

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT OF NATURAL RESOURCES

RULES AND REGULATIONS

CHAPTER 22: NR 2220

LOWER ST. CROIX WATER SURFACE

USE REGULATIONS

NR 2220

(a) POLICY AND AUTHORITY

These rules are authorized by Minnesota Statutes section 361.26, subdivision 2, and are promulgated in order to promote the full use by all of the people, now and in the future, of the water surface of the Lower St. Croix River in a manner consistent with safety for persons and property and with the enjoyment of the scenic and recreational values which caused the river to be designated a National Scenic Riverway.

(b) SCOPE

These rules apply to the waters of the Lower St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

(c) DEFINITIONS

For the purpose of these rules the word "shall" is mandatory, not permissive, and certain words or terms shall be interpreted as follows:

(1) "Mile" means distance in miles above the confluence of the St. Croix River with the Mississippi River.

(2) "Motorboat" means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

(3) "Slow Speed" means operation of a motorboat at a leisurely speed, less than planing speed, whereby the wake or wash created by the motorboat is minimal.

(4) "Watercraft" means any contrivance used or designed for navigation on water other than (i) duck boat during the duck hunting season, (ii) rice boat during the harvest season, or (iii) seaplane.

(d) SLOW SPEED ZONES

(1) No motorboat shall at any time be operated in excess of a slow speed in the following areas:

(aa) From the dam at Taylors Falls to the sandbars located approximately at mile 31.0.

(bb) Between the Coast Guard navigational buoys designating location of the navigation channel from the railroad swing bridge located at approximately mile 17.3 to the south side of the eastbound span of the U. S. Interstate Highway #94 Bridge located at approximately mile 16.1.

(cc) Between the Coast Guard navigational buoys designating the Kinnickinnic River Delta Narrows from approximately mile 6.6 to approximately mile 6.0.

(dd) At the Prescott Narrows from the north side of U. S. Highway #10 Bridge located approximately at mile 0.3 to the confluence of the St. Croix River with the Mississippi River.

(ee) Within 100 feet of shore (including the shores of islands) and of swimmers, from sandbars located approximately at mile 31.0 to the confluence of the St. Croix River with the Mississippi River.

(2) Any motorboat designated for law enforcement shall be exempt from provision (d)(1) of this regulation in circumstances involving emergencies or violation of law.

(e) WATER SKIING

(1) No watercraft towing a person on water skis, aquaplane, or similar device shall be operated between sunset and sunrise on the St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

(2) No watercraft towing a person on water skis, aquaplane, or similar device shall be operated at any time in any zone designated a "slow speed zone" under provision (d)(1) of this regulation; provided, however, that any watercraft launching or landing a person on water skis, aquaplane, or similar device by the most direct route to open water shall be exempt from provision (d)(1)(ee) of this regulation.

(3) From Memorial Day through Labor Day, inclusive, no watercraft towing a person on water skis, aquaplane, or similar device shall operate after 12:00 Noon on Saturdays, Sundays, and legal holidays, from the sandbars located approximately at mile 31.0 to the upper end of the federal nine-foot navigation channel approximately at mile 24.5.

(f) PENALTIES

Any person violating any of the provisions of this regulation shall be guilty of a misdemeanor.

(g) EFFECTIVE DATE

This regulation shall become effective upon adoption of laws, rules, or regulations providing for similar limitations or prohibitions on the operation and use of motorboats on this reach of the St. Croix River by the State of Wisconsin or its agencies.

APPROVED AS TO FORM AND LEGALITY
APR 01 1977 19
WARREN SPANNAUS, ATTORNEY GENERAL
/s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 1 1977 4:10 P.M.
Joan Anderson Growe
Secretary of State

306

A. W. Clapp III,
Special Assistant
Attorney General

April 4, 1977

- Department of Natural Resources Chap. 22:
NR 2220 Lower St. Croix Water Surface Use Regulations

306

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A. W. Clapp III,
Special Assistant
Attorney General

April 4, 1977

- Department of Natural Resources Chap. 22:
NR 2220 Lower St. Croix Water Surface Use Regulations

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Attorney General
Natural Resources

TO : MIKE MILLER
Special Assistant
Attorney General

DATE: March 15, 1977

FROM : BILL CLAPP
Special Assistant
Attorney General

PHONE:

SUBJECT: Minn. Regs. NR 2220, Lower St. Croix
Water Surface Use Regulations

This rule being submitted to you for attorney general approval, predates the hearing examiner's office, in that everything but the necessary approvals from the two counties happened prior to July 1, 1976.

Certified copies of the two county resolutions of approval will be delivered to you in a few days. We had Washington county's but have lent it to the Chisago County clerk so she can follow its style when writing up the county board's action.

AWC:jmb

P.S. To meet this rule's effective date I have to deliver it to the State Register by 4:30 on April 4.

Bill Clapp

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ROBERT L. HERBST
COMMISSIONER, DEPARTMENT
OF NATURAL RESOURCES

In the Matter of the Proposed
Adoption of Rules of the
Commissioner of Natural Resources
Governing the Use of Watercraft
on the Lower St. Croix River

ORDER FOR HEARING
AND REFERENCE

WHEREAS, the Village of Marine on St. Croix and Washinton County have each requested the Commissioner to establish regulations relating to the use of watercraft on the Lower St. Croix river from Taylors Falls to the Mississippi river pursuant to Minn. Stat. Section 361.26, subdivision 2; and

WHEREAS, in light of the recommendations of the Management Plan for the Lower St. Croix, the Commissioner has determined such regulations are in the public interest;

NOW, THEREFORE, IT IS ORDERED that a public hearing on the proposed rules captioned above be held. The hearing shall be held at 7:00 p.m., Wednesday, December 10, 1975, at the Chisago County Court House, and shall continue at 7:00 p.m. Monday, December 15, 1975, in the auditorium of the Stillwater Senior High School in Stillwater, Minnesota. The hearing shall continue until all representatives of associations or other groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of hearing be provided by mail to all who have registered their names with the Secretary of State for such purposes.

IT IS FURTHER ORDERED that Archie D. Chelseth, Assistant Commissioner and Chief Hearing Officer for the Department of Natural Resources act as Hearing Officer in this matter, conducting the hearing, reviewing the hearing record, and based on that record preparing proposed findings of fact and recommendations for my consideration and final decision.

Dated this 10th day of November, 1975.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

ROBERT L. HERBST
COMMISSIONER

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ROBERT L. HERBST
COMMISSIONER, DEPARTMENT
OF NATURAL RESOURCES

In the Matter of the Proposed
Adoption of Rules of the
Commissioner of Natural Resources
Governing the Use of Watercraft
on the Lower St. Croix River

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN this 7th day of November, 1975, that a public hearing will be held pursuant to Minnesota Statutes 1974, Sections 15.0411 to 15.0422 in the above captioned matter beginning on Wednesday, December 10, 1975, at 7:00 p.m. in the Chisago County Courthouse in Center City, and continuing on Monday, December 15, 1975, at 7:00 p.m. in the auditorium of the Stillwater Senior High School in Stillwater, Minnesota. The hearing will continue until all interested individuals and representatives of groups and associations have had an opportunity to be heard. Data, statements, or arguments may be presented orally or in writing at the hearing. In addition, the hearing record will be kept open for the receipt of written statements through Monday, January 12, 1976. The mailing address for such statement is Archie D. Chelseth, Department of Natural Resources, Centennial Building, Saint Paul, Minnesota, 55155. Mr. Chelseth, Assistant Commissioner for Planning and Chief Hearing Officer of the Department of Natural Resources, will be hearing officer in this matter.

The proposed rules establish slow-speed zones on all water between Taylors Falls and the Arcola sandbar, for short stretches at Hudson, the Kinnickinnic, and Prescott, and within 100 feet of shores, swimmers, and watercraft. Slow speed is defined as proceeding at the slowest speed possible while still maintaining steerage control and headway. Waterskiing is banned from sunset to sunrise, and is banned between the Stillwater bridge and the Arcola sandbars on weekends and holidays.

Under Minnesota Statutes § 10A-01, subdivision 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual. The State Ethics Commission is located at 410 State Office Building, Saint Paul, Minnesota, 55155.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Adoption of Rules of the Commissioner of Natural Resources Governing the Use of Watercraft on the Lower St. Croix River

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

DAVID B. MILLES, being first duly sworn, deposes and says:

That on the 7th day of November, 1975, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing and Proposed Rules by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped and with postage prepaid, to all persons on the Secretary of State's list delivered to him and certified by Ceil Dion on October 31, 1975, including all persons on the attached list who had so registered their names for the purposes of receiving such notice prior to such date.

David B. Milles
DAVID B. MILLES

Subscribed and sworn to before me
this 10th day of December, 1975.

Anne P. Burkman

ANNE P. BURKMAN
Notary Public, Ramsey Co. Mn.
My Commission Expires
May 28, 1981

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Adoption of Rules of the Commissioner of Natural Resources Governing the Use of Watercraft on the Lower St. Croix River

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

VICKY TOMCZYK, being first duly sworn, deposes and says:

That on the 7th day of November, 1975, at the City of Saint Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing and Proposed Rules by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped and with postage prepaid, to members of the Minnesota Legislature and all of the affected counties and municipalities.

Vicky Tomczyk
VICKY TOMCZYK

Subscribed and sworn to before me
this 7th day of November, 1975.

Anne P. Burkman
Notary Public

ANNE P. BURKMAN
Notary Public, Ramsey Co., Mn.
My Commission Expires
May 28, 1981

State of Minnesota)
) ss.
County of Ramsey)

In the Matter of the Proposed
Adoption of Regulations of the
Commissioner of Natural Resources
Governing the Use of Watercraft
on the Lower St. Croix River

CERTIFICATE

I hereby certify that the attached 439 labels and one sheet(s) constitute the complete list of persons, associations, and other interested groups who as of 10:15 o'clock A.M., this 31st day of October, 1975, have requested pursuant to Minnesota Statutes 1974, Section 15.0412, Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearings on proposed rules on the subjects captioned above.

Joan Anderson Growe
Secretary of State
Joan Anderson Growe

By: Gail Dion

NR

RULES FOR OPERATION OF WATERCRAFT ON THE LOWER ST. CROIX RIVER

A. Application

This regulation shall apply to the waters of the Lower St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

B. Definitions

For the purpose of this regulation, certain terms or words used herein shall be interpreted as follows. The word "shall" is mandatory, not permissive.

"Mile" means distance above the confluence of the St. Croix River with the Mississippi River.

"Motorboat" means any watercraft propelled in any respect by an internal combustion engine.

"Slow Speed" means operation of a motorboat at the slowest speed possible while still maintaining steerage control and headway.

"Watercraft" means any contrivance used or designed for navigation on water other than (a) duck boat during the duck hunting season, (b) rice boat during the harvest season, or (c) seaplane.

C. Slow Speed Zones

No motorboat shall at any time be operated in excess of a slow speed in the following areas:

1. From the dam at Taylors Falls to the sandbars located approximately at mile 31.0.
2. Between the Coast Guard navigational buoys designating location of the navigation channel from the railroad swing bridge located at approximately mile 17.3 to the south side of the eastbound span of the U. S. Interstate Highway #94 Bridge located at approximately mile 16.1.
3. Between the Coast Guard navigational buoys designating the Kinnickinnic River Delta Narrows from approximately mile 6.6 to approximately mile 6.0.
4. At the Prescott Narrows from the north side of U. S. Highway #10 Bridge located approximately at mile .3 to the confluence of the St. Croix River with the Mississippi River.
5. Within 100 feet of shore (including the shores of islands), swimmers, and other watercraft from the sandbars located approximately at mile 31.0 to the confluence of the St. Croix River with the Mississippi River.

D. Water Skiing Provisions

1. No watercraft towing a person on water skis, aquaplane, or similar device shall be operated from sunset to sunrise on the St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

2. No watercraft towing a person on water skis, aquaplane, or similar device shall operate on Saturdays, Sundays, and legal holidays from the sandbars located approximately at mile 31.0 to the south side of the Stillwater highway lift bridge located approximately at mile 23.4.

3. Any watercraft launching or landing a person on water skis, aquaplane, or similar device by the most direct route to open water shall be exempt from provision C (5) of this regulation.

E. Penalties

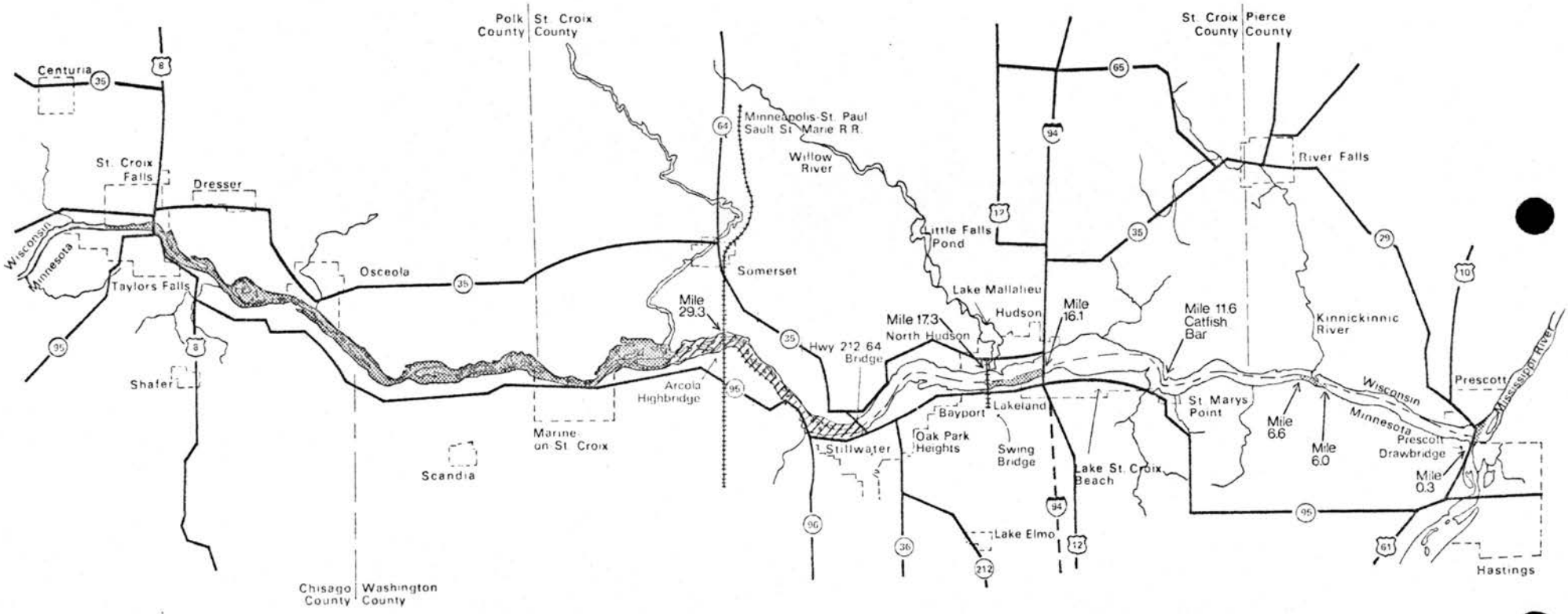
1. Any person violating any of the provisions of this regulation shall be guilty of a misdemeanor.

F. Effective Date

This regulation shall become effective upon adoption of laws, rules, or regulations providing for similar limitations or prohibitions on the operation and use of motorboats on this reach of the St. Croix River by the State of Wisconsin or its agencies.

Minnesota Department of Natural Resources

Proposed Rules for Operation of Watercraft on the Lower St. Croix River



N

2 0 2 4 miles

Slow

No waterskiing · Weekends & legal holidays

Water Zoning

Lower St. Croix
National Scenic Riverway

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Adoption of Rules of the Commissioner of Natural Resources Governing the Use of Watercraft on the Lower St. Croix River.

FINDINGS OF FACT AND RECOMMENDATIONS OF HEARING OFFICER

The above-entitled matter came on for hearing before Archie D. Chelseth, appointed hearing officer for these proceedings by order of Robert L. Herbst, Commissioner of Natural Resources, State of Minnesota, dated November 10, 1975. The hearings were conducted at Center City in Chisago County on the evening of December 10, 1975, and at Stillwater in Washington County, the evening of December 15, and the morning of December 16, pursuant to notice. Testimony from all present who asked to be heard was taken at each hearing, and a stenographic record made thereof. In addition to exhibits received at the hearings, written statements received through January 12, 1976, have been included in the record.

The record of the hearings having been reviewed and considered, the hearing officer now makes the following

FINDINGS OF FACT

1. Minnesota Statutes, §361.26, subdivision 2, states the Commissioner of Natural Resources may establish rules relating to the use of the surface of a lake or river when a county, city or town so requests. The Village of Marine-on-St. Croix submitted such a request in the form of a resolution dated August 1, 1973. Washington County did the same on November 19, 1973, by means of a resolution concurring in the Marine resolution (tr. 12-10, pps. 7-11).

2. The same statute requires that a majority of the counties affected approve the rules before they can become effective. The stretch of the St. Croix River to be regulated by the proposed rules involves two counties -- Washington and Chisago -- so approving resolutions from both are prerequisite to the implementation of any rules.

3. The entire river stretch which is the subject of the regulations is a boundary between Minnesota and Wisconsin. It is desirable to avoid a situation in which either state is regulating watercraft use on the river unilaterally or dissimilarly. Therefore, the proposed provision that these rules not be effective until Wisconsin has similar rules is reasonable and necessary (tr. 12-10, p. 20).

4. The general goal of water surface use regulations is to promote full use and enjoyment of the water's surface by all of the people now and in the future, and to promote safety for persons and property. Minn. Stats. §361.01. The regulations must be suited to the physical characteristics of the river, its historical uses, shoreland uses and classification, and any features unique to the river. Minn. Stats. §361.26, subd. 2(c).

5. The St. Croix River is one of only nine rivers in the United States which have been designated by Congress national wild and scenic rivers (16 U.S.C. §1274). Congress finds that the Lower St. Croix possesses outstanding scenic, esthetic, recreational and geologic values which are to be protected for the benefit and enjoyment of present and future generations. Lower St. Croix River Act of 1972, 86 Stat. 1174. The Master Plan for the Lower St. Croix, which has been approved by Congress, commits the National Park Service and Minnesota and Wisconsin to management actions which balance recreational use against preservation of the existing scenic and recreational resources.

6. The proposed rules are - aside from the definition of slow speed - substantially the same as those recommended in Appendix B of the Master Plan. This recommendation was developed by the Minnesota-Wisconsin Boundary Area Commission, based upon three years of watercraft traffic surveys, and

public meetings with local officials and citizens. (Tr. 12-15, pps. 109-114). The proposition that there is need for additional regulation of boating on the Lower St. Croix is by no means new, as is amply demonstrated by Mayor Johnson's testimony and exhibits. (tr. 12-15, pps. 77-85; w.s. J. Johnson.)

7. The three proposed slow zones at congested narrows in Lake St. Croix are already established. Their formalization in these rules is virtually without specific opposition, and has the specific support of the St. Croix and Mississippi-Croix Yacht Clubs (w.s.; tr. 12-15, p. 160).

8. In open speed zones, it is necessary to provide shores and shore users with some kind of protection from wakes. The proposed 100 foot buffer zone leaves at least a little distance in which wakes can dissipate some of their force. (Tr. 12-10, p. 19; 12-15; p. 59, 61, 63-64.) The 100 foot slow zone buffer around swimmers is necessary for safety. However, requiring boats to go slow within 100 feet of other boats may well defeat the goal of letting the river below mile 31 be for fast boating, because of the high density of use on weekends. (w.ss. Fitzgerald, Dunst.) There is no specific testimony in the record that that particular requirement is needed for safety purposes.

9. Aside frompu the slow zones just mentioned, the proposed rule establishes 30 of the 52 miles of the Lower

St. Croix as an open speed zone. These 30 miles contain 75% of the Lower St. Croix water surface area (Master Plan). There is testimony (w.ss. Baillon, Klein) that motors should be banned outright on the entire Lower St. Croix. This would be inappropriate. If and until boating on the Lower St. Croix becomes so crowded as to begin to ruin the recreational experience, or to be hazardous, the established dominant use of the river should be allowed to continue so long, that is, as noise and air pollution do not overwhelm the residents of the shores (see w.ss. of Baillon and Burns reporting such problems).

10. Statewide boating rules allow water-skiing from sunrise to one hour after sunset, but because the St. Croix is in a deep valley which darkens quickly, safety considerations support the provision of these rules stopping water-skiing at sunset. (Tr. 12-10, p. 18; 12-15, 160, 168.)

11. The proposed rule does not allow weekend water-skiing in the 7-1/2 miles between the Stillwater bridge and mile 31. If such a limitation is adopted, there is no need for it to include the wide open area above the Stillwater bridge to the upper end of the nine foot channel (Tr. 12-15, p. 115). This leaves 23-1/2 miles of Lake St. Croix open to water-skiing seven days a week.

12. The narrow six to 6-1/2 miles of river from the top of the nine foot channel to the Arcola sandbar has

attractive characteristics for water-skiers (Tr. 12-15, pps. 183-185; w.s. Hackley). The stretch is densely occupied on weekends (Tr. 12-10, p. 18). Because water-skiers turn and maneuver, they use much more water surface area than boats without skiers (Tr. 12-10, pps. 38, 43). The 100 foot shore slow zone will reduce, in this narrow part of the river, the space available for fast boats (Tr. 12-10, p. 46). This part of the river is not crowded in the morning, or before Memorial Day, or after Labor Day. (Tr. 12-10, pps. 38-40; 12-15, pps. 183-185; 12-16, p. 10). It is not discriminatory to ban the highest space-consumptive use from 6 of the 30 miles of river available to water-skiing, during those summer weekend afternoons when water space is at a premium.

13. If the regulations contained only the slow zones within 100 feet of shores and swimmers, and a ban on water-skiing above Lake St. Croix on summer weekend afternoons, the tenor of the record indicates that claims of over-regulation would have been nominal, and fatuous. It can therefore be assumed that the many hundreds of form letters (there are two forms, both objecting to the regulations in general) are primarily directed against the slow zone from the Arcola sandbars upstream to Taylors Falls.

14. This 21 mile portion of the river is narrow, with many islands and sloughs, and it is shallow. It is 40% of the length of the Lower St. Croix, and 25% of its surface

area. In 1970-1972 it supported 25% of the boat use on the river. The dominant user group among those boats -- two-thirds -- was canoes. (Tr. 12-10, p. 18; Master Plan.)

15. The federal government is going to spend the better part of $19,000,000 buying in fee all the undeveloped shoreland areas on this stretch of river and taking scenic easements on developed lands. Shoreland owners are assuming significant zoning burdens under state regulations requiring that all new houses be built out of sight of the river (Minn. Regs. NR 2200-2202). The farmers and year-round and seasonal dwellers who are thus burdened are the same property taxpayers whose stewardship of the land over the years has helped keep the St. Croix the scenic and recreational resource that it is. An uncontrolled water freeway in this carefully maintained pastoral setting would be incongruous and a breach of faith with the shoreland owners (w.ss. P. Lewis; Berry; Clapp; Schwartz.)

16. The hearing officer cannot accept claims of some that waves do not erode, or that the DNR cannot claim they do until a scientific study has been conducted. (Tr. 12-15, pps. 138-141, 143, 146, 163; 12-16, p. 12; w.s. Chial.) Anyone who has built a sandcastle at water's edge knows that waves erode. The shoreland owners who have observed it directly - particularly the increasing rate of erosion

accompanying the increasing number of larger boats - are persuasive (w.ss. Bowen; Hutchinson; Jensch; Sherrard).

17. The present speeds at which significant numbers of boaters are traveling the upper 21 miles are unsafe. Docks and beached boats are battered, canoes are dunked, swimmers are narrowly missed, and there are collisions with underwater rocks, snags, and other boats. The record contains too many eyewitness accounts of these occurrences to accept a claim that a safety hazard has not been shown (w.ss. Schwartz, Clapp, Holloway, J. Summersby, R. MacDonald, S. MacDonald, Zavoral, Denecke, P. Lewis, Sargent, Henderson, Hutchinson, H. Johnson, Jensch, G. Anderson).

18. There is a strong possibility that continued high speed use of the upper 21 miles will gradually drive the canoes off the river. (w.s. Warren.) Power boats by their nature dominate and could take over (w.s. Craighead). In a narrow, shallow river, fast-boat use is not compatible with multiple use (Tr. 12-16, p. 5). Slow speed requirements will increase the user capacity of the river (Tr. 12-15, p. 33; w.ss. Guslander, Regan).

19. Fast boat use is not attuned to the character of the river being preserved. The 21 miles are in major part pastoral to semi-wild, and being preserved so that people may enjoy those characteristics (Tr. 12-15, pps. 131, 172-173; w.s. Berry, Honetschlager, A. Emmett). Waves, noise,

and danger do not provide a suitable setting for leisurely contemplation of the resource.

20. It is certain that most of the safety problems are caused by "kooks" and the unthinking. (Tr. 12-16, pps. 25-26; w.s. Kruse, Kirk, Henderson, G. Anderson.) Increased enforcement of existing regulations could reduce reckless boat operation, and reduce speeds during high water. This proposed regulation, however, is necessary to insure continued opportunities for all to enjoy the particular characteristics of the upper 21 miles in a suitable setting. (w.s. Morehouse.)

21. The DNR's guidelines in designing the proposals are sound:

(1) exclude no established use completely;

(2) be concise, simple and understandable so that river signing is minimized; and

(3) be acceptable to governmental units and agencies (Tr. 12-10; pps. 12-13).

22. Testimony is almost unanimous that the definition of slow speed, enforced literally, would defeat the first guideline: Travel upstream would be so slow as to virtually rule it out. Even fishing boats and canoes with small motors would not be able to get around. The rule as proposed creates an image of about a two mile per hour speed limit (Tr. 12-10, pps. 58-64; 12-15, pps. 124-126, 166), which would make a 20 hour venture out of the roundtrip between the Arcola sandbar and Taylors Falls.

23. The objective of barring no boats argues for a speed that allows circumnavigation of the 21 miles in 5 or 6 hours, which would allow another 2 or 3 hours for beaching and an hour for travel time below the Arcola bar, in a 9 hour experience. This translates to a speed limit of 7 or 8 miles per hour, which, while not fast, is enough to allow use of the full length of the river by anyone willing to put a day into it. It would presumably satisfy those asking for a prudent speed (Tr. 12-15, pps. 161, 168-170; w.s. D. Henderson, Ladd, Jobst, St. Croix Yacht Club). There is testimony supporting speed limits (w.s. State Planning Agency, Barrett, Berry).

24. Apparently there are enforcement difficulties in measuring the speed of another boat from a patrol boat, and obviously the boater has problems in determining how fast he is going (Tr. 12-10, p. 59). However, the greater difficulty with a speed limit is that it doesn't deal with the wake problem (Tr. 12-10, pp. 71-72; 12-15, pps. 41-42, w.s. P. Lewis). At 8 miles per hour some boats will be below planing speed, but at more than hull speed (w.s. Krosch), so that the stern is being pushed down and the bow up, the position in which a boat generates the greatest wake.

25. Horsepower limitation provides great simplicity of enforcement, and would keep cabin cruisers and runabouts out of the semi-wild pastoral parts of the river where large

mechanical devices seem inappropriate (w.ss. Hutchinson, Zavoral, Bowen, Honetschlager). Such a proposal would need an amortization period, would probably only be suitable from O'Brien Park up, and would definitely require a new hearing.

26. The rule on speed in the 21 mile zone must not allow fast speeds or large wakes, and must not be prohibitively slow. It must describe a mode of travel which is quiet, restful, and will not interfere with the enjoyment of others.

27. The village council of Marine-on-St. Croix, by resolution on December 11, 1975, found the rule as proposed too restrictive, and asked for weekend control of water-skiing and high speed boats (w.s. Cadden). Presumably, a rule conforming to finding #26, if limited to the weekends, would be acceptable to Marine. The council's concern is safety.

28. The form letter sponsored by the St. Croix River Recreational Committee objected to the proposed regulations below, but not above, O'Brien Park. (See also w.ss. Vry, Hutchinson.) O'Brien Park is at the north end of Marine.

29. May Township, which is the next governmental subdivision below Marine, contains the bottom approximately 5-1/2 miles of the 21 mile stretch. The town board proposes that Page's Slough (the lowest 2 or so miles of the 21 miles - the Arcola sandbar is at the south end of Page's Slough) be a minimum wake zone (no speed limit), that the main channel above Page's Slough to the south end of Marine be open,

(but with no water-skiing in the presence of canoes, fishing boats, or swimmers), and that all waters other than the main channel be slow no-wake (w.s. May Township). Some May Township citizens want more control than that, some less, and one an extension of the slow zone down to the high bridge (Tr. 12-16, p. 14; w.ss. Schwartz, Jensch, Honetschlager).

30. A rule which would satisfy the various local governments (New Scandia Township is on record favoring a 10 horsepower limit, see J. Johnson exhibits), would lack simplicity, create a number of zones and require considerable signing (Tr. 12-16, p. 20).

31. Limiting slow speed to weekends would be appropriate if safety were the only factor, or to high water periods if erosion were the only factor (w.ss. Dunst, Beane, Sherrard). But neither approach recognizes the quality-of-the-experience factor. The public is best served by rules that say what nature has already said, that above mile 31 the setting is appropriate to a leisurely recreational experience (Tr. 12-15, p. 122).

32. The rules should say that speed limits do not apply to enforcement watercraft (Tr. 12-15, p. 22). Since the rules make no change that would affect barges, an exemption for the NSP coal barges is not needed (w.s. NSP; Tr. 12-15, p. 23). The Taylors Falls excursion boats do not need an exemption (Tr. 12-10, pps. 69-70).

33. The definition of motorboat in the proposed rule excludes electric motors, and any other mechanical means of propulsion not using an internal combustion engine (Tr. 12-10, pps. 67-69). The reasons for this are not persuasive. The statutes (ch. 361) contain a suitable definition (Tr. 12-15, p. 114).

Based on his findings of fact, the hearing officer makes the following

RECOMMENDATION

1. That the Commissioner of Natural Resources submit the attached Hearing Officer's Recommended Rule to the counties for their approval. The counties should particularly note the change in the definition of slow speed to allow advancing at a leisurely speed producing minimal wake. This will allow any boater who is willing to experience the upper 21 miles of the Lower St. Croix in a manner appropriate to the nature of the river to do so rqundtrip, the full distance, in a day. To those preferring higher speeds, 6-1/2 miles of narrow river and 24-1/2 miles of Lake St. Croix are available for such an experience. The rule provides the most enjoyment for the most people on the Lower St. Croix.

2. That the Commissioner recognize the Department's enforcement responsibilities and obligations on the Lower St. Croix River by exploring the suitability of (a) adding a

DNR-manned patrol boat to the present enforcement capabilities of the Metropolitan Region and/or (b) increasing the allocation of certain department boat and water safety monies to Chisago and Washington counties to enhance the local enforcement capabilities.

3. That the Commissioner request the Lower St. Croix Management Commission to convene a tripartite conference in 1976, involving Minnesota, Wisconsin and the National Park Service, on the myriad questions focusing on river use and adequate enforcement.

Dated this 19th day of March, 1976.

Archie D. Chelseth

ARCHIE D. CHELSETH,
Hearing Officer
Assistant Commissioner for Planning
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES
CENTENNIAL OFFICE BUILDING • ST. PAUL, MINNESOTA • 55155

March 22, 1976

Mr. Carl Lindberg, Chairman
Chisago County Board of Commissioners
Chisago County Court House
Center City, Minnesota
and
Mr. Don L. Cafferty, Chairman
Washington County Board of Commissioners
Washington County Court House
Stillwater, Minnesota

file IV

Re: Rules Governing Use of Watercraft in the Lower St. Croix River

Gentlemen:

I have just finished reviewing the findings and recommendations of Mr. Archie D. Chelseth, who acted as hearing officer for me in the matter of how to manage watercraft use of the St. Croix between Taylors Falls and the Mississippi River. You may recall that the necessary public hearings were held this past December in Center City and Stillwater.

I concur with the hearing officer's report, and am adopting his findings as mine. I recommend, in fact, urge, that each of your county boards resolve to approve the rule he has recommended to us. Ten copies of it, identified as "Chapter 22: NR 2220" are enclosed.

You will also find enclosed the Findings of Fact and Recommendations of the Hearing Officer. I hope very much that you will read them with care, for they explain why the rule our department commends to you is drafted as it is.

To become effective, this rule must first be approved by resolutions of both your county boards, then be approved as to form and legality by the office of Attorney General Warren Spannaus, and be matched by similar regulations by the Wisconsin Department of Natural Resources.

It would be most gratifying if you could consider resolutions of approval at your next regular board meetings. Our department stands ready to help in any way we can.

Sincerely,

Robert L. Herbst
Commissioner

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES

ROBERT L. HERBST, COMMISSIONER

In the Matter of the Adoption of Rules of the Commissioner of Natural Resources Governing the Use of Watercraft on the Lower St. Croix.

STATEMENT OF NEED

Rules regulating the use of watercraft on the Lower St. Croix are needed because:

-The Village of Marine-on-St. Croix and Washington County asked for them.

-The Management Plan for the Lower St. Croix, prepared jointly by Minnesota, Wisconsin, and the National Park Service and approved by Congress, called for them.

-High-speed boating in the narrow part of the river is incompatible with the pastoral setting.

-High-speed boating and canoeing in the narrow part of the river are conflicting uses.

-Waves from boats are causing erosion.

-There are safety problems.

Dated this 15th day of March, 1977.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
ROBERT L. HERBST, COMMISSIONER

C. B. BUCKMAN
Special Assistant to Commissioner

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF NATURAL RESOURCES

ROBERT L. HERBST, COMMISSIONER

In the Matter of the Adoption of Rules of the Commissioner of Natural Resources Governing the Use of Watercraft on the Lower St. Croix.

ORDER ADOPTING RULE

WHEREAS, the Village of Marine-on-St. Croix and Washington County each requested the Commissioner to establish regulations relating to the use of watercraft on the Lower St. Croix River from Taylors Falls to the Mississippi River, pursuant to Minnesota Statutes Section 361.26, subdivision 2; and

WHEREAS, a public hearing on a proposed rule has been held, and the hearing examiner has recommended that the proposed rule be adopted with certain changes; and

WHEREAS, I have concurred with the hearing examiner's report and adopted his findings as mine; and

WHEREAS, Washington and Chisago Counties have by resolution approved the recommended rule; and

WHEREAS, the State of Wisconsin has adopted an identical rule which will become effective the same day as the Minnesota rule, which by agreement will be May 14, 1977;

NOW, THEREFORE, the attached rule, identified as NR 2220, Lower St. Croix Water Surface Use Regulations, IS HEREBY ADOPTED.

Dated this 15th day of March, 1977.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
ROBERT L. HERBST, COMMISSIONER

C B Buckman

C. B. BUCKMAN
Special Assistant to Commissioner

DEPARTMENT OF NATURAL RESOURCES

RULES AND REGULATIONS

CHAPTER 22: NR 2220

LOWER ST. CROIX WATER SURFACE USE REGULATIONS

NR 2220

A. POLICY AND AUTHORITY

These rules are authorized by Minnesota Statutes section 361.26, subdivision 2, and are promulgated in order to promote the full use by all of the people, now and in the future, of the water surface of the Lower St. Croix River in a manner consistent with safety for persons and property and with the enjoyment of the scenic and recreational values which caused the river to be designated a National Scenic Riverway.

B. SCOPE

These rules apply to the waters of the Lower St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

C. DEFINITIONS

For the purpose of these rules the word "shall" is mandatory, not permissive, and certain words or terms shall be interpreted as follows:

1. "Mile" means distance in miles above the confluence of the St. Croix River with the Mississippi River.

2. "Motorboat" means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

3. "Slow Speed" means operation of a motorboat at a leisurely speed, less than planing speed, whereby the wake or wash created by the motorboat is minimal.

4. "Watercraft" means any contrivance used or designed for navigation on water other than (i) duck boat during the duck hunting season, (ii) rice boat during the harvest season, or (iii) seaplane.

D. SLOW SPEED ZONES

1. No motorboat shall at any time be operated in excess of a slow speed in the following areas:

(a) From the dam at Taylors Falls to the sandbars located approximately at mile 31.0.

(b) Between the Coast Guard navigational buoys designating location of the navigation channel from the railroad swing bridge located at approximately mile 17.3 to the south side of the eastbound span of the U. S. Interstate Highway #94 Bridge located at approximately mile 16.1.

(c) Between the Coast Guard navigational buoys designating the Kinnickinnic River Delta Narrows from approximately mile 6.6 to approximately mile 6.0.

(d) At the Prescott Narrows from the north side of U. S. Highway #10 Bridge located approximately at mile 0.3 to the confluence of the St. Croix River with the Mississippi River.

(e) Within 100 feet of shore (including the shores of islands) and of swimmers, from sandbars located approximately at mile 31.0 to the confluence of the St. Croix River with the Mississippi River.

2. Any motorboat designated for law enforcement shall be exempt from provision D.1. of this regulation in circumstances involving emergencies or violation of law.

E. WATER SKIING

1. No watercraft towing a person on water skis, aquaplane, or similar device shall be operated between sunset and sunrise on the St. Croix River from the dam at Taylors Falls to its confluence with the Mississippi River.

2. No watercraft towing a person on water skis, aquaplane, or similar device shall be operated at any time in any zone designated a "slow speed zone" under provision D.1. of this regulation; provided, however, that any watercraft launching or landing a person on water skis, aquaplane, or similar device by the most direct route to open water shall be exempt from provision D.1.(e) of this regulation.

3. From Memorial Day through Labor Day, inclusive, no watercraft towing a person on water skis, aquaplane, or similar device shall operate after 12:00 Noon on Saturdays, Sundays, and legal holidays, from the sandbars located approximately at mile 31.0 to the upper end of the federal nine-foot navigation channel approximately at mile 24.5.

F. PENALTIES

Any person violating any of the provisions of this regulation shall be guilty of a misdemeanor.

G. EFFECTIVE DATE

Beginning on Saturday, May 14, 1977, this rule is in effect whenever similar laws or regulations of the State of Wisconsin are in effect for the same reach of the St. Croix River.

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General, A. W. Clapp III, do hereby declare that I have examined the proposed rules NR 2220 and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

A. W. Clapp III

Special Assistant Attorney General

Dated: 3-15-77