

NELMCC Rules and Problems
Questions and Answers 2025
October 25, 2024

- Q1. Does the 35-page length limit include the Certification? Per rule IV.B.4, the certification is not supposed to be in the non-measuring brief.
- A1. The Certification does not count towards the 35-page limit.
- Q2. Are we encouraged/ supposed to append publicly available statutes, constitutional provisions, and regulations? Rule IV.B.1 seems to allow this, but FRAP 28(f), which requires the reproduction of statutes and rules in an addendum, does not apply to NELMCC under Rule IV.B.1 n.1.
- A2. This is not encouraged, anything readily available through a citation need not be appended.
- Q3. Are we supposed to send two separate emails with our brief(s), ie to "serve" it separately on the board and opposing teams? The bifurcation of Rules IV.C.1 & IV.C.2 seems to suggest this, but the email address is the same and they don't have different deadlines.
- A3. Please attach and send both documents, measuring and non-measuring briefs, to the same email address.
- Q4. Are we supposed to submit hard copies of our briefs? Rule IV.B.1 n.1 recommends recycled paper and Rule IV.B.1 requires double siding, but there is no mention of physical service under Rule IV.C.
- A4. Please do not mail hard copies of briefs, the rules will be amended.
- Q5. Our briefs are required to state the basis for the Court of Appeal's jurisdiction. FRAP 28(a)(4)(b); Rule IV.B.1 n.1. The problem says that each party moved "for leave to file interlocutory appeals," which the Court of Appeals granted. J.A. 2. Discretionary appellate jurisdiction over interlocutory decisions is governed by 28 USC §§ 1292(b), (e). Subsection (e) does not seem applicable, as this is not a class certification appeal pursuant to FRCP 23(f). Subsection (b) requires, in addition to leave from the Court of Appeals, a statement by the district judge in the order that, among other things, immediate appeal would be beneficial. I did not see any such statement in the District Court order in our Problem. Can you clarify the grounds on which the Court of Appeals granted the parties leave to appeal or otherwise has appellate jurisdiction?

- A5. No party has contested jurisdiction on this basis, but to remedy any doubt it can be assumed that the District Court indicated that there are controlling questions of law regarding the validity of the Water Transfers Rule and its interpretation.
- Q6. In the exhibits, both CSP member addresses are in the town of "Lexville." See Exhibit A ¶ 5; Exhibit B ¶ 4. However, the rest of the problem and other paragraphs of the exhibits refer to the town of "Rexville." Is Lexville a different town or should Ms. Jones's and Mr. Silver's addresses be in Rexville?
- A6. This is a typographical error. The town name is Rexville. The NELMCC Problem will be amended for clarification.
- Q7. Is CSP suing for a (1) promulgation violation and (2) violation of the regulation on behalf of its members?
- A7. The Problem will not be supplemented.
- Q8. Is there a map that we could use?
- A8. The Problem will not be supplemented on this issue.
- Q9. We would like to ask NELMCC the following two questions at this time:
1. The table in the problem provides the pollutant levels for Cloudy Lake and the outfall. What are the pollutant levels for Crystal Stream prior and after the contamination from the Cloudy Lake outfall?
 2. The problem is centered on CSP filing its lawsuit to protect Crystal Stream. Does CSP have evidence of any other activities regarding its purpose? (Examples: litter cleanup, fundraising, tree planting, awareness campaign)
- A9. The record contains no additional evidence on either topic.