

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Poor

AVK 10-15-92

RULE REVIEW CHECKLIST

File No. 1956
DATE RECEIVED 10-13-92
REVIEW DATE 10-22-92
DUE DATE 10-27-92
~~(DIS)~~APPROVED 10-27-92
WITHDRAWN

Docket No. 050009 0735
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 10-15-92
REVISOR (DIS)APPROVED 10-20-92
FILED W/SEC. OF STATE 10-28-92
RETURNED TO AGENCY 10-28-92

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
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
270A.04 subd 3 Statutory Authority not authority to do rules, but mentioned rules, & Rev does have auth. AVK
✓ Small Business Statement
NA Expenditure of public money statement
August 17, 1992 Signature not signed

Poor Statement of Need and Reasonableness (if applicable)
Small Business Statement
Fees - § 16A.128 wrong cite for rule

put does give reason & would be needed to taxpayer AVK
why debtor's expense

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 24, 1992 Dated 30/25 days before adoption
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
August 31, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) 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
Oct 8, 1992 Date

NO Written Requests, Submissions or Comments

✓ Declaration of Attorney Read has reasons why errors aren't substantial
Barry Greller Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

STATE OF MINNESOTA

Office of the Attorney General

TO : RICHARD L. WALZER, ATTORNEY
Appeals, Legal Services, and
Criminal Investigation Division
10 River Park Plaza
St. Paul

DATE : October 28, 1992

FROM : AMY V. KVALSETH
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : In the Matter of the Adopted Rule Relating to Revenue Recapture; Identifying Information

The above-referenced rule has been approved as to its legality by the Attorney General on October 27, 1992.

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.

Enclosures
cc: Barry R. Greller
William Brown, Chief Judge
MaryAnn Hruby

AVK:jj.rules.bc3

Department of Revenue

Adopted Permanent Rules Relating to Revenue Recapture; Identifying Information

Rules as Adopted

8165.0100 REVENUE RECAPTURE; IDENTIFYING INFORMATION.

In addition to the name and social security number of the debtor as required by Minnesota Statutes, section 270A.04, subdivision 3, the commissioner of revenue may require an agency making a revenue recapture claim to furnish any of the following information in order for the commissioner to correctly identify the debtor:

A. the address of the debtor;

B. a former address of the debtor;

C. the name and social security number of the debtor's spouse;

D. the name and social security number of the debtor's ex-spouse;

E. the name and address of the debtor's employer or a former employer; and

F. the names of dependents of the debtor.

APPROVED AS TO FORM AND LEGALITY

October 27 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Amy V. Kvälseth
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 28 199

Joan Anderson Growe
Secretary of State

9:50 AM

PB

(3) the name and address of the person or firm with whom contacts may be made regarding the appeal; and

(4) a statement under oath indicating the date on which the payment notice was received by the appealing party.

Subp. 3. **Resolution.** The commissioner and the appealing party may attempt to resolve the appeal informally. If the dispute is not resolved informally between the commissioner and the party filing the appeal under subpart 2, item A, the appeal will be heard according to the contested case provisions in *Minnesota Statutes*, chapter 14, and the rules of the Office of Administrative Hearings. Upon agreement of both parties, the dispute may be resolved informally through any modified appeal procedures established by agreement between the commissioner and the chief administrative law judge.

Subp. 4. **Surcharge payment during appeal.** The monthly medical care surcharge amounts established by the commissioner before an appeal must be paid by the dates due while an appeal is pending.

Subp. 5. **Resolution of appeal.** If an appeal results in a determination that payment is due the appealing party, the commissioner shall settle-up with the appellant after the exhaustion of the appeal process. For purpose of this subpart, "exhaustion of the appeal process" means within 45 days of the date of the final decision of the court of appeals or the Minnesota Supreme Court if such a judicial review is sought. If no judicial review is sought, "exhaustion of the appeal process" means within 45 days of the date of the final decision of the commissioner.

Subp. 6. **Monthly appeals.** An appeal must be filed for each month's disputed medical care surcharge amount due. The appeals may be consolidated in a contested case hearing under *Minnesota Statutes*, chapter 14. The medical care surcharge amount shall not be adjusted for any month for which an appeal was not filed.

9510.2050 ENFORCEMENT.

According to *Minnesota Statutes*, section 256.9657, subdivision 7, the commissioner shall impose civil penalties and interest on medical care surcharge payments that are more than 30 days overdue.

A three percent penalty is assessed the first day past due, and each 30 days after that, up to 24 percent in the aggregate. Interest will be calculated based on the following formula: tax balance multiplied by interest rate multiplied by length of time. The rate of interest is determined according to *Minnesota Statutes*, section 270.75.

The medical care surcharge notice shall include the tax amount and due date, plus any penalty and interest if not paid by the due date.

Department of Revenue

Proposed Permanent Rules Relating to Revenue Recapture; Identifying Information

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 270A.04, subdivision 3.

All persons have until 4:30 p.m. on September 30, 1992, in which to submit comment in support of or in opposition to the proposed rules or any subpart of the proposed rules. 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 until 4:30 p.m. on September 30, 1992. Any requests or comments must be received by the Department of Revenue no later than 4:30 p.m. on September 30, 1992. If 25 or more persons submit a written request for a public hearing by 4:30 p.m. on September 30, 1992, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing must include his or her name and address, and must 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 under *Minnesota Statutes*, sections 14.131 to 14.20.

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

Richard L. Walzer, Attorney
Appeals, Legal Services, and
Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-1902, Extension 134

The proposed rules may be modified if the modifications were supported by data and views submitted to the Department of Revenue and do not result in a substantial change in the proposed rules as noticed. A copy of the proposed rule is attached to this notice. A free copy of the rules is available upon request from Richard L. Walzer at the address and telephone number listed above.

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

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact on the proposed rule on small business. The adoption of the rule will not adversely affect small businesses.

Minnesota Statutes, section 14.11, subd. 1 does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. *Minnesota Statutes*, section 14.11, subd. 2, does not apply because adoption of the rules will not impact agricultural land. *Minnesota Statutes*, section 16A.128, subds. 1a and 2a do not apply because the rules do not fix fees.

If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Richard L. Walzer at the address and telephone number listed above.

Dated: 17 August 1992

Michael E. Boekhaus, Director
Appeals, Legal Services, and
Criminal Investigation Division

Rules as Proposed (all new material)

8165.0100 REVENUE RECAPTURE; IDENTIFYING INFORMATION.

In addition to the name and social security number of the debtor as required by *Minnesota Statutes*, section 270A.04, subdivision 3, the commissioner of revenue may require an agency making a revenue recapture claim to furnish any of the following information in order for the commissioner to correctly identify the debtor:

A. the address of the debtor;

B. a former address of the debtor;

C. the name and social security number of the debtor's spouse;

D. the name and social security number of the debtor's ex-spouse;

E. the name and address of the debtor's employer or a former employer; and

F. the names of dependents of the debtor.

Office of the State Treasurer

Proposed Permanent Rules Relating to Credit Card Disclosure Reports

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Office of the State Treasurer, State of Minnesota, 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*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 325G.415, subdivision 2.

All persons have 30 days 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.

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.

In the Matter of the Adoption of
Permanent Rules of the State of
Minnesota Governing Revenue
Recapture: Identifying Information

DECLARATION OF COUNSEL

I, Barry R. Greller, 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 0735.

In examining the rule, I noted the following:

1) The proposed part number for the rule specified in the Statement of Need and Reasonableness (part 8170.0200) is different than the part number assigned by the Revisor to the proposed and adopted rules (part 8165.0100); and

2) The Notice of Intent to Adopt a Rule Without a Public Hearing refers to Minn. Stat. § 270A.04, subd. 3 as authority for the promulgation of the rule; the specific rulemaking authority provided by Minn. Stat. § 270A.12 and the general rulemaking authority provided by Minn. Stat. § 270.06 (13) might also have been referenced. If either of the foregoing matters were construed as an error or defect, they would not have deprived any person of an opportunity to participate meaningfully in the rulemaking process, in that, among other reasons, no person requested a copy of the Statement of Need and Reasonableness, and the statutory authority of the Commissioner to adopt the rule is clearly established by Minn. Stat. §§ 270.06 (13) and 270A.12.

Dated: October 9, 1992.

Barry R. Greller

BARRY R. GRELLER
Special Assistant
Attorney General

brg.dl8

Re rule — w/ Greller 10-22-92

Rick Walzer — 296-1902 x 134

270A.11 — confusing

may be — 270A.11 (1980) had lang.

saying "Notwithstanding §§ ,..."

were tax secrecy statutes.

they disappeared in '89.

so 270A.11 — promul. after tax secrecy laws

so ~~wall~~ allowing dissemin. —

in 1992 — 13.99 was enacted 1992 Laws ch 569 s4

list of other data practices law not in

ch. 13.

- references Tennessen —

- ~~lists~~ subd. 84 —

- data re. 270A.11

-

10-23-92

270A.11 — Rev. Dept thinks means

(a) crim penalties (last)

(b) (mid) Cmsr disclose to agency

(c) (first) deal w/ data collected prior to Rev. Recapture ACT

- Tennessen warning on tax forms -

270B. gives Cmsr permission to release info

Rule simply authrzs Cmsr to request info, not for agency to reveal info.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption Without a Public Hearing of the Rule Governing Revenue Recapture Identifying Information

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared to establish the statutory authority, need for, and reasonableness of the proposed rule. It is submitted pursuant to Minnesota Statutes, section 14.23 and Minnesota Rules, part 2010.0700 requiring a statement of need and reasonableness.

Authority to Adopt Rules.

Minnesota Statutes, section 270A.04, subdivision 3 authorizes the Commissioner of Revenue to promulgate rules requiring agencies making Revenue Recapture claims to furnish identifying information in addition to the information required by statute, which is the name and social security number of the debtor.

Minnesota Rules, part 8170.0200.

By requiring the claimant agency to furnish the items listed in the rule, the Department can match the information furnished with the information in the Department's records. Then, in the case of a common name, for example, the Department will be able to verify that the debtor identified by the claimant agency and the taxpayer whose refund is being remitted to the agency under the Revenue Recapture program are one and the same.

Statutory Authority 270A.04 sub-3

not authority to do rule

For each debt submitted, the claimant agency shall provide the commissioner with the name and social security number of the debtor and any other identifying information required by rules promulgated by the commissioner

end of comment period - Sept 30, 1992

Notice not signed

Authority should be 270A.12

The commissioner or a claimant agency is authorized to make rules necessary to effectuate the purposes of sections 270A.01 to 270A.12.

Sloppy - ~~[illegible]~~ will try to correct next time.

10-15-92

called to ask about signed - poor rule -
don't have one poor SONAR
why didn't you put what circumstances you would request the information

Rules

Commissioner may require
what if I don't supply it - all or none
under what circumstances do they request it

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Governing Revenue Recapture; Identifying Information	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the agency's intent to adopt the above-entitled rule was published in the State Register on August 31, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on August 24, 1992. (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. (5) No requests for a public hearing on the rule were received by the agency.

(7) One verbal comment on the rule was received by the agency, which was resolved over the telephone. 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:

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as part 8165.0100 is adopted this 8th day of October, 1992, pursuant to authority vested in me by Minnesota Statutes, section 270A.04, subdivision 3.

(9)

Dorothy A. McClung
Commissioner of Revenue

MINNESOTA Department of Revenue

APPEALS, LEGAL SERVICES AND CRIMINAL INVESTIGATION DIVISION

Mail Station 2220
St. Paul, Minnesota 55146-2220
Phone (612) 296-1902, ext. 134
Facsimile (612) 296-8229

October 12, 1992

RECEIVED
OCT 13 1992
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

The Office of the Attorney General
Public Finance Division
Capitol Office Building
525 Park Street
St. Paul, Minnesota 55103

Re: **In the Matter of the Proposed Adoption of Permanent Rules Relating to Revenue Recapture; Identifying Information.**

Dear Sir or Madam:

Enclosed herein are the following:

(1) A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

(2) The notice of intent to adopt the rule without a public hearing as mailed.

(3) The statement of need and reasonableness.

(4) The affidavit of mailing the notice of intent to adopt the rule without a public hearing.

(5) A copy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

(6) Four copies of the rule as adopted.

(7) The findings of fact, conclusions, and order adopting the rule.

(8) The Declaration of Counsel of Barry R. Greller, Special Assistant Attorney General.

These documents are submitted for your final approval pursuant to Minn. Stat. ch. 14 and Minn. Rules ch. 2010. If the rule is approved and filed with the Secretary of State, please notify me.

Sincerely,

Richard L. Walzer, Attorney
Legal Services Section

RLW/ml
Enclosure

Department of Revenue

Proposed Permanent Rules Relating to Revenue Recapture; Identifying Information

Rules as Proposed (all new material)

8165.0100 REVENUE RECAPTURE; IDENTIFYING INFORMATION.

In addition to the name and social security number of the debtor as required by Minnesota Statutes, section 270A.04, subdivision 3, the commissioner of revenue may require an agency making a revenue recapture claim to furnish any of the following information in order for the commissioner to correctly identify the debtor:

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C. the name and social security number of the debtor's spouse;

D. the name and social security number of the debtor's ex-spouse;

E. the name and address of the debtor's employer or a former employer; and

F. the names of dependents of the debtor.

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Revenue Recapture; Identifying Information

AGENCY: Department of Revenue

MINNESOTA RULES: Chapter 8165

The attached rules are approved for publication in the State Register

Janet M. Rahm
Assistant Deputy Revisor

DEPARTMENT OF REVENUE

Proposed Permanent Rules Relating to Revenue Recapture; Identifying Information

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) **NOTICE IS HEREBY GIVEN THAT** the Minnesota Department of Revenue intends to adopt the above entitled rules without a 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 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, section 270A.04, subdivision 3.

(2) All persons have until 4:30 p.m. on September 30, 1992, in which to submit comment in support of or in opposition to the proposed rules or any subpart of the proposed rules. Comment is encouraged.(3) 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 until 4:30 p.m. on September 30, 1992. Any requests or comments must be received by the Department of Revenue no later than 4:30 p.m. on September 30, 1992.(4) If 25 or more persons submit a written request for a public hearing by 4:30 p.m. on September 30, 1992, a public hearing will be held unless a sufficient number withdraw their request in writing.(6) Any person requesting a public hearing must include his or her name and

address, and must 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 under *Minnesota Statutes*, sections 14.131 to 14.20.

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Richard L. Walzer, Attorney
Appeals, Legal Services, and
Criminal Investigation Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-1902, Extension 134

The proposed rules may be modified if the modifications were supported by data and views submitted to the Department of Revenue and do not result in a substantial change in the proposed rules as noticed. A copy of the proposed rule is attached to this notice. A free copy of the rules is available upon request from Richard L. Walzer at the address and telephone number listed above.

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

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115 in regard to the impact

on the proposed rule on small business. The adoption of the rule will not adversely affect small businesses.

(13) *Minnesota Statutes*, section 14.11, subd. 1 does not apply because adoption of the rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules. *Minnesota Statutes*, section 14.11, subd. 2, does not apply because adoption of the rules will not impact agricultural land. *Minnesota Statutes*, section 16A.128, subds. 1a and 2a do not apply because the rules do not fix fees.

(9) If no hearing is required, upon adoption of the rules, the rules 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 rules, must submit the written request to Richard L. Walzer at the address and telephone number listed above.

Dated: 17 August 1992

Michael E. Boekhaus, Director
Appeals, Legal Services, and
Criminal Investigation Division

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
APPEALS AND LEGAL SERVICES DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF PERMANENT RULES OF THE STATE OF MINNESOTA GOVERNING THE PROPOSED PERMANENT RULES RELATING TO REVENUE RECAPTURE: IDENTIFYING INFORMATION

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

STATE OF MINNESOTA }
}ss.
COUNTY OF RAMSEY }

Margaret A. Connolly, 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 Revenue rulemaking mailing list is accurate, complete, and current as of this 24th day of August, 1992.

That on the 24th day of August, 1992, 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 two hundred fifty-nine persons and associations on the aforementioned mailing list.

Margaret A. Connolly
MARGARET A. CONNOLLY
SECRETARY, SENIOR TYPIST 4

Subscribed and sworn to
before me this
24th day of August, 1992

Wayne L. Sather
WAYNE L. SATHER

