

178 Nov. 13

# STATE REGISTER

## STATE OF MINNESOTA

RULES

PROPOSED RULES

STATE CONTRACTS

OFFICIAL NOTICES

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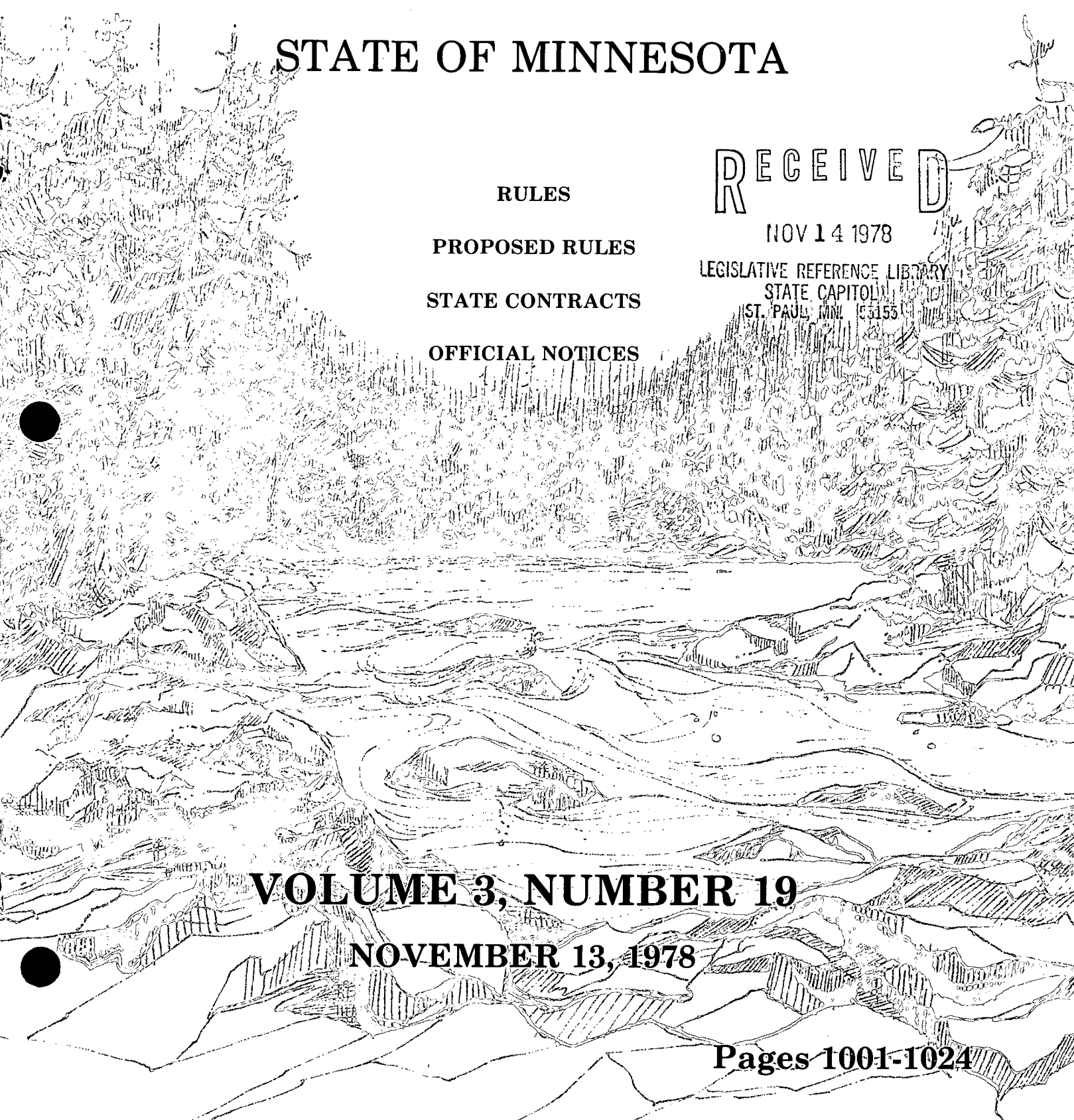
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### VOLUME 3, NUMBER 19

### NOVEMBER 13, 1978

Pages 1001-1024



# STATE REGISTER

## Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
<b>SCHEDULE FOR VOLUME 3</b>			
20	Monday Nov 6	Monday Nov 13	Monday Nov 20
21	Monday Nov 13	Friday Nov 17	Monday Nov 27
22	Monday Nov 20	Monday Nov 27	Monday Dec 4
23	Monday Nov 27	Monday Dec 4	Monday Dec 11
24	Monday Dec 4	Monday Dec 11	Monday Dec 18

\*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 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 Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published weekly, on Monday, by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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Acknowledgements: Graphics for this issue were provided courtesy of the Minnesota Historical Society; Office of Environmental Affairs, Mn/DOT; Hennepin County Park Reserve District; and the following artists: Ann Rauvola, Jolly Roberts and Judy Dale Galchutt.

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# MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

## TITLE 4 COMMERCE

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### Part 1 Public Safety Department

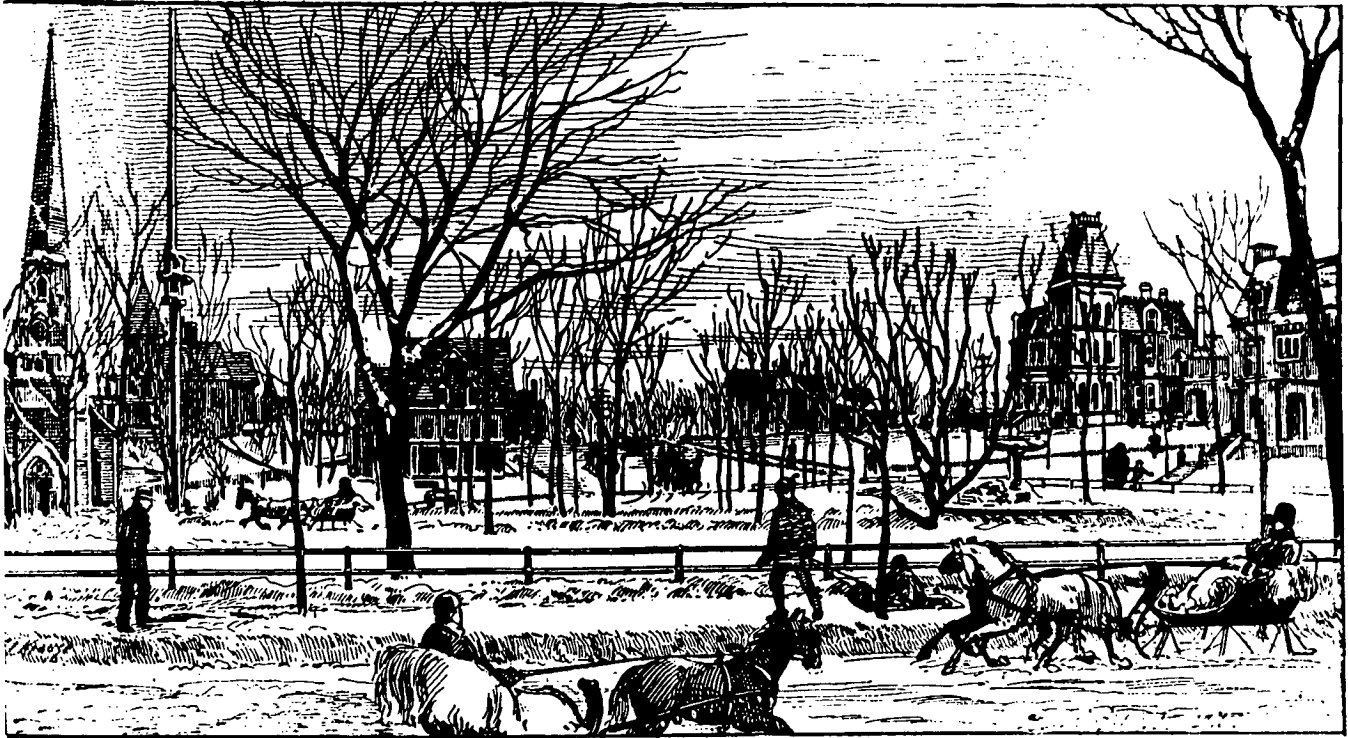
#### Safety Administration Division

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The area in front of St. Paul Cathedral near Summit and Selby avenues was once known as Summit Park. The Civil War monument erected on the 3/4-acre plot now stands nearby on John Ireland Boulevard. A 1915 article about the park states, "The outlook it affords over the business section of the city, and its adornment with a growth of large forest trees, make it one of the most important small parks in the city." (Minnesota Historical Society)

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 as proposed 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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

## Department of Education Board of Education

### Extension of Temporary Rules Governing Educational Aids for Pupils Attending Nonpublic Schools

The State Board of Education, at its October 16, 1978 meeting, extended the temporary rules governing Educational Aids for Pupils Attending Nonpublic Schools another 90 days. These rules were published as proposed temporary rules at *State Register*, Volume 3, Number 1, pp. 30-34, July 10, 1978 (3 S.R. 30). Notice of their adoption, with amendments, was published at *State Register*, Volume 3, Number 9, pp. 335-336, September 4, 1978 (3 S.R. 335).

Howard B. Casmey  
Secretary, Board of Education

## RULES

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### Department of Education Special Services Division Office of Public Libraries and Interlibrary Cooperation

#### Adopted Temporary Rules Governing the Library Grant Program

The temporary rules governing the library grant program, proposed and published at *State Register*, Volume 3, Number 7, pp. 240-244, August 21, 1978 (3 S.R. 240) were approved by the Attorney General on October 25, 1978, and are now adopted, to be in effect for 300 days. The adopted temporary rules are identical to their proposed form, with the following amendments:

#### Chapter Forty Libraries

5 MCAR § 1.0800 D. 1. grant funds shall be used only for the purpose for which granted as specified in the approved grant application or approved by the director of OPLIC in an amendment to the original application filed under provisions of 5 MCAR § 1.0800, subd. ~~G~~ I;

5 MCAR § 1.0804 A. Application. The Minnesota Department of Corrections and the Minnesota Department of Welfare may apply annually for grants to improve library services for institutionalized persons and for the blind and physically handicapped as authorized by Laws of 1978, ch. 546, § 63, subd. 6, and by the library services and construction act, 20 USC 351 *et seq.* (1970). Applicants shall submit the following information:

Howard B. Casmey  
Secretary, Board of Education

### Department of Public Safety Safety Administration Division

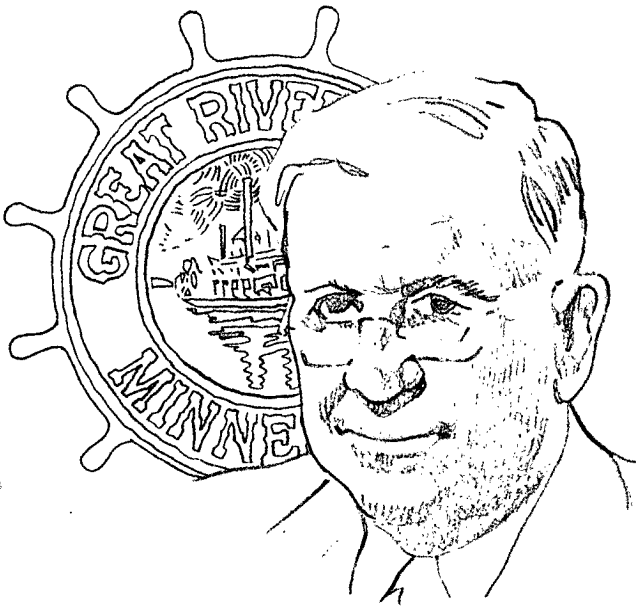
#### Adopted Rules Governing Standards of Training for Persons Administering and Interpreting Chemical Tests for Intoxication

The rules published at *State Register*, Volume 2, Number 50, p. 2250, June 19, 1978 (2 S.R. 2250) are adopted and are identical to their proposed form.

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

# PROPOSED RULES

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Harold Ickes (1874-1952), Secretary of the Interior under Presidents Roosevelt and Truman, conceived the idea of the Great River Road. The project is a recreational and historical roadway along the Mississippi River from Minnesota to the Gulf of Mexico. The federally designated route in Minnesota is from Lake Itasca to Point Douglas near Prescott. When completed in 10-15 years, the 426-mile stretch will include a bike trail, rest areas, historical sites and landmarks amidst the woodlands and river valleys. (Drawing by Jolly Roberts)

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## Department of Commerce Board of Architecture, Engineering, Land Surveying, and Landscape Architecture

### Proposed Rules Relating to Classes of Buildings with Respect to Which Persons Performing Architectural and Professional Engineering Services May Be Exempt from Licensure Requirements, and Proposed Amendments to Rule Relating to Licensure Requirements for Professional Engineers

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the hearing room at 500

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new or amended rule. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

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 time 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.

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Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota, on December 6, 1978 at 9:30 a.m. and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Natalie L. Gaull, Office of Hearing Examiners, 1745 University Avenue, Room 300, St. Paul, Minnesota 55104, (612) 296-8114, the Hearing Examiner appointed to hear this matter, either before the hearing or within five (5) working days after the close of the hearing. The Hearing Examiner may extend the time for receipt of written comments for a period not to exceed twenty (20) calendar days from the date of the hearing.

The rule proposed for adoption, if adopted, would establish classes of buildings with respect to which persons performing architectural and professional engineering services may be exempt from licensure requirements. The proposed amendments to the rule relating to the licensure requirements for professional engineering, if adopted, will provide for the admission of candidates to the professional practice examination with two years of qualifying experience before graduation in those cases where the higher education of the candidate was interrupted. Subject matter included in examinations is removed because such information is frequently changed and is provided to each candidate upon application for admission to a particular examination. The proposed rule and amendments are attached hereto. One free copy of the proposed rules in their entirety may be obtained by writing to Lowell E. Torseth, Executive Secretary, Board of Architecture, Engineering, Land Surveying and Landscape Architecture, 500 Metro Square Building, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the door on the day of the hearing.

## PROPOSED RULES

The rule and amendments are proposed pursuant to the authority vested in the Board of Architecture, Engineering, Land Surveying and Landscape Architecture by the provisions of Minn. Stat. § 326.06, as amended by Laws of 1978, ch. 577, § 3.

It is not anticipated that adoption of the proposed rule and amendments will result in the expenditure of public moneys by local public bodies.

Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the Board may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's report), or to the Board (in the case of the Board's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Board's office and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Board at the hearing justifying both the need for and the reasonableness of the proposed rule and amendment. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Minn. Stat. §§ 10A.01-10A.34 require each lobbyist to register with the Ethical Practices Board within five (5) days after commencing lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 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 his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any

year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding his own travel expenses, in any year in communicating with public officials.

Questions regarding the registration of lobbyists should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

October 24, 1978

Lowell E. Torseth  
Executive Secretary

### Rule as Proposed (All new material)

#### AE&LS 22 Exempt classes of buildings.

A. Purpose. The purpose of these rules is to indicate circumstances where the services of a licensed architect or engineer are not required pursuant to Minn. Stat. §§ 326.02-326.16.

B. General requirement. Plans and specifications for the erection, enlargement, alteration, or remodeling or renova-

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## PROPOSED RULES

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tion of any building, structure, or other work shall be prepared and certified by an architect or engineer licensed pursuant to Minn. Stat. §§ 326.02-326.16 except as set forth below:

1. Statutory exception. Building components or classes of buildings enumerated in Minn. Stat. §§ 326.02, subd. 5, and 326.03, subd. 2(a)-(d).

2. Remodeling or renovation exception.

a. Any remodeling or renovation to part or all of an existing building, structure or work which does not:

(1) change the load on its mechanical or electrical systems or change the live or dead load on its structural system adversely affecting their ability to perform,

(2) adversely change the building's access or exit pattern, or

(3) change the Uniform Building Code (UBC) use classification of the building.

b. Any remodeling or renovation, of any kind, in a building in the UBC use classes and consistent with the size and construction type thresholds specified in Table 1.

3. Classes of buildings exceptions. Any privately owned new construction or new addition to a building in the specified UBC use classes and consistent with the size and construction type thresholds specified in Table 1. Provided that an exemption under this paragraph shall not apply:

a. for a second new building to be constructed by the same person on the same parcel or a contiguous parcel to a new building previously exempted hereunder or for a second addition to the same building where a prior addition was exempt hereunder, in either case, within twenty-four calendar months after the date of building permit issuance. Same person means the same owner or same general contractor, as, or ownership or general contractor entity having one or more participants in common with, the owner or general contractor of the first building. Parcel means a non-subdivided tract of land.

b. for an addition to an existing building, where the existing building exceeds the exemption size thresholds under this paragraph if the addition results in either of the effects set forth in paragraphs B.2.a.(1) or B.2.a.(2), regardless of the size of the new addition proposed.

c. for new construction within a larger building (e.g., individual shops within a shopping center) where the larger building exceeds the exemption size thresholds under this paragraph if the new construction results in either of the effects set forth in paragraphs B.2.a.(1) or B.2.a.(2), regardless of the size of the new construction proposed.

C. Definitions.

1. Definitions. All terms used herein shall be as defined in the Uniform Building Code, 1976 edition, unless otherwise specified in these rules.

2. Use. Use shall be specified by the owner and verified by the building official in the manner provided in the UBC.

D. General provisions.

1. Plans mandatory. The exception in paragraphs B.2. and B.3. shall be available only if the building permit applicant supplies the responsible building official with two sets of plans and specifications for the building or remodeling. The name and address of the preparer of the plans and specifications shall appear thereon. The plan preparer shall certify that reasonable care has been given to compliance with applicable laws, ordinances, and building codes relating to design.

2. Nonexclusivity. Notwithstanding the exceptions in subdivision B.3. the responsible building official shall require plans and specifications to be designed and prepared by a licensed architect or engineer, if he finds a hazard to life, health, safety, or welfare due to the unusual circumstances of the building or structure or an unusually large number of potential occupants in relation to square footage for a particular use. Nothing herein shall preclude or supercede any provisions of other applicable laws or regulations.

TABLE 1

Maximum Gross Square Footage (GSF) or Dwelling Units (whichever is less)

(CITE 3 S.R. 1011)  
  
 STATE REGISTER, MONDAY, NOVEMBER 13, 1978  
  
 Page 1011

Use Classification	Construction Type	No use of structural concrete, poured in place, for roofs and supported floors	Maximum Gross Square Footage (GSF) or Dwelling Units (whichever is less)	
(i) Warehouse (storage rooms) for combustible or non-combustible goods	one story, no basement			5000 GSF
(ii) Retail or wholesale stores, paint stores without bulk handling	two story and basement			1500 GSF
(iii) Office buildings	two story and basement			2250 GSF
(iv) Factories and workshops using materials that are not highly flammable	one story, no basement			3000 GSF
(v) Aircraft hangars where no repair work is done except exchange of parts and maintenance requiring no open flame, welding, or the use of highly flammable liquids	one story, no basement			3000 GSF
(vi) Lodging houses	two story and basement			5 rooms or 1500 GSF
(vii) Eating and drinking establishments	two story and basement			Seating for not more than 20 persons or 1000 GSF
(viii) Apartment houses	two story and basement or three story including half basement			4 dwelling units or 5000 GSF
(ix) Garages, carports, and sheds used as accessories	one story, no basement			1000 GSF
(x) Convents and monasteries	two story and basement		10 dwelling units or 3000 GSF	

# PROPOSED RULES

## Proposed Amendments

### AE&LS 10 Examination of Engineer applicants.

A. Education and experience. An applicant for registration as ~~an~~ a Professional Engineer shall be required to pass an oral and a written examination as provided hereinafter. The submission of one exhibit of engineering work accomplished along with a written critique of such exhibit may be substituted in lieu of the oral examination upon the approval of the Board. Oral and written examinations will be required of all applicants except those registered under Rule AE&LS 7(e) and (f) which apply to those registered in one or more states other than Minnesota. In these cases the same minimum requirements for these applicants will be required as existed in Minnesota at the time of the original registration of the applicant in the other state. The written Fundamentals of Engineering (EIT) examination may be waived by the Board if the applicant meets the requirements stated in paragraph (d). To qualify for admission to such oral and written examination, ~~he~~ the applicant shall present satisfactory evidence that he/she has:

1. Graduated from an accredited engineering curriculum of Engineering of a University, College, or technical school appearing on the list of Accredited Schools of Engineering accredited by the Engineers' Council for Professional Development (ECPD) and appearing on the list of Accredited Programs Leading to Degrees in Engineering current at the time of his graduation as published by the Engineers Council for Professional Development. ECPD or the educational equivalent thereof.

2. Completed a minimum of ~~three (3)~~ four (4) years of qualifying engineering experience, satisfactory to the Board, after graduation from a baccalaureate program in engineering accredited by the ECPD, or three (3) years of qualifying engineering experience, satisfactory to the Board, after graduation from a Masters or Doctoral program in engineering from an institution with an ECPD accredited baccalaureate program in that discipline of engineering. Up to two (2) years credit for diversified, qualifying engineering experience, gained prior to graduation from an approved engineering curriculum, may be granted by the Board when evaluated on an individual basis. The two (2) years experience prior to graduation must have been gained after completion of the second year of approved engineering education and must have been gained in the United States. Such experience shall be credited at the rate of 50% up to the maximum allowable credit of two (2) years.

3. An applicant may qualify for admission to the examinations provided that ~~he submits to the Board satisfactory evidence is submitted to the Board that his education and experience completed are substantially equivalent~~ meet the requirements set forth in the following table:

Classification	Education in years	Experience in years	Total Education and Experience
<b>* Graduate of Accredited Engineering Curriculum Accredited by Engineers' Council for Professional Development (ECPD).</b>			
5-year Course with M.S. or PhD. ....	5	3	8
4 or 5-year Course .....	4	4	8
<b>Graduate of Non-ECPD Accredited Engineering Curriculum Approved by the Board</b>			
5-year Course .....	4	5	9
4-year Course .....	3	6	9
<b>** Certificate Holder — recognized</b>			
<b>** Correspondence Courses</b>	2	10	12
<b>** Non School Trained Candidate</b>	0	13	13

**\*\* Note: For each year short of graduation add two years of experience, but not to exceed 12 years of education and experience except for the non-schooled trained candidate.**

**\* Accredited by Engineers' Council for Professional Development.**

**\*\* These classifications are deleted as of January 1, 1973.**

4. Recognized equivalent education. The education requirements of an applicant whose education was not obtained in a an engineering curriculum accredited by the Engineers' Council for Professional Development will be accepted only if such education is determined by the Board to be equivalent to the content of the accredited curriculum required for a Bachelor of Science Degree in engineering. The applicant will be required to submit a transcript of grades, along with descriptions of courses taken from the educational institution from which he graduated, for evaluation by the Board to determine the credit to be allowed for such non-accredited engineering education.

**Effective January 1, 1973.**

B. Oral examination. An applicant will be required to appear before the Board for oral examination and submit two exhibits of engineering work he has performed unless he is registered under Rule AE&LS 7(e) or (f). He may be given the option, by the Board, to submit one exhibit of engineering work he has performed with a written critique of that exhibit in lieu of appearing before the Board for an oral examination.

C. Written examination.

1. The written examination consists of two parts. Part I is a preliminary examination, the Fundamentals of Engineering Examination (FE), which may be taken upon gradu-

## PROPOSED RULES

ation from an engineering curriculum approved by the Board, prior to completion of the statutory qualifications for registration. The passing of this preliminary examination will give the applicant the status of Engineer-in-Training as defined in § 326.10, subd. 7, and such applicant he will not again be required to take this examination. The applicant shall take and pass the Fundamentals of Engineering Fundamentals Examination, EIT, before being he is permitted to take the Professional examination.

2. The Professional examination (Part II), the Principles and Practice of Engineering Examination, is an examination in a field of major practice and is required as hereinafter outlined. Examinations are presently given offered in the following fields of major practice in engineering: Aeronautical/Aerospace, Agricultural, Ceramic, Chemical, Civil, Electrical, Geological, Highway, Industrial, Manufacturing, Mechanical, Metallurgical, Mining/Minerals, Nuclear, Petroleum, Sanitary and Structural, and Naval Architecture. Any applicant who is a graduate with a degree in Architectural Engineering from an accredited curriculum will be considered for registration by the Board as a Professional Engineer by examination in a field of major practice based on his experience record.

3. The scope of the Fundamentals of Engineering Fundamentals Examination, EIT (Part I), and the Professional Principles and Practice of Engineering Examination (Part II) is as follows:

a. Fundamentals of Engineering Fundamentals Examination, EIT (Part I): Practical questions and/or Multiple-choice questions in fundamental mathematics and the basic and engineering sciences of physics and chemistry as presented in accredited college or university engineering curriculum. including application to hydraulics, strength of materials, and mechanics, and problems in planning and designing of elementary engineering projects. Allotted time — 8 hours.

b. Professional Principles and Practice of Engineering Examination (Part II): Problems embracing knowledge of professional practice and applied economics such as should be acquired in connection with the planning, design and construction of engineering work during the statutory period leading up to the final registration as professional engineer. This part of the examination, together with the oral examination or exhibit with written critique, will not be required until the full statutory period of qualifying engineering work experience has been completed. Allotted time — 8 hours.

4. The Principles and Practice of Engineering exami-

nation in engineering design and construction is given for the purpose of determining the proficiency of the applicant in professional practice. This examination will include questions designed to test whether training and experience have taught the applicant to apply the knowledge and understanding of the basic and engineering sciences to the solution of engineering problems. show the applicant's ability to use his fundamental training and his skill in planning, design and supervising the construction of engineering projects. The judgment and resourcefulness shown in respect to appropriateness of design for the purpose intended, relative economy, and appearance of the structure designed, will be taken into account in determining the grade.

5. Handbooks, tables and reference books, bound tabular material and notes, and silent, hand-held, electronic calculators are permitted for use during examinations when authorized by the Board.

D. Engineers qualified by graduation, long experience, and examination. The applicant must have graduated from an accredited engineering curriculum, or have received a graduate degree based upon at least one academic year of resident study in a department whose undergraduate curriculum is accredited; be not less than forty years of age; have a verified professional engineering record of twenty years or more, as defined by and of a character satisfactory to the Registration Board; and shall pass a written professional practice examination of at least eight hours duration. The applicant's engineering experience shall show responsible charge of engineering projects for at least ten years and advancement in the character of the work performed. The experience gained prior to his reaching the age of twenty years shall not be credited as a part of the required engineering experience, except that graduation from an accredited engineering curriculum shall be considered equivalent to four years of engineering experience. Credit shall not be given for more than a total of four years experience because of undergraduate educational qualifications.

E. Engineer-in-training. Any applicant who is a graduate of a bachelor of engineering degree from a school or college having an ECPD accredited engineering curriculum, or who has education equivalent thereto as determined by the Board, may be allowed permitted to take the Fundamentals of Engineering fundamentals examination (EIT). For a non-graduate, for each year he is short of engineering education he will be required to acquire two years of qualifying experience not exceeding eight years total. Educational credits for institute courses, correspondence courses, etc., shall be determined by the Board.

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

## PROPOSED RULES

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Adopted January 16, 1922. Amended 1940; October 2, 1945; May 5, 1948; July 9, 1951; March 20, 1953; February 4, 1956; June 13, 1958; May 16, 1962; March 5, 1964; October 6, 1965; November 9, 1967; August 20, 1970; October 22, 1971.

### Department of Human Rights

#### Proposed Rules Governing Sex Discrimination in Athletic Programs

##### Order for Hearing

It is hereby ordered that a public hearing on the above-captioned rules be held in Room 83, State Office Building, St. Paul, Minnesota on December 19 and 20, 1978, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

It is further ordered that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

It is further ordered that the Notice of Hearing be published in the *State Register*.

October 30, 1978

William L. Wilson  
Commissioner

##### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 83, State Office Building, Fuller and Aurora Streets, St. Paul, Minnesota, on December 19 and 20, 1978, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Natalie Gaull, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 5 working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner. Written material submit-

ted within the above time limits will be recorded in the hearing record.

The proposed rules if adopted will establish standards for determining an educational institution's compliance with the prohibition in Minn. Stat. § 363.03, subd. 5 (1976) against sex discrimination in the access to and benefits from athletic programs. These proposed rules will apply to all primary, junior, and senior high schools in the state, and all associations, organizations, or leagues entered into by those educational institutions which promote sports or adopt rules for the conduct of athletic contests between members. These proposed rules establish the conditions pursuant to which an educational institution can and shall establish athletic teams on which participation is restricted on the basis of sex, provisions for determining the athletic interests of female students, and requirements for the collection and maintenance of data regarding athletic programs. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 363.05, subd. 1(8) (1976).

Copies of the proposed rules will be available at the door on the date of the hearing and one free copy can now be obtained by writing to the Department of Human Rights, 240 Bremer Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiner at a minimal charge.

Notice: Any person may request notification of the date on which the Hearing Examiner'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. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1976) as amended by Laws of 1978, ch. 463, section 11, 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

## PROPOSED RULES

in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-1723.

Notice is hereby given pursuant to Minn. Stat. § 15.0412, subd. 7 (1977 Supp.) that, in the Department of Human Rights' reasonable estimate, the total cost to all local public bodies in the state to implement the attached proposed rules for the two years immediately following adoption may exceed \$100,000 in either of those years.

It is not possible to present the cost to each local unit of government. That cost will be determined, in part, by the size of a local unit's current athletic program, the athletic interests of its female students, and the extent to which the unit's current athletic program complies with the Minnesota Human Rights Act and Minn. Stat. § 126.21 (1976).

October 30, 1976

William L. Wilson  
Commissioner

### Rules as Proposed

**12 MCAR § 1.201 Authority, scope, and purpose.** These rules are promulgated pursuant to Minn. Stat. §§ 15.0411 to 15.052, (1977 Supp.) relating generally to the promulgation of administrative rules and regulations. These rules apply to all primary, junior, and senior high schools in the state. These rules are promulgated pursuant to Minn. Stat. § 363.05, subd. 1(8) (1976) to carry out the Act and to facilitate its full and uniform implementation and enforcement.

**12 MCAR § 1.202 Definitions.** All terms defined in § 363.01 of the Act shall have the same meanings therein ascribed to them for the purpose of these rules. All the words below shall have the meaning herein ascribed to them:

A. Sport. "Sport" means an athletic game or match for which a Minnesota High School League sponsored state level tournament or meet is held.

B. Activity. "Activity" means any act in furtherance or creation of an athletic program.

C. Statistical difference. "Statistical difference" means a count of occurrences different from that which would be expected such that the difference is greater than that which could be attributed to sampling error.

D. Participation rate. "Participation rate" means the number which indicates the percentage of a given sex on an athletic team and is obtained by dividing the number of participants of that sex by the total number of students of that sex in the educational institution which maintains the team.

### 12 MCAR § 1.203 Equal opportunity.

A. Each educational institution shall operate all athletic programs, activities, or teams developed for grades K through 6 without separation because of or according to sex. All athletic programs, activities, and teams developed for grades 7 through 12 shall be operated without separation because of or according to sex except where restriction of membership on an athletic team to participants of one sex is necessary to provide members of each sex with an equal opportunity to participate in the athletic program.

B. Each educational institution shall provide comparable locker, shower, toilet, and training room facilities for both sexes, but may provide separate facilities for each sex.

C. It is not an unfair discriminatory act to restrict participation to females on teams which have been organized pursuant to 12 MCAR §§ 1.204 and 1.205.

D. It shall not be an unfair discriminatory practice for an educational institution to limit the gate receipts and other revenues generated by a team in a sport to that team when two teams in the same sport are organized pursuant to 12 MCAR § 1.204.

E. Each educational institution shall conduct an analysis of its athletic program to determine if the participation rate of females on any team is statistically different from the participation rate of males on that team.

F. If an educational institution determines that the participation rate of females on any team is less than and statis-

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

## PROPOSED RULES

tically different from the participation rate of males on that team, the educational institution shall conduct an interest assessment to determine the cause for the statistical difference.

**12 MCAR § 1.204 Separate teams in the same sport.** If an educational institution determines, based on its interest assessment conducted pursuant to 12 MCAR § 1.023F, that in any sport, it is necessary to operate a separate team in the same sport whose membership is restricted to females, the educational institution shall provide for any team thus restricted:

A. Substantially equal budgetary expenditures per participant, exclusive of gate receipts and other revenues generated by that sport and substantially equal access to the benefits, services, and privileges of the athletic program; and that,

B. The teams shall be operated during the same season;

C. All practices shall, when possible, be conducted in a coeducational manner. Any separation into groups during such practice will be on the basis of activity or skill level and not on the basis of sex;

D. Coaches of the two teams shall cooperate in providing coeducational practices so as to benefit equally members of both teams.

**12 MCAR § 1.205 Separate teams in different sports.**

A. If an educational institution determines after complying with 12 MCAR § 1.204 that the participation rate of females on any team is less than the participation rate of males on that team and if the participation rate is reasonably attributable to a lack of interest by females in that sport, the educational institution shall organize and operate, based on the reported interest assessment conducted pursuant to 12 MCAR § 1.203F, a team for females in a different sport.

B. If an educational institution organizes a separate team in accordance with 12 MCAR § 205 A., it shall afford substantially equal budget expenditures per participant excluding gate receipts or revenues generated by that sport and substantially equal access to the benefits, services, and privileges of the athletic program.

C. When a separate team in a different sport is organized and operated pursuant to 12 MCAR § 1.205, that team shall be operated during the season in which the high school league sponsored state level tournament or meet is held for that sport.

**12 MCAR § 1.206 Organization, association, or league.** No organization, association, or league entered into by an educational institution for the purpose of promoting sports

or adopting rules and regulations for the conduct of athletic contests between students shall:

A. Make rules and regulations or otherwise advance policies which impair the ability of its member schools to comply with these rules.

B. Make rules and regulations or otherwise advance policies which have the effect of denying females an equal opportunity to participate in any athletic program, activity, or team.

**12 MCAR § 1.207 Compliance.**

A. If a charge is filed with the Department alleging a violation of the Act regarding an athletic program, activity, or team as described in these rules, the Commissioner of Human Rights may refer the matter to the Commissioner of Education for a review and report concerning compliance with Minn. Stat. § 126.21 and these rules. Any such report may include a review of the pertinent policies, practices, and actions of the respondent educational institution; the circumstances under which the possible noncompliance occurred; and other factors relevant to assessing as to whether the respondent educational institution has failed to comply with Minn. Stat. § 126.21 and these rules.

B. In determining whether probable cause exists to believe the allegations contained in a charge described in 12 MCAR § 1.207A, the Commissioner shall consider any report received from the Commissioner of Education pursuant to 12 MCAR § 1.207 A.

**12 MCAR § 1.208 Recordkeeping.**

A. An educational institution shall conduct annually any analysis and interest assessment that is required by 12 MCAR §§ 1.203 and 1.204. The educational institution is required to preserve any records of any such analysis and assessment for a period of two years subsequent to the year in which the analysis and assessment are made.

B. An educational institution is required to maintain for each school year a record of the name, address, sex, and date of application of each student who applies or registers for an athletic team. This record shall be preserved for two years subsequent to the school year for which it is made.

C. An educational institution is required to maintain a record of the name, address, sex, and date of all students who participate on a specific athletic team. The list shall be maintained for a period of two years subsequent to the school year in which the student participated.

D. Whenever a charge of discrimination is filed with the Department alleging a violation of the Act relating to an athletic program, no person or educational institution shall

## PROPOSED RULES

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destroy any records made pursuant to 12 MCAR § 1.208 until final disposition of the charge.

**12 MCAR § 1.209 Inconsistent rules.** Any rule which is inconsistent with the foregoing provisions is hereby repealed.

**12 MCAR § 1.210 Severability.** If any provision of these

rules contained herein is held to be invalid it does not affect any provision of these rules which can be given effect without the invalid provisions and to that end these rules are severable.

**12 MCAR § 1.211 Construction.** These rules shall be construed liberally to effect the purpose of the Act.

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



# STATE CONTRACTS

Pursuant to the provisions of Laws of 1978, ch. 480, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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.



The milkweed is a climbing plant known for its white-tufted seeds. There are 2,000 species, but the Common Milkweed is the type most often found in Minnesota. The plants have milky juice and pod-like fruits which open to allow the seeds to be carried off by the wind. (Drawing by Judy Dale Galchutt, courtesy of Hennepin County Park Reserve District)

## Department of Natural Resources Minerals Division

### Notice of Request for Proposals for Investigation of Economic Impacts of Mineland Reclamation Activities

The Department of Natural Resources is seeking a consultant to investigate the economic impacts of proposed mineland reclamation standards. The investigation should include:

1. The determination of unit operation costs that can be applied to various mineland reclamation activities; and
2. The adaptation and application of a computerized cash flow model specifically designed for evaluation of Minnesota mining ventures, including development of program and user's manual.

The estimated amount of the contract is \$35,000.

The deadline for proposals is December 4, 1978. Parties desiring consideration should submit a technical proposal outlining their plans to:

Elwood F. Rafn, Director  
Division of Minerals  
Department of Natural Resources  
Box 45, Centennial Office Building  
St. Paul, Minnesota 55155  
Telephone: (612) 296-4807

# OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, 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 Commerce Insurance Division

### Notice of Meeting

Board of Directors Meeting  
Minnesota Comprehensive Health Association  
Wednesday, November 15, 1978  
11:00 a.m.  
Western Life Insurance Company  
500 Bielenberg Drive  
Woodbury, Minnesota

## Environmental Quality Board

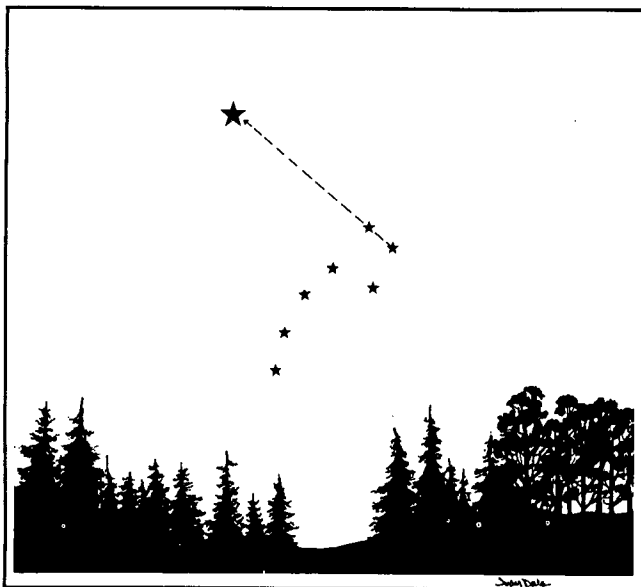
### Notice of Annual Hearing

The Environmental Quality Board will hold its annual public hearing, as required by the 1977 Power Plant Siting Act, Minnesota Statutes § 116C.58, on Saturday, November 18, 1978 from 9:00 a.m. to noon at Veterans Service Building, fifth floor, 20 West 12th Street, St. Paul, Minnesota. The public hearing is designed to afford interested persons the opportunity to be heard regarding the Board's activities and duties or policies pursuant to the Act.

The hearing will emphasize the Inventory of Large Electric Power Generating Plant Study Areas and the comments received from the public at a series of meetings held throughout the state to discuss the Board's inventory efforts.

All persons will be afforded the opportunity to be heard through the presentation of oral or written statements.

A summary of comments received at the public inventory meetings may be obtained at the address indicated below. The summary and other documents related to the power plant or high voltage transmission line site designation



The Big Dipper points the way to the star nearest to the north celestial pole and visible to the naked eye. Over thousands of years a succession of stars has passed near enough to the pole to serve as the North Star. Three thousand years ago the Egyptians used their North Star, Thuban, to align the pyramids with amazing precision. The present star, Polaris ("pole star"), will approach true celestial north in the early 22nd century. The next will be Vega, taking Polaris' place in about 12,000 years. (Drawing by Judy Dale Galchutt, courtesy of Hennepin County Park Reserve District)

processes, including the Act and rules, are available at public libraries located in Crookston, Bemidji, Duluth, Fergus Falls, Pine River, Willmar, Montevideo, Cambridge, St. Cloud, Marshall, Mankato, Minneapolis and the office of the Environmental Quality Board.

Minnesota Environmental Quality Board  
550 Cedar St.  
Room 100  
St. Paul, MN. 55101  
612-296-2503

## Department of Labor and Industry Prevailing Wage Division

### Notice of Prevailing Wage Rates for Highway Construction

Minn. Stat. § 177.44 requires the Commissioner of Labor and Industry to certify at least once a year, the prevailing wage rates for highway construction under contracts based on bids as provided for in Minn. Stat. § 161.32. Title 8, Minnesota Code of Agency Rules, Section 1.8010 (8

## OFFICIAL NOTICES

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MCAR § 1.8010) requires notice of those certifications to be published in the State Register.

On November 1, 1978, the Commissioner certified wage rates for highway construction for 11 counties in Minnesota.

A copy of the determined wage rates may be obtained by writing to the Department of Labor and Industry, Prevailing Wage Division, 444 Lafayette Road, St. Paul, Minnesota 55101.

A check or money order for \$5.00, payable to the Department of Labor and Industry, must accompany each request to cover the cost of copying and mailing.

E. I. Malone  
Commissioner

### Department of Natural Resources Waters Division

#### Notice of Intent to Solicit Outside Opinion Regarding Identification of Water Basins in Brown, Martin and Rock Counties

Notice is hereby given that the Department of Natural Resources and the counties of the state are continuing the process which they began earlier of identifying those watercourses and water basins in the state which are public waters and, in the case of watercourses, of classifying each one. This Notice of Intent To Solicit covers Brown, Martin, and Rock Counties.

The process followed is described in Laws of Minnesota, 1976, ch. 83, particularly in § 8 of that act. In brief, it is a joint venture between DNR and each county to determine which surface waters in the county are "public waters" as

that term is defined by Minn. Stat. §§ 105.37 and 105.38 and Minn. Rules NR 5200-5204. In addition, DNR and the county classify each watercourse as Class I, II, III or IV, and the county decides if it wants to accept a delegation of authority from the commissioner of natural resources to regulate the class III watercourses. DNR and the county establish the terms of the delegation. The list of public waters, together with the watercourse classifications, and the delegation agreement, if any, are proposed as a DNR rule. The rules hearing is held in the county by the state office of hearing examiners. No such hearings have yet been scheduled.

Disagreements between the county and DNR are resolved by an independent panel.

The Department of Natural Resources welcomes information and comments from all interested individuals and groups concerning the forthcoming proposed rules. Statements of information and comment may be made in writing, or orally by telephone or in person, to:

Department of Natural Resources  
Public Waters Designation Unit  
Space Center Building, 3rd Floor  
St. Paul, Minnesota 55155

(612) 296-4803, ask for Jim Cooper

or write or call the DNR Hydrologist or Regional Administrator in the region office at New Ulm until November 27, 1978.

Dated: November 3, 1978.

Theresa Bailey-Morrow  
Director, Regulations

### Errata

1. At 3 S.R. 910, NR 500 should read: NR ~~400~~ 500 Wildlife Exhibits.

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building  
408 St. Peter Street  
St. Paul, Minnesota 55102  
(612) 296-8239

## ORDER FORM

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