at the door on the date of the hearing.

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than \$250 not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota, 55155; telephone (612) 296-1720.

Dated this 3rd day of November, 1978.

Joseph N. Alexander,  
Acting Commissioner

The contents of the rule is as follows:

### 6 MCAR § 1.5030 General provisions.

- A. Purpose
- B. Scope
- C. Jurisdiction
- D. Definitions
- E. Severability

### 6 MCAR § 1.5031 Classification of dams.

### 6 MCAR § 1.5032 Procedure for existing dams.

- A. Applicant's responsibilities.
- B. Emergency work.
- C. Removal of dams.
- D. Inspections of existing dams by the Commissioner.
- E. Transfer of dams.
- F. Operation and maintenance.
- G. Termination of operations and perpetual maintenance.
- H. Investigations and studies.
- I. Permit cancellation, suspension or alteration.
- J. Reports to the legislature on publicly owned dams.

### 6 MCAR § 1.5033 Procedure for new dams or enlargement of dams.

- A. General outline of permit process.
- B. Specific procedural requirements.
  - 1. The Permit application, preliminary report and filing fees.
  - 2. Registered professional engineer's requirements.
  - 3. Final design requirements.

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4. Plans and specifications.
5. Other information.
6. Payment of dam inspection fees.
7. Commissioner's approval and issuance of permits.
8. Work inspection and construction reports.
9. As-built plans and data.
10. Statement of completion and affidavit of cost.
11. Issuance of impoundment approval by the Commissioner.
12. Performance report.

### 6 MCAR § 1.5034 Miscellaneous provisions.

- A. Limited liabilities.
- B. Owner's responsibilities.
- C. Liability of permittee.
- D. Owner's rights.
- E. Inspections.
- F. Compliance with other laws.
- G. Other permits and approvals.
- H. Acquisition of property.
- I. Assignment.
- J. Successors.
- K. Warning systems and emergency procedures.

## Rules as Proposed

### 6 MCAR § 1.5030 General provisions.

A. Purpose. The purpose of these rules is to regulate the construction and enlargement of dams, as well as the repair, alteration, maintenance, operation, transfer of ownership and abandonment in such a manner as to best provide for

public health, safety and welfare. In the application of these rules, the Department shall be guided by the policies and requirements declared in Minn. Stat. ch. 105 and § 116D.04.

The rules are pursuant to Laws of 1978, ch. 779, § 8 and are intended to be consistent with the goals and objectives of applicable federal and state environmental quality programs and policies including, but not limited to, mine-land reclamation, shoreland management, flood plain management, water surface use management, boat and water safety, wild and scenic rivers management, critical areas management, recreational or wilderness management, scientific and natural areas managements and protected vegetative species management.

B. Scope. To achieve the purpose declared in 6 MCAR § 1.5030, the Commissioner hereby sets forth minimum standards and criteria for dam classification and identification of risk and hazards to health, safety and welfare. These rules further establish minimum standards and criteria for the review, issuance and denial of permits for proposed new and existing dam projects for water and waste impoundments in and adjacent to public waters of the state and for ordering repairs. This also includes dams for impoundment of waste containing water not specifically requiring a change in public waters.

C. Jurisdiction. These rules shall apply to all existing and proposed dams other than those owned by the United States or those that do not meet the size criteria (Section D, below), unless otherwise excluded in other sections of the rules. These rules are supplementary and complimentary to the rules which establish standards and criteria for granting permits to change the course, current or cross-section of public waters. (6 MCAR §§ 1.5020-1.5023, 1.5025 and 1.5026)

In situations where the provisions of these rules are in conflict with other appropriate rules and requirements, those provisions which are the more restrictive shall apply.

All provisions of 6 MCAR § 1.5024 are superseded by these rules as they relate to dams as defined herein, not including the section relating to water level controls.

D. Definitions. For the purposes of these regulations, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

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These definitions are in addition to those contained in 6 MCAR § 1.5020 D. except where the same word is contained in both lists of definitions in which case the definitions in these rules shall apply with respect to dam safety administration.

“Alteration” means any activity which will affect the safety of a dam and/or which will result in a change in the course, current or cross-section of public waters.

“Commissioner” means the Commissioner of the Department of Natural Resources and any duly authorized representative of the department who may be assigned responsibilities and authorities for dam safety.

“Cost” for the purpose of this clause, includes labor and materials entering into the project; preliminary investigations and surveys; the cost of construction plant properly chargeable to the cost of the project; and any and all other items entering directly into the cost of the project. “Cost” for the purposes of this clause, does not include costs of right-of-way, detached powerhouses, electrical generating machinery, and roads and railroads unrelated to the construction of the project affording access to the project.

“Dam” means any artificial barrier, together with appurtenant works, which does or may impound water and/or waste materials containing water and which is greater than six (6) feet in height and has a storage capacity of more than fifteen (15) acre-feet at maximum storage elevation; any artificial barrier which is not in excess of six (6) feet in height regardless of storage capacity or which has a storage capacity not in excess of fifteen (15) acre-feet regardless of height, shall not be considered a dam. No circular tank or tank elevated above the ground to store water and/or waste shall be considered a dam.

“Enlargement” means any change in or addition to an existing dam, which raises or may raise the storage elevation of the water or waste impounded by the dam.

“Height” means the overall vertical distance from the lowest point of the prepared foundation surface or cutoff, to the top of the dam, but excluding driven sheet piling primarily intended for cutoff purposes.

“Reconstruction” means the rebuilding or renovation of an existing structure.

“Repair” shall include any work which will change the hydraulic capacity of a dam or entail any changes in the structural character of a dam.

“Surface” shall be determined by multiplying total dam length by maximum dam height.

“Total dam length” means length of all artificial con-

tainment structures, including the length of any artificially constructed dike, abutment or other structural additions appurtenant to the dam which are part of and essential to the containment structure.

“Verification” means the development of data in the ordinary course of the construction and operation of the project.

E. Severability. The provisions of these rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

**6 MCAR § 1.5031 Classification of dams.** In order to safeguard the public health, safety and welfare when making decisions as to the location, construction, operation, maintenance or alteration of dams, dams shall be classified into the following four (4) classes with respect to the potential hazard of existing dams and with respect to the potential risk and hazard for proposed new dams:

Class I dams shall include those dams where failure, misoperation, overtopping or other occurrences or conditions may result in any loss of life or serious hazard or damage to health, homes, high-value industrial or commercial properties, major public utilities or serious direct, or indirect, economic loss to the public.

Class II dams shall include those dams where failure, misoperation, overtopping or other occurrences or conditions may result in possible health hazard or probable loss of high-value property, damage to major highways, railroads or other public utilities or limited direct, or indirect, economic loss to the public.

Class III dams shall include those dams where failure, misoperation, overtopping or other occurrences or conditions may result in property losses restricted mainly to rural lands and buildings and local roads.

Class IV dams shall include those dams where failure, misoperation, overtopping or other occurrences or conditions may result in property losses restricted mainly to the owner's property or in property loss restricted almost entirely to the dam.

**6 MCAR § 1.5032 Procedure for existing dams.**

A. Applicant's responsibilities. This section identifies the procedures to be followed for existing dams, excluding dams being enlarged.

Before commencing the repair or alteration of a dam or removal of a dam so that it no longer impounds water or waste, the owner shall make a separate application to the Commissioner for each existing dam proposed to be

## PROPOSED RULES

changed upon forms provided by the Commissioner, except as provided in emergencies. The application shall contain the following:

1. The name and address of the owner or owners.
2. The proposed changes in the existing dam.
3. Maps, plans, and specifications which set forth pertinent details and dimensions of the dam as the Commissioner may require.
4. The storage capacity of the impoundment.
5. The location, type, size and height of the dam and any appurtenant structures.
6. Other pertinent information concerning the dam as may be required by the Commissioner and any information appropriate to a thorough consideration of the safety of the change to the dam.
7. The proposed start and completion of the repair, alteration or removal.

The Commissioner may waive any of these requirements if found unnecessary. Work described herein is subject to the "Fees" provision of 6 MCAR § 1.5033 B. 6.

### B. Emergency work.

1. Actions by the owner. In the event of an emergency where immediate action is necessary for public health, safety and welfare, repairs may be started immediately, but the owner shall notify the Commissioner at once of the emergency repairs. As soon as practicable, the owner shall apply for a permit for the emergency repairs and any necessary permanent repairs. This shall not authorize the owner to make routine maintenance not affecting the safety of the dam without necessary approvals and procedures.

2. Commissioner's requirements. The Commissioner shall immediately require any repairs or remedial action necessary to protect public health, safety and welfare, if either:

a. The condition of any dam or impoundment is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation; or

b. Imminent floods threaten the safety of a dam or impoundment.

3. Commissioner's actions. The Commissioner may, in an emergency, require and enforce any of the following actions:

a. Lowering of the water level by releasing water from the impoundment behind the dam.

b. Completely emptying the impoundment.

c. Taking any other steps as may be essential to safeguard life and property.

### C. Removal of dams.

1. Applications. Any owner of a dam seeking its removal must apply to the Commissioner for permission and comply with all required procedures the Commissioner may prescribe.

#### 2. Evidence of removal.

a. Upon completion of the removal of a dam, evidence as to the manner in which the work was performed and the conditions obtained after the removal, shall be filed with the Commissioner.

b. The evidence shall show that a sufficient portion of the dam has been removed to permit the safe passage of floods down the watercourse across which the dam was located.

3. Final inspection. Before final approval of the removal of a dam is issued, the Commissioner shall inspect the work and determine that danger to public health, safety and welfare has been eliminated.

### D. Inspections of existing dams by the Commissioner.

1. Hazard classification inspections. The Commissioner shall make initial inspections of each dam in the state to determine the appropriate hazard classification according to criteria and procedures in NR 5021 C. and NR 5021 D.

#### 2. Dam safety inspections.

a. The Commissioner shall make, or cause to be made, an initial detailed systematic technical inspection and evaluations of every Class I, II or III dam in order to assess the general condition of the dam with respect to safety. The inspection will include:

(1) a review and analysis of available data on the design, construction and operation of the dam;

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(2) a visual inspection of the dam, appurtenant structures and downstream and upstream areas;

(3) a report shall be made of the general condition of the dam including, when possible, an assessment of hydraulic and hydrologic capabilities, structural stabilities and identification of any other conditions which constitute hazards to health, safety and welfare. Such report shall also include:

(a) a determination of any need for emergency measures or actions;

(b) a determination of the need for corrective actions relating to the design, construction and operation of the dam and appurtenant structures; and

(c) a determination of the need for additional detailed studies, investigations and analyses.

b. Technical areas to be investigated as part of the field inspections:

(1) Engineering data. Engineering data may include, but are not limited to, any data listed in Appendix I of "Recommended Guidelines for Safety Inspection of Dams," Appendix D, Department of Army, Office of the Chief of Engineers.

(a) To the extent feasible, engineering data relating to the design, construction and operation of the dam and appurtenant structures shall be collected from all available sources, including records of the owner.

(b) When necessary engineering data are unavailable, inadequate or invalid, a list of deficiencies shall be made by the Commissioner, and the Commissioner may require that such information be provided by the owner.

(2) Visual field inspections. Visual inspections shall be made of the dam, appurtenant structures, impoundment area and downstream channel in the vicinity of the dam including an examination of significant structural, geotechnical, hydraulic and hydrologic features including, where applicable, electrical and mechanical equipment for the operation of control facilities that affect the safety of a dam. Visual inspections shall include, but are not limited to, detecting evidence of leakage, erosion, seepage, slope instability, undue settlement, displacement, tilting, cracking, deterioration and improper functioning of drains and relief wells. The inspection shall also include an examination of the adequacy and quality of maintenance and operating equipment and procedures as they relate to safety of the dam. Other areas of inspection may include, but is not limited to, any of those listed in Appendix II "Recommended guidelines for safety inspection of dams," "Appendix D," Department of the Army, Office of the Chief of Engineers.

(3) Evaluation of hydraulic and hydrologic features. The evaluation of hydraulic and hydrologic features is required to determine the capability of the discharge and storage capacity of the dam for safely handling recommended design floods based on the size and hazard potential class of the dam. The safety evaluations involve constraints on water control such as blocked entrances, restrictions on operation of spillway and outlet gates, if any, inadequate energy dissipators or restrictive channel conditions, significant reduction in impoundment capacity by sediment deposits and other factors and material balance of the impoundment. Where essential design data are lacking, evaluations of watershed characteristics, rainfall and impoundment records may be used to evaluate effects of the dam.

(4) Evaluations of structural stability. The structural stability evaluations are made to determine the existence of conditions which are hazardous or which might develop into hazards and to formulate recommendations regarding the need for additional studies, investigations or analyses.

c. Timing of dam safety inspections.

(1) Subject to the availability of staff and funds, the Commissioner shall make, or cause to be made, initial inspections of all Class I, II and III hazard dams as soon as reasonably possible based on the degree of hazard involved.

(2) After the initial detailed inspections and subject to the availability of funds and staff, the Commissioner shall make, or cause to be made, periodic inspections of dams based on the following schedule:

(a) Class I dams, at least one time every year.

(b) Class II dams, at least one time every two years.

(c) Class III dams, at least one time every four years.

3. Reports on inspections. Upon completion of the inspection of a dam, the Commissioner shall notify the owner of the dam, in writing, of the results and findings of the inspection and if a dam is unsafe or needs repair or corrective action, the Commissioner shall notify the owner and order such remedial action.

4. Need for further dam safety investigations. If the Commissioner determines that additional engineering investigations are necessary in order to determine the safety of a dam and the extent of needed repairs or alterations, he shall notify the owner thereof to cause such investigations to be made at the owner's expense and to file the results with the Commissioner for use in determining the conditions of dams and the degree and nature of repair, alteration or possible other action needed.



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E. Transfer of dams. The owner shall not sell, transfer, donate or change the ownership of the dam without prior written notice to the Commissioner, by certified mail, at least thirty (30) days prior to the change and without a permit from the Commissioner. Permits shall be issued based on evaluation of the hazard class, the conditions and the financial capabilities of the transferee.

No state department or agency and no county, city, town or other governmental entity may purchase or accept as a gift any privately owned dam subject to permit requirements until after: (1) the Commissioner has examined the dam, (2) the Commissioner has prepared a report of his examination and filed it with the legislature and (3) the legislature has had an opportunity to consider the report and has not prohibited the purchase or gift during the legislative session in which the report is filed, or if the report is filed when the legislature is not in session, the legislature has not prohibited the gift or purchase at the next succeeding session.

### F. Operation and maintenance.

1. Responsibilities. The owner shall operate and maintain the dam. Regulation of the maintenance and of the operation of the dam throughout its life, insofar as necessary for public health, safety and welfare, is vested with the Commissioner.

2. Reports and records. The Commissioner may require owners to keep records of, and to report on maintenance, operation, staffing and engineering and geologic investigations and any other data necessary to secure maintenance and operation and to require staffing and engineering and geologic investigations in the interests of public health, safety and welfare. In addition, the owner shall fully and promptly advise the Commissioner of any sudden or unprecedented flood or unusual or alarming circumstance or occurrence affecting the dam.

3. Inspections and work requirements. The Commissioner, from time to time, shall make inspections of dams for the purpose of making safety determinations, but shall require owners to perform at their own expense work necessary to disclose information sufficient to enable the department to determine conditions of dams in regard to their safety and to perform at their own expense other work necessary to secure maintenance and operation which will safeguard life and property.

G. Termination of operations and perpetual maintenance.

1. Unless the owner intends to remove the dam under permit as specified herein, the Permittee shall perpetually maintain the dam and all parts of the project so as to insure the integrity of all structures in order to achieve their intended and authorized functions and to protect public health, safety and welfare.

2. The Commissioner may impose such requirements as may be necessary, prior to the ultimate termination of the owner's operations, to insure that the owner will remain financially responsible for carrying out the activities required for perpetual maintenance, and that adequate funding will exist.

3. The owner shall prepare and submit to the Commissioner plans for termination of operations and perpetual maintenance which will address the owner's plans for both an unanticipated or premature termination of operations and for the ultimate intended termination of operations. The plans for termination of operations and perpetual maintenance shall, at a minimum, address the following issues:

a. Perpetual maintenance and safety of the dam including adequate monitoring programs.

b. Disposal and treatment of ponded and channelled waters.

c. Monitoring and mitigation of surface water and groundwater pollution.

d. Silt, sedimentation and erosion control.

e. Vegetation and landscaping.

H. Investigations and studies. Relative to construction, operation, maintenance, enlargement, repair, alteration and abandonment of dams, the Commissioner shall require information of such nature and extent as to enable him to make a proper review and determination of the various features of the project as they relate to public health, safety and welfare.

I. Permit cancellation, suspension or alteration. Subject to all existing rights and remedies at law and subject to the rights of appeal in the manner provided by Minn. Stat. §§ 105.37-105.64 (1976):

1. As provided in Minn. Stat. § 105.44 (1976), the Commissioner may cancel or modify a permit at any time if the Commissioner deems it necessary for any cause for the protection of the public interests.

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## PROPOSED RULES

2. As provided in Minn. Stat. § 105.52, whether or not a dam is under permit, if the Commissioner determines that it is unsafe or needs repair or alteration, he shall notify the owner to repair, alter or remove the dam as the exigencies of the case may require.

3. As provided in Minn. Stat. § 105.64 for dams associated with the mining of iron ore, taconite, copper, copper-nickel or nickel, the Commissioner may:

a. Cancel or modify a permit at the request of or with the consent of the permittee.

b. Cancel, modify or suspend a permit, if any of its terms, or any law pertaining to the project is violated or necessary to protect the public health, safety or welfare, or to prevent substantial injury not authorized by the permit to public interests in lands or waters, or to persons or property.

c. For the same purposes as b. above, in an emergency suspend operations forthwith and require the owner or permittee to take any measures necessary to prevent or remedy the situation which has caused the emergency or imminent danger.

4. An order issued under paragraph 1., 2., 3.a., b. above is subject to the hearing provisions of Minn. Stat. §§ 105.44 and 105.462. An order issued under paragraph 3. c. above is effective on the date thereof, but shall not be in effect for more than thirty (30) days from that date unless the permittee is on the same date mailed written notice of the order which includes notice of a Minn. Stat. § 105.44 public hearing on a date not more than ten (10) days from the date of the notice.

5. If situations occur in the construction or operations authorized hereunder which may endanger the public health, safety and welfare, the owner/permittee shall notify the Commissioner immediately and shall immediately take corrective measures and cease construction or operations if the situation so requires.

6. If the Commissioner, pursuant to the terms of a permit, suspends or cancels a permit or orders the Permittee to cease operations permitted hereunder, the Permittee shall do so immediately.

J. Reports to the legislature on publicly owned dams. As required by Laws of 1978, ch. 779, § 7, the Commissioner shall make an annual report to the legislature on the status of dams owned by the state or local governmental units which shall include the following:

1. A listing of dams in need of repair or reconstruction.

2. The probable degree of severity of the need of repair or reconstruction.

3. The hazard classification of the dam.

4. The priority ranking of the need for action to repair or reconstruct a dam based on evaluation of items 2 and 3 above.

5. Recommendations for action including any requests for state share of matching funds for grants-in-aid to local governments as provided by Minn. Stat. § 105.482.

### **6 MCAR § 1.5033 Procedure for new dams or enlargement of dams.**

A. General outline of permit process. Each proposal for the construction of a new dam or enlargement of an existing dam shall require the following:

1. A permit application, preliminary report outlining the proposed project and filing fees.

2. Certification that a registered engineer has been assigned to the project.

3. A final design report.

4. Detailed plans and specifications.

5. Other essential supporting data which the Commissioner may request.

6. Payment of dam inspection fees.

7. Commissioner's approval and issuance of permit.

8. Work inspection and construction reports.

9. As-built plans and data.

10. Statement of completion and the affidavit of cost.

11. Receipt of impoundment approval by Commissioner.

12. Performance report.

B. Specific procedural requirements.

1. The permit application, preliminary report, and filing fees.

a. The permit application. A separate application for each new dam proposed to be constructed or each existing dam proposed to be enlarged, shall be filed with the Commissioner upon forms provided by the Commissioner and shall contain the following:

(1) The name and address of the owner(s) or prospective owner.

## PROPOSED RULES

(2) The purpose for the dam.

(3) The location, type, size and height of the dam and any appurtenant structures.

(4) The storage capacity of the impoundment.

(5) Other pertinent information as may be required by the Commissioner.

b. The preliminary report. The preliminary report shall consist of:

(1) A general description of the dam and all appurtenances. A statement of the purpose for which the dam is to be used, and a statement setting forth the environmental impact of such dam.

(2) Maps showing the location of the proposed dam, the County, Township and Section lines; the outline of the impoundment; the location of state, county and township roads; the locations of utilities, e.g. pipelines, transmission, telegraph and telephone lines; the topograph; and other structure or facility including human habitations affected by the proposed dam. State, county and U.S.G.S. maps and aerial photographs may be used for this purpose.

(3) A written report of surface conditions, i.e. geology, topography and culture, which is based on a field examination by the Applicant's engineer.

(4) Typical cross-sections of the dam accurately showing elevations, proposed impoundment levels and top width.

(5) Logs of borings in the foundation and in the borrow areas, and results of seismic and resistivity subsurface investigations, when they are readily available.

(6) Preliminary design assumptions, operational aspects, tentative conclusions and references. The design assumptions shall pertain to such hydrologic features as drainage area, rainfall data, runoff, inflow, area-capacity-elevation data and flood routing, in addition to structural, geologic and geotechnical assumptions.

(7) A preliminary cost estimate of the structure and appurtenances thereto.

(8) Where applicable, future plans on ultimate project size including dams and impoundments.

(9) A general description of all other activities and elements which are related to and part of the total dam project, such as operational plans and details of smaller dams, dikes, diversions reclaim water facilities and other facility and utility lines including pipelines, roads and railroads. Separate permit applications will be required for each element or activity of a total dam project in accordance with appropriate provisions of 6 MCAR §§ 1.5020-1.5026 and will be submitted with the application for the dam.

c. Filing fees. Each application for a permit must include a \$15.00 fee in the form of a check or money order payable to the State Treasurer.

2. Registered professional engineer's requirements. The applicant must engage professional engineer(s) registered in the State of Minnesota to prepare the engineering documents, plans and specifications and to inspect the construction, or enlargement and the operation and maintenance of the dam. All submitted material shall be signed by the professional engineer(s). The designer shall not be an employee of the construction contractor.

3. Final design requirements. Upon acceptance and agreement by the Commissioner of the preliminary report, the applicant shall submit to the Commissioner, for his approval, a final design report, together with plans and specifications and required fees. The final design report shall include, but not limited to, the following:

a. General description of the project, such as its function and service life, production rates, required storage and area(s); geological considerations such as physiography, topography, geology, seismicity, ground water conditions and maps; hydrologic studies such as physical features, climatology, design storm and design flood characteristics, flood routing, water-material balance, freeboard requirements, dam-break flood; geotechnical information, such as rock-soil sampling and logging, geophysical investigations, field and lab testing, instrumentation data; considerations of construction materials and their properties, such as quantities required, borrow and aggregate locations and volumes, field and lab work and investigations, concrete, waste materials generation and placement techniques; investigation of the stored waste materials such as generation, transportation, mechanical/chemical/special testing, disposal practice.

b. Analytical determinations, such as seepage and underseepage studies, stability, deformation and settlement analysis; analytical and design details of facilities, such as dam, foundation, impoundment, abutments, spillways (for

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## PROPOSED RULES

the purpose of these rules, spillway means any facility appurtenant to the dam available to discharge excess water and/or waste from the impoundment) or decant facilities, diversions, outlet works, instrumentation; operational aspects, such as impoundment operating criteria, initial filling criteria, responsibility and coordination, emergency procedures and warning systems; air, water and solid pollution controls, sedimentation and erosion controls; operational and post-operational maintenance and abandonment considerations; surveillance and inspection programs.

c. A detailed cost estimate of the structure and appurtenances.

d. Waiver of requirements.

(1) In instances wherein the physical conditions involved and the size of the dam or reservoir are such as to render the requirements as to drainage areas, rainfall, streamflow and drilling or prospecting of site unnecessary, the Commissioner may waive any of the requirements.

(2) Based on discussions between the applicant and the Commissioner and on evaluation of the hazards and risks involved, the Commissioner may waive any of the design requirements if they are found to be unnecessary.

#### 4. Plans and specifications.

a. Plans. The plans shall consist of a bound portfolio of the drawings with all sheets being of the same size, and shall be of such scale that specifications can be drafted, and construction accomplished.

b. Specifications. These shall contain:

(1) The general provisions, specifying the rights, duties, responsibilities of the owner, designer, contractor and the prescribed order of work.

(2) The technical provisions describing approved work methods, equipment materials and desired end results.

(3) Special Conditions.

5. Other information. The applicant shall also provide any other pertinent information or data concerning the dam and appurtenant facilities as may be required by the Commissioner.

#### 6. Payment of dam inspection fees.

a. Fees required.

(1) Dam inspection fees:

(a) Payment of fees: With the exception of

state agencies, political subdivisions and federal agencies, a dam inspection fee shall accompany all applications for permits for dam construction, reconstruction, removal or any other change in the dam.

(b) The dam inspection fee shall be based on the formula and system established by these rules, and no field inspection fees for dams shall be charged to the applicant, unless the actual cost of the field inspection of a dam as itemized and certified by the Commissioner, is greater than the amount of money collected under provisions of 6 MCAR § 1.5033 B.6.b.

(c) In the event that the actual costs of field inspection of a dam by the Commissioner exceeds the amount paid by the applicant under 6 MCAR § 1.5033 C.6.b., the Commissioner shall provide an itemized and certified listing of the costs of field inspection of the dam and may charge the applicant sufficient fees for the additional costs incurred, but not compensated for by the dam field inspection fees levied under 6 MCAR § 1.5033 B.6.b.

#### (3) Annual inspection fees:

(a) Each owner of a dam except those classified as Hazard Class IV, shall be charged an annual field inspection fee for the purpose of providing funds for periodic inspection of dams as follows:

(i) A minimum fee of \$30.00 per year per dam plus an additional fee based on surface of the dam as follows:

(aa) For the first 1,000 square feet of surface \$0.01 per square foot.

(bb) For each square foot in excess of 1,000 square feet of surface \$0.001 per square foot.

The annual fee is payable at the end of each year beginning July 1 and ending the following June 30. The first fee is payable on or before June 30, 1979, for the year ending June 30, 1979.

b. Procedure for determining dam inspection fees.

(1) The following dam inspection fee shall accompany each application for a permit required under ch. 105, for a new dam or for enlargement or repair of an existing dam:

(a) For the first \$100,000 of estimated cost, a fee of two and one-half percent.

(b) For the next \$400,000 of estimated cost, a fee of one and one-half percent.

## PROPOSED RULES

(c) For the next \$500,000 of estimated cost, a fee of one percent.

(d) For all costs in excess of \$1,000,000 a fee of one-half of one percent.

(e) In no case shall the minimum fee be less than \$100.

(2) The applicant shall submit a certified estimate of the cost with his application together with the appropriate fee based on cost. Upon completion of the project, the applicant shall file, with the Commissioner, an affidavit of the final total costs of construction. If the final total cost exceeds the estimate, the applicant shall pay the difference between the fee paid and the fee required based on the final total cost according to the schedule of 6 MCAR § 1.5033 B.6.

### 7. Commissioner's approval and issuance of permits.

a. In reviewing proposals for new dams, the Commissioner will evaluate the potential hazards and risks to the health, safety and welfare of the public and to the environment in the vicinity of the proposed dam. Probable future development of the area downstream from the dam will be considered in evaluating potential hazards and risks.

(1) Permits to construct dams which would be in hazard classes I and II shall not be approved unless there is overriding justification for the construction of the dam at the proposed location, such as, lack of other suitable feasible and practical alternative sites, and/or severe economic hardship which would have a major adverse effect on a substantial portion of the state's population and socio-economic base.

(2) In the event that adequate justification is provided for construction of Class I and II dams, the applicant may be required by the Commissioner to take measures to reduce risks.

(3) The Commissioner shall furnish information to local governments which have legal authority to control land use, regarding the classification together with recommendations for present and future land use controls which should be implemented to insure that risks to downstream areas will be minimized.

b. Upon satisfactory compliance with the above requirements, the Commissioner shall cause appropriate permits to be issued and shall grant necessary approvals to

begin or continue construction. In considering the issuance of a permit, the Commissioner shall determine if the proposal is adequate with respect to the following:

(1) The need in terms of quantifiable benefits.

(2) The stability of the dam, foundation, abutments and impoundment under all conditions of construction and operation. An adequate margin of safety must be provided against liquefaction, shear failure, seepage failure, overturning, sliding, overstressing and excessive deformation, under all loading conditions including earthquake. These conditions must be based on current, prudent engineering practice, and the degree of conservatism employed must depend on hazard and risks as outlined in 6 MCAR § 1.5021.

(3) The discharge capacity and/or storage capacity of the dam, appurtenances and impoundment shall be capable of handling the design flood which must be based on current, prudent engineering practice and the hazard potential classification as provided in 6 MCAR § 1.5031.

(4) The project in its totality must be in compliance with prudent, current environmental practice throughout its existence. In particular, the project must meet the State's pollution standards for ground water, surface water and air quality throughout its existence. The Commissioner shall consider the effects and impacts on the natural environment based on state and federal environmental laws, rules and requirements.

(5) The cost of that portion of engineering evaluations and studies relating to the safety of dams which is also part of the final design report outlined in 6 MCAR § 1.5033, performed for the applicant by professional engineers, and which were included with Environmental Impact Statements required under applicable State and Federal Environmental Laws shall be subtracted from the total cost determined under 6 MCAR § 1.5033 B.6., provided that the applicant provides the Commissioner with a notarized statement which includes a detailed accounting of expenditures for such dam safety related professional engineering evaluations and studies.

(6) The Commissioner shall keep annual records of the costs incurred in inspection and monitoring of new or enlarged dams and repairs to existing dams before, during and after construction and such cost record shall be provided upon request of any applicant who paid inspection fees.

### 8. Work inspection and construction reports.

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a. Conformity with approved designs, plans and specifications.

(1) The permittee, in cooperation with its designer, shall be responsible for providing adequate controls of construction and operation activities and for verifying design, construction and operation assumptions. The owner may engage a registered professional engineer to operate and inspect the construction of the project, but the designer should also periodically inspect the said structures.

(2) All construction shall be carried out in accordance with the approved design, plans and specifications. No alteration, modification or addition to the approved designs, plans and specifications shall be undertaken by the permittee without prior written approval of the Commissioner.

(3) If the permittee finds at any time during construction or operation that, in order to adequately protect public health, safety or welfare or the environment alterations to the approved design, plans and specifications are required, the permittee shall promptly notify the Commissioner of such requirements and shall revise the designs, plans and specifications and submit the revisions to the Commissioner for approval. Emergency short term revisions may be made by the permittee followed by prompt notice to the Commissioner. If such short term revisions are to remain as permanent project features, they shall be subject to approval by the Commissioner.

(4) During the construction or operation of a dam, the Commissioner shall make inspection for the purpose of securing conformity with approved designs, plans and specifications and shall require the owner to perform, at the owner's expense, work or tests as found necessary to disclose sufficient information to enable the Commissioner to determine if there is conformity with approved designs, plans and specifications.

(5) If, after any inspections, investigations or examinations or at any time as work progresses, the Commissioner finds that amendments, modifications or changes are necessary to protect health, safety, welfare and the environment, the Commissioner may order the owner to revise designs, plans and specifications.

(6) In the event that conditions imposed by the Commissioner as part of the original designs, plans and specifications may be waived or made less burdensome without sacrificing a proper margin of adequacy and safety, the Commissioner may authorize an owner to revise designs, plans and specifications.

(7) If, at any time during construction, enlargement, repairs or alterations of a dam the Commissioner finds that the work is not being done in conformance with ap-

proved designs, plans and specifications, the Commissioner shall notify the owner and shall order immediate compliance.

(8) The Commissioner may order that no further work on a dam be done until such compliance has been effected and approved by the Commissioner.

(9) Failure to comply with the approved designs, plans and specifications shall render the approvals subject to revocation if compliance is not made.

(10) If conditions are revealed which will not permit the construction of a safe dam the permit may be revoked.

(11) At his discretion, the Commissioner may observe and approve foundation preparation and may approve construction material placement on an intermittent or continuing basis when field conditions dictate. The Commissioner shall be notified at least three (3) days in advance of construction material placement.

b. Acceptance or permit or approval. Initiating or undertaking any work or part thereof, by the permittee, authorized in an issued permit or approval, constitutes acceptance of all terms and conditions contained therein.

c. Permanent markers. At least one (1) permanent marker for vertical and horizontal control shall be established in the natural ground by the permittee in the vicinity of each dam structure. The permanent marker for vertical control must be based upon sea level datum and the degree of accuracy shall be as specified by the Commissioner. The accuracy of these markers shall be certified by the designer or a registered professional land surveyor. Each marker shall be located so as to be accessible and protected against disturbance throughout the existence of the dam. The permittee shall, within ninety (90) days of the issuance of the permit, submit to the Commissioner the locations of these permanent markers, plotted on standard U.S. Geological Survey topographic maps.

d. Construction report. The permittee shall submit monthly to the Commissioner a report on construction observation and quality control. The report shall include, but is not limited to, daily construction documentation; foundation preparation and treatment; construction quality control tests; maintenance of records and summaries of actual tests of foundation and construction materials, cut-off trench, grouting, etc.; instrumentation installation and maintenance of instrumentation records and instrumentation readings; geologic mapping, if any, of exposed foundations; preparation of logs of drill holes and other exploration features, if any, completed during construction; review and evaluation of disclosed field conditions by the designer; and any other

## PROPOSED RULES

items which may be pertinent to a construction quality assurance program.

9. As-built plans and data. Immediately upon completion of a new dam or reservoir or enlargement of a dam, the owner shall file with the Commissioner supplementary drawings or descriptive matter showing or describing the dam as actually constructed, or any other items which may be of permanent value and have a bearing on the adequacy and permanency of the dam.

In connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work.

10. Statement of completion and affidavit of cost.

a. Statement of completion. As soon as practicable following the completion of construction, the permittee shall notify the Commissioner, by certified mail. The notification shall include a statement on the part of the designer or the registered professional engineer in charge of the construction inspection, that the dam was completed in accordance with the approved designs, plans and specifications and any approved revisions thereof.

b. Affidavit of cost. As soon as possible after giving notice of completion, the owner shall file an affidavit with the Commissioner stating the actual cost of the dam in detail. In the event the owner of a new or enlarged dam is unable to report the actual cost of construction or enlargement, an affidavit to this effect shall be filed within thirty (30) days after written request by the Commissioner, stating the reasons therefor. The Commissioner shall then make an appraisal of the cost of construction or enlargement and determine what further fee, if any, is required. If a further fee is required, the Commissioner shall notify the owner by certified mail of the amount of such fee within fifteen (15) days and that the owner may appear within sixty (60) days thereafter before an authorized representative of the Commissioner to protest the amount of the fee, in whole or in part and the sufficiency of the appraisal upon which such determination was based.

11. Issuance of impoundment approval by the commissioner. Within thirty (30) days following the submission of the statement of completion and affidavit of cost, the Commissioner shall make a final inspection of the dam and issue an Impoundment Approval, upon written request by the owner. An Impoundment Approval shall be issued upon a finding that the dam is adequate to impound water and/or waste within the limitations prescribed. Pending issuance of an Impoundment Approval by the Commissioner, the owner

of the dam shall not, through action or inaction, cause the dam to impound water.

a. Each Impoundment Approval issued by the department may contain such terms and conditions as the Commissioner may prescribe.

b. The Commissioner may revoke any Impoundment Approval if it is determined that the dam becomes a danger to public health, safety and welfare. Whenever action is necessary to protect public health, safety and welfare, the Commissioner may also amend the terms and conditions of any Approval by issuing a new Approval containing revised terms and conditions.

c. The owner of a dam for which an Impoundment Approval has been issued shall not, through action or inaction, cause the dam to impound water and/or waste after the Approval terminates unless a new Approval is issued for the dam. A new Approval shall be issued upon a finding by the Commissioner that the dam is adequate to impound water and/or waste within the limits prescribed in the Approval.

12. Performance report. The permittee shall submit yearly to the Commissioner a Performance Report detailing the instrumentation data and analysis and interpretation of these data as they relate to the safety of the dam and design assumptions. The frequency of submission of this report may be modified if field conditions so dictate.

### 6 MCAR § 1.5034 Miscellaneous provisions.

A. Limited state liabilities. The granting of a permit for a dam shall not impose any liability upon the State of Minnesota, its officers, employees, agents or consultants, for any damage or injury to any person or property resulting from the activities of the permittee under the permit. Any permit shall be permissive only and shall not be construed as estopping or limiting any legal claims of persons other than the State against the permittee, its agents or contractors, for any damage or any injury to any persons or property, or to any public water supply resulting from such operations, or as estopping or limiting any legal claims of the State against the permittee for violation of any of the terms or conditions or the permit. No action shall be brought against the State or the Commissioner for the recovery of damages caused by the partial or total failure of any dam or through the operation of any dam upon the ground that such defendant is liable by virtue of any of the following:

1. Any approval of the dam or appurtenant facilities.

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## PROPOSED RULES

2. The issuance or enforcement of orders relative to maintenance or operation of the dam.

3. Control and regulation of the dam.

4. Measures taken to protect against failure during an emergency.

B. Owner's responsibilities. Noting in these rules shall be construed to relieve an owner of a dam of the legal duties, obligations or liabilities incident to the ownership or operation of the dam.

C. Liability of permittee. The permittee shall assume all legal risks and liabilities, including without limitation those for damages or any injury to persons or property, arising from the construction, operation, maintenance, alteration or abandonment of the dam and impoundments and other activities authorized under permit relating to dams.

D. Owner's rights. Nothing in these rules shall be construed to deprive any owner of such recourse to the courts as he may be entitled to under the laws of this State.

E. Inspections. Owners of dams shall allow the Commissioner prompt access to and inspection of all records, plants, structures, facilities and operations at all reasonable times as may be necessary to monitor compliance with the terms of existing permits and to insure protection of the public health, safety and welfare. Entry for the purposes indicated is subject to reasonable compliance with the owner's safety rules and avoidance of unreasonable impairment of or interference with construction and operation of the dam. The Commissioner's inspection shall be limited to testing and observing, rather than supervising the construction, operation, maintenance, alteration or abandonment of the dam. The Commissioner's inspections shall not relieve the owner, or the designer, or the professional engineer in charge of construction, operation, maintenance, alteration or abandonment, from the full responsibility of providing adequate inspection and supervision.

F. Compliance with other laws. The owner of a dam shall comply with all federal laws and regulations relating to any structures, facilities or operations under the permit and shall obtain such permits from federal authorities as may be required therefor. The owner shall comply with all state laws and regulations in effect now or adopted hereafter relating to such structures, facilities and operations, including but not limited to, any laws and rules regarding mineland reclamation subject to the provisions of a permit.

G. Other permits and approvals. Although it is the intent of the Commissioner to maintain consistency with the permits of other agencies, nothing in any permit shall waive or abrogate any other state or federal approvals or permits

which may be necessary for the project involved. Any permit conditions for dams shall not waive or abrogate any conditions, whether similar or more stringent, which may appear in any other permit or approval.

H. Acquisition of property. In all cases where the activities authorized by a permit shall involve the taking, using or damaging of any property, rights or interests of any other person or persons, or of any publicly owned lands or improvements thereon or interests therein, the permittee, before proceeding, shall acquire all necessary property, rights, interests or permissions. In case the authorized activities shall include the alteration, relocation or replacement of any public highway or other publicly owned facility, the permittee shall pay the cost thereof as may be required by the appropriate public authority.

I. Assignment. Permits for dams may be assigned in whole or in part, but no assignment shall be effective until written notice thereof is filed in the office of the Commissioner, and the Commissioner approves the assignment in writing.

J. Successors. Provisions of the issued permit shall extend to and bind the successors in authority of the Commissioner and the legally assigned successors in interest of the permittee.

K. Warning systems and emergency procedures.

1. In the event that an existing or new dam is classified as a Class I or II Hazard dam, the owner shall prepare and file with the Commissioner, for approval, a contingency plan for notifying any persons whose lives, property or health may be endangered by failure, misoperation or other circumstance or occurrence affecting the dam. The contingency plan shall include:

a. The most practical and expeditious means for warning downstream property owners and residents.

b. Consideration of the time factor involved in providing warning based on the proximity of the dam to parties who may be affected.

2. In the event there is no feasible or practical means to provide for adequate warning due to insufficient time before a catastrophe occurs and downstream parties can be notified to evacuate, the owner shall be responsible for giving appropriate notification to any downstream property owners that there is no practical and feasible means for warning in emergency situations.

These rules, 6 MCAR §§ 1.5030-1.5034, are subject to the public hearing provisions of Minn. Stat. §§ 105.44-105.462.



# STATE CONTRACTS



The pine marten is a relative of the weasel. It has soft yellow-brown fur, which turns dark brown on its tail. Mice comprise most of the marten's diet, but it also eats birds, insects, fruits, nuts, and other small mammals. Pine martens have become scarce since the 1800s, when their pelts were common in the fur trade. They are now protected in Minnesota, and biologists believe their numbers are increasing. (Drawing by Dan Metz, courtesy of Department of Natural Resources)

## Office of the State Treasurer Division of Unclaimed Property

### Notice of Availability of Contract for Computerization of Unclaimed Property Program

The State Treasurer's Office/Division of Unclaimed Property is seeking an agency to develop Phase II of its computerization of the program. Phase II should include but not be limited to defining subsystems, system processing logic and data management descriptions.

Project Funding level: \$26,850

Final submission date: December 11, 1978

Inquiries and formal expressions of interest should be directed to:

Pursuant to the provisions of Laws of 1978, ch. 480, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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

Georgia Johnson  
Division of Unclaimed Property  
State Treasurer's Office  
G-21 Administration Building  
St. Paul, MN 55155  
(612) 296-8556

## Department of Administration Information Systems Division

### Notice of Availability of Contract for Programming and Analysis

Information Systems Division (ISD) and the Department of Revenue of the State of Minnesota are developing a new Income Tax System. Much of the system will be on-line. Vendor will have responsibility for the completion and testing of on-line and off-line portions of the new system, dealing primarily with processing income tax returns.

Detailed specifications on the subsystems and the projected deadlines will be available from the Information Systems Division receptionist on November 28, 1978. (Pick-up on 5th Floor, Centennial Bldg., 658 Cedar St., St. Paul, or call (612) 296-6990 and request mailing.)

Questions on the project should be directed to: Melvin Karnitz at (612) 296-1851 of the Department of Revenue.

Melvin Karnitz  
2nd Floor Centennial Bldg.  
Department of Revenue  
St. Paul, MN 55155  
612-296-1851

## STATE CONTRACTS

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Respondent vendors should be capable of completing all subsystems within the time requested in the specifications and should submit a fixed price bid. Bids must be accompanied by resumes of employees expected to be used on this project. (All such consultants are subject to screening and possible rejection by the Departments of Revenue or Administration. All accepted consultants must sign a pledge of secrecy concerning tax information.)

Acceptable candidates must have:

1. 3 years of BAL experience
2. Experience with IBM 370/158 or 168
3. On-line systems experience
4. Experience with the TOTAL DBMS

It will be helpful to have had experience with:

1. The State's TP Monitor, TPEXEC
2. The PRIDE project development system
3. The State's standards and procedures

A bidder's meeting will be held at ISD on December 4, at 2:00 p.m. to resolve any questions.

Work should begin the first week of 1979.

Project estimated cost: \$100,000-\$150,000.

All bids must be received at ISD, 5th Floor Centennial Building, St. Paul, MN 55155 Attention: Robert Payne, Manager, by 4:30 p.m. on December 11, 1978.

Selection and notification of successful bidder will be within 7 days of that date.

### **Housing Finance Agency Notice of Availability of Funds for the Urban Indian Housing Program**

Notice is hereby given that \$1,500,000 in funds are available for the Urban Indian Housing Program. The Urban Indian Housing Program is governed by 12 MCAR §§ 3.150 to 3.157. The Agency will select administrators for the program. Applications shall be accepted by the Agency for 20 days following the publishing of this notice.

General inquiries and applications should be directed to:

Ms. May Hutchinson  
Minnesota Housing Finance Agency  
Suite 200 — Nalpak Building  
333 Sibley Street  
St. Paul, Minnesota 55101  
(612) 296-8840

# OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

## Department of Commerce Banking Division

### Maximum Lawful Rate of Interest for the Month of December, 1978

Bulletin No. 1989

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, Subd. 4, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of December, 1978, is ten (10.00) percent.

November 14, 1978

Robert A. Mampel  
Commissioner of Banks

## Ethical Practices Board Notice of Meeting

### Preliminary Agenda

Room 22  
State Office Building

Tuesday, November 28, 1978  
1:30 p.m.

1. MINUTES (October 16; October 30)
2. CHAIRMAN'S REPORT
3. LEGAL COUNSEL REPORT
4. CERTIFICATION OF PUBLIC FINANCING ACCOUNTS
5. HEARING EXAMINER'S REPORT — SOCIALIST WORKERS' PARTY EXEMPTION



Aaron Goodrich (1807-1887) was the first chief justice of the Minnesota Territory. He was appointed by Zachary Taylor in 1849, after having served in the state legislature for two years. One of the early organizers of Minnesota's Republican Party, Goodrich was known as a skilled orator with a quick sense of humor. After a long political conflict, he was removed from office by Millard Fillmore in 1851. (Minnesota Historical Society)

6. EXECUTIVE DIRECTOR'S REPORT
  - a) Status of Campaign Finance Reporting
  - b) Waiver Requests For Late Filing Fees
7. OTHER BUSINESS
8. EXECUTIVE SESSION Pursuant to Minn. Stat. 10A.02, subd. 11

## Department of Revenue

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Existing Rules Governing the Valuation of Public Utility Property for Ad Valorem Tax Purposes

Notice is hereby given that the Property Equalization Division of the Department of Revenue has begun consideration of proposed amendments to rules governing the valuation of property of public utility companies. In particular,

## OFFICIAL NOTICES

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consideration will be given to the following factors involved in the valuation process:

1. Depreciation allowances.
2. Capitalization rate and income to be capitalized.
3. Average cost per kilowatt for electric generating plants.

Further, consideration will be given to the method used for apportioning value to taxing districts.

Persons or groups interested in or affected by these amendments are requested to participate. Statements of information and comment may be made orally or in writing. Written statements and comments should be addressed to:

Gerald D. Garski, Manager  
State Assessed Properties  
Property Equalization Division  
Second Floor Centennial Office Bldg.  
St. Paul, Minnesota 55145

November 6, 1978

Dennis J. Erno  
Assistant Commissioner  
Department of Revenue

## Errata

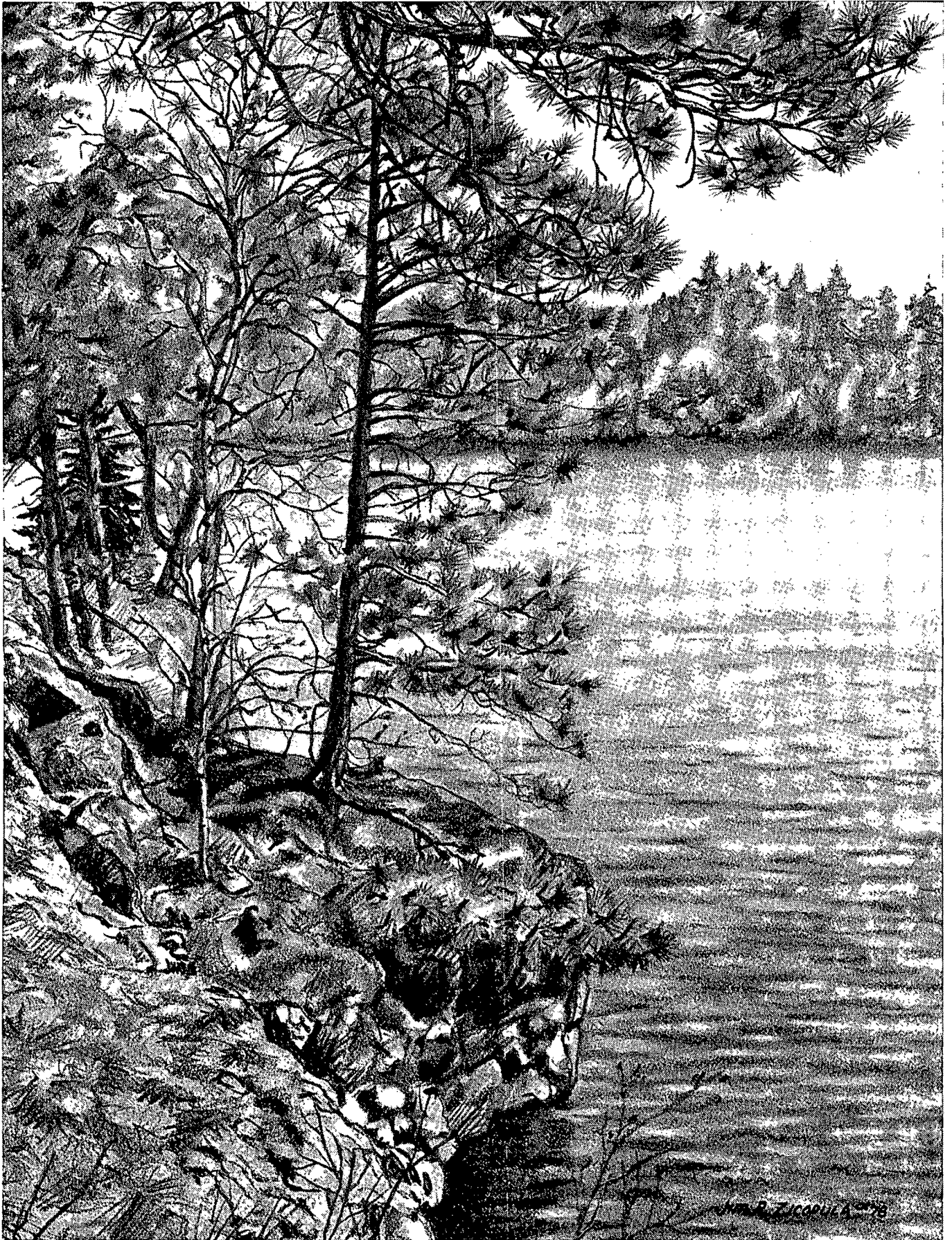
1. At 3 S.R. 918, change "~~EDU 483 8~~ MCAR § 4.004 Eligible costs." to read: "~~EDU 483 8~~ MCAR § 4.2004 Eligible costs."

2. At 3 S.R. 918, change "~~EDU 484 8~~ MCAR § 4.005 Applicable content." to read: "~~EDU 484 8~~ MCAR § 4.2005 Applicable content."

3. At 3 S.R. 918, change "~~EDU 485 8~~ MCAR § 4.006 Clientele served." to read: "~~EDU 485 8~~ MCAR § 4.2006 Clientele served."

4. At 3 S.R. 918, change "~~EDU 486 8~~ MCAR § 4.007 Standards of service." to read: "~~EDU 486 8~~ MCAR § 4.2007 Standards of service."

5. At 3 S.R. 864, Rule 7 MCAR § 5.1031 B.8., the sixth line should read: "education activity; which verify the information on the"



(Drawing by Jim Zicopula)

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