



# State

STATE OF  
MINNESOTA

# Register

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## VOLUME 2, NUMBER 28

## JANUARY 16, 1978

# State Register



## Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 26, dated January 2, 1978, the Office of the State Register will be making the following enhancements in the *State Register* format:

- Highlights on the front cover will be arranged under section headings, as they appear within the *State Register*, and will include page numbers. The Highlights section will also include a notation directing readers to a more complete table of contents within the issue.
- An introductory statement will be included for each section of the *State Register*. These statements will give a brief explanation of the kinds of material contained in the section; effective lead times for notices of hearing, rules, or executive orders; and cites to applicable statutes.
- A new key using ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules will indicate changes from original language to proposed new language. Strike outs and underlining in adopted rules will indicate changes from proposed to adopted language.
- Guide rule-numbers will be printed, when applicable, at the outside top of each page to indicate the beginning rule number on the left hand pages and the ending rule number on the right hand pages.
- Chapter and rule numbers that begin the text of an adopted or proposed rule will be printed in bold face.

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- (1) The rule or order was duly adopted, issued or promulgated;
- (2) The rule or order was duly filed with the Secretary of State and available for public inspection; and
- (3) The copy of the rule or order published in the *State Register* is a true copy of the original.

Judicial notice shall be taken of material published in the *State Register*.

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The following is a cumulative listing of all proposed and adopted rules published in the *State Register* from Volume 2, Issue 1, to the present issue. The listing is arranged in the same order as is the table of contents to the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend and/or add to the rules contained in the MCAR set.

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# RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to § 15.052, all rules, amendments to rules, or suspensions or repeals of rules become effective after all requirements described in Minn. Stat. § 15.0412, subd. 4 have been met and five working days after publication in the *State Register*, unless a later date is required or specified.

If the rule as adopted does not differ from the proposed rule as previously published in the *State Register*, a notice of adoption as proposed and a citation to the previous publication is considered sufficient as publication of the adopted rule, suspension or repeal.

If the rule as adopted differs from the proposed rule, the adopted rules or subdivisions thereof which differ from the proposed rule are published along with a citation to the *State Register* publication of the proposed rule.

Pursuant to Minn. Stat. § 15.0412, subd. 5, temporary rules take effect upon approval of the Attorney General. As soon as practicable, notice of the Attorney General's decision and the adopted temporary rule are published in the *State Register*, as provided for adopted rules. Temporary rules are effective for only 90 days and may be reissued for 90 days.

## Department of Commerce Board of Abstractors

### Adopted Rules Regarding Licensing Requirements and Code of Ethics for Abstractors

The rules which were proposed and published, 1 S.R. 1268, are hereby adopted as amended.

**Abs. 1** remains unchanged.

**Abs. 2 Change of name on license.** A change of name on a license must be accompanied by payment of \$50.00 even though an examination may be waived.

**Abs. 3. Definitions.** For the purposes of these rules and regulations, the terms:

- A. "Abstract of title" shall mean a compilation in ~~or~~ deriving orderly arrangement of the materials and facts of record affecting the title of a specific piece of land,

### Abs 6

issued under a certificate certifying to the matters therein contained.

- B. "Abstract office" shall mean a place of business wherein abstracts of title are ~~made, compiled or sold~~ made and compiled.
- C. "Board" shall mean the Minnesota Abstractors' Board of Examiners.
- D. "Licensed abstractor" means any official, person, firm or corporation obtaining licenses pursuant to the terms of Minn. Stat. §§ 386.61 to 387.76 (1976); and includes
1. present duly qualified and acting county recorders not now prohibited by law from the business of making abstracts;
  2. any person, firm or corporation engaged in the business of making abstracts of title and issuing certificates showing ownership of, or interest in, or liens upon any lands in the State of Minnesota, whether registered or not.

**Abs. 4 Meetings.** The board shall hold its annual meeting on the 1st Tuesday in May of each year. Examinations shall be conducted by the board or its authorized representatives at each annual meeting. The board may schedule an emergency meeting and conduct an examination for good cause shown for any applicant upon 30 days written notice to the applicant and board members. The board may hold special meetings at such other times as may be necessary and as it may determine. All meetings shall be called by the secretary-treasurer.

**Abs. 5 Employing licensed abstractors.** Every person, firm or private corporation engaged in the business of abstracting in one county only shall have in its employ a person who is a licensed abstractor. Every person, firm or private corporation engaged in the business of abstracting in more than one county in this state shall have at least one person who is a licensed abstractor for each county in which it maintains an abstract office, provided that no person may satisfy this requirement for more than one abstract office. No licensed abstractor may fulfill the requirements of this section for more than one company at any one time. Every person, firm or private corporation engaged in the business of abstracting shall comply with the requirements of this section within six months after the effective date of these regulations.

**Abs. 6 Temporary license.** The board may, upon applica-

**KEY:** Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

## RULES

### Abs 6

tion to it by any person succeeding to the ownership of any abstract business by any means other than by purchase, or any person, who by reason of the incapacity of any licensed abstracter owner of any abstract business, is required to assume the operation of such abstract business, grant to such person, without examination, a temporary license. Each application for a temporary license shall be accompanied by an affidavit setting forth the applicant's name, address, occupation, length of and place of employment, and his experience in preparing, compiling, and selling abstracts of title. The fee for such temporary license shall be \$25.00. Such license shall expire six months after its date or upon the expiration of 60 days after the next regularly scheduled examination which could be taken by the applicant, whichever period is longer. The board shall notify such applicant by mail of the time and place of such examination.

**Abs. 7 License required.** No person, firm or private corporation shall engage in the business of making abstracts of title and issuing certificates showing ownership of, or interest in, or liens upon any lands in the State of Minnesota, whether registered or not, without first obtaining a license and a bond or abstracter's liability insurance policy pursuant to Minn. Stat. §§ 386.61 to 386.76 (1976) for each county in which he is doing business as an abstracter.

**Abs. 8 Disclosure.** Every abstract of title to real property in the State of Minnesota shall contain the following disclosure affixed to or stamped on a prominent place on the abstract of title:

"This abstract of title is an accurate a history of the record title of the property described therein and does not necessarily represent that the title is good and marketable."

**Abs. 9 Fraudulent, deceptive or dishonest practices.** The methods, acts and practices contained herein or similar thereto shall be presumed fraudulent, deceptive or dishonest if engaged in by the abstracter or his agent and shall constitute grounds for denial, suspension or revocation of the license of the abstracter:

- A. Making any material misstatement in the application for a license or in any information furnished to the board;
- B. Causing to be published advertising, whether written or printed communication or any communication by recorded telephone message, radio, television, picture or similar means, which is misleading or inaccurate in any material manner;
- C. Procuring, or attempting to procure, an abstracter's license for themselves or any person by fraud, misrepresentation or deceit;

- D. Violating any law, rule, regulation or ordinance of this state or any of its political subdivisions, including the State Board of Abstracters, or the United States Government, or any agency thereof relating to the practice of abstracters;
- E. Making a false statement as to the existence or amount of the bond or abstracter's liability insurance policy filed with the board;
- F. Representing that he has a license or bond or abstracter's liability insurance policy when he, in fact, does not;
- G. Falsifying an abstract of title, or any entry therein, or the certification of an abstract;
- H. Engaging in any other conduct which constitutes dishonest actions in his practice as a licensed abstracter which endangers the interest of the public;
- I. Nothing contained herein shall limit the authority of the board to take formal action against an abstracter for the use of fraudulent, deceptive or dishonest activities of a type not specifically described herein.

**Abs. 10 Standards of conduct.** The methods, acts, or practices set forth herein shall be standards of conduct governing the activities of abstracters under this section. The failure to comply with said standards shall constitute grounds for denial, suspension or revocation of the license of such person, or censure of said abstracter. Abstracters shall:

- A. Refrain from using his name or certification on an abstract, the preparation of which he was not directly responsible for;
- B. Refrain from engaging in any discriminatory practices prohibited by law in the conduct of his business;
- C. Employ competent abstracters and employees;
- D. Provide proper training and instruction for all employees;
- E. Refrain from splitting fees, accepting or paying referral fees for abstracting services.

**Department of Labor and  
Industry  
Occupational Safety and  
Health Division**

**Withdrawal of Revisions to  
Occupational Safety and Health  
Codes**

Please take notice that E. I. Malone, Commissioner,  
Minnesota Department of Labor and Industry, pursuant to

authority contained in Minn. Stat. § 182.655, subd. 1  
(1976), does this date withdraw and otherwise vacate the  
Occupational Safety and Health Standards that were pro-  
mulgated in the *State Register*, Volume 2, Number 19, page  
969, dated November 14, 1977.

This order shall be published in the *State Register*.

**KEY:** Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

# PROPOSED RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to 15.052, the *State Register* publishes notices of hearing on proposed new or amended rules, including the full text of the new or amended rules, including the full text of the new or amended rule proposed for adoption, at least 30 days before the date set for the hearing.

Pursuant to Minn. Stat. § 15.0412, subd. 4, an agency may, with approval of the chief hearing examiner, incorporate by reference into the text of a rule, provisions of federal law, or rule, or other material which are 3000 words or more in length or would require five or more pages of print in the *State Register* and which are conveniently available to interested persons.

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

## Department of Labor and Industry

### Occupational Safety and Health Division

#### Proposed Revisions to Occupational Safety and Health Codes

#### Notice of Opportunity for Public Comment

Please take notice, that E. I. Malone, Commissioner, Minnesota Department of Labor and Industry, has determined that the following revisions to the Occupational Safety and Health Codes shall be promulgated pursuant to Minn. Stat. § 182.655 (1976) establishing, modifying or revoking Occupational Safety and Health Standards as printed below.

Complete copies of the specific standards, changes, additions, deletions and corrections as described above are available by writing, Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of thirty (30) days to submit written data or comments on the rules

proposed. Any interested person may request a public hearing on such objections.

### Rules as Proposed

Minnesota Occupational Safety and Health Codes and Rules, MOSHC 1, is hereby changed and modified by incorporating and adopting by reference; changes, additions, deletions and corrections made prior to October 1, 1977 to the following parts of Title 29 of the Code of Federal Regulations:

#### MOSHC 1

Part 1910, Occupational Safety and Health Standards as published in Part II, Volume 39, No. 125 of the Federal Register on June 27, 1974; and

Part 1926, Construction Safety and Health Regulations as published in Part II, Volume 39, No. 122 of the Federal Register on June 24, 1974; and

Parts 1915, 1916, 1917 and 1918, Occupational Safety and Health Standards for Maritime Employment as published in Part II, Volume 39, No. 119 of the Federal Register on June 19, 1974; and

Part 1928, Occupational Safety and Health Standards for Agriculture as published in Part II, Volume 40, No. 81 of the Federal Register on April 25, 1975.

1. A new standard, 29 CFR Subpart T, Commercial Diving Operations, as published in the Federal Register, Volume 42, No. 141, July 22, 1977, pages 37668 through 37674 establishes the following safety and health standards:

(a) 1910.401 — Scope and application

1910.402 — Definitions

1910.410 — Qualifications of dive team

1910.411 — Medical requirements

1910.420 — Safe practices manual

1910.42 — Pre-dive procedures

1910.422 — Procedures during dive

1910.423 — Post-dive procedures

1910.424 — SCUBA diving

1910.425 — Surface-supplied air diving

1910.426 — Mixed-gas diving

1910.427 — Liveboating

1910.430 — Equipment

1910.440 — Recordkeeping requirements

1910.441 — Effective date

(b) Parts 1915, 1916, 1917, 1918 and 1926 of 29 CFR are amended by adding references to the new standard for commercial diving operations to clarify the applicability of this standard to diving operations

# PROPOSED RULES

## MOSHC 1

conducted in the maritime and construction industries. An amendment is also made to 29 CFR 1928.21(b), to exclude Subpart T of Part 1910 from agricultural applicability. These amendments are as follows:

Part 1915 — Safety and Health Regulations for Ship Repairing is amended by adding § 1915.59 - Commercial diving operations shall be subject to Subpart T of Part 1910 §§ 1910.401-1910.441, of this Chapter.

Part 1916 — Safety and Health Regulations for Shipbuilding is amended by adding § 1916.59 - Commercial diving operations shall be subject to Subpart T of Part 1910 §§ 1910.401-1910.441, of this Chapter.

Part 1917 — Safety and Health Regulations for Shipbreaking is amended by adding § 1917.59 - Commercial diving operations shall be subject to Subpart T of Part 1910 §§ 1910.401-1910.441, of this Chapter.

Part 1918 — Safety and Health Regulations for Longshoring is amended by adding § 1918.59 - Commercial diving operations shall be subject to Subpart T of Part 1910 §§ 1910.401-1910.441, of this Chapter.

Part 1926 — Safety and Health Regulations for Construction § 1926.605, Marine operations and equipment, paragraph (e) Diving operations is amended to read: (e) Commercial diving operations. Commercial diving operations shall be subject to Subpart T of Part 1910 §§ 1910.401-1910.441, of this Chapter.

Part 1928 — Safety and Health Standards for Agriculture § 1928.21(b) of 29 CFR Part 1928 is amended by substituting the letter T for S in the fourth line of the paragraph.

2. An amendment made in 29 CFR Part 1928 Occupational Safety and Health Standards for Agriculture as published in Federal Register, Volume 42, No. 146 on July 29, 1977, pages 38568 and 38569 corrects an error in 29 CFR § 1928.21(b) and excludes the OSHA air contaminant standards from agricultural operations.
3. Corrections made in 29 CFR Part 1910 as published in the Federal Register, Volume 42, No. 12 on January 18, 1977, pages 3304 through 3306 corrects a number of typographical errors and inadvertent omissions made in 29 CFR § 1910.1029, Coke Oven Emissions, as published in the Federal Register, Volume 41, No. 206 on October 22, 1976.

**KEY:** Existing rules are printed in standard type face, with ~~strike outs~~ to indicate deleted language and underlining to indicate new language. Strike outs and underlining in proposed rules indicate changes from original to proposed new language. Strike outs and underlining in adopted rules indicate changes from proposed to adopted language.

# OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, when, in preparing to propose rules, an agency seeks to obtain information or opinion from sources outside of the agency, a notice of intent to solicit such information or opinion is published in the *State Register* and interested persons are afforded an opportunity to submit data and views on the subject.

The *State Register* also contains any other official notice requested to be published by an agency, pursuant to Laws of 1977, ch. 305 § 3.

## Department of Agriculture Notice of Outside Opinion Sought Regarding Adoption of Comparable Methods for Mixed Sample Sediment Testing of Milk for Manufacturing Purposes

Notice is hereby given that, pursuant to Minn. Stat. § 32.401 and 3 MCAR 1.1188 D. 1. c., the Commissioner of Agriculture is proposing to adopt "other comparable methods of equal or greater reliability . . . for sediment testing of milk delivered in can or handled in bulk farm tanks." Under the proposed methods, the following sample volumes of milk from the thoroughly agitated tank of milk and the following aperture sizes of lintine discs for filtering the milk through will be acceptable.

<i>Milk Sample Volumes</i>	<i>Exposed Area of Lintine Disc</i>
4 oz.	.20 inch aperture
2 oz.	.14 inch aperture
1 oz.	.10 inch aperture

These milk volumes and filtration areas are approved by the U.S.D.A.

The Commissioner of Agriculture is soliciting outside opinions and comments on these proposed comparable methods for sediment testing. All interested parties so desiring, may submit comments to:

Mr. Harold Johnson, Supervisor  
Manufacturing Milk Section  
Dairy Industries Division  
Minnesota Department of Agriculture  
Room 520 State Office Building  
Saint Paul, Minnesota 55155  
(612) 296-3647

All comments and materials must be received by 4:30 p.m., February 23, 1978.

Minnesota Department of Agriculture  
Bill Walker  
Commissioner

## Department of Education Division of Special and Compensatory Education

### Notice of Effective Date of Final Regulations Under Part B, Education for All Handicapped Act, as Amended by P. L. 94-142

The Bureau of Education of the Handicapped (BEH) has announced the following:

(a) that the final regulations under Part B, EHA, as amended by P. L. 94-142, has been in effect since October 1, 1977, and

(b) that all requirements must be implemented by every public agency in Minnesota as of the effective date of the regulations.

## Ethical Practices Board

### Notice of Outside Opinion Sought on Request for an Advisory Opinion

January 9, 1978

The State Ethical Practices Board solicits opinions of any individual or association regarding the following request for an advisory opinion prior to review for approval of an advisory opinion on February 3, 1978.

Ethel Schaen  
Advocate for the Blind  
1745 University Avenue  
St. Paul, Minnesota 55104

December 6, 1977

Mr. B. Allen Clutter  
Minnesota State Ethical Practices Board  
41 State Office Building  
St. Paul, Minnesota 55155

Dear Mr. Clutter:

I am requesting information or an advisory opinion on the following issue:

Does a party who receives funds to pay for a substitute worker while taking time off work to engage in lobbying activities have to report these funds as a disbursement?

## OFFICIAL NOTICES

Thank you very much for the clarification of this issue.

Sincerely,

Ethel Schaen

### Notice of Advisory Opinion #38, Approved by the Ethical Practices Board on January 5, 1978

Issued to: Wyman L. Spano  
Wyman L. Spano Public Relations, Inc.  
Butler Square  
Minneapolis, Minnesota 55403

#### Syllabus

#38. An individual who is a registered lobbyist and paid a fee to prepare public relations materials is not required to disclose that portion of the fee paid to him by his employer which represents his salary, however, the registered lobbyist must report all other lobbying disbursements including the costs of preparation and distribution of lobbying materials included within the fee.

You have requested an advisory opinion from the Ethical Practices Board based upon the following information:

#### Facts

Wyman L. Spano Public Relations, Inc., which you wholly own, is a public relations firm with a specialty in the field of public affairs.

A company contracts with your firm for a fee in excess of \$250 in a calendar year to coordinate and present its position by providing services including preparation of position papers, news releases, telegrams, graphs, and charts which are communicated directly or indirectly to legislators. The fee paid is your salary plus overhead and expenses of your office. You have registered as a lobbyist because you are engaged for pay and spend more than 5 hours in any month or \$250 not including travel expenses and membership dues in a year attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

#### Questions

1. Do you report as lobbying expenses mailings, charts, etc.?

*Yes.*

2. Do you report as lobbying expenses that portion of your fee which is your salary?

*No.*

3. Is the reporting requirement met if your employer is

identified by checking "yes" on Box 11, Lobbyist Disbursement Report, "check here if you received more than \$500 in this calendar year including salary"?

*Yes.*

4. Must the company which hired your firm register one of its officers and report the fee paid your firm, even if no officer spent more than 5 hours lobbying?

A. If you are a registered lobbyist representing the company, the company need not register anyone else to report the fee. As a registered lobbyist, you will report only that part of the fee incurred for lobbying expenses not including salary. However, the company must report to you five days before each reporting period the following information which you must include in your report:

Lobbying expenses and any gift, honorarium, loan, item or benefit in value of \$20 or more given to any public official together with the date, amount, purpose, and the name of the public official.

B. If you are NOT a registered lobbyist, the company must register someone and report its lobbying expenses including the total fee paid to your firm.

5. Is the amount you pay out of your fee to your employees in preparing and distributing lobbying materials to be reported as lobbying expense?

*Yes.<sup>1</sup>*

6. Is communicating a position in news release to the media lobbying when done during the legislative session or between sessions?

*Yes, when news releases are used to advocate a position which attempts to influence legislative or administrative action,<sup>2</sup> expenses associated with preparing and distributing the releases must be reported.*

7. An association employs a lobbyist and in addition hires your firm to work on public opinion about a bill. You also contact some legislators personally. Are you required to register as a lobbyist?

*Yes, if you spend more than 5 hours in any month or more than \$250 (not including travel and membership dues) in a calendar year attempting to influence legislative or administrative actions by communicating with or urging others to communicate with public officials, you must register as a lobbyist.*

<sup>1</sup> EC 205 (c) (2) (aa) and (ee)

<sup>2</sup> Minn. Stat. § 10A.04 (a)

## OFFICIAL NOTICES

### Notice of Advisory Opinion #39, Approved by the Ethical Practices Board on January 5, 1978

Issued to:

Representative Stephen G. Wenzel  
State Office Building  
St. Paul, Minnesota 55155

#### Syllabus

#39. Paid accounting services for a principal campaign committee are to be reported as a campaign expenditure.

You have requested an advisory opinion from the Ethical Practices Board based upon the following information:

#### Facts

You are a State Representative representing District 12B. You have a principal campaign committee, the Wenzel Volunteer Committee, Helen Gamradt, treasurer, registered with the Board. The committee reports campaign contributions and expenditures on your behalf to the Board. On behalf of yourself and the committee, you ask:

#### Question

Can the expenses of accounting and professional bookkeeping services rendered to the committee in order for the committee to comply with reporting requirements of the Ethics In Government Act be considered a non-campaign expenditure in election and non-election years?

#### Opinion

*No.* In the opinion of the Board, expenses of accounting and professional bookkeeping services rendered to the committee in order for the committee to comply with reporting requirements of Chapter 10A are to be considered as campaign expenditures in both election and non-election years. The reports and documents required by Chapter 10A are integral parts of the political process and are "made for the purpose of influencing the nomination for election or election of any candidate to office . . ." and thus are "expenditures" within the meaning of Minn. Stat. § 10A.01, subd. 10 (a) (1976).<sup>1</sup>

<sup>1</sup> Although the Board has informally determined in an earlier ruling that certain legal fees are non-campaign expenditures, this ruling was based in part on Minn. Stat. § 210A.41 which provides that certain legal costs are not to "be deemed a part of the campaign expenses of any such candidate."

#### Errata

1. 2 S.R. 834: Add "Account 151 as defined by the Minnesota Uniform System of Accounts" after the word "from" and before the words "Class A" at PSC 390 H.
2. 2 S.R. 835: Add "the" after the word "of" and before the word "adjustment" in the last sentence at PSC 392 A.
3. 2 S.R. 836: Add "charges in effect at the effective date of PSC 390 to 395. The existing level of" after "of" and before "any" at PSC 395 B.

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