

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: June 19, 1991

TO: JACK SKRYPEK
Department of Natural Resources
500 Lafayette Road

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Restitution Value for Fish and Wildlife

The above-referenced rule has been approved as to its legality by the Attorney General on June 13, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CH:sc
Enclosures
cc: Steve Masten
William Brown, Chief Judge
MaryAnn Hruby

Department of Natural Resources

Adopted Permanent Rules Relating to Restitution Value for Fish and Wildlife

Rules as Adopted

6133.0010 STATUTORY AUTHORITY.

Pursuant to Minnesota Statutes, section 97A.345, the restitution values to the state of species of wild animals listed in this chapter are prescribed as indicated.

6133.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them, unless otherwise provided.

Subp. 2. **Big game.** "Big game" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 3.

Subp. 3. **Endangered animal species.** "Endangered animal species" are those animals designated as endangered in part 6134.0200.

Subp. 4. **Fur-bearing animals.** "Fur-bearing animals" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 22.

Subp. 5. **Game birds.** "Game birds" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 24.

Subp. 6. **Game fish.** "Game fish" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 25.

Subp. 7. **Minnows.** "Minnows" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 29.

Subp. 8. **Small game.** "Small game" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 45.

Subp. 9. **Sunfish.** "Sunfish" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 46.

Subp. 10. **Threatened animal species.** "Threatened animal species" are those animals designated as threatened in part 6134.0200.

Subp. 11. **Trophy animal.** "Trophy animal" is defined for deer, elk, and moose as an animal with antlers that meet or exceed the score specified in items A to D when measured using the Boone and Crockett Club's official scoring system for North American big game trophies (Nesbitt, W.H. and J. Reneau, eds., Records of North American Big Game, Ninth Edition, The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.). This scoring system is incorporated by reference and is available through the Minitex interlibrary loan system and is not subject to frequent change:

A. white-tailed deer (typical), score of 135;

B. white-tailed deer (nontypical), score of 160;

C. moose, score of 145; and

D. elk, score of 260.

Trophy animal is defined for black bear as an animal with a skull that meets or exceeds a score of 20 using the Boone and Crockett Club's official scoring system for North American big game trophies (id.)

For the purposes of this chapter, antlers or skulls may be measured at any time; no drying period is required.

6133.0030 GAME BIRDS.

The restitution values for game bird species are as follows:

A. turkey (wild), $400;

B. pheasant, $50;

C. quail, $50;

D. chukar partridge, $50;

E. gray partridge, $50;

F. ruffed grouse, $50;

G. sharp-tailed grouse, $50;

H. spruce grouse, $50;

I. greater prairie chicken, $500;

J. American woodcock, $50;

K. common snipe, $50;

L. sora, Virginia rails, $50;

M. gallinules, $50;

N. coot, $25;

O. ducks and mergansers, except canvasback, $50;

P. canvasback, $200;

Q. geese, $50;

R. tundra swan, $200; and

S. trumpeter swan, $3,000.

6133.0040 BIG GAME.

Subpart 1. **General.** The restitution values for big game species are as follows:

A. deer, $500;

B. elk, $1,000;

C. caribou, $1,000;

D. moose, $1,000;

E. pronghorn antelope, $500; and

F. black bear, $400.

Subp. 2. **Adjustments for trophy animals.** The restitution values for deer, elk, moose, and bear may be increased to twice the amount listed in subpart 1 if the animal is a trophy animal.

6133.0050 SMALL GAME.

The restitution values for small game species other than game birds are as follows:

A. cottontail rabbit, $20;

B. jack rabbit, $20;

C. snowshoe hare, $20;

D. fox and gray squirrel, $20;

E. red and gray fox, $30;

F. wolverine, $1,000;

G. badger, $100;

H. otter, $100;

I. pine marten, $100;

J. fisher, $100;

K. mink, $30;

L. raccoon, $30;

M. beaver, $30;

N. muskrat, $30;

O. opossum, $30;

P. bobcat, $100;

Q. lynx, $500; and

R. cougar, $1,000.

6133.0060 ENDANGERED ANIMAL SPECIES.

The restitution values for endangered animal species are as follows:

A. mammals and birds, $4,000; and

B. all other animals, $2,000.

6133.0070 THREATENED ANIMAL SPECIES.

The restitution values for threatened animal species are as follows:

A. mammals and birds, $2,000; and

B. all other animals, $500.

6133.0080 GAME FISH.

Subpart 1. **General.** For fish species that do not have a designated quality size, or for fish that have a total length equal to or less than the designated quality size, the restitution value is the base value shown in the following table. For fish that have a length that exceeds the designated quality size, the restitution value is the base value plus $10 for every inch over the quality size.

	Base Value	Quality size in inches
A. Walleye	$ 30	22
B. Sauger	30	15
C. Northern pike	30	32
D. Black bass (largemouth, smallmouth)	30	16
E. Sunfish (bluegill, pumpkinseed, green sunfish, orange spotted sunfish, longear sunfish, warmouth, hybrid sunfish)	5	8
F. White and black crappie	5	11
G. Yellow perch	5	12
H. Rock bass	5	8
I. White bass, yellow bass	5	9
J. Channel catfish	10	26
K. Flathead catfish	25	28
L. Chinook salmon	50	28
M. Coho, Atlantic salmon	30	20
N. Kokanee, pink, other		

		salmon	30	17
	O.	Lake trout	50	22
	P.	Splake	50	15
	Q.	Brook trout	30	17
	R.	Brown trout	30	21
	S.	Rainbow (steelhead) trout	30	23
	T.	Paddlefish	500	
	U.	Lake sturgeon	500	
	V.	Shovelnose sturgeon	200	
	W.	Sturgeon hybrids	same value as morphologically nearest parent	

Subp. 2. **Muskellunge.** The restitution values for muskellunge are as follows:

A. 0 to less than 30 inches, $40;

B. 30 to less than 40 inches, $200;

C. 40 to less than 50 inches, $500; and

D. 50 inches and over, $1,000 plus $100 for each inch over 50 inches.

6133.0090 MINNOWS.

The restitution values for minnows are as follows:

A. cyprinidae, fair market value at time of violation;

B. umbridae, 50 cents a pound;

C. catastomidae, 50 cents a pound;

D. bullhead (7 inches or less), 50 cents a pound;

E. cisco (7 inches or less), 50 cents a pound;

F. lake whitefish (7 inches or less), $1 a pound;

G. goldeyes and mooneyes (7 inches or less), 50 cents a pound; and

H. leeches, fair market value at time of violation.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUN 19 1991

Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY

June 13, 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene H. Hatch
SPECIAL ASSISTANT ATTORNEY GENERAL

6-5 CH

RULE REVIEW CHECKLIST

File No. 1830
DATE RECEIVED 5-29-91
REVIEW DATE 6-7-91
DUE DATE 6-13-91
(~~DIS~~)APPROVED 6-13-91
WITHDRAWN _____

Docket No. 05 0009 0582
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 6/5/91
REVISOR (DIS)APPROVED 6-10-91
FILED W/SEC. OF STATE 6/13/91
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
August 28,19 Date published in State Register
_____ Comments

_____ ~~Petition for Adoption of a Rule~~

_____ ~~Board's Authorizing Resolution~~
_____ Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
97A.345(a) Statutory Authority
NO Comment Small Business Statement
_____ Expenditure of public money statement
2-14-91 Signature

_____ Statement of Need and Reasonableness (if applicable)
February 4,1991 Small Business Statement – have a statement
NA Fees - § 16A.128

_____ Affidavit of Mailing Notice of Intent to Adopt Rule
February 28,1991 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached
mailed SOLAR to AHAR

_____ Publication in State Register
March 4,1991 Date (30)/25 days before adoption

✓ 180-day deadline from:
NA Effective date of law requiring rule (14.12) (both rules) not mandatory amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ ~~Resolution Adopting~~
_____ Date ~~adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
May 22,1991 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Steve Masten Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Stat Authority 97A.345(a)

The commissioner ~~may~~ may, by rules adopted under chapter 14, prescribe the dollar value to the state of species of wild animals.

End of comment period stated in Notice April 4, 1991

STATE OF MINNESOTA

OFFICE MEMORANDUM

DEPARTMENT: ATTORNEY GENERAL

DATE: May 28, 1991

TO: MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park, Suite 500

rec'd 5-29-91 mjk

FROM: STEPHEN B. MASTEN SBMasten
Special Assistant Attorney General
520 Lafayette Road, Suite 200

PHONE: 296-0684

SUBJECT: Rules Relating to Restitution Value for Wild Animals

The Department of Natural Resources has recently adopted the above-referenced rule without a public hearing. I am sending the attached documents to you for review and approval pursuant to Minn. Stat. § 14.26 and Minn. Rules pt. 2010.0300.

SBM:lkr.AJ4
Attach.
cc: Doug Norris

ATTY GENERAL-

29 MAY 91 2:37

Department of Natural Resources

Division of Fish and Wildlife

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Restitution Values for Wild Animals Illegally Killed, Injured or Possessed

NOTICE IS HEREBY GIVEN that the State Department of Natural Resources is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing restitution values for wild animals killed, injured or possessed in violation of the game and fish laws. The adoption of the rule is authorized by *Minnesota Statutes*, section 97A.345, which permits the agency to prescribe the dollar value to the state of species of wild animals.

The State Department of Natural Resources requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Jack Skrypek
Minnesota Department of Natural Resources
Ecological Services Section
500 Lafayette Road
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 297-4219 (Doug Norris) and in person at the above address.

All statements of information and opinions shall be accepted until October 17, 1990. Any written material received by the State Department of Natural Resources shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 28 August 1990

Joe Alexander
Commissioner

Department of Public Safety

Driver & Vehicle Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendment of *Minnesota Rules*, Parts 7410.2600 and 7410.2610, Governing Driver License Records

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the amendments to the rule governing the driver license qualifications, reporting requirements, and cancellation criteria for persons with diabetes. The adoption of the rule is authorized by *Minnesota Statutes*, sections 299A.01 and 14.06, which require the agency to prescribe rules governing these qualifications to implement *Minnesota Statutes*, section 171.04, 171.09, 171.13, and 171.14.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Rollie Hunter
Driver & Vehicle Services
151 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-9497 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rule making record to be submitted to the attorney general or administrative law judge in the event that the rule amendment is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Department of Natural Resources

Proposed Permanent Rules Relating to Restitution Value for Fish and Wildlife

Rules as Proposed (all new material)

6133.0010 STATUTORY AUTHORITY.

Pursuant to Minnesota Statutes, section 97A.345, the restitution values to the state of species of wild animals listed in this chapter are prescribed as indicated.

6133.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them, unless otherwise provided.

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Subp. 5. **Game birds.** "Game birds" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 24.

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Subp. 7. **Minnows.** "Minnows" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 29.

Subp. 8. **Small game.** "Small game" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 45.

Subp. 9. **Sunfish.** "Sunfish" has the meaning given in Minnesota Statutes, section 97A.015, subdivision 46.

Subp. 10. **Threatened animal species.** "Threatened animal species" are those animals designated as threatened in part 6134.0200.

Approved by Revisor PER

Subp. 11. **Trophy animal.** "Trophy animal" is defined for deer, elk, and moose as an animal with antlers that meet or exceed the score specified in items A to D when measured using the Boone and Crockett Club's official scoring system for North American big game trophies (Nesbitt, W.H. and J. Reneau, eds., Records of North American Big Game, Ninth Edition, The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.). This scoring system is incorporated by reference and is available through the Minitex interlibrary loan system and is not subject to frequent change:

A. white-tailed deer (typical), score of 135;

B. white-tailed deer (nontypical), score of 160;

C. moose, score of 145; and

D. elk, score of 260.

Trophy animal is defined for black bear as an animal with a skull that meets or exceeds a score of 20 using the Boone and Crockett Club's official scoring system for North American big game trophies (id.)

For the purposes of this chapter, antlers or skulls may be measured at any time; no drying period is required.

6133.0030 GAME BIRDS.

The restitution values for game bird species are as follows:

A. turkey (wild), $400;

B. pheasant, $50;

C. quail, $50;

D. chukar partridge, $50;

E. gray partridge, $50;

F. ruffed grouse, $50;

G. sharp-tailed grouse, $50;

H. spruce grouse, $50;

I. greater prairie chicken, $500;

J. American woodcock, $50;

K. common snipe, $50;

L. sora, Virginia rails, $50;

M. gallinules, $50;

Approved
by Revisor _____

N. coot, $25;

O. ducks and mergansers, except canvasback, $50;

P. canvasback, $200;

Q. geese, $50;

R. tundra swan, $200; and

S. trumpeter swan, $3,000.

6133.0040 BIG GAME.

Subpart 1. **General.** The restitution values for big game species are as follows:

A. deer, $500;

B. elk, $1,000;

C. caribou, $1,000;

D. moose, $1,000;

E. pronghorn antelope, $500; and

F. black bear, $400.

Subp. 2. **Adjustments for trophy animals.** The restitution values for deer, elk, moose, and bear may be increased to twice the amount listed in subpart 1 if the animal is a trophy animal.

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B. jack rabbit, $20;

C. snowshoe hare, $20;

D. fox and gray squirrel, $20;

E. red and gray fox, $30;

F. wolverine, $1,000;

G. badger, $100;

H. otter, $100;

I. pine marten, $100;

J. fisher, $100;

K. mink, $30;

L. raccoon, $30;

M. beaver, $30;

N. muskrat, $30;

Approved
by Revisor _____

O. opossum, $30;

P. bobcat, $100;

Q. lynx, $500; and

R. cougar, $1,000.

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B. all other animals, $2,000.

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The restitution values for threatened animal species are as follows:

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Subpart 1. **General.** For fish species that do not have a designated quality size, or for fish that have a total length equal to or less than the designated quality size, the restitution value is the base value shown in the following table. For fish that have a length that exceeds the designated quality size, the restitution value is the base value plus $10 for every inch over the quality size.

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B. Sauger	30	15
C. Northern pike	30	32
D. Black bass (largemouth, smallmouth)	30	16
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F. White and black crappie	5	11
G. Yellow perch	5	12
H. Rock bass	5	8
I. White bass, yellow bass	5	9
J. Channel catfish	10	26
K. Flathead catfish	25	28
L. Chinook salmon	50	28
M. Coho, Atlantic salmon	30	20
N. Kokanee, pink, other		

Approved by Revisor _____

	salmon	30	17
O.	Lake trout	50	22
P.	Splake	50	15
Q.	Brook trout	30	17
R.	Brown trout	30	21
S.	Rainbow (steelhead) trout	30	23
T.	Paddlefish	500	
U.	Lake sturgeon	500	
V.	Shovelnose sturgeon	200	
W.	Sturgeon hybrids	same value as morphologically nearest parent	

Subp. 2. **Muskellunge.** The restitution values for muskellunge are as follows:

A. 0 to less than 30 inches, $40;

B. 30 to less than 40 inches, $200;

C. 40 to less than 50 inches, $500; and

D. 50 inches and over, $1,000 plus $100 for each inch over 50 inches.

6133.0090 MINNOWS.

The restitution values for minnows are as follows:

A. cyprinidae, fair market value at time of violation;

B. umbridae, 50 cents a pound;

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D. bullhead (7 inches or less), 50 cents a pound;

E. cisco (7 inches or less), 50 cents a pound;

F. lake whitefish (7 inches or less), $1 a pound;

G. goldeyes and mooneyes (7 inches or less), 50 cents a pound; and

H. leeches, fair market value at time of violation.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Restitution Value for Fish and Wildlife

AGENCY: Department of Natural Resources

MINNESOTA RULES: Chapter 6133

INCORPORATIONS BY REFERENCE:

Part 6133.0020, subpart 11: Records of North American Big Game, Ninth Edition, the Boone and Crockett Club. Available through Minitex interlibrary loan system.

The attached rules are approved for publication in the State Register

Paul E. Rohde
Senior Assistant Revisor

STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

DNR INFORMATION
(612) 296-6157

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

Celebrate MINNESOTA 1990

To Whom It May Concern:

In accordance with the Minnesota Administrative Procedures Act (Minn. Stat. 14.14, Subd. 1a), all persons registered with the Department of Natural Resources for the purpose of receiving notice of rulemaking, and other interested parties are being sent the enclosed Notice of Intent to Adopt a Rule Without a Public Hearing and a copy of the proposed rule governing fish and wildlife restitution values. This Notice of Intent to Adopt a Rule and the proposed rule will be published in the *State Register* on March 4, 1991.

Department of Natural Resources

In the Matter of the Proposed
Adoption of the Rule of
the State Department of Natural Resources
Governing Restitution Values for Fish and Wildlife
Illegally Killed, Injured or Possessed

NOTICE OF
INTENT TO
ADOPT A RULE
WITHOUT A
PUBLIC HEARING

(1) Notice is hereby given that the State Department of Natural Resources intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, §§ 14.22 to 14.28. The statutory authority to adopt the rule is set forth in Minnesota Statutes § 97A.345(a).

(2) All persons have until 4:30 p.m. on April 4, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

Jack Skrypek
Department of Natural Resources
Division of Fish and Wildlife
Ecological Services Section
500 Lafayette Road
St. Paul, Minnesota 55155-4025
(612) 296-0783 or 297-4219 (Doug Norris)

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the

proposed rule has been prepared and is available upon request from Jack Skrypek at the address and telephone number stated above.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Jack Skrypek at the address stated above.

2-14-91
Date

Rodney W. Sando
Rodney Sando
Commissioner

Department of Natural Resources

Proposed Permanent Rules Relating to Restitution Value for Fish and Wildlife

Rules as Proposed (all new material)

6133.0010 STATUTORY AUTHORITY.

Pursuant to Minnesota Statutes, section 97A.345, the restitution values to the state of species of wild animals listed in this chapter are prescribed as indicated.

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Approved by Revisor PER

Subp. 11. **Trophy animal.** "Trophy animal" is defined for deer, elk, and moose as an animal with antlers that meet or exceed the score specified in items A to D when measured using the Boone and Crockett Club's official scoring system for North American big game trophies (Nesbitt, W.H. and J. Reneau, eds., Records of North American Big Game, Ninth Edition, The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.). This scoring system is incorporated by reference and is available through the **Minitex interlibrary loan system and is not subject to frequent change:**

A. white-tailed deer (typical), score of 135;

B. white-tailed deer (nontypical), score of 160;

C. moose, score of 145; and

D. elk, score of 260.

Trophy animal is defined for black bear as an animal with a skull that meets or exceeds a score of 20 using the Boone and Crockett Club's official scoring system for North American big game trophies (id.)

For the purposes of this chapter, antlers or skulls may be measured at any time; no drying period is required.

6133.0030 **GAME BIRDS.**

The restitution values for game bird species are as follows:

A. turkey (wild), $400;

B. pheasant, $50;

C. quail, $50;

D. chukar partridge, $50;

E. gray partridge, $50;

F. ruffed grouse, $50;

G. sharp-tailed grouse, $50;

H. spruce grouse, $50;

I. greater prairie chicken, $500;

J. American woodcock, $50;

K. common snipe, $50;

L. sora, Virginia rails, $50;

M. gallinules, $50;

Approved by Revisor _____

N. coot, $25;

O. ducks and mergansers, except canvasback, $50;

P. canvasback, $200;

Q. geese, $50;

R. tundra swan, $200; and

S. trumpeter swan, $3,000.

6133.0040 BIG GAME.

Subpart 1. General. The restitution values for big game species are as follows:

A. deer, $500;

B. elk, $1,000;

C. caribou, $1,000;

D. moose, $1,000;

E. pronghorn antelope, $500; and

F. black bear, $400.

Subp. 2. **Adjustments for trophy animals.** The restitution values for deer, elk, moose, and bear may be increased to twice the amount listed in subpart 1 if the animal is a trophy animal.

6133.0050 SMALL GAME.

The restitution values for small game species other than game birds are as follows:

A. cottontail rabbit, $20;

B. jack rabbit, $20;

C. snowshoe hare, $20;

D. fox and gray squirrel, $20;

E. red and gray fox, $30;

F. wolverine, $1,000;

G. badger, $100;

H. otter, $100;

I. pine marten, $100;

J. fisher, $100;

K. mink, $30;

L. raccoon, $30;

M. beaver, $30;

N. muskrat, $30;

Approved by Revisor _____

O. opossum, $30;

P. bobcat, $100;

Q. lynx, $500; and

R. cougar, $1,000.

6133.0060 ENDANGERED ANIMAL SPECIES.

The restitution values for endangered animal species are as follows:

A. mammals and birds, $4,000; and

B. all other animals, $2,000.

6133.0070 THREATENED ANIMAL SPECIES.

The restitution values for threatened animal species are as follows:

A. mammals and birds, $2,000; and

B. all other animals, $500.

6133.0080 GAME FISH.

Subpart 1. **General.** For fish species that do not have a designated quality size, or for fish that have a total length equal to or less than the designated quality size, the restitution value is the base value shown in the following table. For fish that have a length that exceeds the designated quality size, the restitution value is the base value plus $10 for every inch over the quality size.

	Base Value	Quality size in inches
A. Walleye	$ 30	22
B. Sauger	30	15
C. Northern pike	30	32
D. Black bass (largemouth, smallmouth)	30	16
E. Sunfish (bluegill, pumpkinseed, green sunfish, orange spotted sunfish, longear sunfish, warmouth, hybrid sunfish)	5	8
F. White and black crappie	5	11
G. Yellow perch	5	12
H. Rock bass	5	8
I. White bass, yellow bass	5	9
J. Channel catfish	10	26
K. Flathead catfish	25	28
L. Chinook salmon	50	28
M. Coho, Atlantic salmon	30	20
N. Kokanee, pink, other		

Approved by Revisor _____

	salmon	30	17
O.	Lake trout	50	22
P.	Splake	50	15
Q.	Brook trout	30	17
R.	Brown trout	30	21
S.	Rainbow (steelhead) trout	30	23
T.	Paddlefish	500	
U.	Lake sturgeon	500	
V.	Shovelnose sturgeon	200	
W.	Sturgeon hybrids	same value as morphologically nearest parent	

Subp. 2. **Muskellunge.** The restitution values for **muskellunge are as follows:**

A. 0 to less than 30 inches, $40;

B. 30 to less than 40 inches, $200;

C. 40 to less than 50 inches, $500; and

D. 50 inches and over, $1,000 plus $100 for each inch over 50 inches.

6133.0090 MINNOWS.

The restitution values for minnows are as follows:

A. cyprinidae, fair market value at time of violation;

B. umbridae, 50 cents a pound;

C. catastomidae, 50 cents a pound;

D. bullhead (7 inches or less), 50 cents a pound;

E. cisco (7 inches or less), 50 cents a pound;

F. lake whitefish (7 inches or less), $1 a pound;

G. goldeyes and mooneyes (7 inches or less), 50 cents a pound; and

H. leeches, fair market value at time of violation.

Approved by Revisor _____

In the Matter of the Proposed Adoption of the Rule of the State Department of Natural Resources Governing Restitution Values for Fish and Wildlife

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

State of Minnesota)
)ss.
County of Ramsey)

Douglas, J. Norris, being sworn, says:

That on the 28 day of February, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mailing, a copy thereof, with postage prepaid, to all persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state department of natural resources rulemaking list.

Douglas J. Norris

Natural Resource Specialist, Sr.

Subscribed and sworn to before me this 1st day of March, 1991.

Karen L. Singer
Notary Public

Karen L. Singer
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires May 16, 1991

In the Matter of the Proposed Adoption of the Rule of the State Department of Natural Resources Governing Restitution Values for Fish and Wildlife

AFFIDAVIT

State of Minnesota)
)ss.
County of Ramsey)

Andy Brewer, being sworn, says:

I hereby certify that the list of persons and associations who have requested pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state department of natural resources' mailing list is accurate and complete, and current as of February 26, 1991.

Andy Brewer

DIR., REGULATORY & LEGISLATIVE SVCS.

Subscribed and sworn to before me this 26 day of February, 1991.

Kim R. Hennings
Notary Public

KIM R. HENNINGS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Apr. 17, 1995

RECEIVED
MAY 09 1991
ATTORNEY GENERAL'S OFFICE
SUITE 200
820 LAFAYETTE ROAD
ST. PAUL, MN 55155

Celebrate MINNESOTA 1990

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

DNR INFORMATION
(612) 296-6157

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

February 28, 1991

Legislative Commission to Review Administrative Rules
Rm 55 State Office Bldg.
INTEROFFICE

Enclosed are copies of a draft rule governing fish and wildlife restitution values, a notice of intent to adopt a rule without a public hearing, and a statement of need and reasonableness. These items are submitted to the legislative commission to review administrative rules in accordance with M.S. § 14.131. The notice of intent and the draft rule will be published in the State Register on March 4, 1991.

The Minnesota
State Register

Department of Administration—Print Communications Division



Rules edition
Published every Monday
(Tuesday if Monday is a holiday)

Monday 4 March 1991

Volume 15, Number 36

Pages 1897-1940

State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, and announcements.

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 15 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
36	Friday 15 February	Monday 25 February	Monday 4 March
37	Monday 25 February	Monday 4 March	Monday 11 March
38	Monday 4 March	Monday 11 March	Monday 18 March
39	Monday 11 March	Monday 18 March	Monday 25 March

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the ***State Register*** editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The ***State Register*** is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A ***State Register*** *Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the ***State Register*** be self-supporting, the following subscription rates have been established: the Monday edition costs $140.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the ***State Register*** circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Arne H. Carlson, Governor

Dana B. Badgerow, Commissioner
Department of Administration

Stephen A. Ordahl, Director
Print Communications Division

Robin PanLener, Editor

Paul Hoffman, Assistant Editor

Debbie George, Circulation Manager

Bonita Karels, Staff Assistant

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
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The ***State Register*** is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the ***State Register***. Published every Monday, the ***State Register*** makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific ***Minnesota Rule*** chapter numbers. Every odd-numbered year the ***Minnesota Rules*** are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the ***State Register***.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the ***Official Notices*** section of the ***State Register***. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the ***State Register***. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the ***State Register*** as **Adopted Rules**. These final adopted rules are not printed in their entirety in the ***State Register,*** only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the ***State Register***, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the ***Minnesota Guidebook to State Agency Services***.

The ***State Register*** features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the ***State Register***, a subscription, the annual index, the ***Minnesota Rules*** or the ***Minnesota Guidebook to State Agency Services***, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Jobs and Training

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

The proposed rules interpret those parts of *Minnesota Statutes*, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by *Minnesota Statutes*, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held in accordance with the Notice of Public Hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Jobs and Training.** To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Economic Opportunity Office
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 3, 1991.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A copy of these rules is available for your review from:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Roger Sorbel.

R. Jane Brown, Commissioner
Department of Jobs and Training

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at Centennial Office Building, 658 Cedar Street, Room 49, St. Paul, MN 55155 on April 10, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, however, that the hearing will be canceled if fewer than twenty-five persons request a hearing in response to the Notice of Intent to Adopt these Same Rules Without a Public Hearing published in this *State Register* and mailed to persons registered with the Department of Jobs and Training. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645, either before the hearing or within five days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rules hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 14100.0200 to 1400.1200. Questions about the procedures governing this proceeding may be directed to the Administrative Law Judge.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, section 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A COPY OF THESE RULES ARE AVAILABLE FOR YOUR REVIEW FROM:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

Copies of the proposed rules are now available and at least one free copy may be obtained by contacting: Roger Sorbel, Policy Development Office, 2nd Floor, 390 North Robert Street, St. Paul, Minnesota 55101, (612) 296-6874.

Additional copies will be available at the hearing. If you have any questions on the content of the rules, contact Roger Sorbel.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge'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. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at

the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting 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 reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01 subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in 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 communication or urging others to communicate with public officials; or

(b) who spend 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 communication or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

The proposed rules may affect small businesses as defined in *Minnesota Statutes*, section 14.115, subdivision 1. Pursuant to *Minnesota Statutes*, section 14.115, subdivision 2, five methods were considered by the department to reduce the impact of the proposed rules on small businesses. A discussion of these methods can be found in the Statement of Need and Reasonableness.

R. Jane Brown, Commissioner
Department of Jobs and Training

Rules as Proposed (all new material)

3350.0010 PURPOSE.

Parts 3350.0010 to 3350.0200 establish procedures for the designation and recognition of community action agencies, and for the granting of CSBG and MEOG funds for community action programs. Programs eligible for funding are those operated by agencies which receive and maintain both designation and recognition.

3350.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3350.0010 to 3350.0200, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means *Minnesota Statutes*, sections 268.52 to 268.54, as amended.

Subp. 3. **Applicant.** "Applicant" means a community action agency, including an Indian reservation government or the Minnesota Migrant Council, which applies annually for a grant under the act from the department to fund a community action program.

Subp. 4. **Cessation.** "Cessation" means a voluntary end to the performance of all community action program services by a community action agency in a service area as provided for in part 3350.0050 and the removal of the agency's designation for the entire area which does not create the right of appeal.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 6. **Community.** "Community" means the people to be served by the community action agency in its service area.

Subp. 7. **Community action agency (CAA).** "Community action agency" or "CAA" means an entity which:

A. has the authority to receive funds under *Minnesota Statutes*, section 268.52, to support community action programs as described in *Minnesota Statutes*, section 268.54;

B. has previously been determined eligible under federal law and regulations or is eligible under federal law and regulations; and

C. has previously been designated and recognized or is designated as provided under part 3350.0030 and recognized as provided under part 3350.0040.

Subp. 8. **Community action program.** "Community action program" means activities consistent with the objectives of *Minnesota Statutes*, section 268.54.

KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 9. **Community services block grant (CSBG).** "Community services block grant" or "CSBG" means federal funds authorized by Public Law Number 97-35, title 6, subtitle B, as amended, and disbursed to CAAs by the formula in the act.

Subp. 10. **Denial.** "Denial" means the department's rejection of a proposed application for grant funds due to the applicant's failure to meet the requirements of part 3350.0170, subpart 6.

Subp. 11. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 12. **Designation.** "Designation" means selection of an entity as a service area's exclusive CAA by a governing body after a public hearing has been held.

Subp. 13. **Designee.** "Designee" means an entity nominated by a governing body to become a CAA.

Subp. 14. **Governing body.** "Governing body" means the elected governmental authority of a political subdivision, as defined at subpart 18, which has the power to designate a CAA.

Subp. 15. **Grant.** "Grant" means an allocation of Minnesota economic opportunity grant or CSBG funds or both to an applicant in support of a community action program described in the application, approved by the department, and embodied in a contract.

Subp. 16. **Grantee.** "Grantee" means any CAA, including an Indian reservation government or the Minnesota Migrant Council, whose application to receive Minnesota economic opportunity grant money or CSBG money or both has been approved by the department.

Subp. 17. **Local unit of government.** "Local unit of government" means counties, Indian reservation governments, cities, and townships.

Subp. 18. **Minnesota economic opportunity grant (MEOG).** "Minnesota economic opportunity grant" or "MEOG" means state appropriated funds disbursed to grantees by the formula in the act.

Subp. 19. **Political subdivision.** "Political subdivision" means a local unit of government which has jurisdiction over the entire area served by a CAA. Under no circumstances will the governmental unit be smaller than a county unless the service area of the CAA coincides with the jurisdictional boundaries of the local unit of government.

Subp. 20. **Recognition.** "Recognition" means a process of:

A. review by the department to assure compliance with applicable state and federal law and the designation procedures as provided at part 3350.0040, subpart 1;

B. referral to the governor of the department's request for recognition as provided at part 3350.0040, subpart 3; and

C. approval by the governor of the request for recognition.

Subp. 21. **Service area.** "Service area" means the geographic boundaries in which a community action agency is designated to operate.

Subp. 22. **Subgrantee.** "Subgrantee" means any entity with which a grantee contracts to perform some or all of the community action program services authorized under a grant.

Subp. 23. **Termination.** "Termination" means the involuntary and permanent elimination of or reduction in available grant money to a CAA which gives rise to a CAA's right of appeal under part 3350.0060, subpart 5, and which may also coincide with the removal of a CAA's designation or recognition.

Subp. 24. **Withholding.** "Withholding" means the department's reservation of funds available under an approved application as provided in part 3350.0100 until corrective action by a CAA has successfully remedied a defect identified by the department.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Authority to designate.** The designation of a CAA is made by the political subdivision or combination of political subdivisions having jurisdiction over the entire area to be served. A designation must be made by the governing body of a political subdivision whose boundaries are at least coextensive with the proposed service area. The power to designate may not be delegated.

Subp. 2. **Notice and documents.** Before a designee may be designated as a CAA by a political subdivision, the governing body of the political subdivision having the requisite authority must prepare and file with the department a notice of intent to designate and eligibility documents applicable to the designee. The notice of intent to designate must state how the designee meets the requirements for an eligible entity established under the CSBG act. Eligibility documents are the following:

A. evidence of designee's incorporation or proposed efforts toward incorporation, if applicable;

B. evidence of tax exempt status or proposed efforts toward achieving tax exempt status, if applicable;

C. assurance of compliance with the act, including requirements for the composition of the designee's existing or proposed board of directors;

D. a detailed map of all geographic areas and political subdivisions in the proposed service area as well as all immediately adjacent areas and subdivisions in the same county or counties which are excluded from the proposed area to be served; and

E. a proposed mission statement.

Subp. 3. **Notice of public hearing.** After the notice of intent to designate and the eligibility documents have been filed with the department, the governing body must hold a public hearing on the proposed designation. At least 30 calendar days before the hearing date, the governing body must send a copy of the notice of intent to designate and information on the date, time, location, and subject matter of the public hearing to all local units of government within the designee's intended service area. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing to the proposed designation. All comments received will be included in the official record of the hearing. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation at the county seat of each county in the designee's proposed service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the proposed service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. The department will notify low income households identified in the proposed service area of the public hearing. Identified low income households are those specified on the previous CAA's list or lists of clients.

Subp. 4. **Public hearing.** A public hearing must be held 30 calendar days before designation may occur. If the area to be served by the designee includes more than one county, a public hearing in conformity with the procedures of this part must be held in each county to be served.

Subp. 5. **Hearing procedure.** The governing body will appoint a presiding officer to conduct the public hearing. The governing body, however, may not appoint one of its current members as the presiding officer. The presiding officer will not have a vested interest in the outcome of the proposed designation and will ensure that all persons involved in the hearing are treated fairly and impartially. At the public hearing the representative of the designee and a representative of the governing body will make an affirmative presentation of facts establishing the designee's qualifications, expertise, and experience in providing community action program services to low income people. Furthermore, the designee's representative will describe the mission of the community action program, the focus and direction of proposed services, and the goals for outreach to and participation by low income people. The designee may rely upon facts presented by others on the record during the hearing to support its proposed designation. At the hearing, any interested person will be given the opportunity to present testimony and to ask questions of the designee's representative and of the governing body's representative. Furthermore, any interested party may submit written comments or exhibits.

Subp. 6. **Official record.** An official record of the hearing consisting of electronic recording and minutes of the proceedings will be kept. The official record will also include all testimony, written comments, and exhibits received pertaining to the proposed designation. The hearing record will remain open to receive written comments and exhibits for 20 calendar days following the date of hearing.

Subp. 7. **Summary of hearing.** The presiding officer will prepare a summary of the testimony and written comments presented before, during, and after the public hearing. At a minimum, the summary will include a list of all persons who participated, including persons identified as representatives of organizations, and whether each person supported or opposed the proposed designation. The summary together with the entire official record must be submitted to the governing body for its review.

Subp. 8. **Official resolution.** Once the summary of the public hearing is received and 30 calendar days have passed from the date of the hearing the governing body may act to designate the designee as a CAA. The governing body will pass a resolution designating the designee as a CAA if after review of the summary and official record the governing body finds that:

A. the opinion of the community was fairly and impartially expressed;

B. the opinion of low income people in particular was actively encouraged, representatively sampled, and fairly expressed during the whole process;

C. the designee established the qualifications, expertise, and experience necessary to be an effective CAA; and

D. the designee's proposed mission, services, and goals were supported by testimony and written comments received as a result of the public hearing process.

Subp. 9. **Review by department.** Before provisional recognition can occur in part 3350.0040, subpart 1, the governing body must have submitted to the department for review copies of the following documents:

KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. eligibility documents required in part 3350.0030, subpart 2;

B. official resolution of the governing body designating the designee;

C. notices of public hearing and a list of all publications and dates of publication of notices of hearing;

D. list of all local units of government sent copies of the notice of intent to designate and the notice of public hearing, including any responses received;

E. affidavit of service of the notice of public hearing upon low income households identified in the service area; and

F. official hearing record and summary of the hearing.

Subp. 10. **Costs.** All costs attributable to the designation process, including all costs associated with public hearings other than contested case hearings, are the responsibility of the governing body.

3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Provisional recognition.** The department will provisionally recognize a designation if the department establishes compliance with applicable state law, federal law, all the designation requirements of part 3350.0030, and, where applicable, with the change of designation requirements of part 3350.0050. Provisional recognition can occur within 60 calendar days of the department's receipt of the documents required in part 3350.0030, subpart 8, an approved transition plan, where applicable, as specified in part 3350.0050, subpart 4, and the most current copies of the following:

A. articles of incorporation and bylaws;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs; and

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act. If the department finds noncompliance it will inform both the governing body and the designee within the 60-day period and, if possible, offer remedies for achieving compliance.

Subp. 2. **Governor's recognition.** After the department has provisionally recognized a designation and where applicable requirements in subpart 1 have been met, the department will request recognition by the governor.

Subp. 3. **Maintenance of recognition.** To maintain recognition, a CAA must by June 30 of each year ensure that the department has the most current copies of the following:

A. articles of incorporation with any amendments and bylaws with any amendments;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs;

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act;

D. board minutes of the past year and latest annual corporate report;

E. organizational chart, personnel policies, data privacy policies, affirmative action plan, voter registration plan, and client service appeals policy; and

F. narratives of the planning process and evaluation process described in parts 3350.0130 and 3350.0140, respectively.

Subp. 4. **Failure to maintain recognition.** The department may proceed to withhold available funds under part 3350.0100, subpart 1, item D, where a CAA fails to maintain its recognition under this part. If, following periods of both withholding and funding termination under part 3350.0100, subpart 2, the CAA has still not successfully complied with all of the requirements in subpart 3, the department will terminate the CAA's recognition and all future funding under part 3350.0060, subpart 3, item C or F.

3350.0050 CESSATION AND CHANGE OF DESIGNATION.

Subpart 1. **Circumstances for cessation.** A governing body may change its designation of a CAA to serve the area under its jurisdiction after a request to cease all community action program operation in the entire area has been received from the designated CAA.

Subp. 2. **Priority among possible designees.** A governing body may choose a designee under this part, in descending order of priority, by:

A. requesting an existing CAA which is located and is providing services in a contiguous area to expand its program operations into the service area;

B. if no existing CAA in a contiguous area agrees to expand its operations, requesting an existing CAA closest to the service area or an existing CAA within reasonable proximity to the service area to expand its program operations into the service area; and

C. where no CAA accepts the request to operate in the service area nominating any entity eligible or potentially eligible to be designated under federal law and regulations and to be recognized under part 3350.0040.

Subp. 3. **Procedure.** The governing body must follow the procedure provided in part 3350.0030 in order to change designation and must also prepare a transition plan for continuation of community action program services. The governing body must submit the transition plan to the department simultaneously with the notice of intent to designate. In addition to the notice requirements in part 3350.0030, subpart 3, the governing body must also serve copies of the notice of intent to designate and the notice of public hearing upon any existing CAA concurrently operating in the same political subdivision and all subgrantees directly affected by cessation and change of designation, in the service area. Upon request, copies of the designee's eligibility documents and the transition plan must be made available by the governing body to any interested party.

Subp. 4. **Additional review by the department.** In addition to the review requirements in part 3350.0030, subpart 8, the department must also review the transition plan for service delivery in the interim before the governor's recognition as provided in part 3350.0040, subpart 2. The department has 30 calendar days from the date of receipt of the transition plan to either approve or disapprove of the plan. If the transition plan is not approved, the governing body may not proceed to designate a CAA under the procedure of part 3350.0030. Without an approved transition plan in operation, the department will not forward to the governor a request for recognition as provided in part 3350.0040. If the transition plan is not approved, the governing body may submit a subsequent transition plan consistent with the department's comments. Along with the transition plan the department must also receive evidence of service of additional notice on interested parties as required in subpart 3.

3350.0060 TERMINATION FOR CAUSE.

Subpart 1. **Cause.** A CAA's funding, as well as its designation or recognition, will be terminated for cause. There may be multiple causes which apply. Termination for cause includes the following:

A. actions threatening imminent danger to health or safety of members of the community;

B. unresponsiveness to service needs of low income people or hindrance of participation by low income people as provided in subpart 4;

C. willful violation of contract by the CAA;

D. failure to remedy a short-term defect after withholding as provided in part 3350.0100, subpart 2;

E. failure to remedy a long-term defect after funding termination as provided in part 3350.0100, subpart 2; or

F. denial of an application as provided in part 3350.0170, subpart 6.

Subp. 2. **Termination by governing body.** After notification to the department, a governing body may terminate for cause a CAA's designation. However, a governing body may only terminate a CAA's designation under subpart 1, item A or B. If a CAA's designation is terminated and the CAA's appeal rights have also been exhausted, funding must be terminated by the department. Where the department intervenes as a party in a contested case concerning termination of designation, funding by the department may be immediately terminated. After adopting termination as official action, the governing body must serve the notice of termination upon the CAA to be terminated. The notice must specifically explain the cause for the termination of designation and how funding may be affected. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The governing body must also send to the department a copy of the notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination. With the copy of the notice of termination the governing body may also submit to the department a transition plan for phasing out currently provided services and for substituting services in the interim until a successor CAA is recognized. The department must approve the plan as well as the interim agency providing community action program services. If the governing body has not submitted a transition plan with the copy of the notice of termination, it must do so by the close of any contested case hearing that may be held. If no contested case hearing is held, the governing body must submit the transition plan to the department at least simultaneously with the notice of intent to designate a successor CAA.

Subp. 3. **Termination by the department.** The department may terminate for cause a CAA's funding or recognition or both. However, the department may not terminate a CAA's recognition or funding under subpart 1, item B. Wherever appropriate, the department will proceed to withholding under part 3350.0100 before acting to terminate the funding or recognition of a CAA. However, where withholding is not an option, the department may proceed directly to termination under this part. Where termination concerns

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a CAA's funding the department may terminate all or part of current or future funding. If the department terminates all future funding, it must also terminate a CAA's recognition. Similarly, if the department terminates a CAA's recognition it must also terminate funding. The department must serve the notice of termination upon the CAA to be terminated. The notice of termination must specifically explain the cause for the termination and specify the type and degree of termination, including the effect on funding. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The department must also send to the governing body a copy of the notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination.

Subp. 4. **Petition for termination.** If a petition requesting termination is received from the community containing at least 1,000 names with addresses, the governing body must hold a public hearing to consider termination of a CAA's designation. The persons signing the petition must reside both within the CAA's service area and within the jurisdictional boundaries of the governing body's political subdivision. The following are the causes for termination under this subpart:

A. the CAA's community action program is incompetent and ineffective in meeting the service needs of the low income people in the service area; or

B. the CAA is discouraging the participation of low income people by:

(1) preventing adequate representation by low income people on the CAA's board of directors;

(2) refusing consistently to consider the funding of activities proposed by low income people; or

(3) obstructing systematically the ability of low income people to influence the character of program activities.

The purpose of the public hearing is to receive testimony and evidence concerning the CAA's purported incompetence and ineffectiveness or the CAA's alleged hindrance of low income people's participation. At least 30 calendar days before the hearing date, the governing body must inform all local units of government within the CAA's service area of the date, time, location, and subject matter of the public hearing. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing. All comments received will be available for the governing body's review. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation of the county seat in the CAA's service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the CAA's service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the date, time, location, and subject matter of the public hearing at least ten calendar days before the hearing date. If, following the public hearing, the governing body is persuaded that sufficient cause exists, as supported by convincing evidence, it may take official action to terminate the CAA's designation under subpart 2.

Subp. 5. **Appeal procedure.** If, after receipt of the notice of termination, a CAA is aggrieved, the CAA may request a contested case hearing from the department within 30 calendar days of the receipt of the notice. If the CAA's request for a contested case hearing is not received by the department during the 30-day period the CAA loses its right of appeal under this subpart. The request for a contested case hearing before an administrative law judge as provided in *Minnesota Statutes*, sections 14.57 to 14.62, must be in writing. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500. As provided for in part 1400.6200, the department will have the right to intervene as a party in a contested case hearing on termination of designation by a governing body.

Subp. 6. **Federal appeal rights.** Federal appeal rights may also exist for an aggrieved CAA under the CSBG act, Public Law Number 97-35.

Subp. 7. **Successor.** If a CAA's designation or recognition is terminated, the governing body will follow the priority guidelines in part 3350.0050, subpart 2, and the procedure in part 3350.0030 to designate a successor.

Subp. 8. **Costs.** Only costs directly attributable to the contested case hearing process in subpart 5 are the responsibility of the department. The costs associated with the procedure for termination provided for in subpart 4 are the responsibility of the governing body.

3350.0070 ALLOCATION OF FUNDS.

Subpart 1. **Formula.** The department will allocate funds under the act according to the formula in *Minnesota Statutes*, section 268.52, subdivision 2.

Subp. 2. **Poverty level population.** For purposes of the formula in subpart 1, the poverty level population will be based on Department of Commerce, Bureau of the Census, statistics, as revised.

3350.0080 MONTHLY, PERIODIC, AND FINAL REPORTS.

Each grantee receiving grant funds under the act will submit in a complete and accurate form the following:

A. periodic client and fiscal performance report to document both CSBG and MEOG funded activities;

B. monthly financial status report to substantiate cash requests; and

C. final financial status report to close-out the program year.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC, AND FINAL REPORTS.

Each monthly report specified in part 3350.0080 is due ten calendar days after the end of the month. Each final status report specified in part 3350.0080 is due no later than 30 calendar days after the end of the program year. Each periodic report under part 3350.0080 is due 30 calendar days after the date specified in the CAA's contract. If monthly, periodic, or final reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS.

Subpart 1. **Circumstances for withholding.** The department will withhold cash disbursements available for drawdown under an approved application if a CAA is not:

A. complying with the reporting requirements of the grant as required by its contract with the department, including the timely submission of complete and accurate monthly, periodic, and final reports as required in part 3350.0080, of complete and accurate annual audits as required in part 3350.0160, subpart 2, and of complete and accurate annual evaluation reports as required in part 3350.0150;

B. following its submitted and approved work plan or budget or both;

C. fulfilling the terms of its contract; or

D. maintaining recognition as provided in part 3350.0040, subpart 3.

Subp. 2. **Notice, conversion option, and termination.** Before withholding cash disbursements, the department will notify the CAA of its defective action or omission, inform the CAA of potential withholding and specify a reasonable date by which corrective action should occur. The specified date must be at least ten working days from the date of the CAA's receipt of the notice of withholding. If the defect is not remedied satisfactorily by the date specified in the notice, the department will begin to withhold available funds after that date. During any time within 90 calendar days following the department's actual withholding of funds, the CAA may, at its option, convert the withholding to a termination under part 3350.0060, subpart 1, item D, with right to a contested case hearing. A CAA must request in writing both a conversion to termination and a contested case hearing. After receipt of a CAA's request for conversion to termination and contested case hearing, the department will initiate contested case proceedings as provided in *Minnesota Statutes*, sections 14.57 to 14.62. The department will also send the CAA a notice of termination and comply with the other procedural requirements of part 3350.0060, subpart 3. The department will terminate funding for the period of time between the date identified in the notice of withholding and the date on which the short-term defect is actually remedied. If the CAA has not exercised its right of conversion during 90 days of withholding and if the defect has not been remedied during 90 days of withholding, the department will proceed under part 3350.0060, subpart 1, item E, to terminate the CAA's available funding for a period covering the total of (1) the time during which funds have been withheld and (2) the time remaining before the subsequent June 30. The department will first issue a final notice ten calendar days before proceeding to termination under part 3350.0060. If following a period of funding termination for failure to remedy a long-term defect the CAA has still not successfully remedied the identified defect, the department will deny subsequent applications by the CAA under part 3350.0170, subpart 6, item D, until corrective action has occurred. However, if the defect constitutes failure to maintain recognition under subpart 1, item D, the department will proceed according to part 3350.0040, subpart 4.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES.

Subpart 1. **Program guidelines.** Each community action program must:

A. be of benefit to low income persons;

B. represent progress toward the elimination of poverty;

C. utilize resources from other programs operating in the service area; and

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D. be of sufficient scope and size for maximum effectiveness and efficiency.

Subp. 2. **Eligible grant activities.** A variety of activities as determined by the local planning process may be included in a community action program funded by a grant. Eligible activities are those designed to help low income persons to:

A. secure and retain meaningful employment;

B. attain an adequate education;

C. obtain and maintain adequate housing and a suitable living environment;

D. make better use of available income;

E. obtain emergency assistance through loans or grants;

F. meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

G. remove obstacles and solve problems which block the achievement of self-sufficiency;

H. achieve greater participation in the affairs of the community; and

I. make more effective use of other programs related to the purposes of the CSBG act.

Subp. 3. **Federal prohibitions.** Activities ineligible for funding with CSBG money are those listed in the annual CSBG state plan. A copy of the annual CSBG state plan is available by request from the Economic Opportunity Office, Department of Jobs and Training, 670 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS.

Grantees must consider the participation of low income people in the local planning process of part 3350.0130, the annual work plan of part 3350.0170, subpart 1, the evaluation process of part 3350.0140 and the annual evaluation report of part 3350.0150. Each CAA must devise specific opportunities for involvement of low income people in proposing, planning, approving, and evaluating the activities of community action programs.

3350.0130 LOCAL PLANNING PROCESS.

Each CAA will develop a plan for submission to the department as a requirement for maintenance of recognition under part 3350.0040, subpart 3. The plan's narrative will include a description of how the local planning process will be implemented, how the CAA will publicize major planning activities to encourage community participation, and how the CAA will involve low income people in the planning process. Each annual work plan submitted as part of a grant application under part 3350.0170, subpart 1, must be consistent with, and complementary to, this local planning process. The local planning process of a CAA will include the following steps:

A. develop a mission statement which defines the overall CAA purposes and which represents the views and opinions of the CAA's board of directors, low income groups, and representatives of the community;

B. assess short and long range community needs in order to respond to the poverty in the community and its causes;

C. catalog the resources from both the public and private sectors which are available to solve the causes of poverty;

D. establish priorities after analyzing the extent and causes of poverty and after evaluating the capability of the CAA and other available resources to ameliorate the causes of poverty;

E. set realistic goals as a basis for action which are consistent with established priorities;

F. develop innovative strategies, including, but not limited to, service strategies, which encompass community acceptance, funding availability, direct benefits to low income people, high impact on problems of poverty, and organizational capability;

G. develop clear and concise objectives that describe how to attain the CAA's goals;

H. list sequential activities under each objective to describe the efforts at community coordination and identification of resource needs including assignment of CAA staff and training or technical assistance in the community; and

I. select performance indicators to measure progress toward achieving the established objectives and to form the basis for community action program reporting and evaluation.

3350.0140 EVALUATION PROCESS.

Each CAA will develop a standardized written process for evaluating its own community action program and describe the process in a narrative form. The narrative description must show how the results of the evaluation will influence the CAA's future planning and how the CAA will involve low income persons in the evaluation process. The evaluation process as embodied in the narrative must be approved by the CAA's board of directors. The evaluation process narrative must be submitted to and approved by the department in order to maintain CAA recognition under part 3350.0040, subpart 3.

3350.0150 ANNUAL EVALUATION REPORT.

The annual evaluation report is due no later than December 30 of each year. The evaluation report will summarize the extent and type of the previous year's program services and assess their effectiveness using the evaluation elements under part 3350.0140 and the performance indicators under part 3350.0130. If annual reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or noncomplying more than five calendar days from their due dates, the department will proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0160 ADMINISTRATION OF GRANTS.

Subpart 1. **Grantee financial control system.** Grantees must establish and use a financial control system which complies with federal and state reporting and fiscal procedures. The federal and state requirements are contained in Department of Jobs and Training Subgrantee Administrative Requirements No. 1, as revised or superseded. This publication is incorporated by reference, and is not subject to frequent change. It is available from the State Law Library.

Subp. 2. **Grantee audit.** Each grantee must follow the audit requirements contained in the attachment to its contract with the department. Audits must be completed and the required reports submitted no later than six calendar months after the end of the grantee's fiscal year. If audits are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete, noncomplying, or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

Subp. 3. **Alterations.** A grantee must obtain prior written approval from the Economic Opportunity Office before changing its work plan and budget as described in its approved application.

3350.0170 GRANT APPLICATIONS.

Subpart 1. **Forms and documents.** All forms necessary for completion of the application will accompany the annual guidelines mailed to all grantees. Assistance in completing the forms may be requested directly from the Economic Opportunity Office at its central office. Each CAA will submit to the department an annual work plan and budget on forms supplied by the department as part of the grant application process. Each work plan for the subsequent year will include a narrative comprised of the following:

A. prioritized list of community needs;

B. design for accomplishing identified goals, objectives, and activities;

C. coordination strategy showing the establishment of working relationships with other providers in the service area; and

D. description of any delegated activity, including copies of subgrantee contracts.

Subp. 2. **Grant application deadlines.** Applications for a program year must be received by the Economic Opportunity Office no later than June 30 immediately preceding the program year.

Subp. 3. **Waiver of application deadline.** Upon written request, the Economic Opportunity Office may waive the application deadline provided in subpart 2 and allow an applicant to submit its grant application after that date. A request for a waiver must be signed by the chair of the applicant's board of directors and contain justification of the local need for a waiver. The request for a waiver must be received by the Economic Opportunity Office on or before June 30. The Economic Opportunity Office will respond to the request in writing. If the Economic Opportunity Office is persuaded by the local need, it will grant a waiver and establish another deadline for receipt of the application. Local need is demonstrated if a CAA, through no fault of its own, cannot meet the application deadline because of the following:

A. key staff responsible for the submission of the application are on medical leave or other leave, have retired or are no longer employed, and replacement staff cannot reasonably complete the application in the time remaining; or

B. a natural disaster such as a tornado, fire, or flood or a material change in circumstances such as a labor strike or the loss of a building lease has adversely affected or completely halted program operations.

Subp. 4. **Approval of application.** The department will review all submitted applications. When the department approves an application for a grant, it will provide written notification of approval to the applicant. Requests for cash cannot be processed until an application has been approved. After applications have been approved, the department and the applicant will enter into a contract. The grant contract is effective on the date when the Minnesota Department of Finance signature is affixed to the contract.

Subp. 5. **Late, incomplete, or noncomplying application.** If a previously funded grantee has not submitted an application within

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45 calendar days of the deadline established by waiver in subpart 3 or within 45 calendar days of the deadline provided in subpart 2 where a waiver was not granted, the department will deny the application under subpart 6. If a submitted application remains incomplete or noncomplying for 30 calendar days after the department's request for a revision of the application, supplementary information, or other required documents or 45 calendar days from an applicable deadline, whichever period is greater, the department will deny the application under subpart 6.

Subp. 6. **Denial of application.** Before the department denies an application, it will, as soon as possible, provide written notification of the deficiency leading to a possible denial and, where appropriate, request a revision of the application, supplementary information or other required documents. An application will be denied if any of the following occur:

A. application is submitted after the deadlines in subpart 5;

B. applicant submits an incomplete application;

C. applicant submits a noncomplying application where:

(1) applicant's annual work plan activities are:

(a) inconsistent with community action program activity as defined in the act and part 3350.0110;

(b) not demonstrative of participation by low income persons as required by part 3350.0120; or

(c) inconsistent with the local planning process in part 3350.0130;

(2) applicant cannot demonstrate adequate fiscal management capabilities as required in part 3350.0170; or

(3) applicant's budget does not support, or is inconsistent with, the work plan activities; or

D. applicant, after a period of funding termination, has not remedied a long-term defect that first led to withholding under part 3350.0100, subpart 2.

The department's denial of an application based on items A, B, and C is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F. Depending on the circumstances, the department's denial of an application based on item D is cause for termination of available funds for an entire program year or all future funding.

3350.0180 SUBGRANTEES.

All grantees will obtain written approval from the department before delegating any part of their service delivery to a subgrantee. Grantees must enter into contracts with subgrantees outlining which community action program services the subgrantees will provide. Subgrantees must meet the same reporting and fiscal requirements as grantees. Grantees are responsible for acts or omissions of their subgrantees.

3350.0190 RECORD KEEPING.

All records and books of account related to grants must be kept by the grantee for three years from the date of submission of the final invoice. Records must be retained beyond the three-year period if audit exceptions, claims, or litigation concerning the records or any accounting transactions are still unresolved or pending. After any disposition of nonexpendable property acquired with grant funds, records of the disposition must also be retained for three years.

3350.0200 MONITORING.

The department will perform monitoring activities to ensure that grantees are in compliance with parts 3350.0010 to 3350.0200, the act, and other federal and state requirements. The monitoring functions will include the following:

A. performance of a pre-award review; and

B. preparation and execution of an annual monitoring plan which includes at least one annual on-site visit to all grantees with annual dollar volume over $100,000 and to 25 percent of all grantees with annual dollar volume between $10,000 and $100,000.

Department of Natural Resources

Proposed Permanent Rules Relating to Boat and Water Safety

Notice of Intent to Amend a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources intends to adopt an amendment to the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the amendment of these rules is contained in *Minnesota Statutes*, § 86B.211.

All persons have 30 days to submit comments in support of or in opposition to the rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Kim A. Elverum
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available free, upon request from Kim A. Elverum.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of the submission of this material to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Kim A. Elverum.

The Department does not anticipate that this rule amendment will have any impact on small business or agricultural land, or require the additional expenditure of funds by local public bodies.

Dated: 14 February 1991

Rodney W. Sando
Commissioner
Minnesota Department of Natural Resources

Rules as Proposed

6110.0100 APPLICATION FOR WATERCRAFT LICENSE.

Application for watercraft license shall be made to the commissioner of natural resources or ~~his~~ authorized agents on a form ~~he~~ the commissioner shall provide. The commissioner may specify the information required on the application, including that which may be required by federal regulation. A watercraft license number and certificate shall be issued by the commissioner upon receipt of the fee prescribed by law.

6110.0300 DISPLAY OF LICENSE NUMBER AND VALIDATION DECAL ON MOTORIZED WATERCRAFT.

The license number on all watercraft, except nonmotorized canoes, kayaks, sailboats, sailboards, paddle boats, and rowing shells shall be securely affixed on each side of the forward half of the watercraft for which it was issued in such a position as to provide clear and legible identification. The letters and numerals must be of a color that contrasts with the background and may be ~~reflectorized~~ decals or metal or may be painted. The letters and numerals shall read from left to right and shall not be less than three inches in height, of block type, of a stroke not less than one-half inch or more than three-fourths inch in width, not including a border. The license number shall be maintained so that it is clearly visible and legible, and the letter groups must be separated from the numeral groups by a space of not less than three inches nor more than four inches. Adjacent letters and numerals within each group must be spaced not less than one-half inch nor more than three-fourths inch apart. A state validation decal for the current license period must be affixed toward the stern of the boat and not more than four inches from the first or last letter of the license number on each side of the boat.

6110.1000 ENFORCEMENT PENNANT.

The pennant required under *Minnesota Statutes*, section ~~361.215~~ 86B.805, subdivision 2, shall be triangular in shape and of the

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following dimensions: four inches in depth at the staff and one foot in length. The pennant shall be of a blue background and bear a three-inch replica of the Minnesota state seal.

6110.1200 NAVIGATION OF WATERCRAFT ON ~~THE~~ WATERS OF THE STATE; SAFETY EQUIPMENT.

[For text of subpart 1, see M.R.]

Subp. 2. **Mode of operation of watercraft.** Mode of operation:

A. No person shall operate a watercraft in such a manner that its wash or wake will endanger, harass, or unnecessarily interfere with any other person or property.

B. No person shall operate a watercraft in any manner as to intentionally obstruct or interfere with the takeoff, landing, or taxiing of any aircraft.

C. No person shall operate a watercraft within 150 feet of a diver's warning flag (described in *Minnesota Statutes*, section ~~361.085~~ 86B.601).

D. No person shall operate a watercraft in the vicinity of a lock and dam on the Mississippi River from Upper St. Anthony Falls through Lock and Dam Number Eight in violation of the following:

(1) In the marked restricted area 600 feet upstream or 150 feet downstream of the dam, including auxiliary locks not in service.

(2) At greater than a slow-no wake speed in the lock or lock approach area. "Slow-no wake," means the operation of a watercraft at the slowest possible speed necessary to maintain steerage, and in no case greater than five miles per hour.

(3) Enforcement, emergency, resource management, and other government personnel or contractors are exempt from this part when performing official duties or authorized work.

E. The operator of any watercraft, when signaled to do so by a conservation officer, sheriff, or sheriff's deputy shall bring the watercraft to a stop or maneuver it in a manner which will allow the officer to come alongside.

[For text of subps 3 to 6, see M.R.]

Subp. 7. **Lighting equipment.** Lighting equipment:

A. ~~All motorized watercraft will be classified for lighting requirements in the following manner:~~

~~(1) Class A: under 16 feet in length;~~

~~(2) Class 1: 16 feet to less than 26 feet;~~

~~(3) Class 2: 26 feet to less than 40 feet;~~

~~(4) Class 3: 40 feet to 65 feet.~~

~~B.~~ All motorized watercraft must display the correct lights for their class from sunset to sunrise when underway or at anchor.

~~The system of lighting may be chosen from either the International Rules Light Requirements found in item D, or the Inland Rules Light Requirements found in items E and F.~~ Red and green lights must be visible at a distance of one mile and white lights at a distance of two miles.

~~C.~~ B. The following terms are defined for the purpose of these rules:

(1) "Aft~~:~~" means to the rear of the midlength measured from end to end of the hull over the deck excluding sheer.

(2) "All-round light" means a white light visible in an unbroken horizontal arc of 360 degrees.

(3) ~~Combined lantern:~~ "Combination light" means a single fixture showing green to starboard and red to port, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

~~(3)~~ (4) "Forward~~:~~" means forward of the midlength measured from end to end of the hull over the deck excluding sheer.

~~(4) Higher than or lower than: a higher level or lower level, respectively, than another light under any normal conditions of trim under way or stopped in smooth water.~~

(5) ~~Point: one point of the compass (11 1/4 degrees) when specifying the arc of visibility of a light.~~ "Masthead light" means a white light visible in an unbroken horizontal arc of 225 degrees, placed at or near the centerline of the watercraft. The light must be visible from dead ahead to 22.5 degrees abaft the beam on both sides of the watercraft. On motorboats less than 40 feet in length, this light must be at least three feet higher than the red and green lights. On motorboats 40 feet or more in length, this light must be at least nine feet above the gunwale.

(6) "Side lights~~:~~" means separate fixtures, the one on the starboard side showing green and the one on the port side showing red, visible in an unbroken horizontal arc from dead ahead to ~~two points~~ 22.5 degrees abaft the beam on ~~their~~ its respective ~~sides~~ side.

(7) "At the stem and at the stern:" means as nearly as practicable at the stem and at the stern, respectively.

(8) "Stern light" means a white light placed at the stern, visible in an unbroken horizontal arc of 135 degrees. The light must be visible from dead astern to 22.5 degrees abaft the beam on both sides of the watercraft.

(9) "Visible:," when applied to lights, means visible on a dark night with clear atmosphere. The prescribed visibility means minimum visibility, and does not restrict greater distance of visibility, provided that the navigation lights are primarily intended for navigation purposes and will not be confused with other lights.

~~D. International Rules Light Requirements for motorized watercraft:~~

~~(1) Separate 10-point red (port or left) and green (starboard or right) side lights showing from dead ahead to two points abaft the beam, or a 20-point combination of red-green light showing red from ahead to two points abaft the port beam and green from ahead to two points abaft the starboard beam. The red and green lights shall be visible at a distance of at least one mile.~~

~~(2) A 20-point white light forward, showing ten points on each side, placed at least three feet above the red-green lights and visible at a distance of at least three miles. On vessels 40 feet to less than 65 feet long the 20-point white light must also be at least nine feet above the gunwale.~~

~~(3) A 12-point white light aft, showing six points on each side and visible at a distance of at least two miles. Motor-powered watercraft of Class A or 1 may carry this light off the center line.~~

~~(4) When at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~E. Inland Rules Light Requirements for Classes A and 1:~~

~~(1) a 20-point combination red-green bow light as described in item D, subitem (1);~~

~~(2) a 32-point bright white light aft to show all around the horizon located above the red-green combination lights and visible at a distance of at least two miles;~~

~~(3) the 32-point white light aft may be located off center line;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~F. Inland Rules Light Requirements for Classes 2 and 3:~~

~~(1) separate ten-point red and green side lights showing from dead ahead to two points abaft the beam and visible at a distance of at least one mile;~~

~~(2) a 20-point white light as near the stem as possible showing ten points on each side and visible at a distance of at least two miles;~~

~~(3) a 32-point bright white light aft to show all around the horizon, visible at a distance of at least two miles and located higher than the 20-point white light forward;~~

~~(4) when at anchor, a 32-point white light, visible at a distance of at least one mile all around the horizon.~~

~~G. All watercraft over 65 feet in length must display the lights required by item D.~~

C. The lighting system on each watercraft must be chosen from either subitem (1) or (2):

(1) Motorboats less than 40 feet in length must display the following:

(a) a combination light or separate sidelights and an all-round light at the stern when underway and not anchored; and

(b) an all-round light when anchored.

(2) Motorboats of any length must display the following:

(a) a combination light or separate sidelights, a masthead light, and a stern light when underway and not anchored; and

(b) an all-round light when anchored.

~~H.~~ D. All nonmotorized watercraft when under way or anchored, between sunset and sunrise, shall carry aboard but not necessarily fixed to any part of the watercraft a minimum of one lantern or flashlight capable of showing a white light visible all around the horizon at a distance of two miles or more. ~~Such~~ The light or lantern shall be displayed in sufficient time to avoid collision with another watercraft.

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~~I.~~ E. When a watercraft is moored to a buoy authorized by a permit issued under part 6110.1800 it shall not be required to display the ~~32-point~~ anchor light required in items C and D ~~to H~~.

6110.1400 CAPACITY PLATE INFORMATION REQUIREMENTS FOR WATERCRAFT CONSTRUCTED ON OR AFTER AUGUST 1, 1980.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Definitions.** The terms "safe power capacity" and "safe carrying capacity" used in *Minnesota Statutes*, section ~~361.05, clause (4)~~ 86B.311, subdivision 1, shall be that capacity displayed on the manufacturer's capacity plate. If no such plate exists, the method referred to in either part 6110.1300, items B and C, or 6110.1400, subpart 2 shall be used to determine the capacity.

6110.1500 WATERWAY MARKERS.

[For text of subpart 1, see M.R.]

Subp. 2. **Channel marker buoys.** Channel marker buoys:

A. Every channel marker buoy shall have the external form of a cylinder having a circular transverse cross-section not less than nine inches in diameter. ~~All such~~ Channel markers must extend at least 36 inches above the water.

B. Where channel marker buoys are placed to indicate the location of a well defined boating channel, an all green buoy and an all red buoy shall be placed in opposition to each other to indicate the course of the channel is located between them. ~~In flowing water, the red buoy shall be situated on the right side of the channel when facing upstream.~~ The red buoy or marker shall be situated on the right side of the channel when heading towards shore, or when heading upstream. A green flashing light shall be used in conjunction with a green buoy if it is to be lighted. When reflectorization is used with a green buoy, it shall be green in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be odd. A red flashing light shall be used in conjunction with a red buoy if it is to be lighted. When reflectorization is used with a red buoy, it shall be red in color and no less than a ~~four-inch~~ three-inch wide strip shall completely surround the buoy and shall be located at the top of the buoy. Number designations shall be even. ~~Existing black buoys may be used through December 31, 1987.~~

~~C. To indicate a watercraft should pass to south or west, where there is no well-defined channel, a buoy shall have the top surface and upper five inches colored red and the remainder colored white. If the buoy is reflectorized, it shall be done with a white strip, no less than four inches in width, that completely encircles the buoy and it shall be placed directly under the red top. A white quick-flashing light shall be used if the buoy is lighted.~~

~~D. To indicate a watercraft should pass to the north or east, where there is no well defined channel, a buoy shall have the top surface and the upper five inches colored black and the remainder colored white. If the buoy is reflectorized, it shall be done with a white strip no less than four inches in width that completely encircles the buoy and it shall be placed directly under the black top. A white quick-flashing light shall be used if the buoy is lighted.~~

[For text of subps 3 and 4, see M.R.]

Subp. 5. **Regulatory and information signs and buoys.** Regulatory and information signs and buoys:

[For text of items A to F, see M.R.]

G. No person shall operate any motor vehicle, snowmobile, all-terrain vehicle, ice boat, or any other conveyance used to transport persons over the ice on public waters of the state within 150 feet of a diver's warning flag described in *Minnesota Statutes*, section ~~361.085~~ 86B.601.

[For text of items H and I, see M.R.]

J. Any sign may be reflectorized or fluorescent provided that the entire displayed surface ~~thereof~~ is uniformly reflectorized or fluorescent.

[For text of item K, see M.R.]

~~L. Whenever an emergency situation requires that immediate warning be given of any hazardous condition on any waters of the state, any available object or apparatus may be utilized as a temporary waterway marker to give such warning until the emergency ceases to exist or until a marker complying with these regulations can be substituted therefor.~~

Subp. 6. [See repealer.]

Subp. 7. **Milfoil areas.** Buoys or signs indicating an area that is infested with Eurasian water milfoil may be marked using a solid yellow sign or buoy. If a buoy is used, it shall be no less than four inches in diameter and extend at least 30 inches above the surface of the water. The words "Milfoil" or Milfoil Area" must appear on opposing sides of the buoy in at least two-inch high black letters. If a sign is used, it shall be no more than 12 inches in width or more than 18 inches in height and extend at least 30 inches above the surface of the water at normal high water level. The words "Milfoil" or "Milfoil Area" must appear on the sign in at least two-inch high black letters.

Subp. 8. **Exceptions.** Whenever an emergency situation requires that immediate warning be given of a hazardous condition, any appropriate marker may be used until such time as the emergency ceases to exist or until a marker complying with these rules can be obtained. In addition, the commissioner or designee may exempt specific types of waterway markers or buoys from the dimensional requirements of this part where safety would not be adversely affected and may also designate buoys or markers for purposes not previously set forth in this part.

6110.1800 PLACEMENT OF TEMPORARY STRUCTURES AND BUOYS IN THE WATERS OF THE STATE.

[For text of subpart 1, see M.R.]

Subp. 2. **Permit for temporary structure or buoy.** The sheriff of any county may issue a permit for the placement of any such structure or buoy whenever, in ~~his~~ the sheriff's opinion, the structure or buoy will not constitute an undue hazard to or illegal obstruction of navigation.

Each structure or navigational buoy placed pursuant to such permit shall have the permit number painted ~~thereon~~ on it and shall have attached either a light visible in all directions, or sufficient reflectorized material so as to reflect light from all directions, which material shall retain 80 percent of its dry weather reflective signal strength when submerged in water.

Nothing in this ~~rule~~ part shall be construed to affect the provisions of *Minnesota Statutes* ~~1969~~, section ~~105.42~~ 103G.245, or the requirements for permits from the commissioner of natural resources thereunder, nor shall this ~~rule~~ part be construed to affect the construction of blinds built ~~in accordance with the provisions of~~ according to *Minnesota Statutes* ~~1969~~, ~~section 100.29, subdivision 17~~ sections 97B.805 and 97B.811.

6110.1900 ~~ACCIDENT~~ REPORTS.

~~Each county sheriff shall report to the commissioner of natural resources promptly, on forms provided by the commissioner, each accident involving a watercraft, and every drowning, in order to properly evaluate the water safety program. In the event of death, the report shall be made within 48 hours; in event of serious injury which incapacitates the victim for more than 72 hours or involves property damage of over $200 report must be made within five days. Each charge of a violation of law made against a watercraft operator and each written warning thereof shall be reported. Each watercraft for hire which does not comply with the standards of safety for such watercraft shall also be reported.~~

Subpart 1. **Accident reports.** Each county sheriff shall report to the commissioner of natural resources:

A. each watercraft accident involving either a fatality, personal injury requiring treatment beyond first aid, or property damage that totals more than $500; and

B. all drownings.

Reports shall be submitted on forms provided by the commissioner and forwarded within ten days of the accident.

Subp. 2. **Other reports.** Each county sheriff shall maintain copies of watercraft citations or written warnings and rental boat inspection reports for a minimum of three years following the year in which they were issued or completed.

6110.2100 REIMBURSEMENT OF COUNTY SHERIFFS FOR SEARCH AND RESCUE OPERATIONS.

Payments for annual appropriations for search and rescue operations shall be made pursuant to the provisions hereof in order of presentation until expended.

A search and rescue operation resulting from or related to ~~outdoor~~ water-related recreational activities will qualify for reimbursement if the incident necessitating the operation is of an unusual and nonrecurring nature. Reimbursable items of expense are those which are over and above the sheriff's regular operating budget, and include rental of private equipment and employment of personnel hired expressly for the search and rescue operation.

Payment by the state is limited to 50 percent of the reimbursable items of expense, subject to maximum state payment of $2,500 for each search and rescue operation.

A sheriff claiming reimbursement shall submit in duplicate an itemized invoice, verified by the county auditor, together with a statement showing that the operation qualified for reimbursement, to the Department of Natural Resources. All claims will be subject to audit by the state.

REPEALER. *Minnesota Rules*, parts 6110.1500, subpart 6 and 6110.1600, subpart 3, are repealed.

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Department of Natural Resources

Proposed Permanent Rules Relating to Restitution Value for Fish and Wildlife

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Natural Resources intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, §§ 14.22 to 14.28. The statutory authority to adopt the rule is set forth in *Minnesota Statutes* § 97A.345(a).

All persons have until 4:30 p.m. on April 4, 1991 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Jack Skrypek
Department of Natural Resources
Division of Fish and Wildlife
Ecological Services Section
500 Lafayette Road
St. Paul, Minnesota 55155-4025
(612) 296-0783 or 297-4219 (Doug Norris)

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Jack Skrypek at the address and telephone number stated above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Jack Skrypek at the address stated above.

Dated: 14 February 1991

Rodney Sando
Commissioner

Rules as Proposed (all new material)

6133.0010 STATUTORY AUTHORITY.

Pursuant to *Minnesota Statutes*, section 97A.345, the restitution values to the state of species of wild animals listed in this chapter are prescribed as indicated.

6133.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them, unless otherwise provided.

Subp. 2. **Big game.** "Big game" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 3.

Subp. 3. **Endangered animal species.** "Endangered animal species" are those animals designated as endangered in part 6134.0200.

Subp. 4. **Fur-bearing animals.** "Fur-bearing animals" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 22.

Subp. 5. **Game birds.** "Game birds" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 24.

Subp. 6. **Game fish.** "Game fish" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 25.

Subp. 7. **Minnows.** "Minnows" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 29.

Subp. 8. **Small game.** "Small game" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 45.

Subp. 9. **Sunfish.** "Sunfish" has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 46.

Subp. 10. **Threatened animal species.** "Threatened animal species" are those animals designated as threatened in part 6134.0200.

Subp. 11. **Trophy animal.** "Trophy animal" is defined for deer, elk, and moose as an animal with antlers that meet or exceed the score specified in items A to D when measured using the Boone and Crockett Club's official scoring system for North American big game trophies (Nesbitt, W.H. and J. Reneau, eds., Records of North American Big Game, Ninth Edition, The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.). This scoring system is incorporated by reference and is available through the Minitex interlibrary loan system and is not subject to frequent change:

A. white-tailed deer (typical), score of 135;

B. white-tailed deer (nontypical), score of 160;

C. moose, score of 145; and

D. elk, score of 260.

Trophy animal is defined for black bear as an animal with a skull that meets or exceeds a score of 20 using the Boone and Crockett Club's official scoring system for North American big game trophies (id.)

For the purposes of this chapter, antlers or skulls may be measured at any time; no drying period is required.

6133.0030 GAME BIRDS.

The restitution values for game bird species are as follows:

A. turkey (wild), $400;

B. pheasant, $50;

C. quail, $50;

D. chukar partridge, $50;

E. gray partridge, $50;

F. ruffed grouse, $50;

G. sharp-tailed grouse, $50;

H. spruce grouse, $50;

I. greater prairie chicken, $500;

J. American woodcock, $50;

K. common snipe, $50;

L. sora, Virginia rails, $50;

M. gallinules, $50;

N. coot, $25;

O. ducks and mergansers, except canvasback, $50;

P. canvasback, $200;

Q. geese, $50;

R. tundra swan, $200; and

S. trumpeter swan, $3,000.

6133.0040 BIG GAME.

Subpart 1. **General.** The restitution values for big game species are as follows:

A. deer, $500;

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B. elk, $1,000;

C. caribou, $1,000;

D. moose, $1,000;

E. pronghorn antelope, $500; and

F. black bear, $400.

Subp. 2. **Adjustments for trophy animals.** The restitution values for deer, elk, moose, and bear may be increased to twice the amount listed in subpart 1 if the animal is a trophy animal.

6133.0050 SMALL GAME.

The restitution values for small game species other than game birds are as follows:

A. cottontail rabbit, $20;

B. jack rabbit, $20;

C. snowshoe hare, $20;

D. fox and gray squirrel, $20;

E. red and gray fox, $30;

F. wolverine, $1,000;

G. badger, $100;

H. otter, $100;

I. pine marten, $100;

J. fisher, $100;

K. mink, $30;

L. raccoon, $30;

M. beaver, $30;

N. muskrat, $30;

O. opossum, $30;

P. bobcat, $100;

Q. lynx, $500; and

R. cougar, $1,000.

6133.0060 ENDANGERED ANIMAL SPECIES.

The restitution values for endangered animal species are as follows:

A. mammals and birds, $4,000; and

B. all other animals, $2,000.

6133.0070 THREATENED ANIMAL SPECIES.

The restitution values for threatened animal species are as follows:

A. mammals and birds, $2,000; and

B. all other animals, $500.

6133.0080 GAME FISH.

Subpart 1. **General.** For fish species that do not have a designated quality size, or for fish that have a total length equal to or less than the designated quality size, the restitution value is the base value shown in the following table. For fish that have a length that exceeds the designated quality size, the restitution value is the base value plus $10 for every inch over the quality size.

	Base Value	Quality size in inches
A. Walleye	$ 30	22
B. Sauger	30	15

C.	Northern pike	30	32
D.	Black bass (largemouth, smallmouth)	30	16
E.	Sunfish (bluegill, pumpkinseed, green sunfish, orange spotted sunfish, longear sunfish, warmouth, hybrid sunfish)	5	8
F.	White and black crappie	5	11
G.	Yellow perch	5	12
H.	Rock bass	5	8
I.	White bass, yellow bass	5	9
J.	Channel catfish	10	26
K.	Flathead catfish	25	28
L.	Chinook salmon	50	28
M.	Coho, Atlantic salmon	30	20
N.	Kokanee, pink, other salmon	30	17
O.	Lake trout	50	22
P.	Splake	50	15
Q.	Brook trout	30	17
R.	Brown trout	30	21
S.	Rainbow (steelhead) trout	30	23
T.	Paddlefish	500	
U.	Lake sturgeon	500	
V.	Shovelnose sturgeon	200	
W.	Sturgeon hybrids	same value as morphologically nearest parent	

Subp. 2. **Muskellunge.** The restitution values for muskellunge are as follows:

A. 0 to less than 30 inches, $40;

B. 30 to less than 40 inches, $200;

C. 40 to less than 50 inches, $500; and

D. 50 inches and over, $1,000 plus $100 for each inch over 50 inches.

6133.0090 MINNOWS.

The restitution values for minnows are as follows:

A. cyprinidae, fair market value at time of violation;

B. umbridae, 50 cents a pound;

C. catastomidae, 50 cents a pound;

D. bullhead (7 inches or less), 50 cents a pound;

E. cisco (7 inches or less), 50 cents a pound;

F. lake whitefish (7 inches or less), $1 a pound;

G. goldeyes and mooneyes (7 inches or less), 50 cents a pound; and

H. leeches, fair market value at time of violation.

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Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *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 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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Agriculture

Adopted Permanent Rules Relating to Agriculture Contracts

The rules proposed and published at *State Register*, Volume 15, Number 23, pages 1282-1285, December 3, 1990 (15 SR 1285) are adopted with the following modifications:

Rules as Adopted

1572.0020 MEDIATION AND ARBITRATION.

Subp. 7. **Sample copies of contracts.** A contractor using a written commodity contract must submit to the commissioner a sample copy of each contract offered to producers. Schedules of prices and charges need not be included. Contract samples must be submitted to the commissioner and made available to producers at least 30 days before ~~being offered to producers for signature~~ the contract crops are planted or the contract livestock is placed in the producer's facility.

1572.0030 RECAPTURE OF LARGE CAPITAL INVESTMENT.

Subpart 1. **Provision required; definitions.** A producer may recover damages under *Minnesota Statutes*, section 17.92, subdivision 1, clause (2), only if the producer has a written contractual obligation to provide a capital improvement of $100,000 or more.

If a contract states in writing that a producer must make a large capital investment in order to fulfill the contract, the contract must contain a provision allowing the producer to recover through mutual agreement, litigation, or other legal process a portion of that investment if the contract is terminated or canceled prematurely. "Termination" and "cancellation" do not include expiration of the contract. "Large capital investment" means a capital investment that costs $100,000 or more and has a useful life of five years or more. *Minnesota Statutes*, section 17.92, applies only to contracts that are signed after August 1, 1990.

Producers receiving notice under *Minnesota Statutes*, section 17.92, subdivision 2, are not eligible for recaptured damages if ~~there~~ the producer has ~~been~~ committed a material breach of the contract. The damages to be determined under *Minnesota Statutes*, section 17.92, subdivision 1, do not include payment for the reasonable useful life of an asset that extends beyond the term of the contract.

1572.0045 UNFAIR TRADE PRACTICES.

Subpart 1. **Prohibited conduct.** Unfair trade practices prohibited under parts 1572.0010 to 1572.0050 include conduct prohibited by United States Code, title 7, sections 499a to 499s, the Perishable Agricultural Commodities Act, the rules promulgated thereunder, Code of Federal Regulations, title 7, part 46, United States Code, title 7, section 181 et seq., the Packers and Stockyards Act and the rules promulgated thereunder, Code of Federal Regulations, title 7, part 201, et seq.

Department of Commerce

Adopted Permanent Rules Relating to Currency Exchange Rates

The rules proposed and published at *State Register*, Volume 14, Number 32, pages 1966-1967, February 5, 1990 (14 SR 1966) and Volume 14, Number 47, pages 2680-2681, May 21, 1990 (14 SR 2681) are adopted with the following modifications:

Rules as Adopted

2872.0100 CURRENCY EXCHANGE FEES.

Subpart 1. **Presumption.** It shall be presumed that fees and amendments of fees filed with the commissioner of commerce under *Minnesota Statutes*, section 53A.07, are fair and reasonable if they do not exceed the following amounts:

A. for cashing checks~~, drafts, money orders, or travelers' checks, the greater of (1) one and one-half percent of the face amount of the instrument, or (2) 50 cents~~ issued by a government entity in an amount up to $500, the greater of (1) 2-1/2 percent

of the face amount of the instrument, or (2) $1, except that it is permissible to charge a first-time customer up to five percent of the face amount of the instrument; and

B. for cashing ~~checks issued by a government entity in an amount up to $500, the greater of (1) one percent of the face amount of the instrument, or (2) 50 cents~~ all other government checks and for cashing payroll checks, the greater of (1) three percent of the face amount of the instrument, or (2) $1, except that it is permissible to charge a first-time customer up to six percent of the face amount of the instrument.

~~2872.0200 POSTING OF FEE SCHEDULES.~~

~~The fees charged by a currency exchange for rendering any service authorized by *Minnesota Statutes*, chapter 53A, at all times shall be prominently posted on the premises. The notice shall be made of plastic or metal, be no less than 30 inches wide and 36 inches high, with letters between one-half inch and three-quarters inch in size.~~

~~For checks, other than those which are issued by a government entity in an amount up to $500, the notice must indicate, in one cent increments, between 50 cents and $7.50, the fee that applies to the full amount of the check to be cashed.~~

~~For checks which are issued by a government entity in an amount up to $500, the notice shall indicate, in one cent increments, between 50 cents and $5, the fee that applies to the full amount of the check to be cashed.~~

~~If a minimum fee of 50 cents is imposed, the notice must indicate that fact. The notice must be posted on two separate walls in the customers' area.~~

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Child Care Grants; Campus Contracts with County

The rule proposed and published at *State Register*, Volume 15, Number 23, pages 1290-1295, December 3, 1990 (15 SR 1290) is adopted as proposed.

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Postsecondary Grant Program for Registered Nurses

The rules proposed and published at *State Register*, Volume 15, Number 23, pages 1290-1295, December 3, 1990 (15 SR 1290) are adopted as proposed.

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Postsecondary Nursing Grant Program for Licensed Practical Nurses

The rules proposed and published at *State Register*, Volume 15, Number 23, pages 1290-1295, December 3, 1990 (15 SR 1290) are adopted as proposed.

Higher Education Coordinating Board

Adopted Permanent Rules Relating to Postsecondary Rural Physician Loan Forgiveness Program

The rules proposed and published at *State Register*, Volume 15, Number 23, pages 1290-1295, December 3, 1990 (15 SR 1290) are adopted as proposed.

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Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, 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 Agriculture

Agronomy Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Nitrogen Fertilizer Best Management Practices

NOTICE IS HEREBY GIVEN that the State Department of Agriculture is seeking information or opinions from sources outside the agency in preparing Best Management Practices for nitrogen fertilizers. The adoption of Best Management Practices is authorized by *Minnesota Statute* (1989) Chapter 326 (Article 1) which requires the Commissioner of Agriculture to take action necessary to prevent contamination of water resources from nitrogen fertilizer use. Best Management Practices are defined in *Minnesota Statute* 1989 Chapter 326, Article 1, Section 1, Sub. 4 as:

"... voluntary practices that are capable of preventing and minimizing degradation of groundwater, considering economic factors, availability, technical feasibility, implementability, effectiveness, and environmental effects."

All persons or groups have until April 5, 1991 to submit comment in support of or in opposition to the proposed Best Management Practices or any part or subpart thereof. Comment is encouraged. Each comment should identify the portion of the proposed Best Management Practices addressed, the reason for the comment, and any change proposed.

Interested persons or groups are encouraged to submit written or oral information or opinions to:

Bruce Montgomery
Agronomy Services Division
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107
Telephone: (612) 297-7178

The proposed Best Management Practices may be modified if the modification are supported by data and views and do not result in a substantial change in the proposed Best Management Practices as noticed.

PROPOSED NITROGEN FERTILIZER BEST MANAGEMENT PRACTICES

ORGANIZATIONAL STRATEGY

Best Management Practices are based upon a three-tier strategy. Each succeeding tier enhances or refines the previous tier. The three tiers are: (1) Statewide BMPs, (2) Regional BMPs, and (3) Special Situation BMPs.

(1) Statewide BMPs apply to all areas of the state. The succeeding tiers refine the statewide recommendations. The application of these BMPs result in specific practices that are uniquely tailored to a given situation.

(2) Regional BMPs account for some of the local variation in soils, hydrogeologic conditions and climatic conditions. The state has been divided into five regions based upon general climatic conditions, soil characteristics and the resulting sensitivity to groundwater contamination. The regional BMPs refine the prescriptions of the statewide BMPs.

(3) Special Situation BMPs describe management criteria for the following conditions: (1) irrigated soils, (2) coarse textured, non-irrigated soils, (3) turf, and (4) areas near surface water. These areas pose additional environmental susceptibility problems and require additional management considerations.

BEST MANAGEMENT PRACTICES

A. Statewide Nitrogen BMPs—

1. Develop realistic yield goals. The yield goal should be based on the past five year average, excluding the worst year. In situations where rotation practices limit recent yield information, yield goals should be based on farm/field specific information from the previous five years or from a three or four year average for the specific crop to be fertilized.

2. Develop and utilize a comprehensive record-keeping system to record field specific information.

3. Adjust nitrogen rates according to soil organic matter content, previous crop, and manure application.

4. Use a soil nitrate test when appropriate.

5. Use prudent manure management to optimize nitrogen credit:

(a) Test manure for nutrient content.

(b) Calibrate manure application equipment.

(c) Apply manure uniformly throughout a field.

(d) Injection of manure is preferable, especially on strongly sloping soils.

(e) Avoid manure application to sloping, frozen soils.

(f) Incorporate broadcast applications whenever possible.

6. Credit second year nitrogen contributions from alfalfa and manure.

7. Do not apply nitrogen fertilizer above recommended rates.

8. Plan nitrogen application timing to achieve high efficiency of nitrogen use.

B. Regional BMPS—

1. Southeastern Minnesota: Counties of Dakota, Goodhue, Fillmore, Houston, Olmsted, Wabasha, and Winona.

(a) Do not apply fertilizer nitrogen in the fall.

(b) Anhydrous ammonia or urea sources of nitrogen should be used in spring preplant applications. Broadcast urea should be incorporated within three days of application.

(c) Sidedress applications to corn should be applied prior to the V4 stage of development.

(d) Sidedress applications of urea and UAN-28 should be injected or incorporated to a minimal depth of four inches.

(e) A nitrification inhibitor should be used with preplant nitrogen applications if soils are poorly drained and soil moisture levels are high in the upper portion of the profile.

(f) Minimize direct movement of surface water runoff to sinkholes.

2. South Central Minnesota: Counties of Blue Earth, Brown, Carver, Faribault, Freeborn, Le Sueur, Martin, McLeon, Meeker, Mower, Nicollet, Rice, Scott, Sibley, Steele, Watonwan, and Waseca.

(a) Spring preplant applications of nitrogen are highly recommended.

(b) If some nitrogen is to be fall applied, delay application until the soil temperature is below 50°F at a six inch depth. Anhydrous ammonia should be used for fall applications.

(c) Anhydrous ammonia or urea sources of nitrogen should be used in spring preplant applications. Broadcast urea should be incorporated within three days of application.

(d) Sidedress applications to corn should be applied prior to the V4 stage of development.

(e) Sidedress applications of urea and UAN-28 should be injected or incorporated to a minimal depth of four inches.

(f) A nitrification inhibitor should be used with fall and preplant nitrogen applications if soils are poorly drained and soil moisture levels are high in the upper portion of the profile.

(g) Carefully manage nitrogen applications on soils characterized by a high leaching potential.

(1) Do not apply fertilizer nitrogen in the fall to coarse textured soils.

(2) When soils have a high leaching potential, application of nitrogen in a sidedress or split application program is preferred. Use a nitrification inhibitor with early sidedressed nitrogen on labeled crops.

3. Southwest and West-Central Minnesota: Counties of Big Stone, Chippewa, Cottonwood, Douglas, Grant, Kandiyohi, Jackson, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Pipestone, Pope, Redwood, Renville, Rock, Stevens, Swift, Traverse, and Yellow Medicine.

(a) Use a soil nitrate test with a two to four foot depth to determine nitrogen needs. Soil samples should be taken in the fall, after the soil temperature is below 50°F at the six inch depth, or in early spring.

(b) A spring preplant application of Anhydrous ammonia or urea sources of nitrogen should be used. Broadcast urea and preplant applications of UAN-28 should be incorporated within three days of application.

(c) In situations where fall nitrogen applications are used, delay application until the soil temperature is below 50°F at a six inch depth. Use anhydrous ammonia or urea sources of nitrogen; UAN-28 should not be fall applied.

(d) Sidedress nitrogen to corn should be applied prior to the V4 stage of development.

(e) Sidedress applications of urea and UAN-28 should be injected or incorporated to a minimal depth of 4 inches.

4. East-Central and Central Minnesota: Counties of Aitkin, Anoka, Beltrami, Benton, Carlton, Cass, Chisago, Cook, Crow Wing, Hennepin, Hubbard, Itasca, Kanabec, Koochiching, Lake, Lake of the Woods, Mille Lacs, Morrison, Pine, Ramsey, St. Louis, Sherburne, Stearns, Todd, Wadena, Washington, and Wright.

(a) Carefully manage nitrogen applications on soils that have a high leaching potential.

(b) Anhydrous ammonia or urea sources of nitrogen should be used in spring preplant applications on fine and medium textured soils. Broadcast urea should be incorporated within three days of application.

(c) Sidedress applications of urea and UAN-28 should be injected or incorporated to a minimal depth of four inches.

5. Northwest Minnesota: Counties of Becker, Clearwater, Clay, Kitteson, Mahnomen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, and Wilkin.

(a) Use a soil nitrate test to a two or four foot depth to determine nitrogen needs. Soil samples should be taken in the fall after the soil temperature is below 50°F at the six inch depth or early spring.

(b) Delay fall nitrogen application until the soil temperature is below 50°F at a six inch depth. Anhydrous ammonia or urea sources of nitrogen should be used for fall applications. UAN-28 should not be fall applied. Broadcast urea and spring preplant applications of UAN-28 should be incorporated within three days of application.

(c) Denitrification inhibitors are not recommended on fine textured soils but are recommended on coarse-textured soils with high leaching potential.

C. Special Situation BMPs—

1. Irrigated Soils.

(a) Do not apply fertilizer nitrogen in the fall.

(b) Follow proven water management strategies to provide effective irrigation and minimize leaching.

(c) Test irrigation water for nitrogen content and adjust nitrogen fertilizer rates accordingly.

(d) Sidedress or split application of nitrogen is preferred on irrigated soils. Use a nitrification inhibitor with preplant or early sidedressed nitrogen on labeled crops. For corn, include a nitrification inhibitor with all nitrogen applications prior to the V4 growth stage. (Fertilizer chemigation rules are being developed by the Minnesota Department of Agriculture at this time. Backflow prevention, well head safety and other techniques are recommended until rules are adopted.)

(e) Include a small amount of nitrogen in starter fertilizer in most situations (10-20 pounds/acre).

(f) Do not delay nitrogen applications past optimum uptake period.

(g) Establish a cover crop following early harvest of crops.

2. Coarse-Textured (non-irrigated soils) which include the following textural classes: sandy loams, loamy sands, and sands.

(a) Do not apply nitrogen fertilizer in the fall to coarse textured soils.

(b) Apply nitrogen in a sidedress or split application program.

(c) Use a nitrification inhibitor with early sidedressed nitrogen.

3. Turf.

(a) Avoid off-target applications.

(b) With fall nitrogen applications, spring nitrogen applications can be reduced or discontinued. Light applications of nitrogen may be applied in mid-summer to high-use areas.

(c) Utilize a soil test to determine organic matter content which can be used to aid in determination of nitrogen needs; use the results of this test to adjust applications to the individual lawn.

(d) Leave grass clippings on mowed lawns and account for residue nitrogen content in determining nitrogen load rates for subsequent applications.

(e) Use a slow release fertilizer formulation when possible.

(f) Account for soil type in determining appropriate nitrogen application rate and frequency.

(g) Select (homeowners) and promote the selection of (lawn care industry) low-maintenance turf varieties which require fewer fertilizer applications and less watering.

(h) Do not apply insurance nitrogen to turf. Apply only the amount of nitrogen necessary to maintain plant nutrition.

4. Areas near surface water bodies.

(a) Filter strips should be developed and maintained between open bodies of water and agricultural fields.

(b) Establish tillage and erosion control techniques, such as conservation tillage systems and terraces, where erosion contributes to surface water contamination.

(c) For lawns located adjacent to surface water bodies, construct a berm (roughly six inches high) between the lawn and water body. The berm may also be covered in grass or turf. In addition to berms, an unmanaged fringe of natural vegetation may be utilized as a filter strip.

(d) For all urban turf, avoid stray application of any fertilizer to sidewalks, streets or directly into water bodies that abut lawn areas.

ASSISTANCE TO NITROGEN USERS

Contact the Minnesota Department of Agriculture or the Minnesota Extension Service for further information on Nitrogen Fertilizer Best Management Practices.

Department of Finance

Maximum Interest Rates for February 1991

Pursuant to *Minnesota Statutes*, Section 475.55, Subdivision 4, Commissioner of Finance, John Gunyou, announced today that the maximum interest rate for municipal obligations in the month of February, 1991 would be eight (8) percent per annum.

Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by General Obligations of the municipality may bear an interest rate of up to nine (9) percent per annum.

Department of Human Services

Notice of Hospital Cost Index

Minnesota Statutes 256.969, subdivision 1 and *Minnesota Rules*, parts 9500.1120 require the establishment of a Hospital Cost Index (HCI) for rate setting purposes for inpatient hospital services under the General Assistance Medical Care and Medical Assistance Programs. The inflation forecasts provided below were obtained from the Data Resources, Inc./McGraw-Hill, Health Care Costs as published in the fourth quarter of 1990 using the percent moving average. The cost category weights were provided by the Minnesota Hospital Association. The HCI will be used to adjust the rates of hospitals whose next fiscal year begins during the second calendar quarter of 1991.

Minnesota Statutes, 256.9695, subd. 3, (c) limits the HCI to five percent effective June 1, 1990 except in the case of small hospitals that met the criteria for the rateable increase. Comments concerning the HCI may be forwarded to the following address:

Richard Tester
Hospital Reimbursement Section
Audit Division
444 Lafayette Road, Fifth Floor
St. Paul, Minnesota 55155-3836

Cost Category	Weight	Percent	Weighted Percent
Salaries	.535	6.0	3.21
Employee Benefits	.093	5.1	.47
Medical Fees (Medical Care Service)	.062	7.4	.46
Raw Food	.012	4.3	.05
Medical Supplies (Medical Commodities)	.113	5.3	.60
Pharmaceuticals	.043	5.3	.23
Utilities	.024	9.3	.22

Cost Category	Weight	Percent	Weighted Percent
Repairs/Maintenance	.017	5.3	.09
Insurance*	.013	5.3	.07
Other Operating	.088	5.3	.47
	1.000		5.87
		HCI =	5.9%

*Excludes Malpractice

Department of Human Services

Children's Services Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing the Child Care Fund

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rule governing the Child Care Fund, *Minnesota Rules*, parts 9565.5000 to 9565.5200. The commissioner is authorized under *Minnesota Statutes*, section 256H.02 to adopt rules governing the child care fund program. Section 256H.02 also directs the commissioner to develop standards for county and human services boards to provide child care services to enable eligible families to participate in employment, training, or education programs; to distribute money to counties to reduce the costs of child care for eligible families; to establish a sliding fee; and to maximize the use of federal money available for child care.

Amendments to the rule will clarify existing child care definitions and add new definitions; clarify general program requirements; modify the allocation formula under the basic sliding fee program; clarify methods of payment; set standards governing child care rates; clarify county responsibilities; modify rule provisions governing absence and sick care; clarify child care for families participating in education programs; establish fraud recoupment provisions; establish standards governing Project STRIDE child care, AFDC transitional year child care, and other federal programs that provide child care funding.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Vicki Kunerth, Department of Human Services, Children's Services Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3832. Oral statements will be received during regular business hours over the telephone at (612) 296-6085 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

State Board of Investment

Executive Council

Meeting Notice

The Executive Council and State Board of Investment will meet on Wednesday, March 13, 1991 at 8:30 a.m. in Room 118, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, March 12, 1991 at 2:00 p.m. in Conference Rooms "A" and "B", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Office of Social Work and Mental Health Boards

Notice of Executive Committee Meetings for 1991

The regular meetings of the Executive Committee of the Minnesota Office of Social Work and Mental Health Boards for the year

1991 shall take place on the fourth Friday of every month at 9:00 a.m. The meetings will be held in the Office Conference Room at 2700 University Avenue W., Suite 225, St. Paul, MN 55114 and shall take place on the following dates:

January 25, 1991
February 22, 1991
March 22, 1991
April 26, 1991
May 24, 1991
June 28, 1991
July 26, 1991
August 23, 1991
September 27, 1991
October 25, 1991
November 29, 1991
December 27, 1991

Board of Social Work

Notice of Regular Meetings for 1991

The regular meetings of the Minnesota Board of Social Work for the year 1991 shall take place on the third Friday of every month at 12:00 p.m. The Board meetings will be held in the Office Conference Room at 2700 University Avenue W., Suite 225, St. Paul, MN 55114 and shall take place on the following dates:

January 18, 1991
February 15, 1991
March 15, 1991
April 19, 1991
May 17, 1991
June 21, 1991
July 19, 1991
August 16, 1991
September 20, 1991
October 18, 1991
November 15, 1991
December 20, 1991

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over $2,000.

Commodities contracts with an estimated value of $15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

Materials Management Division—Department of Administration:

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Tractor/tractor loader
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: March 14
Agency: Natural Resources—Southern Services Center
Deliver to: Various
Requisition #: 29000-55749

Commodity: Blood alcohol kits
Contact: Don Hanson 297-5619
Bid due date at 2pm: March 20
Agency: Public Safety
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Auto body supplies
Contact: Dale Meyer 296-3773
Bid due date at 2pm: March 13
Agency: Minnesota Correctional Facility
Deliver to: Stillwater
Requisition #: Price contract

Commodity: Miscellaneous heating parts
Contact: Linda Parkos 296-3725
Bid due date at 2pm: March 8
Agency: Regional Treatment Center
Deliver to: Willmar
Requisition #: 02310-19010

Commodity: Camcorder, VCR, tripod
Contact: Pamela Anderson 296-1053
Bid due date at 4:30pm: March 7
Agency: Corrections
Deliver to: St. Paul
Requisition #: 78000-25465-01

Commodity: Water well work
Contact: Pamela Anderson 296-1053
Bid due date at 4:30pm: March 11
Agency: Transportation
Deliver to: St. Paul
Requisition #: 79050-25531-01

Commodity: Oil heating unit
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: March 4
Agency: Winona State University
Deliver to: Winona
Requisition #: 26074-13733

Commodity: Interviewing service
Contact: Theresa Ryan 296-7556
Bid due date at 4:30pm: March 6
Agency: Metro State University
Deliver to: St. Paul
Requisition #: 26176-03241

Commodity: Lease/purchase of electronic key system
Contact: Teresa Ryan 296-7556
Bid due date at 4:30pm: March 19
Agency: Jobs & Training
Deliver to: Fairmont
Requisition #: 21200-35417

Commodity: Brush chipper
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: March 12
Agency: Transportation
Deliver to: Various
Requisition #: 79382-02197

Commodity: School bus
Contact: Mary Jo Bruski 296-3772
Bid due date at 2pm: March 12
Agency: Academy for the Deaf
Deliver to: Faribault
Requisition #: 37001-10921

Commodity: Panasonic key system
Contact: Teresa Ryan 296-7556
Bid due date at 4:30pm: March 7
Agency: Jobs & Training
Deliver to: St. Cloud
Requisition #: 21200-35416

Commodity: Physical testing equipment
Contact: Joan Breisler 296-9071
Bid due date at 4:30pm: March 8
Agency: Mankato State University
Deliver to: Mankato
Requisition #: 26071-47559

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

Commodity: 1991 Moose hunt information booklet, type to be set (text) camera ready copy (maps), two-sided, 80,000 books, 8½" x 11", saddle-stitch
Contact: Printing Buyer's Office
Bids are due: March 7
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14792

Commodity: 1991 resident spearing license, type to be set, perforating, multiple part form, two-sided
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14852

Commodity: College pamphlet, 10,000 sheets, type to be set, three folds including perforations 100 lb, white gloss offset
Contact: Printing Buyer's Office
Bids are due: March 6
Agency: Worthington Community College
Deliver to: Worthington
Requisition #: 14273

Commodity: 1991 resident whitefish license, type to be set, two-sided, multiple part form, perforating
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14853

Commodity: Statement of benefits paid, camera ready copy, one-sided, 5,000 4-part continuous, carbon interleave
Contact: Printing Buyer's Office
Bids are due: March 6
Agency: Jobs & Training
Deliver to: St. Paul
Requisition #: 14896

Commodity: Background study mailer, 50,000 two-part mailers, type to be set, continuous feed mailer, perforating
Contact: Printing Buyer's Office
Bids are due: March 7
Agency: Human Services
Deliver to: St. Paul
Requisition #: 14889

Commodity: Assessment of juvenile client risk, type to be set, one-sided, 5,000 sets, perforating, carbonless, shrink-wrap
Contact: Printing Buyer's Office
Bids are due: March 6
Agency: Corrections
Deliver to: St. Paul
Requisition #: 14806

Commodity: Aircraft registration certificate, camera ready copy, two-sided, 6,000 sheets
Contact: Printing Buyer's Office
Bids are due: March 6
Agency: Transportation Department
Deliver to: St. Paul
Requisition #: 14833

Commodity: MPCA 703 Supplemental, 100 pads, type to be set, carbonless-blue with chipboard
Contact: Printing Buyer's Office
Bids are due: March 6
Agency: Pollution Control Agency
Deliver to: St. Paul
Requisition #: 14810

Commodity: 1991 resident wild rice license, type to be set, two-sided, perforating, multiple part form
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14854

Commodity: 1991 nonresident no quota bear license, multiple part form, type to be set, two-sided, perforating
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14855

Commodity: 1991 nonresident firearm deer license, multiple part form, perforating, type to be set, two-sided
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14857

Commodity: Two part continuous forms letterhead stationery, camera ready copy, one-sided, 60,000 sets, carbon interleave
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Human Rights
Deliver to: St. Paul
Requisition #: 14758

Commodity: Kaleidoscope, camera ready copy, two-sided, 50,000 books
Contact: Printing Buyer's Office
Bids are due: March 7
Agency: Lakewood Community College
Deliver to: White Bear Lake
Requisition #: 14796

Commodity: MPCA DMR form, type to be set, black ink, 3,000 sets
Contact: Printing Buyer's Office
Bids are due: March 7
Agency: Pollution Control Agency
Deliver to: St. Paul
Requisition #: 14809

Commodity: 1991 nonresident bow and arrow deer license, type to be set, perforating, two-sided, multiple part form
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14850

Commodity: 1991 resident no quota bear license, type to be set, two-sided head to head, perforating, shrink wrap, multiple part form
Contact: Printing Buyer's Office
Bids are due: March 8
Agency: Natural Resources
Deliver to: St. Paul
Requisition #: 14851

Professional, Technical & Consulting Contracts

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. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Department of Health

Health Resources Division

Request for Proposal

Notice of Request for Proposal for seven to ten qualified physicians located throughout the state, to act as part time consultants to the Quality Assurance & Review Program. The contract period commences July 1, 1991 and concludes June 30, 1993.

Interested physicians will submit formal proposals according to the procedures required by the Department of Administration. Maximum contract amounts and hourly rates will be discussed in the "Request for Proposal" (RFP) issued by the Minnesota Department of Health. The deadline for submission for proposals is 2:30 p.m., April 20, 1991. To obtain a copy of the RFP for Professional Services Contract, contact Connie Krmpotich at the following address:

Connie Krmpotich
Quality Assurance & Review Section
Minnesota Department of Health
393 North Dunlap Street
P.O. Box 64938
St. Paul, Minnesota 55164-0938
(612) 643-2504

Minnesota Historical Society

Notice of Availability of Contract for Planning of Communications and Special Events

For the Opening of the Minnesota Historical Society's History Center

The Minnesota Historical Society is seeking proposals from individuals and firms with experience in communications, public relations and event planning for contract work associated with the planning phase for the opening of the Society's History Center.

This phase of the opening preparation, which will be performed under contract, will involve development of a master plan for opening communications, activities and ceremonies; schedule and budget development; and implementation of some of the initial communications and activities that will occur prior to the formal opening.

The maximum budget expected to be available for this project is $15,000. All planning work included in this project must be completed not later than June 30, 1991, however, some implementation may occur during the remainder of 1991.

A detailed description of the project is contained in the formal Request for Proposals which may be obtained by calling the Society's Information Officer, George Ryan at (612) 297-1827.

Proposals should be directed to: Minnesota Historical Society, Gary W. Goldsmith, Contracting Officer, 690 Cedar Street, Minneapolis, MN 55101.

Proposals will be accepted until 4:00 p.m. March 19, 1991. Late proposals will not be considered.

The Society reserves the right to accept any proposal or to reject all proposals and to waive any informalities therein.

Department of Public Safety

Office of Traffic Safety

Request for Proposals for Safety Belt Media Relations

The Department of Public Safety has received a grant from the National Highway Traffic Safety Administration to implement a law enforcement safety belt project. The Department is seeking proposals to conduct the media relations aspect of the project. Details are contained in a Request for Proposals which may be obtained by calling or writing:

Susan Palmer
Department of Public Safety
Office of Traffic Safety
Room 207 Transportation Building
395 John Ireland Boulevard
St. Paul, Minnesota 55155
(612) 296-8512

Estimated cost of the contract is $35,000.00. Final date for submitting proposals is Friday, March 22, 1991 by 4:00 p.m.

Department of Transportation

Office of Aeronautics

The Minnesota Department of Transportation, Office of Aeronautics, is accepting proposals from consultant firms that are interested in providing the services needed to purchase a parcel of land at each of three Minnesota airports.

The Office of Aeronautics is planning to install an Instrument Landing System (ILS) at three airports in Minnesota in the near future. This system provides the pilot with electronic guidance to the airport runway.

One of the components of the ILS is an Outer Marker (OM). This marker is located from four to seven miles from the airport on the extended center line of the runway. The facility consists of a radio transmitter housed in a small building and ground mounted antenna.

The size of the site required for an OM is 500 feet by 500 feet. Electrical and phone service are needed. An access road is required for maintenance.

The survey and mapping section of Mn/DOT will make a field survey of the extended center line of the runway. They will mark this line at appropriate locations from about four to seven miles from the runway threshold.

The services that the consultant shall provide are:

1. Determine suitable sites along the extended center line that meet the needed criteria. Mn/DOT personnel will pick the site to be purchased.

2. Preliminary Evaluation and Contract Negotiation

3. Title Work

4. Site Survey

5. Prepare Property Map

6. Appraisal

7. Landowner Negotiation

8. Abstract Update and Title Opinion

9. Final Documentation Preparation and Closing

10. Other Associated Tasks

The airports that are included in the project are:

1. Fergus Falls

2. Warroad

3. Marshall

The contract to install the outer marker equipment has been awarded to Wilcox Electric of Kansas City. Their contract requires that the installation be completed within a certain time period at each airport. To meet that schedule, a Permit To Construct will be required at the outer marker sites on the following dates.

Airport	Permit Required
Fergus Falls	April 1, 1992
Warroad	Spring 1992
Marshall	Fall 1992

The proposal shall contain a statement of qualifications, with a list of similar projects that have been done by the firm in the past. Also include a cost estimate to complete the above tasks. The cost of the land or costs associated with a possible condemnation procedure are not required.

Proposals shall be submitted by March 29, 1991. They shall be sent to:

Douglas E. Johnson
Electrical Engineering Assistant
Mn/DOT, Office of Aeronautics
Room 417, State Transportation Building
395 John Ireland Boulevard
St. Paul, MN 55155
(612) 296-0745

Minnesota Office of Waste Management

Notice of Request for Proposals

The Minnesota Office of Waste Management (OWM) is developing a statewide public education campaign on waste management. As currently envisioned, this campaign will include four elements: (1) a multi-media presentation, including paid-for advertising, public service announcements and display materials; (2) information packets to be distributed by the OWM to local officials; (3) a statewide event; and (4) a set of six portable displays for use by local communities in conjunction with the campaign. The OWM intends to conduct its education campaign during the fall 1991.

Consistent with the waste hierarchy established in *Minnesota Statutes* § 115A.02, the goal of the campaign is to discourage the use of land disposal as a waste management option and to encourage reduction, reuse and recycling of waste. The campaign is also intended to generate information that may be used by local communities to meet waste education goals. Many of these goals are mandated by the legislature.

Through this Request for Proposal (RFP), the OWM is soliciting the services of a consultant to: (1) develop and assist the OWM in implementing the campaign; (2) develop and implement a method for evaluating the impact of the campaign; and (3) conduct "focus group" discussions to obtain information about the public's waste management attitudes and habits.

The OWM has prepared a detailed Request for Proposal (RFP) that describes the tasks to be performed by the consultant. The RFP also describes important contract terms. Persons are considered qualified under the RFP if they have had previous, successful experience in developing and implementing statewide public education campaigns in Minnesota. Preference will be given to qualified proposers who have experience in disseminating information about waste or other environmental issues.

Persons interested in obtaining copies of the RFP should contact: Diane Wanner, Minnesota Office of Waste Management, 1350 Energy Lane, St. Paul, MN 55108. Telephone: (612) 649-5775. Persons interested in submitting proposals should direct them to Ms. Wanner at the address above. The OWM will consider only those proposals received at the above-address by **5:00 p.m., Monday, April 1, 1991. (NO FAX COPIES WILL BE ACCEPTED)**

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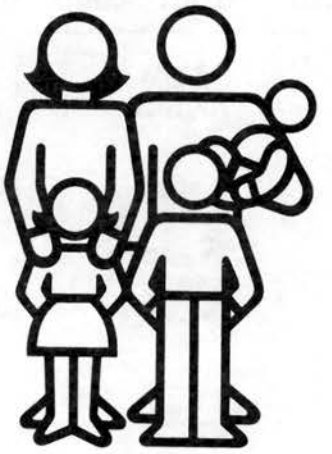

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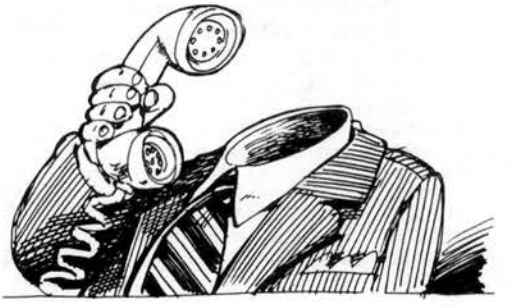

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STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

DIVISIONS OF FISH AND WILDLIFE AND ENFORCEMENT

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES PRESCRIBING RESTITUTION VALUES FOR FISH AND WILDLIFE ILLEGALLY KILLED, INJURED OR POSSESSED

STATEMENT OF NEED AND REASONABLENESS

January 22, 1991

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Statement of Need and Reasonableness

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Appendix A - Report by Dr. Daniel R. Talhelm, Recommended Values for Computing Fair Restitution to the Citizens of Minnesota for Fish and Wildlife Illegally Killed, Injured or Possessed.

Appendix B - Department of Natural Resources Policy Directive No. 6, Claims and Penalties for Damage to Wildlife by Pollution.

INTRODUCTION

Restitution can be defined as providing compensation for something that has been lost or taken away. In a legal sense, restitution is a payment to an injured party to restore lost values, as opposed to a criminal penalty designed to punish a violator. Appendix A[1] provides a more comprehensive discussion of the concept of restitution and specifically how it is applied to fish and wildlife.

Minnesota's fish and wildlife resource is owned by the state for the benefit of its citizens[2]. Heretofore, these statutes and several others[3], as well as a Department of Natural Resources (DNR) Policy Directive[4] have served as the legal basis for attempts to collect compensation for fish and wildlife lost as the result of illegal acts. The state has successfully sought compensation for fish and wildlife damages dating back to the 1930's. In 1989, the

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[1]Talhelm, D.R., 1990. Recommended values for computing fair restitution to the citizens of Minnesota for fish and wildlife illegally killed, injured or possessed. Report to Minnesota Dept. of Natural Resources. Incorporated herein by reference.

[2] Minn. Stat. §§ 97A.025 and 97A.501

[3] Minn. Stat. § 115.071, subd. 3(b) authorizes the state to collect compensation for any loss or destruction of wildlife, fish or other aquatic life caused by the discharge of pollutants regulated by the Minnesota Pollution Control Agency.

Minn. Stat. § 18B.23, subd. 4 (1988) (repealed, 1989 c 326 art 5 s 53, and replaced by Minn. Stat. § 18D.111, subd. 1)) is a similar provision concerning the illegal use, storage, handling, or disposal of pesticides.

[4] Department of Natural Resources Policy Directive No. 6, Claims and Penalties for Damage to Wildlife by Pollution (Appendix B).

legislature passed new law, Minn. Stat. §§ 97A.341 and 97A.345, specifically authorizing the state to collect restitution for wild animals killed, injured or possessed in violation of the game and fish laws.

Minn. Stat. § 97A.345(a) states that the commissioner of natural resources may, by rules adopted under the administrative procedures act[5], prescribe the dollar value to the state of species of wild animals. Factors to be considered include the value to other persons to legally take a wild animal (hunting, trapping and fishing values), replacement costs, and the intrinsic value of the animal to the state. Minn. Stat. § 97A.345(b) states that the values so prescribed constitute *prima facie* evidence of the value of an animal to be collected as restitution from violators. Money collected as restitution is to be placed in the game and fish fund[6] and used by the state for the replacement, propagation or protection of wild animals.

Assigning a dollar value to a species of wild animal is a difficult task. For most species, no direct markets exist to provide guidance. For certain managed species, estimates of replacement costs are available. However, other aspects to be considered such as the values to users of wild animals and intrinsic values are complex and difficult to measure. Some people are philosophically opposed to the concept of placing a dollar value on a wild animal. Nonetheless, state law now requires the payment of restitution[7]. State courts are already

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[5] Minn. Stat. Ch. 14

[6] Minn. Stat. § 97A.341, subd. 5.

[7] Minn. Stat. § 97A.341.

seeking restitution and frequently request guidance from the DNR on the dollar values that should be collected. In order to achieve a fair and consistent application of the restitution provisions of the game and fish laws, a schedule of restitution values for the species covered by the law is needed.

Recognizing the difficulty in developing a list of restitution values, the DNR solicited outside assistance. In August 1989, the DNR published a notice for request for proposals for contract services. In response to this notice, seven proposals were received. The DNR subsequently selected Daniel R. Talhelm, Ph.D., a natural resources economist, to develop a list of recommended restitution values. The contract also called for a complete review of the literature pertaining to fish and wildlife values and a survey of the values used for restitution by other state, federal and provincial agencies and the methods used to develop those values. Using a variety of valuation methods and input from three public meetings, Dr. Talhelm provided the DNR with a schedule of recommended values. This schedule and an accompanying report that fully explains the concept of restitution and the methods used to develop the recommended values is presented in Appendix A. The DNR also published a notice of intent to solicit outside opinion on developing the restitution values in September, 1990[8]. No responses were received.

The DNR is confident that the values recommended by Dr. Talhelm reflect the state of the art in the economic evaluation of fish and wildlife. His study drew upon a variety of sources

[8] 15 S.R. 700

of information, and he attempted to tailor the recommended values to Minnesota. However, there is a vast store of knowledge and information within the DNR to which Dr. Talhelm did not have ready access. Biologists in the Division of Fish and Wildlife have extensive research and management experience with the species under review. Division of Enforcement staff have a thorough knowledge of legal and procedural issues and how the values are likely to be perceived in the courts. Therefore, Dr. Talhelm's report was reviewed extensively by DNR staff to ensure that the prescribed dollar amounts adequately and reasonably value the state's fish and wildlife. The result of this review is the schedule of values that the DNR proposes to adopt by rule. Many of the values recommended by Dr. Talhelm are proposed to be adopted unchanged; some values were modified slightly to achieve consistency within groups of similar species. For these species, Appendix A provides a thorough discussion of how the values were derived and no further explanation is needed. Some of Dr. Talhelm's values were changed significantly following DNR review. These changes and the justification for the proposed values will be discussed on the following pages.

GENERAL PROVISIONS

6133.0010 to 6133.0020 STATUTORY AUTHORITY AND DEFINITIONS

General Minn. Stat. § 97A.341 specifies the groups of species for which restitution may be collected. The proposed restitution values rule prescribes values for those species only and they are defined in the "Definitions" part of the rule. Sec. 97A.341 states that additional species may be added by order of the commissioner following public hearings and notification of the chairs of the environment and natural resources committees in the senate and house of representatives. Upon adding new species, restitution values for those species would be prescribed by amending the rules now under consideration. Stated succinctly, new species may eventually be added by commissioner's order; values for those species would then be prescribed by further rulemaking.

Subp. 11 Trophy animal Refer to page 9 of Appendix A for a discussion of trophy animals and the rationale for placing higher values on these specimens. The DNR concurs with the need to increase the values of trophy specimens; however, we used somewhat different procedures than those recommended by Dr. Talhelm to specify trophies and assign values.

For deer, elk, caribou and moose, Dr. Talhelm recommended that $50 for each antler point be added to the base restitution value. The DNR does not believe this is an accurate way to value trophy animals because deer often have small antlers with several points. Also, animals with non-typical antlers may be significantly over-valued using this method. As an

alternative, we elected to specify trophy animals using the well known, widely accepted methods established by the Boone and Crockett Club and Pope and Young Club for scoring big game trophies[9]. These clubs are sportsmen's organizations that score and maintain records of trophy game. The Boone and Crockett Club is for game taken by firearm; the Pope and Young Club is for game taken by archery and has lower minimum qualifying scores. The scoring methods used by both of these organizations are essentially the same and involve measurements of the size, mass and symmetry of an animal's antlers. Scoring is done by trained scorers. The DNR has elected to use the Pope and Young minimum qualifying scores as the baseline for designating trophy animals[10] Under the official scoring system, the antlers are not measured until after a 60-day drying period to allow for shrinkage. Because this delay could hamper legal proceedings following game law violations, the proposed rule states that antlers may be scored at any time, even while "green" or undried. To adjust for this, the trophy qualifying scores in the rule are somewhat higher than the Pope and Young minimums.

Since there are presently no caribou populations in the state and no hunting season, the proposed rule does not specify a trophy status for caribou.

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[9] Records of North American Big Game, Ninth Edition, Nesbitt, W.H. and J. Reneau, eds., The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.

[10] Minimum Pope and Young qualifying scores are as follows: typical deer - 125, nontypical deer - 150, moose - 135, elk - 240 (Bowhunting Big Game Records of North America, Third Edition, Kline, L., ed., Pope and Young Club, 1987, 392pp.)

Dr. Talhelm's report does not have any provisions for collecting greater restitution for trophy-sized black bear. However, the DNR believes it is appropriate to do so because larger bears are more highly valued by hunters. The designation of a trophy bear in the proposed rule is based on the Pope and Young minimum qualifying score for skull measurements, adjusted for the fact that skulls may be measured before drying[11].

RESTITUTION VALUES

6133.0030 GAME BIRDS

Most of the values recommended by Dr. Talhelm for game birds are proposed to be adopted unchanged or with minor adjustments to achieve consistency within groups of similar species. The DNR proposes significantly different values for a few of the species. Dr. Talhelm's research indicated a value of $200 for wild turkey. For a dedicated and growing population of turkey hunters, the experience of turkey hunting can be equated with that of deer or other big game, which have recommended restitution values of $300 - $1000. On the basis of the DNR's known management costs (including replacement costs) for this species and an assessment of the values associated with turkey hunting in Minnesota, we propose a restitution value of $400.

Dr. Talhelm recommended a value of $100 for canvasback and redhead ducks. Due to the fact that there is a closed hunting season on canvasback and because of recent indications of

[11] Pope and Young minimum qualifying score for black bear is 18 (*Id.*).

deteriorating habitat conditions along the Mississippi River, which supports high concentrations of canvasback during migration, we propose a value of $200. Conversely, redheads may be taken during the waterfowl hunting season and are not so susceptible to catastrophic losses at selected concentration points during migration. Therefore, the proposed rule includes redheads along with other ducks at a value of $50.

The DNR proposes a restitution value of $3000 for trumpeter swans rather than the value of $2000 recommended by Dr. Talhelm's study. Trumpeter swans are presently considered extirpated in the state and the DNR has an ongoing effort to restore a breeding population. The proposed increase in value reflects our known costs for raising and re-introducing birds to the wild.

The Talhelm report recommends a value of $25 for mute swans. This is a non-native species, artificially introduced into the state. It aggressively drives native waterfowl away from nesting areas. Unlike native swans, the mute swan is not federally protected[12]. For these reasons, the DNR has elected not to assign a restitution value to mute swans and this species is therefore omitted from the proposed rule.

6133.0040 BIG GAME

The proposed restitution value for deer represents a $100 increase over the amount recommended by Dr. Talhelm's study. This adjustment reflects consideration of the DNR's

[12] 50 CFR, Chap. 1, § 10.13

management costs for this species, extensive DNR experience with the public's perceptions of the values associated with deer hunting and observation, and statistics on the economic contribution of deer hunting to the state's economy.

The proposed values for elk and caribou were raised from Dr. Talhelm's recommended value of $700 to $1000. Minnesota has an extremely limited elk population and the DNR believes that Dr. Talhelm's assumptions on the existence and option values are too low and that these animals warrant a higher value. There is presently no caribou population in the state and there have been discussions concerning caribou reintroduction efforts. If reintroduction of caribou is attempted, management costs will be very high and the proposed restitution value reflects this.

The DNR believes that Dr. Talhelm's recommended value for moose undervalues this species somewhat. The proposed restitution value for moose reflects DNR experience with habitat management for moose and the values associated with moose hunting and observation.

The value for pronghorn antelope was increased to reflect the fact that they very rarely occur in Minnesota and the values associated with this species were judged to be similar to those of deer.

For black bear and many of the small game (furbearers), Dr. Talhelm recommended that in addition to the base restitution value, the state should collect the market value of the pelt of

the animal that was illegally taken. Under current practice, the state routinely sells any marketable pelts that are confiscated and thus receives restitution for the value of the pelt. Therefore, the proposed rule omits reference to the "fur market value."

6133.0050 SMALL GAME

The wolverine presently has a very low population in Minnesota and is listed by the state as a species of special concern[13]. The DNR is also of the opinion that very high aesthetic values are attached to the wolverine by the public. The DNR believes that the $500 value recommended by Dr. Talhelm for this species does not adequately represent these values, hence we propose a value of $1000.

The proposed values for badger, otter, pine marten and fisher were increased over the amount recommended in the consultant's report. These increases reflect the DNR's perception that these species have higher intrinsic values in Minnesota than assumed by Dr. Talhelm. The proposed value for lynx was also raised for this reason, plus the fact that the population of this species in Minnesota is low and may be declining.

6133.0060 to 6133.0070 ENDANGERED AND THREATENED SPECIES

For threatened and endangered (T&E) species, the DNR's proposed values diverge significantly from those recommended by Dr. Talhelm. The values for T&E species recommended by Dr. Talhelm range from $500 to $100,000, with the majority of the listed

[13] Minn. Stat. § 84.0895; see Minn. Rules part 6134.0200

species valued at $10,000 or more. The DNR does not necessarily disagree with these findings; a peregrine falcon may very well be worth $100,000 to the citizens of Minnesota. However, we question whether such high values would be perceived as reasonable and we suspect that in most cases, the courts would not be likely to assess such penalties. Also, the DNR has active management and reintroduction efforts underway for some of the T&E species and the replacement costs for these species are known. In light of these factors, the DNR recommends restitution values for T&E species of $500 to $4000. While these values may not represent full restitution according to Dr. Talhelm's study, it is our belief that they are reasonable, will ensure a fair and consistent application of the restitution provisions in the courts, and are sufficient to deter illegal taking.

The proposed rule also departs from Dr. Talhelm's recommendations in that it specifies values for general groups of T&E species rather than for each listed species. This was done to avoid having to amend the restitution rule each time the T&E list is updated. (The list is evaluated and may be changed every three years).[14]

6133.0080 GAME FISH

The values for most game fish in the proposed rule do not depart significantly from the base values recommended by Dr. Talhelm. Some minor changes were made to achieve consistency; most of the popular gamefish (walleye, bass, northern pike, trout) are valued at $30. The proposed rule differs somewhat in its treatment of "trophy" fish from the

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[14] Minn. Stat. § 84.0895, subd. 3.

recommendations in Dr. Talhelm's report. Dr. Talhelm suggested that trophy sized fish could be designated for each species which would be approximately the 99th percentile in length for a typical year's catch. He suggested that fish exceeding this trophy size should be valued at ten times the base value for the species. The DNR feels that this method is too extreme and fails to properly value larger fish that fail to meet the 99th percentile cut-off. Therefore, the proposed rule utilizes a more graduated method that specifies a "quality" size for each species and adds $10 to the base value for every inch over the quality size. The designated quality sizes are based on a system developed to assess the quality of fish stocks for angling[15] . Some minor adjustments were made to this system, based on the judgment of DNR fisheries specialists, to make it more applicable to Minnesota fish populations.

The proposed rule also modifies Dr. Talhelm's recommendations for the valuation of muskellunge. In the interest of simplification, the number of size categories is reduced and single values are assigned to each size category rather than dollars/inch. Large muskellunge warrant high restitution values because of their rarity and the difficulty in catching them.

The proposed rule specifies a value of $500 for paddlefish rather than the $200 recommended by Dr. Talhelm. This increase is justified due to the low population status of this species and it's the DNR's opinion that paddlefish have values similar to sturgeon, which are valued at $500.

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[15]Gablehouse, D.W. 1984. A length-categorization system to assess fish stocks. North American Journal of Fisheries Management 4:273-285.

OTHER CONSIDERATIONS

FISCAL NOTE

If the adoption of a rule will require the expenditure of public money by local public bodies, the adopting agency may be required to prepare a fiscal note giving an estimate of the total cost to all local public bodies[16]. The rule governing fish and wildlife restitution values will not require the expenditure of public money by local public bodies, thus no fiscal statement is required.

AGRICULTURAL LAND IMPACTS

If the adoption of a rule will adversely affect agricultural land, the adopting agency is required to comply with state policy on the preservation of agricultural land and is subject to certain review and notification procedures[17]. The rule governing fish and wildlife restitution values will not affect agricultural land.

SMALL BUSINESS CONSIDERATIONS

When an agency proposes a new rule which may affect small businesses, the agency is required to consider several methods for reducing the potential impact[18]. The rule governing restitution values for fish and wildlife will have no effect on small businesses.

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[16] Minn. Stat. § 3.982 and § 14.11, subd. 1.

[17] Minn. Stat. §§ 14.11, subd. 2 and 17.80-84.

[18] Minn. Stat. § 14.115.

Approved by:

Roger Holmes
Roger Holmes, Director
Division of Fish and Wildlife

2/4/91
Date

Leo Haseman
Leo Haseman, Director
Division of Enforcement

2/4/91
Date

APPENDIX A

Report to the Minnesota Department of Natural Resources in fulfillment of contracted services:

Recommended Values for Computing Fair Restitution to the Citizens of Minnesota for Fish and Wildlife Illegally Killed, Injured or Possessed

by

Daniel R. Talhelm, Ph.D.
Resource Econometrics

RECOMMENDED VALUES FOR COMPUTING FAIR RESTITUTION TO THE CITIZENS OF MINNESOTA FOR FISH AND WILDLIFE ILLEGALLY KILLED, INJURED OR POSSESSED

--Required Species--

Recommended by: Daniel R. Talhelm, Ph.D.
Natural Resources Economist
President, Resource Econometrics
531 Gainsborough Drive
East Lansing, MI 48823

SPECIES		BASE VALUE
Pheasant		$ 55.00
Grouse, Quail, Partridge except Greater Prairie Chicken,		$ 45.00
Sharptail Grouse,		$ 500.00
Spruce Grouse		$ 60.00
Woodcock, Snipe, Rails, Gallinules		$ 30.00
Ducks and Mergansers except Redhead, Canvasback		$ 40.00
Coot		$ 100.00
Geese, Brant		$ 30.00
Turkey (wild)		$ 45.00
Swans except Trumpeter Swans, Mute Swans		$ 200.00
		$ 150.00
		$2000.00
		$ 25.00
Deer		$400.00+
Elk, Caribou		$700.00+
Moose		$700.00+
Pronghorn Antelope		$ 300.00
Rabbit, Hare, Fox Squirrel Gray Squirrel		$ 20.00
Foxes	FMV+	$ 30.00
Wolverine	FMV+	$ 500.00
Badger	FMV+	$ 30.00
Otter, Fisher	FMV+	$ 60.00
Marten	FMV+	$ 60.00
Raccoon, Mink, Beaver	FMV+	$ 30.00
Muskrat	FMV+	$ 30.00
Opossum	FMV+	$ 10.00
Black Bear	FMV+	$ 400.00
Lynx	FMV+	$ 200.00
Bobcat	FMV+	$ 100.00
Cougar		$1000.00

SPECIES		BASE VALUE
Walleye, Sauger, Northern Pike		$ 30.00
Black Bass		$ 20.00
Yellow Perch, Bluegill, Sunfish, Pumpkinseed		$ 5.00
Rock Bass, Warmouth		$ 3.00
Catfish		$ 10.00
except Flathead Catfish		$ 25.00
Muskellunge	**length** **value**	
	0"-9" $1 per inch	
	10"-19" $2 per inch	
	20"-29" $4 per inch	
	30"-39" $6 per inch	
	40"-49" $10 per inch	
	50" + $1000 + $100 per each inch greater than 50"	
Crappie		$ 5.00
White Bass, Yellow Bass		$ 3.00
Chinook Salmon		$ 50.00
Coho and Atlantic Salmon		$ 30.00
Kokanee, Pink, and Other Salmon		$ 25.00
Lake Trout, Splake		$ 50.00
Brook, Brown, and Rainbow Trout	under 20"	$ 20.00
	20" or more $10 for each inch greater than 20"	$ 50 plus
Paddlefish		$ 200.00
Lake Sturgeon		$ 500.00
Shovelnose Sturgeon		$ 200.00
Hybrids of above fish (morphologically)	Same as value of nearest parent	
Cyprinidae (minnows)		$ .10
Umbridae		$ .50/lb
Suckers, Redhorse and Other Catastomidae (12" or less)		$ .50/lb
Bullheads		$ .50
Ciscoes, Chubbs, Herring		$ .50/lb
Lake Whitefish		$ 1/lb
Goldeyes, Mooneyes (7" or less)		$ .50/lb
Leeches	Market Value	

ENDANGERED SPECIES	BASE VALUE
Peregrine Falcon	$100,000.00
Sprague's Pipit	$ 90,000.00
Burrowing Owl	$ 90,000.00
Chestnut-collared Longspur	$ 90,000.00
Piping Plover	$ 90,000.00
Higgin's Eye	$ 10,000.00
Fat Pocketbook	$ 10,000.00
Five-Lined Skink	$ 10,000.00

THREATENED SPECIES		BASE VALUE
Bald Eagle		$20,000.00
Gray (Timber) Wolf	FMV+	$ 3,000.00
Loggerhead Shrike		$ 5,000.00
Blanding's Turtle		$ 500.00
Wood Turtle		$ 500.00

ADJUSTMENTS:

1. The recommended restitution value for loss of designated trophy-size fish is 10 times the listed base value. This clause will not apply unless trophy sizes are specifically designated as part of this rule. In general, a trophy would be defined as fish greater than about the 99th percentile in length for a typical year's sport harvest in Minnesota.

2. These values should be adjusted periodically for changes in value and changes in animal population. Public should be notified of low or declining populations and changes in values so the public can respond appropriately.

3. It would be acceptable to the public to use the current market value of a captured animal (if a legal commercial market exists) as the restitution value if this value is greater than the base value listed, as an alternative to the base value listed. However, this amount may be greater than fair compensation.

4. I recommend that appropriate animals be designated as rare in certain regions of Minnesota, and corresponding higher values designated. Restoration and colonization efforts of which the public is notified would automatically designate rare populations. In such cases the state may demand payment for actual replacement costs or special designated values for those locations. For instance, turkey trapping and transplanting costs $150 to $500 per bird, so fair restitution for turkeys illegally taken in areas actively being colonized would be $150 to $500, plus any additional administrative costs of replacement.

5. Minnesota and Federal Endangered Species not otherwise listed

Mammals and Birds	$90,000.00
Other Animals	$10,000.00

Minnesota and Federal Threatened Species not otherwise listed

Mammals and Birds	$ 5,000.00
Other Animals	$ 500.00

FOOTNOTES:

FMV= Fur or Pelt Market Value

Values per pound could be converted to values per fish by multiplying by average weight of harvested fish.

"+" means add $50 per antler point for deer, elk, caribou, and moose. The maximum addition should be $800 (16 points or more).

RECOMMENDED VALUES FOR COMPUTING FAIR RESTITUTION
TO THE CITIZENS OF MINNESOTA
FOR FISH AND WILDLIFE ILLEGALLY KILLED, INJURED OR POSSESSED

--Species for which values not required under ML 1989: 298 (3a)--

Recommended by: Daniel R. Talhelm, Ph.D.
Natural Resources Economist
President, Resource Econometrics
531 Gainsborough Drive
East Lansing, MI 48823

SPECIES		BASE VALUE
Herons, Egrets, Bitterns		$ 100.00
Pelicans		$ 75.00
Cormorants		$ 20.00
Grebes		$ 50.00
except Horned Grebe		$ 200.00
Loons		$ 200.00
Whooping Crane		$1,000,000.
Sandhill Crane		$ 200.00
Hawks, Owls, Vultures, Kestrel		$ 100.00
Osprey, Gyrfalcon, Prairie Falcon, Merlin, Golden Eagle		$ 500.00
Curlew, Whimbrel, Avocet		$ 50.00
Godwit		$ 50.00
except Marbeled Godwit		$ 200.00
Rock Dove (Pigeon), House (English) Sparrow, Starling		$ 0.00
All other native wild birds		$ 10.00
Coyote	FMV+	$ 20.00
Ermine, Long-Tailed and other Weasels	FMV+	$ 30.00
Skunks	FMV+	$ 5.00
except Spotted Skunk	FMV+	$ 200.00
Ground Squirrels		$ 5.00
Pocket Gophers		$ 2.00
Native Mice, Voles, Moles, Shrews, and other rodents not listed separately		$ 2.00
Norway Rat, House Mouse		$ 0.00
Bats		$ 20.00
Porcupine	FMV+	$ 5.00

SPECIES	BASE VALUE
Carp, Goldfish	$ 0.00
Menominee Whitefish	$ 1/lb
Snapping Turtles	$ 30.00
Other Turtles	$ 5.00
Amphibians	$ 2.00
Lizards, Garter Snakes	$ 2.00
All Other Snakes	$ 5.00
Other Animals of Special Concern, not listed separately	$ 100.00

ADJUSTMENTS:

1. These values should be adjusted periodically for changes in value and changes in animal population. The public should be notified of low or declining populations and changes in values so the public can respond appropriately.

2. Acceptable to the public to use the current market value of a captured animal (if a legal commercial market exists) as the restitution value if this value is greater than the base value listed, as an alternative to the base value listed. However, this amount may be greater than fair compensation.

FOOTNOTES:

FMV = Fur or Pelt Market Value.

Minnesota Animals of Special Concern (if legally designated) not otherwise listed

Mammals and Birds	$ 200.00
Other Animals	$ 100.00

RECOMMENDED VALUES FOR COMPUTING FAIR RESTITUTION TO THE CITIZENS OF MINNESOTA FOR FISH AND WILDLIFE ILLEGALLY KILLED, INJURED OR POSSESSED

By Daniel R. Talhelm
Resource Econometrics

For Ecological Services Division
Minnesota Department of Natural Resources
St. Paul, MN
July, 1990

I. INTRODUCTION

Restitution is defined as giving back, replacing, or restoring something that has been lost or taken away, or reimbursing someone for a loss.

Fish and wildlife illegally taken can usually not be exactly replaced, so courts usually require monetary restitution--reimbursement--instead. Monetary restitution is a dollar amount, called "damages", paid to the victims of an illegal act, such that the victims could replace or restore any items lost, or at least regain an equivalent amount of "well-being."

What levels of monetary "damage" payments would fairly compensate the public for lost fish and wildlife? This is a vexing question. Normally, courts determine damages from current market prices or equivalent values. However, by tradition and law, wild fish and wildlife cannot be bought and sold, so no such prices or other reference points exist. Commercial harvesters can sell harvested fish, fur, and even live minnows, turtles and snakes; landowners can charge hunters, anglers, and bird watchers for access to their lands; hunters, anglers, and watchers buy gasoline and equipment to facilitate their uses; cultivated fish and wildlife can be sold; and governments require license and permit fees for certain activities. Yet, none of these dollar amounts directly reveal the values of fish and wildlife in the wild.

Because courts have so little information upon which to base restitution damages, 33 states have established specific guidelines. These guidelines vary greatly from state to state, and many have little objective basis or are based on inappropriate information. The Legislature recently asked that these values be established for Minnesota as well (Minnesota Laws, 1989, Chap. 298). This paper reports our review of the latest scientific information on values appropriate for restitution, and recommends a set of values based on this information.

In recent years economists have been estimating the different sorts of benefits people derive from several species of fish and wildlife under a few specific circumstances. Economists estimate what the markets and economic values would be like if free markets existed. This project has used the latest economics findings of this nature to derive monetary restitution values more rigorously than previously possible. However, significant gaps remain in the information needed. A fairly complete set of scientifically estimated economic values is available for only a few species. We estimated values for those species as directly from the findings as possible. However, even in

those cases important gaps remain. We had to rely on economic theory and indirect findings to fill those remaining gaps. Then we relied on public comment to estimate the relative public values of the many remaining species for which few research findings are available (see appended summary of public comments). This paper presents our findings and recommendations, and explains our reasoning and methods.

These recommended values (see list) generally fall near the middle of the range of values used by the 33 other states, except we recommend considerably higher amounts for threatened and endangered species, and for certain trophy-sized animals. We also based our recommended restitution values for fish on the public values lost, rather than on replacement costs as used by several states. A detailed listing of restitution values and policies of other states, federal agencies, and Canadian provinces has been provided to the Minnesota DNR by this project (O'Brien and Talhelm, 1990).

THE LEGAL AND ECONOMIC BASIS FOR RESTITUTION

Restitution is a facet of civil law. Civil law is the body of law concerning private rights and conduct between individuals--regulating contracts, for example--and may settle disputes by requiring individuals to pay restitution to other individuals. Criminal law, on the other hand, pertains to injuries to the public welfare--"the state"--so does not involve restitution. Restitution is specifically intended to restore the victim's property, rights, or well-being to the level at which it would have been without a wrongful act. Usually the victim is compensated by a dollar amount judged to be as close to the monetary value of the loss as possible, such that the victim is "made whole" (legal jargon). The victim then is free to replace the item or use the money in other ways.

Fish and wildlife in Minnesota are "owned" collectively by the individual citizens of the state. The state government serves as trustee, administering fish and wildlife affairs on behalf of these citizens. This arrangement permits the state, acting on behalf of all individual citizens, to demand restitution under civil law from anyone who illegally kills, injures, or possesses fish or wildlife.

The guilty party pays the state a dollar amount of damages which would either permit replacing the animals or, if there were no transactions costs, theoretically permit the state to fairly compensate the citizens in money for their loss. However, instead of distributing these collections to Minnesota citizens in dollars, the state is obligated under Minnesota law to use that money to replace, propagate, or protect wild fish and wildlife (Minnesota Laws 1989, Chapter 298, Sec. 1 and 2). Presumably the benefits of using the restitution payments in these ways will compensate the citizens in an amount equal to the benefits lost.

Restitution has a relatively precise economic meaning as well. In economics jargon, restitution would have to restore the victim's "level of utility" at least to the level at which it would have been without the loss. In other words, the victim either would have to be indifferent between (a) the bundle of rights and goods the victim would have had, had the loss not occurred, or (b) the same bundle of rights and goods minus the losses and plus the monetary compensation, or would have to prefer (b) to (a).

To examine economic interpretations of the various forms of restitution, first assume that restitution occurs immediately after the loss, so the lapse of time does not complicate our explanation. First, exactly replacing or restoring a lost or damaged item would clearly satisfy the economic criterion: The victim would have exactly the same bundle after restitution as before the loss.

A second option is to pay the victim enough to buy a suitable replacement. This would satisfy the criterion if the lost or injured good is a replaceable market good. Fair market value would be sufficient for the victim to buy a replacement. If the victim's preferences have changed, he/she could possibly even improve his/her utility level by using the money in ways other than buying a replacement.

Third, if the item is not accurately priced in the market economy, monetary or in-kind restitution would have to be based on the item's utility relative to money or market items. In some cases, as with most fish and wildlife values as we will see below, it is possible to estimate what the market prices would be if a market existed. Estimated market prices for non-market goods are appropriate because freely determined market prices or their represent the collective judgment of the public regarding relative values of things.

Finally, if the item is not replaceable, monetary or in-kind restitution may have to be based on judgments of relative utilities (values) of items. Here, voluntary exchange rates and estimated market prices (as in the third case above) provide our only available objective economic evaluation of relative utility. Actual market prices might be available for irreplaceable items, such as original art. However, these may not meet our economic criteria. Market prices of unique items may be unsatisfactory because the market price is determined by the second highest willingness to pay, rather than the highest. The person willing to bid highest only need outbid the next highest bidder. The winning bidder's value (willingness to pay) could be much higher, so the going price would undervalue that person's loss. The monetary restitution required to return the victim's full utility level would be either the victim's maximum willingness to pay (WTP) or his/her minimum willingness to voluntarily accept (WTA) payment do forego the item. Until recently, economic theory has assumed that WTP equals WTA, but new evidence shows that WTA to give up a good one possesses is likely to be considerably higher than WTP to obtain the same good. (This point will be discussed further below.) Since restitution involves loss of a possession, WTA would be more appropriate than WTP. Here, the court must judge the victim's minimum willingness to voluntary accept compensation: the point at which the victim is indifferent or "made whole" by the restitution.

Now, consider the time dimension. Restitution is usually paid well after the loss. If the victim restored the loss immediately, he/she would not have gone without the services of the item for long. However, the money or time spent to replace the item could have been used elsewhere. The going price of money over time is the interest rate. Therefore, the total loss in this case is the replacement cost plus interest (at the interest rate paid for borrowed funds or the interest rate foregone) on the cost of replacement for the period until restitution.

On the other hand, if the loss is not restored immediately, the victim will have had to go without the services of the item. In this case, restitution

would include compensation for the loss of services, plus replacement cost. Presumably this compensation will be less than the interest rate the victim would have paid or foregone to replace the item earlier. Otherwise, the victim would have found it in his/her best interest to replace the item.

Finally--and most relevant for fish and wildlife--if the item is not replaced, restitution would entail compensating the victim for permanent loss of the item. This compensation could be based on market value or WTA, as discussed above, or on the value of the stream of services lost. The two should be equal, considering the fact that the values of future services would be discounted to the present (the date of the loss). Full restitution would include this compensation plus the interest the victim could have earned had restitution been paid immediately instead of later.

RESTITUTION AND PENALTIES ARE SEPARATE AND ADDITIVE

Restitution is NOT intended as a deterrent, penalty, or punishment. Those are functions of criminal law--for crimes against "the state" or the general public welfare. Criminal law establishes penalties to punish people for harming the general public welfare, and to discourage people from doing so. The size and nature of penalties are often based on the perceived amount of disincentive necessary and retribution appropriate for the harm to the public welfare. Any monetary penalties are usually used to improve the public welfare, not to compensate individuals.

A single illegal act may violate both civil and criminal laws, so a convict may have to pay both restitution and penalties of different amounts, calculated in different ways. Restitution is separate and additive to criminal fines and punishment. Thus, in estimating restitution values, we must carefully separate the notion of punishment for the crime from the notion of restitution.

In estimating the above values we recommend for restitution, we strictly limited ourselves to either finding a level of monetary compensation equivalent to the value lost from the decreased abundance of fish and wildlife, or finding the cost of actually replacing lost fish and wildlife. We did not consider possible values for criminal fines or punishment.

II. REPLACEMENT OF FISH AND WILDLIFE

REPLACEMENT COSTS

In some cases fish and wildlife can be replaced with practically identical animals (no two animals are exactly the same). For instance, newly stocked fish can often be restocked with fish of the same kind and size. Similarly, turkeys or other wildlife can be trapped from wild stock and released at other locations to practically identically replace similar newly-released wildlife that had been illegally taken.

Such replacement imposes two kinds of costs: (1) direct costs, such as the costs of growing, trapping, caring for, transporting, and releasing the animals, and (2) opportunity costs, such as the value of the fishing or hunting opportunities foregone because the animals could not be stocked elsewhere or could not remain at locations from which they had been trapped. Direct costs can be estimated for the particular circumstances by careful cost accounting. Opportunity costs are simply the current competitive market

prices for like animals, such as the wholesale price for identical hatchery-raised fish. If market prices are not available, the opportunity cost is either the production costs of reared animals, or the net value of the lost recreation and other benefits that would have accrued at the location from which the animals were removed or not stocked. For instance, the opportunity cost of transplanting turkeys from another state (or from elsewhere in Minnesota) to begin a new colony in Minnesota is the foregone value of having the turkeys at their original location in the other state. Similarly, the opportunity cost of reducing turkey harvesting to allow them to colonize new areas by themselves is the value of the foregone recreation.

If fish or wildlife are actually replaced, the fair dollar value of restitution would usually be the total of direct costs and opportunity costs of replacement. However, this is not always the case. If replacement costs exceed the value to the public of having the replaced fish or wildlife, it would be more economically efficient to compensate the public for its loss than to replace the animals. There is no economic justification for replacing something that cost more than its value. For example, if a garter snake illegally killed has a value in the wild of only $2.00, it would make little sense to spend, say, $5.00 to actually place one back in the wild. The $2.00 in cash restitution, used for habitat rehabilitation or other purposes, would be just as valuable to the public as $5.00 in restitution used to replace the snake.

Further, for replacement to serve as fair restitution, it must precisely replace what was lost. Only rarely is this possible. For instance, game farm birds often lack behavioral and survival instincts of wild birds. Thus, a farm-raised pheasant may not precisely replace a wild pheasant because of differences in longevity, reproduction, and/or ability to provide sport hunting opportunities. Perhaps it would be fair to use more than one game farm pheasant to replace or substitute for those attributes provided by one wild pheasant, but the necessary ratio of farm to wild birds is not readily apparent. Further, the necessary ratio would vary, depending farm-rearing methods and brood stock used. For such reasons, direct replacement is often not satisfactory. The costs of raising fish and wildlife are not necessarily even a good indicator of replacement costs, since one-for-one may not be an equal replacement.

WHEN TO USE REPLACEMENT COSTS

The recommended restitution values listed above do not consider replacement costs unless specifically listed. These recommendations are based on value lost to the citizens caused by reduced animal populations, rather than on the cost of physical replacement.

However, if the animals can be precisely replaced, we recommend doing so and basing restitution payments on the actual cost incurred for replacement, including opportunity costs. In some instances, a portion of the above listed restitution values should be added to replacement costs. Guidelines are as follows:

a. For instances in which fish or wildlife are actually replaced within two or three months of their loss, we recommend basing restitution on the actual cost incurred for replacement, including opportunity costs, instead of the above listed restitution values. We assume here that losing the use of a few

animals for two to three months is unimportant if they are fully replaced by the end of that period.

b. If for some reason this short-term loss is important, then the value lost should be included along with replacement cost. For instance, the short-term loss of a game animal just prior to the hunting season would likely be important to hunters. Therefore, a portion of the restitution values listed above should be added to the replacement cost to compensate the public for its loss.

c. If the period between loss and replacement is longer than two or three months, but still less than the time required for natural replacement, restitution should include both replacement cost and compensation for lost uses during the period between loss and replacement--a portion of the values listed above.

d. If the period between loss and replacement is longer than about 75% of one generation period for the species, the full restitution value recommended above should be used. Replacement would be essentially redundant under these circumstances, because natural processes should have nearly replaced the animal by then. Further, the value lost in the interval between loss and replacement would be the same as the above recommended restitution value.

We also recommend that the total of replacement costs and compensation never exceed the restitution values listed above unless justified by unusual circumstances. If they did, the guilty party would be paying more than fair compensation for the loss. In other words, the restitution values list represents the total value of the complete loss of each animal. Payments greater than that are not economically justified.

Standard replacement cost tables, such as the American Fisheries Society's "Monetary Values of Freshwater Fish" (AFS Special Publication 13 (1982)), could be used as an expedient means of estimating replacement cost. However, replacement costs do not estimate the lost recreation values and other public values incorporated into the above list of restitution values. Therefore, replacement costs are inappropriate for restitution unless the animals are actually replaced within a short time after the loss.

III. RESTITUTION AS REIMBURSEMENT

ASSUMPTIONS ABOUT THE ANIMALS LOST

A. ONLY ONE OR A FEW ANIMALS LOST: We assume, in estimating the restitution values above, that only a single fish or other animal is lost from Minnesota's entire population of that species. Thus, we adopted a set of related assumptions. First, we assume that the animals are quickly replaced by natural reproduction and by slightly increased growth of the remaining local population. For this purpose, we usually assume for practical reasons that loss of one animal proportionately reduces the human uses and other values of the population for two years. This is a compromise between the one- to three-year growth and maturation period for most species, plus an average 6 months to start regeneration, and, on the other hand, the fact that some of the benefits are replaced before the end of this period. For slowly growing species, such as sturgeon and lake trout, we assume that all uses are completely lost for a period equal to half of the average age of harvested animals for the species, then ends. This assumption of quick natural replacement may not hold for losses of more than a few animals.

Second, we assume that the loss does not threaten the existence or vigor of the remaining population, except for threatened and endangered species and, to a lesser extent, other species that have very low local populations, such as species "of special concern." Therefore, we assume "existence values" and "option values" are not affected by loss of a single animal except for those latter species with "low" populations. The concepts of existence and option values will be explained below. Simply put, this assumption means that "intrinsic" values provided by the mere existence and availability for possible future use of most animal populations is usually unaffected by the loss of a single individual. Again, this assumption might not hold for larger population losses that reduce the certainty of continued existence of local or wider-area populations of the animal.

Finally, we also assume that these values for losses of single animals would also estimate fair restitution for more than one animal of a given population, so long as (1) consumptive and non-consumptive uses of the local population of the animal are not so seriously impaired that "large" numbers of users would decide to go elsewhere for the same kinds of recreation in order to maintain sufficient quality of their recreation experiences, and (2) the local animal population can fully recover in one generation.

The recommended values listed above would underestimate fair restitution values for reductions of more than roughly a quarter of a local discrete population, and values for long term reductions caused by habitat destruction or pollution. Values lost per user day increase with the magnitude of the population reduction, increasing by up to two fold by our assumptions. The actual increase would depend on the relative suitability and availability of substitutes. In addition, if animal populations are lost or impaired for more than one generation (of the animal), the restitution values listed here should be applied again and again for the numbers of animals lost in each subsequent generation, and these future values should be discounted to the present day.

B. AVERAGE OR TYPICAL ANIMALS AND CIRCUMSTANCES: The restitution values recommended here are intended to be average or typical values in several respects. We purposely simplified a very complex subject (ie, values of fish and wildlife), but we also included rules for modifying these averages in certain cases. First, we tried to average across different demand and supply conditions. Like the economic values of market goods and services, the various economic values of fish and wildlife depend on the laws of demand and supply. Recreation values in particular vary greatly from place to place, and over the different forms of recreation. They are highly location-specific, much like land values. That is, recreation values such as those of hunting, fishing, and viewing depend on (1) the type of "PRODUCT"--the "quality" of the particular recreation experience as related to people's tastes and preferences, (2) "PRICE" and "PLACE"--travel costs and other costs of the use (these costs depend in part on the proximity of the site to people), and (3) relative "MARKET POSITION"--the availability, cost, and relative attractiveness of substitutes. Thus, loss of the same fish, bird, or other animal near a metropolitan area would likely reduce recreational values more than loss of identical animals in a more remote area. It costs more to reach remote areas, so less people can take advantage of remote recreation opportunities. Sites near urban areas are more valuable because they are more convenient and less costly for most people to reach, and fewer substitute sites are likely available.

To find such averages, we reviewed about 400 scientific estimates of fish and wildlife values, representing a wide variety of demand and supply conditions throughout the US, and a few in Canada. Few estimates were available for Minnesota. The findings range widely, as one might expect based on locational differences alone. Other differences, caused by differences in research methods and research objectives, were probably lessened by correction factors we adopted as suggested by other authors (Sorg and Loomis, 1985; Walsh, et al., 1988; Reily and Rockland, 1988), and by carefully segregating findings by the nature of the choice evaluated in the particular research. We averaged relevant findings, hoping that the averages were equivalent to average Minnesota conditions (first two or three columns in Tables 1-5). We have provided to the Minnesota Department of Natural Resources with a complete list of findings and sources of information for Tables 1-5 (Talhelm and Miller, 1990a, 1990b, 1990c; Miller and Talhelm, 1990).

Second, we averaged across the different levels of fish and wildlife abundance and utilization found in different parts of Minnesota, except for localized species like elk. The most useful economics research findings were estimates of economic value per hunter day (Table 1) and per angler day (Table 4). To estimate values per animal in Minnesota we multiplied value per hunter (or angler) day by the numbers of Minnesota hunter (angler) days per Minnesota animal population (column D, Tables 1 and 4). In effect, this procedure assumes average Minnesota conditions for values, user occasions, and animal populations.

These numbers of Minnesota hunter (angler) days and numbers of animals are themselves estimates, and therefore somewhat uncertain. Most fish and wildlife populations are difficult to estimate because they cannot easily be counted or even observed. Similarly, with few exceptions, Minnesota hunter and angler days have only been estimated occasionally, generally as part of the National Survey of Fishing, Hunting and Wildlife-Associated Recreation (U.S. Fish and Wildlife Service, 1989a, 1989b). Where possible, population and/or use estimates were averaged for the decade of the 1980's to arrive at the estimated days per animal in column D. We earlier provided complete lists and documentation of these estimates (Palecek, 1990; Powell, 1990).

The non-consumptive values in Table 3 estimate average annual values per person (adults), rather than values per user day. In those cases, we multiplied the values per adult by the number of adults in Minnesota (3 million) and divided by the appropriate estimated animal population to estimate value per animal.

ADJUSTMENT FOR LOW POPULATION STATUS

As the above calculations indicate, fair restitution values for the illegal loss of a single animal depend in part on the size of the animal population. Basically, the scarcer the animal, the larger the value per animal. Research shows that US citizens are very concerned about endangered animals of nearly all kinds (except pests, such as smallpox), and place very high values on their continued existence. Active hunters, anglers, and some non-consumptive users may value their use of some non-endangered species much more highly than the average person values the existence of endangered species. However, since these enthusiasts are a minority, the average per-Minnesota-adult values for hunting and fishing tend to be fairly similar to average per capita existence values for popular endangered species. Aggregating these values for the

entire Minnesota adult human population, and dividing by the Minnesota animal population, both consumptive and non-consumptive values per animal increase as the size of the animal population decreases. Globally endangered populations (dividing Minnesota value by the global animal population in this case) have the highest values per animal. Animals that are threatened or endangered at at the state level but not elsewhere are not valued as highly as globally endangered animals, but still higher per animal than species with larger populations. Therefore, fair restitution value for designated "endangered" or "threatened" animals is much higher than for other species. Similarly, other animals with low populations, particularly those vulnerable to population depletion, would also be valued relatively highly. Many of the latter animals have been designated "special concern" species, even though this designation is not recognized under the Endangered Species Act.

Restitution values would be more accurate if they could also be adjusted for differences in scarcity from place to place within Minnesota and for changes in scarcity over time. Animals are typically unevenly distributed in Minnesota. Those that are particularly scarce in major portions of the state but not in other portions would be valued more (per animal) in locations in which they are scarce. Further, this effect would be compounded if the area in which the animals are scarce includes a large portion of Minnesota's human population.

In the interest of simplicity, we have not recommended different restitution values for different regions of the state. However, we recommend considering the feasibility of designating higher or lower regional values in appropriate cases for higher-valued animals. Such designations might be linked to special hunting or fishing regulations or other special rules or laws enacted to protect or rehabilitate depleted populations. For example, after a series of severe winters it may be necessary to curtail deer hunting in portions of the state in which the deer population has been depleted. The remaining deer would be unusually highly valued for their role in rebuilding the population, and restitution should also be correspondingly higher. Alternatively, the state could designate "population emergencies" for temporary low population levels of any species. This would officially notify the public of the problem and of associated higher restitution values.

Finally, we also recommend revising the schedule of restitution values periodically to reflect general changes in animal populations and changes in people's values over time.

ADJUSTMENT FOR ANIMAL SIZE AND CONDITION

Research indicates that trophy hunting and fishing is valued much more highly than average. Table 1 includes findings from economic studies of high quality deer hunting in Pennsylvania (Fisher, 1982) and goose hunting (in brackets) at Horicon Marsh, Wisconsin (Bishop, 1979), and Table 4 includes findings from an economic study of trophy-class trout fishing at Lee's Ferry on the Colorado River in Arizona (Richards, et al., 1985). These three studies found values several times higher than those of ordinary hunting and fishing for the same species. Other studies tend to lend support for these findings by showing higher values for angling for larger fish, such as steelhead, chinook salmon, and muskellunge; and higher values for larger game, such as deer, elk, and moose. In the extreme case of national and world record game fish and big game mammals, both the trophy and the commercial

endorsement and promotional activities can be worth hundreds of thousands or even millions of dollars.

For these reasons we recommended a sliding scale of restitution values for deer, elk, caribou, moose, muskellunge, and some species of trout. Research findings for these species indicated that their values increase in roughly the amounts indicated with increases in fish length and size of antlers.

We also recommend that trophy-class fish and game be formally defined and valued at up to 10 times the average value for the species. Such a system might designate the "largest" (by acceptable measurement standards) one percent or less of each species as trophy animals for restitution purposes, and set restitution values for such animals about ten times higher than corresponding standard restitution values. "One percent" would probably exceed the fish and wildlife sizes expected by anglers and hunters in the research findings cited in Tables 1 and 4. Such standards could be similar to designations used for "master angler" and "master hunter" awards in some states. For standards that include more than the top one percent, the corresponding restitution values would be less than 10 times the standard values. These systems would still probably undervalue super-trophy-class fish and game, such as a world-class white tailed deer.

We had also considered the feasibility of a rule requiring that prime specimines--clearly above average--be valued at twice the average values. Similarly, undersized fish and game, and those otherwise in poor condition, would be valued at half the average values. However, public comments suggested that this would be infeasible because such categories would be too difficult to define and enforce. Such classes would have to be unambiguously defined and clearly recognizable to the public and to the judicial system.

Finally, some animals are more valuable than average because they contribute more than average to total reproduction. Such "brood stock" animals are not always easily identified. Further, loss of one or a few brood stock animals will usually not noticeably influence total reproduction. There are exceptions, however, such as brood stock retained for fish hatchery purposes. In such cases, losses may depress the total population of adult animals available for some time in the future. These future losses would actually be much less than the theoretically possible total reproduction from the brood animal because the remaining animals will usually tend to compensate for the loss by reproducing more successfully and growing faster than otherwise. Also, not all eggs and/or offspring survive.

We recommend estimating the restitution value of lost brood stock only in exceptional cases in which future populations will be noticeably reduced, and then on a case-by-case basis. Future losses of adult populations should be carefully estimated as the expected difference in these populations with versus without the lost brood stock. Then these losses should be valued at the corresponding rate from the above restitution value table, and the values discounted to the present day. Another possibility is that loss of brood stock could be replaced by importing similar animals or their offspring from elsewhere. If the lost brood stock are actually replaced in this manner, the value lost would be estimated in the same way as we recommended estimating the values of transplanting animals for replacement, discussed earlier.

IV. ECONOMIC RATIONALE AND PROCEDURES

DEFINING AND MEASURING ECONOMIC VALUES

What is the value of a fish? This simple question has no simple answer because there are many types of values. The question needs more definition before an answer is possible.

Economic values compare human preferences between certain things. They express the willingness of people to exchange one thing for other things under given circumstances. For example, one Big Mac hamburger is currently about equal in value to about two gallons of regular gasoline.

Economic values also reflect the scarcities of things--the ability of our society to produce them. For example, bumper crops lead to lower prices--lower value per unit. This lower value reflects increased farm productivity without any change in consumer needs or preferences. However, even though consumer preferences do not change in this case, consumers buy more in response to lower prices.

Demand schedules expresses buyer preferences: They show the maximum quantities buyers would be willing to buy at each given price (Figure 1). At lower prices, people buy more per unit of time.

Supply schedules express seller preferences: They show the minimum prices at which sellers are willing to sell each given quantity (Fig. 1). Higher prices must be offered to induce sellers to sell more per unit of time. Supply schedules also often express the ability of producers to produce goods from various inputs. At higher prices, more producers are willing to produce more, although perhaps less efficiently (at a higher cost).

These demand and supply forces combine to determine the particular price (b) and quantity sold (c) that we can observe at any time in the market. Stated simply, the balance between consumer preferences and producers' abilities to produce determines the going market price and quantity sold (under freely competitive conditions).

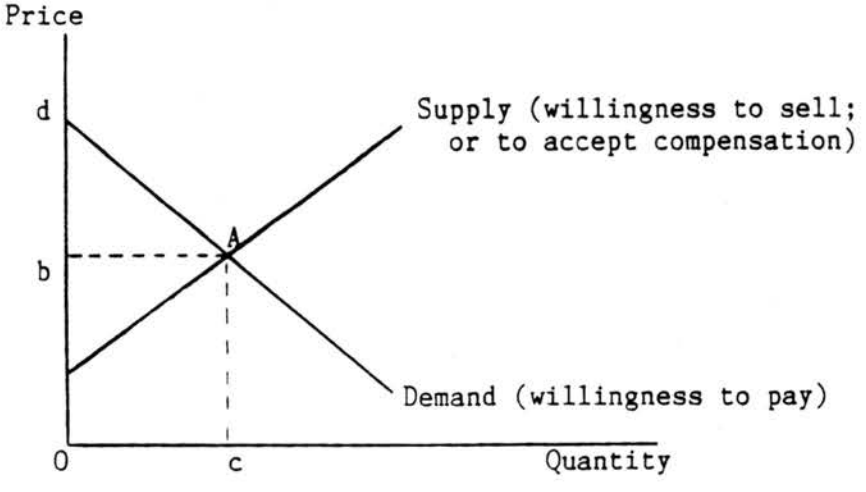

Figure 1. Demand and supply are both price-quantity relationships.

Stated in another way, economic values are determined by both demand and supply--by our needs and preferences as well as by our technical ability to produce things. Demand expresses willingness to pay (WTP) to buy something, whereas supply expresses willingness to accept (WTA) payment to sell something. In freely competitive markets, economic values are established by voluntary exchange between buyers and sellers, hence by demand and supply.

Restitution is usually based on current market value, such as price b in Figure 1. However, wild fish and wildlife in Minnesota are not for sale. Instead they are held in public trust by the state. We cannot readily observe the equivalent of b and c in Figure 1. How, then, can we determine fair restitution?

We could estimate the cost of artificial production of "wild" animals--fish hatcheries, for example. However, wild animals are usually not artificially produced. Further, truely wild fish and wildlife are rarely precisely replaceable with cultured animals.

Hunting, fishing, bird watching, commercial harvesting, and other uses, while not priced, still cost money and time. People respond to these costs in essentially the same ways they respond to market prices. For instance, people who live farther from trout streams respond to their higher transportation costs by fishing less in trout streams. However, these costs are not exactly the same as market prices. Anglers still do not normally pay anyone a part of this cost for the privilege of using wild trout, and the private market does not make available angling for wild trout to anglers at a going market price. Further, consumer transportation costs and similar costs are not considered part of the market price of products. The cost of driving to the mall to go shopping is not part of the market price of products bought there, for example.

The relevant question is really two questions: On the demand side the question is, how much would people pay for trout fishing (as an example of various fish and wildlife uses) if they had to purchase fishing privileges in a free market? On the supply side the question is, for how much would people sell trout fishing in a free market if they owned the exclusive fishing rights? Answers are readily observable in places in which fishing rights are privately owned, such as in the United Kingdom. There, anglers reportedly paid an average of about US$200 per Atlantic salmon caught, for fishing use privileges in 1980, not including travel and similar costs.

Economists have recently learned how to derive willingness to pay (WTP) and willingness to accept monetary compensation to sell (WTA) from observations of recreation user responses to travel costs. The travel cost (TC) and hedonic (HD) economic valuation methods listed in Tables 1, 2, 4, and 5 derive WTP and WTA from careful observations of how users exchange the cost of use for the amount of use. Contingent valuation (CV), the other major method, carefully asks people how much they would pay (WTP) or accept (WTA) if they had to, as if there were a market. CV is similar to market research in which potential consumers are asked whether and under what conditions they would purchase new products a producer is considering manufacturing. Nearly all of the recreation values, existence values and other non-market values discussed below were estimated in these three ways.

It may seem strange or "unnatural" to estimate economic values for such non-market goods or services as sport fishing, hunting, and bird watching. We rarely think of these activities as economic products like breakfast cereals or VCRs. However, such exchanges--one good for a given cost--by definition establish economic values, even if "market operating rules" differ.

COMPONENTS OF FISH AND WILDLIFE VALUES

In what ways do Minnesotans benefit from fish and wildlife? Most obvious are user benefits (Figure 2). Consumptive and non-consumptive non-market uses, such as hunting, fishing, and bird watching, are by far the most valuable uses. Market uses, such as use of fish for food and bait, are also important. Many people even depend on fish and wildlife for a major portion of their food, using fish and wildlife more for subsistence than recreation. In the past market fisheries were probably more valuable than recreational fisheries. Public preferences and values change, however. The demand for recreation has grown tremendously over the last fifty years or so, and the value of recreational uses has outstripped the value of market uses.

"Intrinsic" values--as distinguished from use values--are also extremely important, and are apparently rapidly growing in importance. These intrinsic motivations play no discernable role in market transactions or other observable uses of fish and wildlife. Hence, they are non-market and non-use-related values. Economists classify them as "existence" value and "option" value. Some economists consider bequest values, vicarious values, and some others as distinct from existence and option values, but for our purposes all intrinsic values are included in our definitions of existence and option values.

EXISTENCE VALUE may be defined as the economic value of maintaining the existence or perceived integrity of something, apart from any direct or indirect use of it. Existence value is measured, as any other economic value, in terms of willingness to pay (WTP) to obtain the existence/integrity of a good, and willingness to accept (WTA) compensation to "sell" or forego it.

A. Values of market uses
   1. Live animals (bait, pets, display)
   2. Harvested (human food, pet food, fertilizer, furs)

B. Values of non-market uses
   1. Consumptive uses (hunting, fishing, trapping, subsistence)
   2. Non-consumptive uses (viewing, feeding, habitat enhancement, study)

C. Non-market non-use values
   1. Existence/integrity (also bequest, vicarious use, etc.)
   2. Option (maintaining options for future use)

D. Ecological influences on values (pest control, pollination, ecological indicators)

E. Social goals
   1. Providing employment and other economic impacts
   2. Social equity (influence on how fish and wildlife are used and managed)
   3. Relationship to nature (culture, traditions, religion, education, etc.)

Figure 2. Classes of fish and wildlife benefits.

For instance, when Lake Erie was said to be "dying," people worldwide felt a deep sense of loss. People felt a similar loss when Prince William Sound was "violated" by the Exxon Valdese oil spill. Apparently people who had no intention of ever using or seeing these areas still would have been willing to pay, if they could have, to prevent or restore the integrity of these areas. People are similarly willing to pay for the existence of whales, polar bears, wilderness, many art and historical objects, the Statue of Liberty, democratic rights, and many other things and concepts.

Economic studies find that people's willingness to pay to prevent extinction of endangered species is quite high. For instance, two studies estimated average WTP for the existence of bald eagles of $27 (averaging the two study results, Table 3, column 3). The $27 is WTP solely for existence, and does not include any value for viewing or other uses of bald eagles. Multiplying this times the three million adult human population of Minnesota yields a value of $81 million, or an average of $116,000 for each of Minnesota's 700 bald eagles. In another study, Stoll and Johnson (1984) estimated the existence value to US residents of the whooping crane at about $230 million (1989 dollars), or $1.54 per person and $1.7 million per bird. (Stoll (1988) later estimated a total US value for the whooping crane of about $30 per adult (or household), or $2.5 to $7 billion, in 1989 dollars.)

OPTION VALUE is the value of keeping possibilities open for future uses. Option value does not include the values of the future uses; only the value of keeping such options available. Thus, option value is a non-use value. The value of an endangered species program, for example, may be greater than the value of expected future use of the animals if the program gives people more confidence in the future availability of those expected future uses and possible other uses, even though people may not be sure whether they will need the uses in the future. The value of the increased confidence and flexibility is option value.

OPTION PRICE on the other hand, is the sum of option value and the present value of expected future uses. Option price is similar to the price of insurance, which covers the present value of expected future losses plus the value of risk reduction. Economists usually estimate option price rather than option value because people have difficulty separating the value of reducing the risk that future uses may not be available, from the expected value of those uses.

Option value is not necessarily positive, because people sometimes prefer risk. For instance, state-run lotteries that return only about half the price of the tickets in winnings are highly popular: People pay a premium for risk taking. Judging by the insurance market, option values can be expected to be a small percentage of use values because they merely estimate the value of increased certainty of future uses.

ECOLOGICAL VALUES are the benefits fish and wildlife contribute to the production and consumption of non-fish and wildlife goods and services. For instance, snakes help control rodents that might otherwise damage crops. Ecological values can be negative, too--the rodent damages in this case. In another important example, Langenau and Rabe (1987) estimated the cost of deer-vehicle accidents in Michigan in 1986 at $85 million (1989 dollars) for 34,800 accidents. Minnesota only had 14,100 such accidents in 1986, for a corresponding damage of $34 million. Similarly, Dudderar (1990) estimated

deer damage to crops in Michigan at about $20 million in 1989. Minnesota crop damage is probably considerably less. Interestingly, these two forms of damage amounted to about $175 per Michigan firearm deer hunter in 1989.

Fish and wildlife also contribute toward a wide variety of OTHER SOCIAL GOALS, such as education, defining our culture, defining our relationship to nature, and social behaviors. Money spent for fish and wildlife related goods and services determines financial success or failure for thousands of businesses, workers, and communities. Minnesotans spent a total of $1.3 billion (1985 dollars) for fishing, hunting, and wildlife-associated recreation in 1985 (U.S. Fish and Wildlife Service, 1989b). Considering multiplier effects, such expenditures would be responsible for about $2 billion in economic activity in the state. Fish and wildlife also influence to some unknown degree people's "quality of life" and other social values. Fish and wildlife policy often influence social equity as well.

We have very little information on the dollar values of these various social goals that could be added to or subtracted from the other values listed above. We know that economic impacts, equity concerns, and the other social goals are considered and influence fish and wildlife policy, but economists have generally not been able to quantify them in units comparable to the other benefits. Although economic impacts, for example, are particularly well documented, their values as contributors to the social goals of full employment and economic opportunities are as yet unestimated. That is, no one has documented how much people would be willing to pay toward fish and wildlife enhancement solely for the added contributions to employment and economic opportunities in the state. We could count employee's wages as a benefit here, but only to the extent that the employees would not be able to find employment elsewhere in the economy. If we knew WTP and WTA for these social goals, we could add them to the values of hunting, fishing, and other components in Tables 6 and 7. It seems unlikely that the loss of one or a few individual animals would significantly interfere with these social goals, so relatively little value may be at stake here for restitution purposes.

KINDS OF ECONOMIC VALUE

1. MARKET PRICE: The current market price, point b in Figure 1, is the usual reference for restitution values. Market price is the value of one last unit of the good: the "marginal value" of the good. Since for every sale, there is both a buyer and seller, price b equals buyers' willingness to pay (WTP) dollars, and sellers' willingness to accept (WTA) dollars.

2. AVERAGE CONSUMER SURPLUS: The maximum willingness of users to pay fees for use of fish and wildlife resources is called the "net all-or-none value of use," or CONSUMER SURPLUS (CS). Most economic studies of fish and wildlife values available in the literature estimate CS per user day. These values per hunter day or per angler day are summarized in columns A, B, and C of Tables 1 and 4, and on the first three columns of Table 3. "All-or-none" refers to the type of choice evaluated here: a choice of all present use versus none. For instance, elk hunters said they would be willing to pay at most an average of $42 per hunting day to enjoy elk hunting (at all) in the locations studied (average of three different studies, column A of Table 1).

Consumer surplus is the triangular area Abd in Figure 1; the dollar amount in excess of current price, b, that present consumers would be willing to pay

rather than forego the good entirely. (Recall that the demand curve is defined as the maximum quantity consumers would purchase at each given price. It sets the upper bound of consumer willingness to pay.) CS is "net" all-or-none value because current payments for the good, area ObAc, are not included.

CS is usually relevant only for non-priced goods, such as hunting, fishing, and other forms of outdoor recreation, and for evaluating major changes in current consumption of a product. In estimating the demand for outdoor recreation--angling, for example--the "price" axis is measured as the money and time costs of travel, supplies, and other angling costs, rather than actual prices paid for angling privileges. These costs vary with travel distance, and economists find that anglers respond to the costs in the same way they respond to user fees (price of angling). Thus, cost b in Figure 1 could represent the travel cost for anglers who live a given distance from the fishing site. CS for such anglers would estimate their maximum WTP in the form of fees to use that site at all, considering the other costs they have to pay anyway. Anglers that have to travel farther have travel costs higher than b, and, other things being equal, would not be willing to pay as much in fees for the same angling privileges.

Average CS is similar in some ways to market price, but differs in other ways. The two evaluate different consumer choices. Average CS is total WTP for all angling at certain locations, divided by the current total angling days there. The current market price for angling (if it were a private market good) would be the marginal value of angling--determined by the balance between angler WTP for an additional day's angling, and the fishing rights owner's WTA for providing the unit. Average CS is probably, but not necessarily, greater than market price. Figure 3 illustrates. We first assume from Figure 1 that b is the cost of angler travel, supplies, and other expenses, and that angler demand remains the same. Then we assume that anglers must purchase each day's fishing privileges from companies or other private owners of those privileges, similar to the arrangement in the United Kingdom and some other countries with at least moderately competitive private

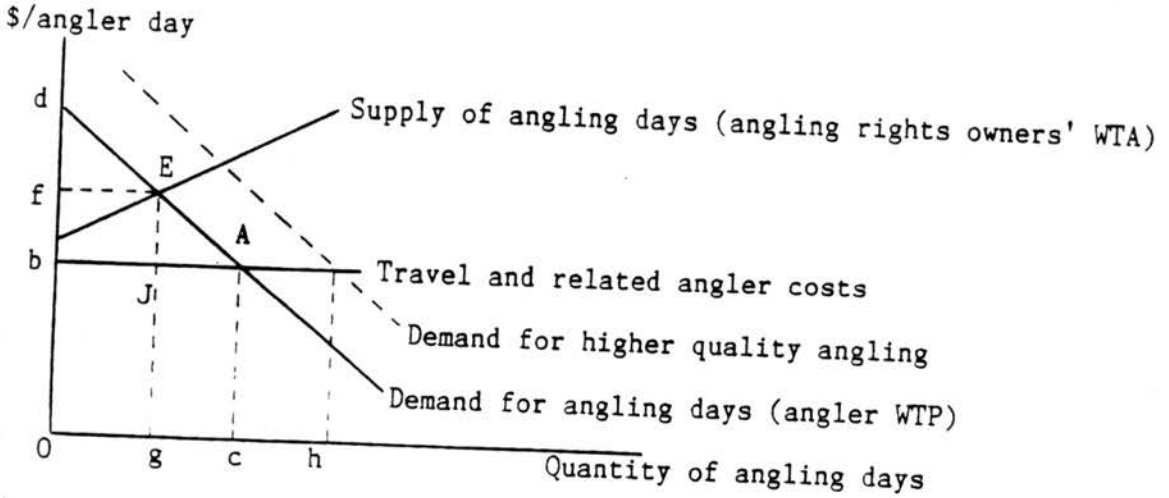

Figure 3. Representative demand and supply for angling under private ownership of angler rights and freely competitive conditions, assuming all anglers face the same travel and related costs of angling, b.

markets for angling privileges. All costs higher than b are fees paid to the owners of angling privileges. The owner's willingness to sell defines the supply curve for angling privileges. Under these conditions, bf is the current market price of angling days. By comparison, if demand curve dA is a straight line, average CS (area Abd divided by c days) would be 1/2 bd dollars per angling day. Fee bf could be higher or lower than 1/2 bd, depending on the location of the supply curve. Therefore, average CS could equal a free market price. There is no compelling reason to suspect that average CS would likely be higher or lower than a free market price.

Most important, however, is the fact that only a small portion of CS could be collected by an owner: Only a fraction of present user days would be purchased for such a fee. Total revenue under market-like conditions is illustrated as rectangle JbfE. At most, only half of CS could actually be collected, and likely much less. CS estimates anglers' greatest possible WTP, somewhat equivalent to someone holding angling for ransom. For restitution purposes we wish to estimate market-equivalent WTP, and for a very small, generally unnoticeable loss. Therefore, we assume that average CS overstates the market-equivalent value lost by a factor of four. Again, CS must overstate the loss by at least a factor of two, and likely by much more than that. Empirical findings related to this factor will be discussed below.

MARGINAL CONSUMER SURPLUS: The change in CS (ie, change in net value) caused by a change in product quality (eg, quality of hunting or fishing) is marginal CS. Marginal CS is often expressed as the change in CS per change in fish or game bagged, or as the change in CS per change in fishing or hunting effort. To illustrate, suppose an improvement in angling quality increases angling demand.[1] The demand increase could be visualized in Figure 3 as a shift in the demand curve to the right, increasing the quantity of angling consumed at each given price. Marginal consumer surplus is the difference in CS between the new demand curve and the old demand curve, say $X. $X can be interpreted as the value--or more precisely, the net all-or-none value--of the change in angling quality. It is the maximum angler WTP for the increase in angling quality. If the change in angling quality was caused by an increase in numbers of fish per unit of angling effort such that the average angler could expect to catch ten additional fish per year, then the value per increased fish caught per angler is $X/10.

Estimates of marginal CS with respect to animals harvested per season are summarized in columns A and B of Tables 2 and 5. These studies estimate the maximum conceivable WTP for the difference in harvest. If estimated accurately, marginal CS probably overstates the amount that could actually be collected in fees from users under freely competitive conditions. Further, a larger reduction in recreation quality will likely imply a larger marginal CS per animal (see examples below), whereas for restitution purposes we assume the change in recreation quality will be very small, generally unnoticeable. Therefore, we assume for the same basic reasons as before that marginal CS overstates the actual change in market-equivalent value by a factor of four (in Tables 2 and 5).

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[1]This explanation involves the simplifying assumption that the products (kinds of angling) we describe before and after the improvement are available at only one site. If instead, other sites also provide the same products, they would influence the change in values here (Talhelm, et al., 1987).

Estimates of marginal CS with respect to angler days--the change in CS per change in user days--are summarized in Table 4 (the column between columns C and D). To illustrate, an increase in angling quality would shift the demand curve in Figure 3 to the right. In the absence of user fees the number of angler days would increase from c to h, where h minus c equals Q more angler days. Marginal CS per change in angler days for this case would be $X/Q, the value of the improvement per increased angler day. In the case of the simple linear demand curve in our example, marginal CS per angler day ($X/Q) can be shown by geometry to be higher than average CS (CS/c). Marginal CS could be used as a rule of thumb for estimating the value of a change in angling quality, since fish and wildlife managers often use the change in participation as an indicator of change in value. For instance, fishery managers often speak of an improvement as adding so many angler days at an average value of $y per day. Alternatively, the average increase in value per user day is between $X/c and $X/h. Again, all values based on CS overstate by an uncertain amount the market-equivalent values for the same changes.

CONVERTING CS TO MARGINAL VALUE: CS estimates the maximum WTP for the most extreme possible loss--all versus none of a good--whereas for restitution we wish to estimate the market-equivalent WTP for a very small loss of the good. As mentioned above, the actual revenue collected in market-like conditions (under a system in which only one price is charged) could at most be half of CS. In addition, we expect to find a smaller per-unit WTP fees for a smaller change in recreation quality. Empirical evidence is slim, but the following studies were found:

1. Brookshire, et al. (1980) estimated that elk hunters in Laramie, WY would have to be paid $404 (in 1989 dollars) per season to be adequately compensated for a reduction in elk encounters per hunter day from 10 to 5, or a WTA of about $81 for one less elk encounter per hunter day. (Average sightings were 6 to 11 (Brookshire, et al., 1978).) Hunters would have to be paid $278 per season for a reduction from 5 to 1, or $69 per elk sighted per day, and $134 for a reduction from 1 to 0.1. Their WTP to prevent comparable reductions was 15%, 38%, and 64% of these amounts, respectively, or around $16 per elk sighted for the season under average conditions. This $16 WTP (or about $75 WTA--see next sub-section for an explanation of the divergence of WTP and WTA) would be the hunting value lost for only one hunter attributable to a reduction by one in the elk herd for the season. If elk are seen by only one hunter on the average (ie, sightings per day times number of hunters would equal the size of the elk herd), then the average hunting value per elk would be $16 (WTP) per year. If on the average, elk are sighted by two hunters per day, the average hunting value would be $32 (WTP) per elk per year. In contrast, average WTP for elk hunting per season was about $158 per hunter (Brookshire, et al., 1978), or about $15 to $22 per hunter day.

2. Livingood (1983) estimated that deer hunters on leased land in Texas were paying about $48 (in 1989 dollars) in lease fees per hunter per season for land expected to yield one deer per hunter per season, and $25 more than that for land expected to yield two deer per hunter per season. This contrasts with our estimate of an average WTP of $37 PER HUNTER DAY for deer hunting in the US, in which only about 20% to 40% of the hunters harvest deer. Assuming 5 hunting days per hunter and 30 deer harvested per 100 hunters, WTP would be $617 per deer harvested, or 13.7 times higher than Texas lease values.

3. Talhelm and Yu (1978), in a travel cost demand and supply simulation model of deer hunting based on 14 years of Michigan deer hunting statistics,

simulated changing hunter success rates in a sample of counties in Michigan. They estimated an average CS per hunter day of $23 (in 1989 dollars) in 24 counties throughout the state with low success rates (deer harvest per hunter day). In response a simulated increase to medium success rate, an average of these counties gained about $213,000 in value of deer hunting and 13,000 hunter days, or a marginal CS of about $16 per new hunting day (statistics supplied by author). (From our earlier explanation, marginal CS could easily be expected to exceed average CS, especially with such an increase in hunting quality. The fact that it is lower may indicate that a small change has less than an average value.) For 1973, the time simulated, Michigan's deer population was estimated at well under 1 million, averaging around 9,000 to 10,000 per county. Assuming it would take 5,000 deer to increase an average county's harvest from low to medium, the increase in hunting value per additional deer would be $213,000/5,000, or about $40.

4. The marginal CS per angler day estimates reported in Table 4 do not appear to differ significantly from average CS reported in columns A-C of the same table. As was explained above, these marginal values could be expected to exceed average values under some circumstances.

5. Talhelm (1976), in a travel cost demand and supply simulation model of angling in inland lakes in Michigan, found an average marginal CS per gained angling hour of about $3 (in 1989 dollars) for angling quality improvements, or about $10 per increased angler day. This estimate is half to one-third of the values reported for similar angling in Table 4.

6. Eubanks and Brookshire (1980) reported that a 50% reduction in Wyoming's deer population would reduce deer hunting value by 18%. This is only one third of the reduction one would have estimated if one assumed a proportional reduction in hunting value--that each deer is worth an average amount. This implies that an even smaller reduction in the deer herd would reduce hunting value by an even smaller relative proportion--say, by a quarter or less of the proportion of deer lost.

WILLINGNESS TO PAY VERSUS WILLINGNESS TO ACCEPT: Economists have found to their surprise that WTP does not necessarily equal or even approximate WTA, even for items with small monetary value. Among arbitrarily selected individuals WTA exceeds WTP by several fold. This is surprising because when we observe buying and selling in markets, WTA always equals WTP. It would make little sense for one who pays a fair price for something not to be willing to sell it back for the same price. Yet this seems to be true if purchasers are arbitrarily asked to sell it back.

For nearly 30 years, economists using the contingent valuation (CV) method to estimate recreation, existence, and other non-market values have been finding that WTA exceeds WTP by several fold; typically by 5 to 10 fold. They always attributed this difference to survey biases and the endowment effect (ie, people in a position to sell are assumed to own the good to be sold, thus have greater wealth than buyers, and therefore may behave differently). Even experiments intended to verify the CV method, in which some respondents were asked to actually buy or sell non-market items, show the same difference. The numbers in brackets in Table 1 refer to two particular studies in Wisconsin in which scientists compared the CV and TC methods to actual cash offers to buy or sell hunting permits (Bishop and Heberlein, 1979; Bishop, et al., 1988). The results tend to show that the CV and TC methods work reasonably well, but WTA was 5 to 47 times higher than WTP. In the 1984 experiment, applicants who

had been randomly selected to receive permits were offered various amounts of cash to sell their permits, and were willing to accept an average of $182 (in 1989 dollars), whereas others from the same applicant pool who had not gotten permits were willing to pay only $37 to buy one.

Knetsch and Sinden (1984) and Knetsch (1989) have shown similar behavior when a random selection of students were given candy bars and asked to exchange them for mugs (about equal market price) and vice versa, and when they were given lottery tickets and asked to exchange them for dollars and vice versa. That is, once they were given one of these things (it did not matter which), very few were willing to trade for the other item. Yet, when students were not given an item, but simply asked to choose one, they chose about equal portions of each. Basically, the authors found that when people are randomly asked to buy or sell something, their WTA cash for something they already possess--even a windfall--is about four times greater than their WTP for the same thing that they do not possess. Possession, by itself, increases apparent value. Knetsch concludes that if this phenomenon is found to be pervasive (and all evidence so far seems to point in this direction), the common assumption that WTP equals WTA in estimating welfare losses will no longer be considered valid. "The common practice of assessing losses in economic well-being by people's willingness to pay to avoid the change may result in significant understatements..." (p. 1283).

This finding may affect many legal and economics practices, including benefit cost analysis, environmental protection standards, standards of fairness, compensation for condemnation, and restitution (Knetsch, 1990). When someone illegally kills fish or wildlife, the remaining citizens do not voluntarily give up their lost fish or wildlife. They are more analogous to the randomly selected people asked to accept cash as compensation for giving up something they possess. For this reason, we have converted all estimates of WTP to WTA at a ratio of 1 to 4: WTA is 4 times WTP. The Wisconsin research and other studies which examine both WTA and WTP would suggest a somewhat higher ratio, but Knetsch and Sinden's experiments suggest the lower ratio of 1 to 4 we used. Our differentiation between WTP and WTA represents a new and substantial departure from previous practice, so we felt the more conservative lower ratio was more justified.

There is one further complication, found in travel cost (TC) studies. We stated above that CS as estimated by the TC method estimates WTP, whereas there are actually several versions of CS. Some versions of CS estimate WTP, some estimate WTA, and others estimate a number between the WTP and WTA. (None of these methods consider the findings in the previous paragraph.) Most often, the TC (and hedonic) methods estimate "Marshallian" CS, which falls between WTP and WTA. Some TC methods can estimate "Hicksian" income-compensated CS, estimating either WTP or WTA, but we did not find any such estimates for fish and wildlife. Since TC studies are based on observed travel expenditures, and because the differences found between WTP and WTA with the travel cost method have been relatively small, we assumed the estimated CS would require an adjustment similar in magnitude to that for WTP. Therefore, we multiplied CS estimates by 3 to convert them to WTA, instead of multiplying by 4 as we did for estimates of WTP. Specifically, we multiplied WTP per animal (column E in Tables 1 and 4, column D in Tables 2 and 5, and all findings in Table 3) by 4, and we multiplied CS per animal (column F in Tables 1 and 4, and column E in Tables 2 and 5) by 3.

The CV method clearly estimates WTP or WTA, depending on how the question is framed, so its findings are unaffected by this complication.

HUNTING AND FISHING VALUES

As explained earlier, these values are converted to values per animal in the wild in Minnesota. For example, column D in Table 1 lists the estimated number of hunter days per wild animal for the several species or groups of species for which we found economic data. Multiplying column A by column D estimates hunter WTP per wild animal (column E). Similarly, column F is CS per wild animal; column D times the weighted average of columns B and C, weighted by their respective numbers of studies (given in parentheses).

The last calculation is more complex. The final column in Tables 1, 2, 4, and 5 is the weighted average of the previous two columns, weighted by their respective numbers of studies (the numbers of in parentheses in the first two or three columns), and multiplied by either 2 or 1.5. The multipliers of 2 and 1.5 were derived from three factors: First, we multiplied WTP by 4 and CS by 3 to convert them to WTA, as explained on page 20. Second, since we wish to estimate the value of a very small change in recreation quality rather than the very great "all-or-none" change estimated in the various studies, we divided all values by factor of 4, as described on page 17. Third, since an animal is not immediately replaced after one year, and the values reported in the literature are annual values, we multiplied all values by a factor of 2. (For some slower growing animals, we later added an additional factor in Tables 6 or 7, depending upon the number of years before the animals could be expected to be replaced by natural processes.) As a net result of these three corrections, the multipliers were (4/4)x2=2 or (3/4)x2=1.5. Thus, in Table 1, for example, we multiplied column E by 2 and column F by 1.5, weighted these two results by their respective numbers of studies (given in parentheses in columns A, B, and C), and averaged the result.

NON-CONSUMPTIVE VALUES

Three kinds of non-consumptive values are evaluated in Table 3. First is "non-consumptive uses" value, intended to include all forms of non-consumptive use, such as viewing, feeding, and studying animals. The "non-consumptive uses" listed for grizzly bear and bighorn sheep are estimates of WTP of licensed hunters for future non-consumptive uses, assuming no hunting will be allowed in the future. Thus, in this case "non-consumptive uses" value is the "option price" (defined on page 14) of future non-consumptive uses. The other two empirically estimated values in the column, for bald eagle and gulls, are estimates of annual WTP for non-consumptive uses by randomly selected citizens. The figures listed for whitetailed deer were subjectively estimated by D. R. Talhelm, from the research findings listed for the other species.

Other evidence of the value of non-consumptive use comes from the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (U.S. Fish and Wildlife Service, 1989a). Total Minnesota expenditures for non-consumptive uses in 1985 were $275 million (in 1989 dollars), or about $92 per adult. This exceeds the $248 million spent by hunters. The study also estimated a total of 5.5 million user days of non-consumptive use by adults, and 8.1 million hunter days in Minnesota. We conclude that non-consumptive wildlife values per Minnesota adult are about the same as hunting values per Minnesota adult. The non-consumptive values would be attributable to more animals than hunting values.

The option prices listed in the second column of Table 3 should by definition include the non-consumptive values listed in column 1, plus option value. The empirically estimated option prices listed here include the value of future hunting as well as non-consumptive uses. The option price Talhelm suggests for deer use was assumed to represent the annual WTP per person for rights to present and future non-consumptive use only, not including hunting, as well as option value for any kind of use. If present non-consumptive use values are $30 per year, future values discounted to the present could be $300 to $600 or more, depending on the interest rate. However, option price is defined as the annual payment for future use rights, not the total present value of those rights. The empirical estimates of option price listed were only slightly greater than non-consumptive use value, so we estimated a relatively low $50 for deer.

Boyle and Bishop (1986?) estimated that contributors to Wisconsin's Endangered Resources Donation program on their 1982 tax returns who are also "eagle viewers" would pay an average of $95 (in 1989 dollars) per year to prevent the extinction of bald eagles and at the same time prevent the loss of present bald eagle viewing opportunities. ("Eagle viewers" are people who have ever participated in trips for which one of their intentions was to view bald eagles.) They would pay only $36 per year to prevent eagle extinction if it also meant they (contributors) would have little chance of ever seeing bald eagles in the wild. Thus, one may conclude that eagle viewers were willing to pay up to $95-$36=$59 per year to prevent the loss of viewing. Other respondents who were not eagle viewers did not differ significantly in their WTP with versus without eagle viewing. Further, if other eagle viewers who were not contributors to the Endangered Donation Program were WTP the same amount for viewing (not enough were surveyed to estimate their WTP), and all non-viewers were not WTP at all, total WTP for viewing divided by the entire taxpayer population of Wisconsin would be $13 per taxpayer (Talhelm calculations based on data in Boyle and Bishop). Apparently only 636,117 of 2,874,219 taxpayers were contributors to the program. Average bald eagle existence value per taxpayer was $18 (Talhelm calculations), not including viewing value.

The middle three columns in Table 3 are total WTP of Minnesota residents for the respective purposes, per Minnesota animal. Populations of most species listed either do not exist in Minnesota, or were not known. In the other cases, the values listed in the first three columns were multiplied by the adult human population of Minnesota (3 million) and divided by Minnesota's animal population for the species.

The last three columns are estimated WTA, computed by multiplying the previous three columns by the multiplier of 2 described on page 21 (ie, (4/4)x2=2).

SUMMING THE DIFFERENT KINDS OF VALUES

Tables 6 and 7 summarize the different kinds of values for several species for which relatively complete information is available. Most of these values are derived from the WTA-per-animal estimates in Tables 1, 3, and 4. The estimates in Tables 2 and 5 conflict with the others because they are inexplicably smaller. We decided to ignore Tables 2 and 5 because they are supported by fewer findings, marginal CS per animal is much harder to estimate

than CS or WTP, and these findings have never been directly verified through actual cash markets.

We assume that subsistence uses are valued equally with hunting and angling. Animals taken for subsistence purposes cannot also be taken for recreational use, so each value would apply to a different portion of the resource. Studies of sport hunting and angling incorporate subsistence uses, so we see no particular reason to differentiate here.

We found no estimates of trapping values, but we assume they are similar to small game and waterfowl hunting values. We assumed that a portion of animals that can be legally trapped are taken by trapping and a portion taken by hunting (in some cases), so one could assume a weighted average of the two values rather than adding them. We have generally not included fur market values in estimating the restitution values--they are to be added on a case-by-case basis from current market values. However, deer hides have a small value, so we included that value in Table 6. Fur market values are part of the motivation for trapping, just as food values are part of the motivation for hunting and angling. Usually food, fur, and other such values are estimated together as inseparable parts of the value of hunting and angling, but since fur market value is easily identifiable, it has traditionally been listed separately from recreational value.

Existence value is not relevant to small losses of abundant species because their existence and viability are not threatened. However, it may be extremely important in cases in which the existence of a species is threatened.

Judging by the insurance market, option value probably amounts at most to a small percentage of resource value. Further, the loss of one animal would add little or no risk that future use might be unavailable, except for animals with low populations. Thus, option value would usually be very low; a small percentage of use values. The values listed on Tables 6 and 7 could still be toward the high end of the range of possible option value losses for the loss of one animal, except for eagles, but we have little empirical basis for evaluating the change in option value for a small change in population. Additional research is needed to clarify these values.

Commercial fishing values are simply the landed values of lost catch. We arrive at this conclusion by assuming that total fishing effort would be unaffected by loss of a few fish from the fishable population, but the catch would be reduced in proportion to the population reduction. For losses of fish in amounts large enough to cause reductions in commercial fishing effort, these values would be too large per fish. Reductions in fishing costs must be subtracted from the lost sales values in such cases to arrive at fair restitution. This computation is not as easy as it sounds, because such cost savings involve a mixture of long-term and short-term costs and possible unemployment or reemployment of labor.

Some animals have special ecological roles, such that population reductions could affect other values, such as the values of predator or prey species. The only significant values we found in this category were for smelt and similar prey species. Several fish species are valued as the main food sources of even more valuable predatory fish, such as walleye or trout.

Negative ecological values were listed separately as nuisance values. Several species impose sizeable costs in automobile collisions, crop damage, or special forest management or other resource management costs necessary to maintain desirable levels of the species. We have subtracted estimates of such costs from the overall values. Our estimates for deer were explained on pages 14-15. Our estimates for bald eagles assume that forest management and other human activities are restricted near bald eagle nesting areas, and that some effort is expended to study and manage eagles by the DNR and other management agencies. At $500 per eagle, these costs would amount to $350,000 per year. This is a relatively small amount compared to the value of eagles. Even if there were no management cost of this type for bald eagles, we would still have recommended the same restitution value for the bald eagle.

Commercial fishing values and prey values for fish were assumed to apply only to a portion of the population of any given species. Therefore, instead of adding these values to other values we used a weighted average of these and other values.

RESTITUTION VALUES FOR SELECTED SPECIES

DEER: Deer hunting values were estimated at $158, with a value of up to $403 in one case for high quality hunting (Table 1). Deer are considered adult at age 1 1/2, but still noticeably grow and mature for another year or so. Thus, in Table 6, we rounded the $158 up to $200. Non-consumptive use values, estimated at $180 in Table 3, were also rounded to $200. This is consistent with our conclusion that non-consumptive values are similar to hunting values, and knowledge that non-consumptive uses of deer are extremely popular. Existence and option values are also high for deer, but existence and future uses are little affected by loss of a few individuals. Therefore, we assumed zero and small values for those categories. Hide values for deer can be somewhat higher than $10, but considering the hide condition and difficulty of getting them to the market, we assumed a lower value. Most hunters discard their deer hides. The nuisance value for vehicle accidents and crop damage was explained on pages 14-15. The sum of these values in Table 6, $378, was rounded to $400.

Our $400 recommended value is intended to estimate the typical value lost to Minnesota citizens when one typical deer is removed from the deer herd. However, we know that trophy deer are much more highly sought after by hunters and viewers. Trophy deer hunting, in which deer with larger antlers can more likely (but not necessarily) be taken, was in one case valued at 2.5 times that of typical deer hunting. Because antler points are a good indicator of trophy value, and are relatively easy to measure for legal purposes, we recommended adding $50 per antler point to the restitution value of deer, up to a maximum of $800. Thus, an eight point deer would be valued at twice the value of an antlerless deer, somewhat corresponding to the findings for trophy deer hunting. Although antlerless deer are probably valued less than average for hunting and viewing, they are important for reproduction of the deer population. Hunting restrictions on antlerless deer indicate this importance.

ELK: Elk numbers in Minnesota are small, around 20, which usually implies high existence, option, and other values per animal. However, all Minnesota elk are a non-native variety of elk (western or rocky mountain subspecies) that has been imported to Minnesota. Native eastern elk are extinct. This implies that existence and option values for Minnesota elk are probably much lower than comparable values elsewhere. They are certainly replaceable. No

estimates of existence, option, or use values are available for the Minnesota elk herd. This herd is popular with viewers and others who just like to know elk exist in Minnesota, and they may provide some limited hunting in the future. They are very unpopular with landowners whose crops they damage. Lacking specific information, we assumed the value of elk would be at least comparable to relative values found in western states, where values per hunter day are around 50% higher for elk than for deer. Obviously Minnesota elk are hunted less than those in western states. However, non-consumptive use values per animal are probably much higher in Minnesota. Existence values and option values for elk would probably be significantly influenced by the loss of one or more elk, even though much less than for endangered species. The strength of present controversies over elk indicate that significant values are at stake. Therefore, we recommend a value twice that of deer. We also recommended the same antler point value system, to consider trophy-class non-consumptive use values and possibly hunting values.

ENDANGERED SPECIES: Nearly all animal species have high existence and option values, expecially those species with which people empathize. Americans are sincerely concerned about the integrity of the environment, as shown by their willingness to incur costs to protect it. However, existence values are only relevant for changes which affect the probabilities of existence of a species, or its overall integrity. Similarly, option values are only relevant for changes which affect the probabilities of future uses being available.

At one extreme, existence and option values are unaffected or nearly so for losses of one or a few individuals of common species. For example, although the existence of the whitetailed deer is extremely important to Minnesotans, that fact is not relevant in computing restitution. Its existence and overall integrity are not threatened by the loss of a few individuals. At the other extreme, losses of one or a few individuals of a globally endangered species could severely threaten the existence of the species, and could represent a loss of the entire existence and option value, as well as all use values. This would amount to an estimated $20 billion[2] annual loss in value to US residents for loss of the whooping crane, for example. In other words, US residents would have to be paid $20 billion per year for them to feel adequately compensated for loss of the whooping crane (as unethical as that may sound). Existence and option values are probably by far the most important components of restitution value for eagles and other threatened and endangered species. Mammals and birds also seem to have considerably higher existence, option, and non-consumptive use values than other animals.

We have little information to guide us in interpolating loss of existence and option values between these extremes. The precise loss probably depends on the degree of threat perceived by the public to the species. In Table 3 we divided existence, option, and non-consumptive use values by the number of animals to find the average values per animal, then divided the average values found by 4 to convert values of large changes to values appropriate for very small changes in population. However, this is probably not a sufficient reduction in existence and option value for threatened species, and perhaps not enough for endangered species, depending on the degree of threat.

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[2]Assuming Stoll's (1988) approximately $30 per person (or per household), or $7 to $2.5 billion (in 1989) WTP existence and options for future uses, or about $5 billion, times 4 to convert WTP to WTA.

To find the extreme value, we considered the whooping crane. The average total of existence, option, and non-consumptive use values by US residents per whooping crane are about $25 million (in 1989 dollars) in annual WTP, or assuming our multiplier of 2, $50 million in WTA (Talhelm calculations based on Stoll, 1988). Since Minnesotans are about 2% of the US population, their share of $50 million would be about $1,000,000 per whooping crane. The actual amount could be higher or lower, depending on assumptions. On one hand, if we had assumed that the loss of one whooping crane reduced existence and option values proportionately, instead of by 1/4 as assumed in our multiplier, Minnesotans would have to be paid $4,000,000 restitution. We assume that the loss of one would be important--we would likely read about it in Minnesota the papers if someone were caught shooting one--but probably would reduce values less than proportionately, probably by less than 1/4. On the other hand, the $1,000,000 estimate also assumes that the lost bird would be replaced by the flock in two years, which seems quite unlikely in this case. Assuming the bird were never replaced and that future annual restitution payments of $500,000 were converted to a single present payment at a deflated discount rate of 5%, fair restitution would be $10 million instead of $1,000,000. We have little more to go on after this point. Perhaps the two effects cancel each other. $1,000,000 seems to be a conservative, round number.

Minnesota's endangered species are all "less endangered" than the whooping crane. All are found elsewhere as well as in Minnesota, and have higher absolute numbers. We assume on one hand that existence and option values drop rapidly as global animal population size increases. On the other hand, the species would not be endangered if they quickly replaced losses in their numbers. Losses still would take many years to replace. Therefore, we recommend that endangered birds and mammals that capture the public's imagination, and that are visible and fun to watch, be valued for restitution purposes at $100,000 or more. For other endangered birds and mammals that are not so visible or popular, we recommend $90,000. For other endangered animals, we recommend $10,000, although this value could be too low for animals that become symbolically important. All of these recommended restitution values should be increased greatly for animals truely on the verge of extinction.

BALD EAGLE AND OTHER THREATENED SPECIES: Threatened species represent an extension of our discussion of endangered species, above. A relatively large amount of information was available for the bald eagle, so we considered that in detail in relation to the whooping crane. Threatened species probably replace losses in their numbers faster than endangered species, but still very slowly relative to other animals. Therefore, our multiplier of 2 used in Table 3 is too low, and should be increased several fold. However, this increase in value would be countered by other decreases. First, for viewing and other non-consumptive uses, we assumed that the other bald eagles would usually readily substitute for the loss of one eagle. Therefore, we reduced non-consumptive use values by 90%: From $200,000 in Table 3, to $20,000 in Table 6. Second, the question remains as to how existence and option values are influenced by the loss of one animal. In the worst case, if all Minnesota eagles were lost, they still might be reintroduced from elsewhere in the future, so they may not be completely extinguished. We found no estimates in which existence value for only a state's population of a threatened species available elsewhere was estimated, and no estimates of how existence and option value vary with changes in animal populations. With no empirical evidence to guide us, we conservatively assumed that the relevant existence

and option values would only be 1% of those values listed in Table 3. That is, we assumed that the probabilities of future eagle existence and probabilities for future uses would only be very slightly reduced by the loss of one individual.

Other than the wolf, the other threatened species in Minnesota are not national symbols, and are not particularly exciting to watch. We discuss the wolf separately below. For other birds and mammals, we reduced use values to $1,000, kept existence and option value at $2,000 each, and eliminated the nuisance value. We recommend an estimated $5,000 restitution value. Other animals are even less popular, so we recommend a restitution value of $500 for them.

WOLF: We assumed wolf values were similar to the values of other threatened species. The eagle is more highly valued than the wolf because it is a national symbol, and because it is fairly visible, even though it is shy. The wolf has more symbolic value and more non-consumptive use than the remaining threatened species. On the other hand, some people feel the wolf is highly undesirable. Such negative values would have to subtracted from our estimates of WTP, lowering the value somewhat. In addition, the wolf seems to be able to maintain its population reasonably well in certain areas of the state. We have no empirical evidence of wolf values. We assumed, conservatively, that the negative values and faster reproduction would outweigh the wolf's higher visibility and popularity. Thus, non-consumptive use values may be $200 to $500, and existence and option values $1,000 to $1,500 each. We recommended a restitution value of $3,000.

TURKEY: We found no estimates of turkey hunting or non-consumptive values. It is highly valued for hunting; considered equivalent to big game. One indicator of relative value may be that hunters spent an average of about $63 per wild turkey, compared with deer hunters' $100 to $150 per wild deer. Turkey hunters hunt about 1.36 days per wild turkey, compared to deer hunters' 1.63 days per wild deer. If consumer surplus per turkey is half that for deer, and adjusting for fewer hunter days per animal for turkeys, hunters' WTA per animal would be about $100. The values of non-consumptive uses would be lower for turkeys than deer, because people show a relatively lower interest in turkeys. This value would still be higher than that for most animals, however; probably $50 to $100 per wild turkey. Existence and option values per animal may be higher for turkeys than deer, but these would only be a concern in locations in the state in which the turkey is rare. Therefore, we estimated a general restitution value for turkeys of $200.

A significant exception to the value of $200 should be made in areas in which the state is actively colonizing wild turkeys. Here, a lost turkey may be vital to the existence of the colony, and therefore may be valued at several times the normal value. In this case, the state may replace the loss with another turkey transplanted from elsewhere at a cost of $150 to $500, plus administrative costs. They may even have to release several turkeys to obtain one survivor. Restitution could appropriately be based on replacement cost in such cases, whether or not the state attempts to replace the specific bird, to reimburse the state for recent or prospective costs.

MUSKELLUNGE: We found muskellunge values of $45 to $567 per wild fish (Table 4). We also estimated trophy angling values of up to $1152, assuming the 6 angler days per wild fish we found for the muskellunge. Clearly a large muskie is a trophy fish. Comments by Frank Schneider of Muskies, Inc. (letter

of May 23, 1990 to Jack Skrypek) indicate that a 50 inch muskie is clearly a trophy, and that a 40-50 inch muskie is also considered to be extremely valuable; perhaps half as much as a 50-incher. His recommended values corresponded well to our findings. Values of smaller fish are probably similar to values of other fish of similar size, so we recommend a sliding scale of values for muskellunge reflecting these values.

In most cases, we recommended a single value for fish of a given species in response to requests to keep these guidelines simple for law enforcement purposes. It can be difficult to prove or even estimate fish length from fish remains that are sometimes available for legal evidence. However, fish length is a good indicator of trophy status, and we had good indicators of trophy values in this case. We developed a similar set of recommendations for trout for similar reasons. Very small fish of any species may be overvalued by all of our recommended values, and very large fish undervalued. We recommend considering the feasibility of designating trophy size categories for game fish, and correspondingly higher restitution values. Categories could also be established for undersized fish.

V. REFERENCES

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Table 1. Annual hunting values based on economics studies of values per hunter day, in 1989 dollars.

SPECIES	ave. $/hunter day by research method: CV-WTP	TC	HD	hunter days per animal in the MN pop.	WTP/ animal (AxD)	Marshallian Consumer Surplus/ animal $\frac{\sum_{i,j}^{n}(B_iD+C_jD)}{n}$	WTA/ animal $\frac{\sum_{i,j}^{m}(2E_i+1.5F_j)}{m}$
	A	B	C	D	E	F	G
Big Game		$45 (2)	131 (2)	1.63**		$73	$110
Elk	$42 (3)*	$34 (1)*					
Antelope	$29 (1)*	$35 (2)*					
Deer	$37 (5)	$65 (7)	$102(2)	1.63	$60	$119	$158
[Sandhills 1983 auction: WTP (cash)=$31, WTP (CV)=$52, WTA (cash)=$1,468, WTA (CV)=$1,033]							
[Sandhills 1984 market: WTP (cash)=$37, WTP (CV)=$42, WTA (cash)=$182, WTA (CV)=$500]							
Deer (high quality)		$165 (1)		1.63		$269	$403
Moose		$28 (1)*		.3		$8	$12*
Upland Birds	$50 (1)			.3	$15		$30
Pheasants		$48 (2)		.7		$34	$50
Small Game	$30 (1)	$32 (4)	$35 (3)	.3	$9	$10	$15
Waterfowl	$44 (4)	$20 (2)	$33 (1)	.4	$18	$10	$27
Geese (Horicon permit)	$40 (1)	$56 (1)		.3	$12	$17	$25
[Horicon: WTA (cash)=$120, WTA (CV)=$192]							
Predators		$20 (1)		.1**		$2	$3

CV-WTP=contingent valuation method estimate of Willingness to Pay (WTP)
TC=Travel Cost method
HD=Hedonic method
WTA=Willingness to Accept compensation=willingness to sell
*=not representative of Minnesota conditions
**=figures not available; interpolation by D.R. Talhelm
() numbers in parentheses are numbers of studies
i and j refer to the numbers of studies used to derive the respective estimates. That is, columns F and G are weighted averages of the information from which columns A through E were derived.

Table 2. Annual hunting values based on economics studies of values per animal, in 1989 dollars

SPECIES	ave. $/animal in bag by recreation method CV-WTP	HD	exploitation rate (harvest/pop.)	WTP/ animal (AxC)	CS/ animal (BxC)	WTA/ animal $\frac{\sum_{i,j}^{n}(2D_i+1.5E_j)}{n}$
	A	B	C	D	E	F
Elk		$179 (1)*	NA			
Deer		48 (1)	.16		$7.68	$12
Upland Birds		$34 (1)	.20**		$6.80	$10
Squirrel, Rabbit, etc.		$17 (1)	.20**		$3.40	$5
Migratory Birds		$15 (1)	.25		$3.75	$6
Waterfowl	$13 (1)	$48 (1)	.25	$3.25	$12	$12
Ducks	$12 (3)		.25	$3		$6
Geese	$33 (3)		.30	$9.90		$20

CV-WTP=contingent valuation method estimate of Willingness to Pay (WTP)
HD=Hedonic method
CS=Marshallian Consumer Surplus
WTA=Willingness to Accept Compensation = Willingness to sell
*=not representative of Minnesota conditions
**=figures not available; interpolation by D.R. Talhelm
() numbers in parentheses are numbers of studies or approximated use rate
i and j refer to the numbers of studies used to derive the respective estimates. That is, column F is the weighted average of the information from which columns A through E were derived.

Table 3. Annual Values for Non-Consumptive Uses, Options for Future Uses (Including Hunting), and Pure Existence, in 1989 dollars.

SPECIES	WTP Values per person: Non-consumptive uses	Option price	Existence	animal population	Total MN WTP/animal[1]: Non-consumptive uses	Option price	Existence	Total MN WTP/animal = (WTPx2): Non-consumptive uses	Option price	Existence
Grizzly Bear	[$41(1)(op)]	$42 (2)	$37(1)	NA						
Bighorn Sheep	[$39(1)(op)]	$45 (2)	$14 (1)	NA						
Seabirds, small (including Northern Pintail and coot)				NA					$57(1)*[a]	$88(1)*[a]
Seabirds, large (including Red-Tailed Hawk & Common Loon)				NA					$174(1)*[a]	$439(1)*[a]
Bald Eagle	$24 (2)	$40(1)	$27 (2)	700	$100,000	$150,000	$100,000	$200,000	$300,000	$200,000
Gulls (GL)	$14 (1)	$14(1)	$14 (1)							
Waterfowl, marine								[$9 (value per bird lost,(USDI, 1987))]		
Stripped Shiner			$6 (1)	NA						
Great Lakes Sturgeon		$16 (1)	$23 (1)	NA						
Great Lakes Lake Trout		$32 (1)	$29 (1)	NA						
Whitetailed Deer	$30**	$50**	$30**	1 mil.	$90	$150	$90	$180	$300	$180

WTP=Willingness to Pay
*=not representative of Minnesota conditions
**=figures not available; interpolation by D.R. Talhelm
( )=numbers in parentheses are numbers of studies
op=option price for non-consumptive uses, rather than just non-consumptive use value
a=estimated directly as part of a California oil spill damage assessment
[1] Total MN WTP/animal = WTP value per person, times Minnesota adult population (3 million persons), divided by the total Minnesota animal population for the species.

Table 4. Annual angling values based on economics studies of values per angler day, in 1989 dollars.

SPECIES	ave. $/angler day by research method: CV-WTP (A)	TC (B)	HD (C)	$\frac{\Delta \$}{\Delta AD^*}$	angler days per fish pop. in MN (D)	WTP/fish (AxD) (E)	CS/fish $\frac{\sum_{i,j}^{n}(B_iD+C_jD)}{n}$ (F)	WTA fish $\frac{\sum_{i,j}^{m}(2E_i+1.5E_j)}{m}$ (G)
Great Lakes (GL) Angling		$37 (8)			.4		$15	$23
GL Cold Water Angling(New York)		$9 (4)			.4		$4	$6
GL Warm Water Angling		$24 (6)		$18 (1)	NA			
GL Perch		$4 (1)		$16 (5)	NA			
GL Trout & Salmon		$8 (1)		$32 (8)	.4		$3	$5
GL Walleye		$5 (1)			NA			
All Angling	$18 (7)	$55 (9)			.15	$3	$8	$9
Trophy Angling		$128 (1)			1-6		$128-$768	$192-$1152
Coldwater Angling	$20 (7)	$26 (16)	$75 (2)	$26 (1)	.4	$8	$13	$19
Stream Angling		$53 (3)			.1		$5	$8
Warmwater Angling	$15 (1)	$39 (10)	$37 (1)		.16	$2	$6	$9
Bass	$28 (2)	$41 (2)			.1	$3	$4	$6
Bass, Pike, Muskie & Walleye		$90 (1)			.33		$30	$45
Catfish	$29 (2)	$19 (1)			.05	$1	$1	$2
Muskie		$63 (2)			6		$378	$567
Panfish	$44 (1)	$13 (1)			.055	$2	$1	$3
Pike & Walleye	$71 (1)				.38	$27		$54
Roughfish		$27 (1)			.01		$.30	$.50
Trout	$23 (6)	$48 (4)			.39	$10	$19	$23
Steelhead	$26 (1)	$51 (7)		$48 (1)	2	$52	$100	$150

CV-WTP=contingent valuation method estimate of Willingness to Pay (WTP)
TC=Travel Cost method
HD=Hedonic method
() numbers in parentheses are numbers of studies
*=Change in total value ÷ change in angler days for a small change in angling quality
i and j refer to the numbers of studies used to derive the respective estimates. That is, column F and G are weighted averages of the information from which columns A through E were derived.

Table 5. Annual angling values based on economics studies of values per fish caught, in 1989 dollars.

SPECIES	ave. $/fish caught by research method: CV-WTP	ave. $/fish caught by research method: HD	Exploitation rate (harvest/ pop.)	WTP/ fish (AxC)	CS/ fish (BxC)	WTA/ fish $\frac{\sum_{i,j}^{n}(2D_i+1.5E_j)}{n}$
	A	B	C	D	E	F
Great Lakes	$13.5 (1)	[TC:$1 (1)]	.1	$1.35	$.10	$1.4
GL Salmon & Trout	$5.5 (1)	[TC:$64 (2)]	.1	$.55	$6.4	$7
Cold water	$2 (1)	$3.5 (2)	.33	$.66	$1	$3
Fresh water		$4 (1)				
Bass, Pike, Muskie & Walleye		$8 (1)	.28		$2	$3
Salmon & Steelhead		$12 (1) [TC:$152(1)]	.2		$2.4 [$30]	$4 [$45]
GL Sturgeon	$18 (1)		NA			
Steelhead		[TC:$162(2)]	.4		[$66]	[$99]
GL Lake Trout	$35 (1)		.1	$3.5		$7
Trout/ landlocked Salmon		$6 (1)	.33		$2	$3

CV-WTP=contingent valuation method estimate of Willingness to Pay (WTP)
TC=Travel Cost method
CS=Marshallian Consumer Surplus
HD=Hedonic method
WTA=Willingness to Accept compensation = Willingness to sell
() numbers in parentheses are numbers of studies
i and j refer to the numbers of studies used to derive the respective estimates. That is, column F is the weighted average of the information from which columns A through E were derived.

Table 6. Estimated Wildlife Values Lost by Illegal Removal of One Animal from the Total Minnesota Population, for Species with Relatively Complete Information

VALUE COMPONENT	SPECIES						
	Deer	Pheasant	Rabbit, Squirrel	Ducks	Geese	Eagles	common large birds
1. Recreational & Subsistence Hunting	$200	$40	$15	$23	$27	NA	NA
2. Trapping recreation	NA	NA	NA	NA	NA	NA	NA
3. Viewing & Non-consump. Use	$200**	$15**	$5**	$10*	$15*	$20,000	$15-30**
4. Existence of "Healthy" Population	NA	NA	NA	NA	NA	$2,000	NA
5. Option to Guarantee Future Uses	$3	$1	$1	$1	$1	$2000**	$1-5
6. Fur/hide Market Value	$10	0	0	0	0	NA	0
7. Special Ecological Role	NA	NA	NA	NA	NA	NA	small
8. Nuisance -- accidents, crop damage, special management costs	$-35	NA	NA	small	small	$-500**	NA
TOTAL	$400	$55	$20	$35	$40	$23,500	$15-35

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*=based on USDI (1987) estimates
**=figures not available; interpolation by Daniel R. Talhelm (See table 3 for deer non-consumptive value.)

Table 7. Estimated Fisheries Values Lost By Illegal Removal of One Catchable Fish from the Total Minnesota Population, for Species with Relatively Complete Information

VALUE COMPONENT	SPECIES								
	Stream Trout	Bass	Walleye	Steelhead	Salmon	other Warm Water Sport Species	Catfish	Carp	Smelt
1. Recreational & Subsistance Fishing	$20	$10	$20	$150	$23	$8	$2	$1	$2/lb
2. Viewing & Non-Consumptive Use	$2	$1	0	$1	$2	$1	$.50	small	small
3. Existence of "Healthy" Population	NA	NA	NA	NA	NA	NA	NA	NA	NA
4. Option to Guarantee Future Uses**	$1	$1	$1	$2	$1	$1	$.50	small	small
5. Commerical Values (Food, Bait, etc.)	NA	NA	NA	NA	NA	$.40/lb	$.08/lb	$.12/lb	
6. Value as Prey for other Fish	0	0	0	0	0	small	0	0	$.50lb
7. Special Ecological Role	0	0	0	0	0	NA	0	0	0
8. Extra Time for Natural Replacement	$4	$2	$10	$20	$4	0	0	0	0
9. Nuisance or Special Management Expenses	small	0	0	small	small	0	0	small	0
TOTAL	$27	$14	$31	$170	$30	$10	$3	$1	$3/lb

**=figures not available; interpolation by Daniel R. Talhelm

APPENDIX

SUMMARY OF PUBLIC COMMENTS ON DRAFT RESTITUTION VALUES

Public meeting were held in New Ulm, St. Paul, and Grand Rapids on April 23, 24, and 25, respectively, to obtain comment on an earlier draft set of recommended restitution values. This appendix briefly summarizes comments at the meeting. Many of those who commented at the meeting submitted their comments in writing, and those are attached. Others also commented in writing, and those are attached as well.

NEW ULM:

1. Keep it simple. Law enforcement and legal officials have great difficulty following complex valuation rules, and understanding why they must be followed. Each variation must be evaluated on the evidence, and conclusive evidence is sometimes difficult to obtain.

2. Turkeys should be valued at an amount similar to deer.

3. Add the cougar.

4. Prarie chicken is too high, turkey too low, swan too low, loon too low, sandhill crane too high.

5. The lynx should be valued higher than bobcat.

6. Catfish is too low, especially the flathead, which is more popular with anglers. Limits on flathead catch are being considered. It is larger and more of a trophy.

7. Crappie is too high. Should be closer to sunfish in value, say $3 to $5.

8. Bat is too low. They now are highly protected.

ST. PAUL:

1. Muskey is too low, turkey too low, wolf too high. Increase deer to $500.

2. Trophy animals would need to be defined by clear, recognizable criteria to be useable.

3. Snapping turtle too high, skunk too high. A species of concern is not necessarily in trouble.

4. Keep it simple for CO's and judges. A system of adjustments could be used if clearly defined. "Prime," "best," "poor," and similar definitions are too difficult to interpret. This would be similar to increased punishments on the 3rd offense. Fur market value is OK as an adjustment.

5. The loon is symbolically important to Minnesotans.

6. The trumpeter swan is still a species of concern.

7. Elk too low. Bass should be lower than walleye.

8. Trophy categories could easily be defined for fish and deer, but not for most others. Drop the juvenile and "poor" categories.

9. It would be better to stick to single values for species, and not have any adjustments.

10. Sharptail grouse should be $65. Cougar should be same as wolverine. Woodcock too high. Increase loon to $500, great blue heron to $65, and reduce osprey and others to $1000. Lower coyote and fox. Martin should be $60. Drop the kite.

11. $5000 seems high for threatened and endangered species.

GRAND RAPIDS:

1. Increase trumpeter swan.

2. Crappie too high compared to sunfish.

3. Comments about adjustments similar to those in New Ulm and St. Paul.

4. Adjustments should consider when and how the animals are taken, such as those taken out of season, or in excess of the limit.

5. Adjustments must be kept simple. Only fish length and fur market value would work well.

6. Don't lump grouse. Sharptail should be higher. Martin should be comparable to fisher.

Written comments received from:
1. N. Gulden
2. P. Burke
3. F. Schneider
4. C. Henderson
5. J. Moriarty
6. F. Hammer
7. K. Haroldson

APPENDIX B

Department of Natural Resources Policy Directive No. 6

Claims and Penalties for Damage to Wildlife by Pollution

DEPARTMENT OF NATURAL RESOURCES

Policy Directive No. 6

November 3, 1971

SUBJECT: Claims and Penalties for Damage to Wildlife by Pollution

WHEREAS, the public has exhibited strong concern for the protection and enhancement of the natural resources of the state; and

WHEREAS, injury to wildlife due to the pollution of water and marsh areas of the state causes expenditure of public funds in clean-up operations and wastes public funds expended in the development of such wildlife resources; and

WHEREAS, responsibility for wildlife protection is divided among several divisions of the Department;

THEREFORE, the following procedures are adopted as departmental policy:

1. The Division of Game and Fish shall ascertain the cost of clean-up incurred by the Department and the value of the wildlife damaged or destroyed by any intentional or accidental act which has caused injury to wildlife through pollution. The Division in consultation with the Attorney General shall itemize such cost incurred and value lost and shall request reimbursement from the person responsible for such pollution.

2. The Technical Services Section of the Division of Game and Fish shall coordinate information-gathering from the Pollution Control Agency and the Department of Health concerning such pollution.

3. The Division of Enforcement and Field Service shall seek criminal prosecution of the person responsible for the act to the full

extent of penalties provided by law.

4. Any continuing or recurring violations shall be considered a public nuisance and the Commissioner may request the Attorney General to take proper action to enjoin and abate such nuisance.

Robert L. Herbst
Commissioner of Natural Resources

By: _____
C. B. Buckman, Deputy
Commissioner of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Adoption of the Rule of the State Department of Natural Resources Governing Restitution Values for Fish and Wildlife

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the commissioner's intent to adopt the above-entitled rule was published in the State Register on March 4, 1991 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minn. Stat. §§ 14.14, subd. 1a, and 14.22 on February 28, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (3) The agency received one request for a public hearing, which was not withdrawn. Therefore, the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn. In all, the agency received five submissions commenting on the content of the rule. (7) No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following: The above-captioned rule is

based on sound economic valuation methods and the professional judgment of agency staff. None of the comments received provided sufficient evidence to support changes to the rule. Some of the comments received pertained to matters beyond the scope of the rule. Therefore, no changes were made to the rule as published in the State Register on March 4, 1991.

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Restitution Values for Fish and Wildlife is adopted this 22nd day of May, 1991, pursuant to authority vested in me by Minn. Stat. § 97A.345(a). (9)

Rodney W. Sando

RODNEY W. SANDO
Commissioner

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COUNTY OFFICERS

ANNE K. GRANITZ, Auditor
J. C. STONE, Treasurer
BESSIE M. FUGLEBERG, Recorder
BETTY LARSEN, Court Administrator
JAMES A. HANSON, Assessor
JAMES R. WILSON, District Judge
PATRICK A. NOVACEK, Sheriff
MARTIN BERG, Attorney
DANIEL W. SCHMINKE, M.D., Coroner
JEFF PELOWSKI, Environmental Officer



ROSEAU COUNTY

"County of Clovers"

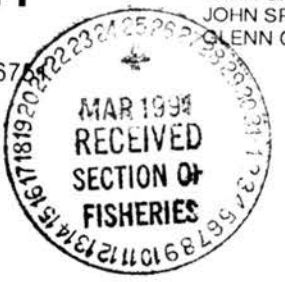
ROSEAU, MINNESOTA 567

COUNTY OFFICERS

RUSSELL L. LARSON, Highway Engineer
DELORES L. ANDOL, Extension Director
DAVID ANDERSON, Welfare Director
GEORGE D. COLE, Service Officer

COUNTY COMMISSIONERS

DORAN HORNER, Warroad
RICHARD JACKSON, Roseau
JOHN GAUKERUD, Badger
JOHN SPINA, Roseau
GLENN C. DARST, Greenbush



March 20, 1991

Mr. Jack Skrypek
Department of Natural Resources
Division of Fish and Wildlife
Ecological Services Section
500 Lafayette Road
St. Paul, MN 55155-4025

Dear Mr. Skrypek:

Enclosed is a resolution adopted by the Roseau County Board of Commissioners on March 13, 1991, regarding the proposed rule governing restitution values for fish and wildlife illegally killed, injured or possessed. The Board strongly opposes any restitution act for fish and wildlife and recommends that the current law--whereby a fine is imposed--should stand.

Please consider the Board's recommendation before you adopt a rule to change the current law regarding fish and wildlife illegally killed, injured or possessed.

Sincerely,

Anne K. Granitz

Anne K. Granitz
Roseau County Auditor

AKG:pi

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

PROCEEDINGS OF THE COUNTY BOARD
ROSEAU COUNTY, MINNESOTA

A motion was made by Commissioner Horner, seconded by Commissioner Jackson, and carried by unanimous vote that the following resolution be adopted:

91-3-21

WHEREAS, the State of Minnesota Department of Natural Resources currently imposes a fine on individuals who illegally kill, injure, or possess fish and wildlife, and

WHEREAS, the Roseau County Board of Commissioners is in receipt of a notice of intent to adopt a rule without a public hearing in the matter of the proposed adoption of the rule of the State Department of Natural Resources governing restitution values for fish and wildlife illegally killed, injured, or possessed.

NOW, THEREFORE, BE IT RESOLVED, that the Roseau County Board of Commissioners hereby goes on record as strongly opposing any restitution act for fish and wildlife and recommends that the current law--whereby a fine is imposed
--should stand.

STATE OF MINNESOTA)
SS
COUNTY OF ROSEAU)

I, Anne K. Granitz, County Auditor in and for Roseau County, Minnesota, do hereby certify that the foregoing is a true and correct copy of part of the proceedings adopted by the Roseau County Board of Commissioners on March 13, 1991.

Anne K. Granitz

Anne K. Granitz, Auditor
Roseau County, Minnesota

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Celebrate MINNESOTA 1990

DNR INFORMATION
(612) 296-6157

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

April 2, 1991

Ms. Anne K. Granitz
Roseau County Auditor
Roseau County
Roseau, Minnesota 56751

Subject: Fish and Wildlife Restitution Rule

Dear Ms. Granitz:

Thank you for your recent letter concerning our draft restitution rule. The Department of Natural Resources appreciates the views of the County Board. I would like to take this opportunity to clarify the status and intent of the restitution rule and the authorizing legislation. In 1989 the state legislature amended the game and fish laws to require the collection of restitution from anyone convicted of killing, injuring or possessing a wild animal in violation of the game and fish laws (M.S. 97A.341, subd. 3, copy attached). This restitution is a civil penalty designed to compensate the citizens of the state for lost resources. It is to be collected in addition to a fine, which is a criminal penalty.

The amendments also authorized the commissioner of the DNR, through the administrative rulemaking process, to prescribe the dollar value to the state of species of wild animals (M.S. 97A.345). These values are to be used as guidance to the courts in determining the amount of restitution to collect from violators. A set schedule of values should help ensure a fair and consistent application of the restitution provisions. Thus, the present rulemaking process only involves the prescription of dollar values for game and fish species. The provisions for collecting restitution are already law and are presently being implemented by the courts.

I hope this information clarifies the situation. The DNR is interested in establishing a strong deterrent to violations of the game and fish laws and we believe that the collection of restitution will help in that regard.

Sincerely,

Jack Skrypek
Chief, Section of Fisheries

DJN:djn

Attachment

tip inc.
turn in poachers
5701 Normandale Road
Minneapolis, Minnesota 55424
(612) 922-5493

MAR 13 91

March 8, 1991

Department of Natural Resources
Ecological Services Section
500 Lafayette Road
St. Paul, MN 55155

Dear Sirs:

This letter is to confirm our support to the adoption without public hearing, rules to establish restitution values to the state of Minnesota for wildlife illegally killed, injured or possessed.

T.I.P. (Turn In Poachers), has done intensive research in ways of halting those that would continue to kill, injure or possess wildlife illegally. We have concluded that the fear of having to pay restitution in addition to criminal penalties has been significant in reducing poaching in other states.

We have followed this bill closely since its inception and recognize the effort you have shown in arriving at the proposed values. The hiring of independent outside experts in helping to determine values, the opportunity for the public to give testimony, and the complete internal review and evaluation, shows us the total measure of professionalism by which the recommendation has been presented.

On behalf of TIP, I wish to thank you for the efforts put forth on this proposal, and offer our support to the adoption there of. If we may be of any assistance please feel free to contact the office.

Sincerely,

Jim Schroeder
Board member, TIP

JS;dh

Northern States Power Company

414 Nicollet Mall
Minneapolis, Minnesota 55401-1927
Telephone (612) 330-5500

April 4, 1991

Jack Skrypek
Department of Natural Resources
Division of Fish and Wildlife
Ecological Services Section
500 Lafayette Road
St Paul, MN 55155-4025

PROPOSED MINNESOTA RULES 6133
Comments

Northern States Power Company (NSP) is providing comments on the proposed rules governing fish and wildlife restitution values (Minnesota Rules 6133.0010 through 6133.0090).

NSP is concerned the proposed rules could be interpreted to require restitution for any loss of fish and wildlife whether the result of a state or federally permitted activity or the result of the actions of a person who kills, injures, or possesses a wild animal in violation of the game and fish laws. NSP operates various facilities throughout the state under state and federal permits, such as National Pollutant Discharge Elimination System (NPDES) permits and State Disposal System (SDS) permits. These permits contain conditions of responsibility and liability for fish and wildlife loss due to the operations of the facility. Restitution is required in the payment of replacement costs under various circumstances as specified by the regulatory agencies including the Department of Natural Resources, the Minnesota Pollution Control Agency, and the Environmental Protection Agency. Replacement costs are based on established references such as the American Fisheries Society Special Publication #13: Monetary Values of Freshwater Fish and Fish-Kill Counting Guidelines.

Any fish or wild animal life loss resulting from the operation of NSP facilities is unintentional. NSP contends such loss does not constitute "taking" as defined under Minnesota Statutes 97A.015, Subd. 47, and the application of the game and fish laws to state and/or federally permitted NSP operations is not appropriate. Therefore, NSP recommends the permanent rules include a scoping statement describing the applicability of the rules, as intended by statute, to "a person who kills, injures, or possesses a wild animal in violation of the game and fish laws" as described under Minnesota Statutes 97A.341, which is referenced under Minnesota Statutes 97A.345 as the intended use of Minnesota Statues 97A-

345. NSP recommends that the scoping statement indicate that the rules do not apply to entities operating in accordance with permits issued pursuant to state and/or federal laws.

Finally, NSP also has a concern with the application of the stated restitution values to non-adult fish because the stated restitution values do not account for percent survivorship to adulthood.

If NSP's concerns cannot be addressed through rule wording changes, we request a public hearing to deal with the concerns.

NSP appreciates the opportunity to comment, and if you wish to discuss our concerns and comments further, please call me at 330-6625.

Jim Bodensteiner

J J Bodensteiner
Plant Regulatory Analyst

kd

cc: ERAD Records Center
Mike Connelly
Dan Orr
Ken Mueller
Mike Hestick
Lee Eberley

STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

DNR INFORMATION
(612) 296-6157

April 30, 1991

Mr. J.J. Bodensteiner
Northern States Power Company
3414 Nicollet Mall
Minneapolis, Minnesota 55401-1927

Subject: NSP Comments on Proposed DNR Rules Governing Fish and Wildlife Restitution Values

Dear Mr. Bodensteiner:

Thank you for your comments on the proposed rule. Staff from the DNR, the Minnesota Pollution Control Agency and the State Attorney General's Office have discussed the issues raised in your letter. While we appreciate NSP's concerns, we would like to emphasize that the proposed rule itself does not provide any expanded authority for seeking restitution. The question of whether the restitution provisions at 97A.341 can be applied to situations other than typical violations of the game and fish laws is beyond the scope of the rule. The sole purpose of the proposed rule is to establish a schedule of values to be used as prima facie evidence by the courts in determining the amount of restitution to collect. The values in our proposed rule are geared toward typical violations of the game and fish laws, usually the loss of one or a few animals from a population. Whether or not the values are applicable to other situations where restitution is required depends on the particular circumstances, including the number of animals killed, the size or age of the animals, and the presence of significant habitat impacts. I have enclosed a copy of our Statement of Need and Reasonableness which thoroughly explains how the values were derived and the assumptions made. We believe the proposed rule represents the most thorough and current analysis of the value of fish and wildlife in Minnesota. Ultimately, the amount of restitution collected in any proceeding is up to the discretion of the court.

For these reasons, we have decided not to make any changes to the rule as published in the State Register (15 S.R. 1920) and we intend to proceed with adoption of the rule. A public hearing is mandatory if requested by 25 or more people. Since we received only one request, we will not conduct a public hearing on the rule.

I hope this information adequately explains our decision not to amend the rule. Please

feel free to contact me (296-0792) or Doug Norris of my staff (297-4219) if you have any additional questions.

Sincerely,

J Skrypek

Jack Skrypek
Chief, Section of Fisheries

cc: Rod Sando
Roger Holmes
Leo Haseman
Doug Norris
Steve Masten, Atty. Gen.
Marvin Hora, MPCA

Minnesota Chapter National Wild Turkey Federation, Inc.

Rec'd 3/20/91

March 12, 1991

Jack Skrypek
Department of Natural Resources
Division of Wildlife
Ecological Services Section
500 Lafayette Road
St. Paul, MN 55155-4025

Re: Proposed Adoption of Rule Governing Restitution Values for Fish and Wildlife Illegally Killed, Injured, or Possessed

Dear Mr. Skrypek:

I am writing to you as president of the Minnesota Chapter of the National Wild Turkey Federation, and wish to provide you with the following information and comments regarding the value of a wild turkey.

As you are probably aware, the wild turkey restoration program has been conducted jointly by the DNR and the Minnesota Chapter of the National Wild Turkey Federation and its affiliates for the past 15 years or more. That program has resulted in an estimated current Minnesota wild turkey population of approximately 15,000 and a program which, if successfully concluded, would increase Minnesota's wild turkey population to 30,000 by the year 1997. In the process of that restoration program, Minnesota wild turkeys have been wild-trapped and released, but wild turkeys have also been imported for cash or in trade from other states. Currently, the price for the purchase of a wild turkey from another state, which appears to be uniform nationwide, is $500. We also believe that the cost of trapping and releasing a Minnesota wild turkey into other suitable habitat is $500. Accordingly, the assigned restitution value of $400 set forth in Section 6133.0030 of the proposed rule for a wild turkey seems unrealistic in view of the aforementioned cost.

Accordingly, it is our suggestion that the assigned value, i.e., $400, be increased to $800, reflecting the actual cost incurred in the trapping, transportation, and release of a Minnesota wild turkey, or its acquisition from another jurisdiction, plus a $300 penalty, which I believe is the intent of the proposed rule.

If I can provide further comment, please don't hesitate to contact me.

Warmest regards,

D. James Nielsen
President, Minnesota Chapter
National Wild Turkey Federation

DJN:ctg
cc: Minnesota Chapter Board of Directors
Chapter Presidents
Nick Gulden
Tim Bremicker
Kevin Lyons

STATE OF
MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

500 LAFAYETTE ROAD • ST. PAUL, MINNESOTA • 55155-40_____

DNR INFORMATION
(612) 296-6157

May 1, 1991

Mr. D. James Nielsen
President, Minnesota Chapter
National Wild Turkey Federation
3400 City Center
33 South 6th St.
Minneapolis, MN 55402

Subject: Comments on Proposed Rule Governing Fish and Wildlife Restitution Values

Dear Mr. Nielsen:

Thank you for your comments on our proposed restitution values. I would like to take this opportunity to respond to the points raised in your letter.

We recognize that the current price of wild turkeys purchased from another state is $500. However, we have not purchased turkeys from other states in the past, nor do we have any plans to do so. We are presently trading ruffed grouse for turkeys with the State of Illinois. Concerning the cost of trapping and transplanting Minnesota turkeys, our analysis shows costs ranging from approximately $125/bird for past releases to an estimate of about $325/bird for our upcoming accelerated transplanting effort. Based on these figures, we believe that $400 is a reasonable restitution value for wild turkeys in Minnesota.

As far as your recommendation that a $300 penalty be incorporated into the restitution value, adding such a penalty is not consistent with the concept of restitution. Restitution is a civil action to recover the value of the resource lost to the citizens of the state. Restitution is to be collected in addition to a fine, which is a criminal penalty. We hope that the end result of the restitution provisions will be an increased deterrent to game and fish law violations, but technically, any "penalty" must be confined to the criminal proceedings.

We appreciate receiving your comments. Please feel free to contact me or Doug Norris of my staff (612-297-4219) if you have any additional comments or questions.

Sincerely,

Jack Skrypek
Chief, Section of Fisheries

cc: Tim Bremicker
Ed Boggess
Doug Norris

CONTACT SUMMARY

Date: 03/11/91

Type: Telephone ___ Visit ___ Conference

✓ Incoming

___ Outgoing

DNR Contact: Bruce Hawkinson, Acting Chief, Ecological Services Section

Person(s) Contacted: John Goslinga

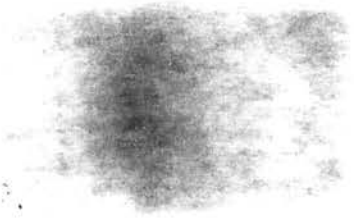
Organization:

Telephone No.: (612) 389-4440

Subject: Comments on Fish and Wildlife Restitution Values

Summary:

Mr. Goslinga commented that there should not be restitution values for skunk, red fox or racoon.



Office of the Revisor of Statutes
Administrative Rules

Paul E. Rohde
Senior Assistant Revisor
296-0953

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

March 4, 1991

RECEIVED
MAR 05 91
FISH & WILDLIFE

Jack Skrypek, Chief
Ecological Services Section
Department of Natural Resources
500 Lafayette Road
Saint Paul, MN 55155

RE: File No. 1829

Dear Mr. Skrypek:

Enclosed are stripped copies of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

PER / mm

Paul E. Rohde

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed
Adoption of the Rule of the State
Department of Natural Resources
Governing Restitution Values for
Fish and Wildlife

DECLARATION
OF COUNSEL

I, Stephen B. Masten, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0582.

Dated: May 29, 1991

S B Masten

STEPHEN B. MASTEN
Special Assistant
Attorney General

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