

1979 May 14

STATE REGISTER



STATE OF MINNESOTA

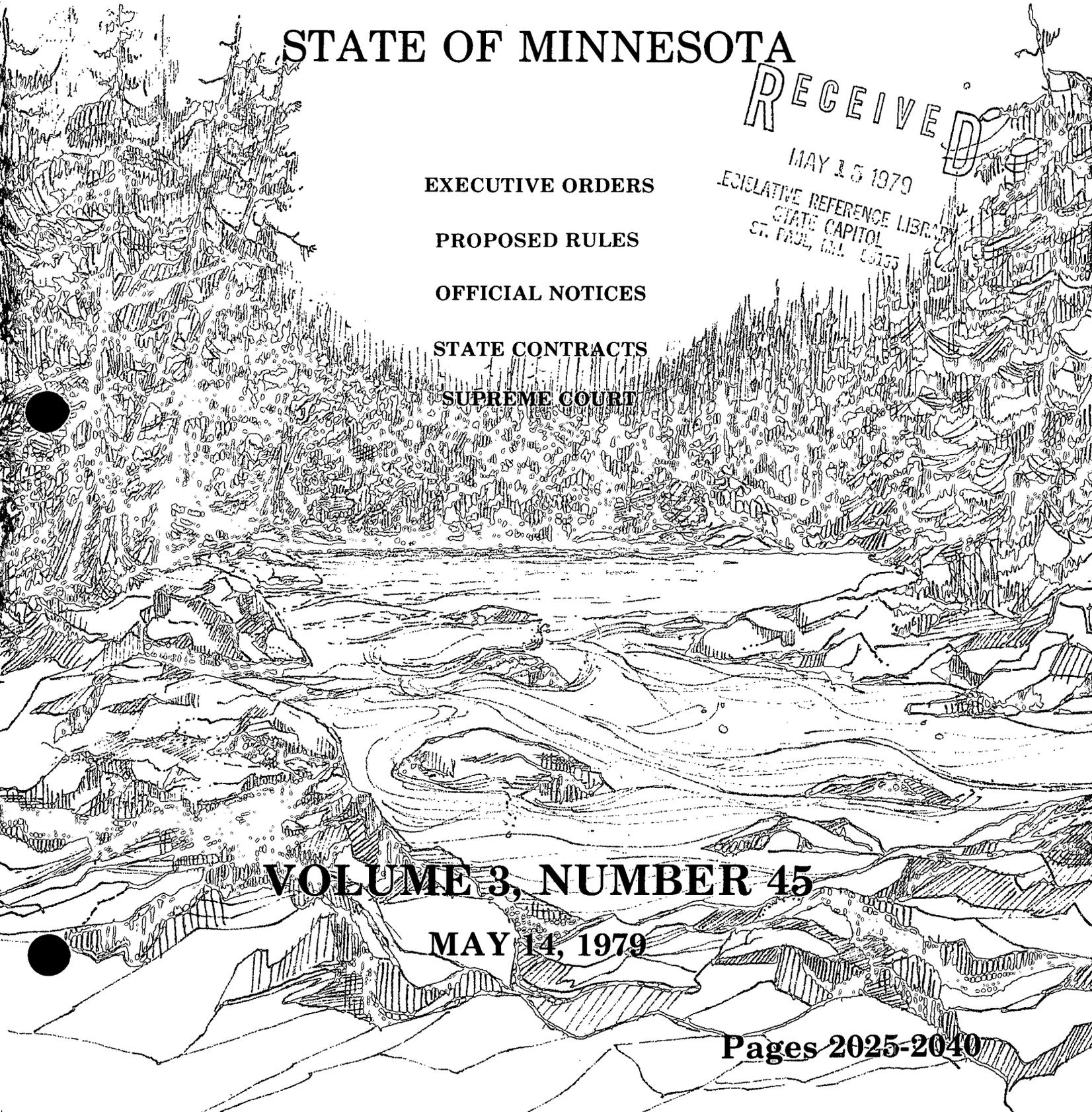
- EXECUTIVE ORDERS
- PROPOSED RULES
- OFFICIAL NOTICES
- STATE CONTRACTS
- SUPREME COURT

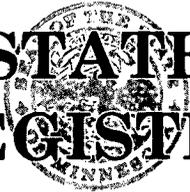
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VOLUME 3, NUMBER 45

MAY 14, 1979

Pages 2025-2040





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
SCHEDULE FOR VOLUME 3			
46	Monday May 7	Monday May 14	Monday May 21
47	Monday May 14	Monday May 21	Monday May 28
48	Monday May 21	Monday May 29	Monday June 4
49	Tuesday May 29	Monday June 4	Monday June 11

*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 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. Publication is weekly, on Mondays, with an index issue in August. 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. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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

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*.

Albert H. Quie
Governor

Carol Anderson Porter
Editor

James Hiniker
Commissioner
Department of Administration

James Clancy, Paul Hoffman, Robin PanLener
Editorial Staff

Stephen A. Ordahl
Manager
Office of the State Register

Jack Richter
Information Officer

Roy Schmidtke
Circulation Manager

Cindy Riehm
Secretarial Staff

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Numbers 40-45 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 al-

though 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* is published each quarter and at the end of the volume year.

TITLE 2 ADMINISTRATION

Part 1 Administration Department

2 MCAR §§ 1.16220-1.16231 (proposed) 1972

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

AGR 190-192 (proposed) 1847

3 MCAR §§ 1.190-1.192 (proposed) 1847

Part 2 Livestock Sanitary Board

LSB 13-14, 19, 51, 60 (proposed) 1974

3 MCAR §§ 2.003, 2.022-2.023 (adopted) 1926

3 MCAR §§ 2.005, 2.021, 2.024, 2.032 (adopted) 1926

3 MCAR §§ 2.024-2.025 (proposed) 1974

TITLE 4 COMMERCE

Part 1 Commerce Department

4 MCAR §§ 1.3200-1.3208, 1.3225-1.3235 (adopted) 1961

4 MCAR §§ 1.3275-1.3282 (proposed) 1849

Part 3 Public Service Department

4 MCAR § 3.034 (proposed) 2030

Part 6 Accountancy Board

Accy 150 (adopted) 1896

TITLE 5 EDUCATION

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.0902, 2.0904, 2.0906, 2.0918 (adopted) 2009

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

NR 3100, 3110, 3120 (hearing rescheduled) 2010

6 MCAR § 1.2420 (proposed) 1946

6 MCAR §§ 1.5060-1.5065 (proposed) 1876

Part 2 Energy Agency

6 MCAR § 2.0605 (proposed) 1853

6 MCAR §§ 2.2101-2.2102, 2.2104, 2.2110, 2.2115,

2.2120 (proposed) 1927

6 MCAR §§ 2.2201-2.2210 (proposed) 1855

Id. (hearing rescheduled) 2010

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.457 (adopted) 1897

7 MCAR §§ 1.541-1.543 (adopted) 1964

7 MCAR §§ 1.546-1.548 (adopted) 1968

Part 8 Pharmacy Board

Pharm 21, 32, 36, 38, 47-48, 61, 71-76, 81-90 (adopted) ... 1833

7 MCAR §§ 8.021, 8.032, 8.036, 8.038, 8.047-8.048,

8.061, 8.071-8.076, 8.081-8.090 (adopted) 1833

TITLE 8 LABOR

Part 1 Labor & Industry Department

MOSHC 1 (adopted temporary) 1925

TITLE 9 LAW

Part 1 Ethical Practices Board

EPB 100 (proposed) 1929

9 MCAR §§ 1.0100-1.0111 (proposed) 1932

EPB 1-20, 22-39 (proposed) 1933

9 MCAR §§ 1.0001-1.0043 (proposed) 1940

TITLE 10 PLANNING

Part 1 State Planning Agency

10 MCAR §§ 1.300-1.302, 1.304-1.305 (proposed) 1904

TITLE 11 PUBLIC SAFETY

Part 1 Public Safety Department

11 MCAR §§ 1.0188-1.0196 (proposed) 1901

TITLE 12 SOCIAL SERVICES

Part 3 Housing Finance Agency

12 MCAR §§ 3.002, 3.034, 3.062, 3.065-3.066

(proposed) 1873

TITLE 13 TAXATION

Part 1 Revenue Department

13 MCAR §§ 1.0001-1.0007 (proposed) 1984

EXECUTIVE ORDERS

Emergency Executive Order No. 79-20

Providing for Emergency Assistance to County Officials of Minnesota

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and Laws of the State of Minnesota, do hereby issue this Executive Order:

WHEREAS, officials of many counties in northern Minnesota have requested assistance in preserving life and property in their counties as a result of serious flooding caused by adverse weather conditions; and,

WHEREAS, those county officials have exhausted all available resources in their efforts to preserve life and property from destruction caused by flooding on many rivers in northern Minnesota; and,

WHEREAS, it is necessary for the preservation of life and property in those counties that the State provide assistance to those county officials in their efforts to preserve life and property;

NOW, THEREFORE, I order:

1. The Adjutant General of Minnesota shall order to active duty on and after April 17, 1979, in the service of the State, such elements of the military forces of the State as are necessary to assist local officials in successfully combating flooding conditions in counties where life and property are endangered. Those forces shall be utilized for such period of time as it is necessary to successfully combat flooding conditions.

2. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in Minn. Stat. §§ 192.49, subd. 1; 192.51; and 192.52.

This Order is effective retroactively to April 17, 1979, and shall remain in force until such date as elements of the military forces of the State are no longer required.

IN TESTIMONY WHEREOF, I hereunto set my hand this 26th day of April, 1979.



PROPOSED RULES

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 rule or amendment. 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.

Calendar

Public Hearings on Proposed Agency Rules

May 21-25, 1979

Date	Agency and Rule Matter	Time and Place
May 21	State Planning Agency Rules for Administering Grants for Park and Open Space Acquisition and Development Hearing Examiner: Myron Greenberg	9:30 a.m., Capitol Square Bldg., 550 Cedar St., St. Paul, MN
May 24	Energy Agency Permissible Hours of Operation, the Quantity and the Efficiency of Outdoor Lighting Hearing Examiner: Myron Greenberg	9:00 a.m., Rm. D, Veterans Services Bldg., 20 W. 12th St., St. Paul, MN
May 24	Ethical Practices Board Economic Interest Disclosure and Campaign Financing Hearing Examiner: Peter Erickson	9:30 a.m., Rm. 22, State Office Bldg., St. Paul, MN

Department of Public Service

Proposed Rules Governing Gas and Electric Utilities' Access to Customer Premises

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Large Hearing Room, 7th Floor, American Center Bldg., 160 East Kellogg Boulevard, St. Paul, on Wednesday, June 20, 1979, commencing at 9:30 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 Hearing Examiner Harry Seymour Crump, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8111, either before the hearing, or within five working days after the close of the hearing unless the hearing examiner orders a longer period not to exceed 20 calendar days.

The proposed rules (a copy of which is attached hereto), if adopted, would provide reasonable standards for utilities to follow when entering customer premises. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 216B.04; 216B.05, subd. 2; 216.09; and 216B.23.

Copies of the proposed rules are now available and one free copy may be obtained by writing to, or calling, the Minnesota Department of Public Service, Attention Mr. Stephen A. Finn, Acting Secretary, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, MN 55101, telephone (612) 296-8994. Copies will also be available at the door on the date of the hearing.

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

PROPOSED RULES

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).

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 the evidence which will be presented by the agency at the hearing justifying both the need and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11, (1978) 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 \$150, 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 state provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The Commission anticipates that fifty persons may attend the hearing and that one hour will be necessary for it to present its evidence at the hearing.

April 30, 1979

Stephen A. Finn
Acting Secretary

Rule as Proposed (all new material)

4 MCAR § 3.034 Uniform access. A utility may not enter customer's premises if:

- A. The customer has not consented;
- B. The utility has not obtained a court order authorizing entry or;
- C. An emergency situation involving imminent danger to life or property does not reasonably appear to exist.

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."

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 Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Spotrete-F. Flowable Thiram Turf Fungicide

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on May 7, 1979, issued a Special Local Need Registration for Spotrete-F. Flowable Thiram Turf Fungicide EPA #1001-11 manufactured by W.A. Cleary Corp., 1049 Somerset Street, Somerset, NJ 08873.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on nursery stock shrubs, and ornamentals as a repellent for animals such as deer, rabbits, rodents and birds to protect such plants from feeding damage.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0006) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
656 State Office Building
Saint Paul, Minnesota 55155
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until June 6, 1979 to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public. The Commissioner of Agriculture shall order a hearing pursuant to Minn.

Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 7, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Orthene 75 S. Soluble Powder

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on May 7, 1979, issued a Special Local Need Registration for Orthene 75 S. Soluble Powder EPA # 239-2418 manufactured by Chevron Chemical Company, Ortho Division, 940 Hensley Street, Richmond, CA 94804.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on Dry & Succulent forms of beans and lima beans and allows aerial application at rates up to 1 lb. per acre to control loopers, leafhoppers and European Corn Borer.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0007) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
656 State Office Building
Saint Paul, Minnesota 55155
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until June 6, 1979, to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections

OFFICIAL NOTICES

and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public. The Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 7, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Avenge

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on May 7, 1979, issued a Special Local Need Registration for Avenge — Wild Oat Herbicide EPA # 241-250 manufactured by American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540.

Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide on spring weather varieties, butte, kitt, and olaf to control wild oats and broadleaf weed species.

The application and other data required under Minn. Stat. §§ 18A.22 subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0008) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
656 State Office Building
Saint Paul, Minnesota 55155
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have until June 6, 1979, to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public. The Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 7, 1979

Mark W. Seetin
Commissioner

Office of the Governor

Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

<u>Dept.</u>	<u>Name</u>	<u>Date</u>
Department of Public Safety, Commissioner	John Sopsic	May 14, 1979

Department of Health

Notice of Public Forum Regarding Acupuncturists

A public forum concerning the credentialing/regulation of Acupuncturists will be held June 7, 1979, at 5:30 p.m. in Room 105 of the Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota. Information regarding the application for credentialing is on file at your local Health Systems Agencies, Marshall Community-based Health Education Consortium Office, District Health Department offices and in the Minnesota Department of Health, Division of Manpower, Room 345, 717 Delaware Street S.E., Minneapolis, Minnesota. For further information please call (612) 296-5393/5532.

Notice of Public Forum Regarding the Regulation of Social Workers

A public forum concerning the credentialing/regulation of Social Workers will be held Wednesday, June 6, 1979, at 5:30 p.m. in Room 105 of the Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota. Information regarding the application for credentialing is on file at your local Health Systems Agencies, Marshall Community-based Health Education Consortium Office, District Health Department offices and in the Minnesota Department of Health, Division of Manpower, Room 345, 717 Delaware Street S.E., Minneapolis, Minnesota. For further information call (612) 296-5393/5532.

OFFICIAL NOTICES

Department of Labor and Industry

Notice of Intent to Solicit Outside Information Regarding Proposed Amendment of Rules Governing Prevailing Wage Determinations

Notice is hereby given that the Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose amendments to the existing rules, 8 MCAR §§ 1.8001-1.8016, governing prevailing wage determinations. Any interested persons may submit data or views on this subject. Such comments should be addressed to the attention of:

Harry D. Peterson
Commissioner
Minnesota Department of Labor and Industry
540 Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the agency shall become a part of the hearing record in the event amendments governing this subject are promulgated.

Subjects upon which the department seeks public input include, but are not limited to:

- (1) Clarification of existing rules as they apply to "highway and heavy" wage rate determinations;
- (2) Consideration of additional rules to apply only to "building" wage rate determinations;
- (3) Clarification of, or amendment to the steps and procedures utilized in performing individual wage rate surveys, including the nature of work to be looked to for such determinations and the scope and extent of steps which should be taken to apprise the department of what work; and
- (4) Clarification of the utilization of "adjacent county data" in making wage rate determinations.

May 4, 1979

Harry D. Peterson
Commissioner

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, 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.

Department of Corrections Correctional Industries Division

Notice of Availability of Contract for Technical Services

The Correctional Industries Division of the Minnesota Department of Corrections requires technical expertise to assist with the development and implementation of a body

shop at the Minnesota State Prison, Stillwater, Minnesota for the purpose of reconditioning State of Minnesota automobiles. We wish to contract with a company which is willing to provide the services of an individual to furnish such expertise. The required specialized technical services are to be furnished on a part time basis of 16 hours per week for the period July 1, 1979 through December 31, 1979.

Listed below is a range of needed services projected for the proposed contract period:

1. Provide intensive shop operations training for appropriate staff and inmate employees in technical phases of vehicle reconditioning, with emphasis on body work.

STATE CONTRACTS

2. Provide technical information on shop capabilities to prospective customers, and perform public relations promotion for shop.

3. Provide technical expertise on renovation of the present facility, purchase of necessary equipment, and installation of this equipment.

4. Establish production standards for shop.

5. Provide analyses of production costs.

Reimbursement: It is anticipated that the total compensation for the contract period will be approximately \$7,500, including travel expenses according to the State of Minnesota travel reimbursement regulations.

Please send proposals and direct all questions to:

Conrad J. Solberg
Director of Correctional Industries
Minnesota Department of Corrections
430 Metro Square
St. Paul, Minnesota 55101
Phone: (612) 296-4027

Final submission date is May 28, 1979.

Department of Education Special Services Division

Notice of Requests for Proposals for Scanning, Computer Reporting, and Mailing of Assessment Results

A contractor is needed by the Department of Education to essentially provide printing, scoring, and reporting services in conjunction with Department assessment functions. Services are required for: 1) writing at grades 4, 8, and 11; 2) basic mathematics at grades 3 through 8; and, 3) basic life skills at grade 11. Testing will occur in the fall, winter, and spring for grades 8, 4, and 11, respectively.

In addition, similar services are required in conjunction with the "piggyback" option portion of the assessment program.

The estimated contract will be approximately \$30,000 and responses to RFPs should be received no later than June 15, 1979.

Interested persons are invited to seek further information from the Department by contacting Dr. William B. McMil-

lan, Director of Assessment Section, Division of Special Services, State Department of Education, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

Notice of Request for Proposals for the Production of Pace Tapes Utilized in Assessment Test Administration

A contractor is needed by the Department of Education to narrate and reproduce pace tapes for all instrument packages required for test administration in conjunction with both statewide testing and the "piggyback" option.

The estimated contract will be approximately \$5,000 and responses to RFPs should be received no later than June 15, 1979.

Interested persons are invited to seek further information from the department by contacting Dr. William B. McMillan, Director of Assessment Section, Division of Special Services, State Department of Education, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

Office of Hearing Examiners

Notice of Request for Proposals for Hearing Examiners and Court Reporters

The Minnesota Office of Hearing Examiners will be contracting with qualified attorneys and court reporters for the fiscal year beginning July 1, 1979, and ending on June 30, 1980. Attorneys must be admitted to practice law in the State of Minnesota at the time they apply. Remuneration for contractual hearing examiners, under present law, may not exceed \$150.00 per day. Pending legislation, if passed, would change the remuneration to allow it to be set by the Chief Hearing Examiner. Court reporter remuneration is also the subject of pending legislation. The exact details will be included in the Request for Proposal which will be sent to all persons or associations who ask to receive one. Persons or associations desiring to receive a Request for Proposal must request one by notifying Duane R. Harves, Chief Hearing Examiner, Minnesota Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 296-8100, *no later than 4:30 p.m.*, Thursday, May 31, 1979. The Request for Proposal will contain more details. Final proposals must be *received* by the Office of Hearing Examiners by 4:30 p.m., Friday, June 8, 1979.

Iron Range Resources and Rehabilitation Board

Notice of Request for Proposals for Economic Impact and Feasibility Study

The Iron Range Interpretative Program, a division of the State of Minnesota Iron Range Resources and Rehabilitation Board is seeking proposals from economic research firms to conduct an in depth economic impact and feasibility study of the components of the Iron Range Interpretative Program.

This study will project each component's effect, real or potential, on the economy of northeastern Minnesota and the tourism industry of the region.

For formal Request for Proposal document, interested parties should contact:

Mr. Marvin Lamppa, Director
Iron Range Resources and Rehabilitation Board
Iron Range Interpretative Program
Box 678
Eveleth, Minnesota 55734

Closing date for submission of proposals: 4:30 p.m., May 31, 1979.

Pollution Control Agency

Notice of Request for Proposals for Consultant Services

The Minnesota Pollution Control Agency wishes to retain a consultant for the preparation of an environmental impact statement (EIS) on the proposed expansion of the St. Regis Paper Company mill in Sartell. The existing mill produces 240 tons per day of super-calendared printing paper (and 140 tons per day of ground wood pulp) and is to be expanded to produce an additional 480 tons per day of coated paper. A draft EIS is to be completed by November 1979, with the final EIS to be done by February 1980. It is estimated that completion of the project EIS may cost up to \$200,000.

Copies of the Request for Proposal and other information on the project are available from:

Dale E. McMichael, Project Manager
Environmental Planning & Review Unit
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone (612) 296-7293

Proposals to be considered must be submitted to the Minnesota Pollution Control Agency by May 31, 1979 or three weeks from the date of first publication of this notice, whichever is later.

Pollution Control Agency

Water Quality Division

Notice of Request for Proposals for Water Quality Study

The Pollution Control Agency, Division of Water Quality, located at 1935 West County Road B2, Roseville, Minnesota 55113, is seeking proposals to assess the impact of changing nutrient loadings on the water quality of four Upper Mississippi lakes located at or near Bemidji, Minnesota.

Proposals shall at a minimum include:

1. Sampling of six (6) stations at the inlets and/or outlets for Lakes Irving, Bemidji, Wolf, and Andrusia during the period from July 1, 1979 to June 30, 1981. Samples shall be collected biweekly during the period from April 1 to June 30, and monthly from July 1 to March 31.
2. Epilimnetic and hypolimnetic samples collected at each of five (5) in-lake stations on Lakes Irving (1), Bemidji (2), Wolf (1), and Andrusia (1). Sampling shall be conducted once per month in May and October and twice per month in June through September for both the years 1979 and 1980.
3. Sampling of three (3) minor lake tributary stations conducted quarterly from July 1, 1979 to June 30, 1981.
4. Samples taken from inlets and outlets, minor tributaries and lake hypolimnia shall be analyzed for total phosphorus, dissolved orthophosphate phosphorus, pH, and conductivity. In-lake surface samples shall be analyzed for the above parameters as well as organic nitrogen, ammonia nitrogen, nitrite plus nitrate nitrogen, chlorophyll *a*, and secchi disc. One sample per month from June through September shall be collected from each lake station for identification and enumeration of phytoplankton and zooplankton. Streamflow estimates for inlet, outlet and minor tributary stations shall also be provided.

STATE CONTRACTS

5. Quality control samples for nutrients provided by the Agency shall be analyzed quarterly.

6. Quarterly reports and data summaries to the Pollution Control Agency shall be provided in a form acceptable to the Agency. A preliminary draft report (including nutrient budget analysis) shall be submitted to the Agency by October 31, 1981 for review and comment. A final report shall be completed by December 31, 1981.

Estimated Cost: \$27,000.00

All physical, chemical and microbiological analyses shall be made in accord with methods cited in *Methods of Chemical Analysis of Water and Wastes* (EPA, 1974) or *Standard Methods for the Examination of Water and Wastewater* (APHA, 1976).

Persons desiring to submit proposals to the Agency should notify Barry C. Schade, Acting Director, Division of Water Quality, Minnesota Pollution Control Agency at the address listed above. The final submission date for proposals is June 4, 1979.

Department of Revenue

Notice of Request for Proposals for Certified Public Accounting-Statistical Sampling Services

Proposals are requested from a certified public accounting firm with national expertise in statistical sampling with various computer systems to: evaluate current department methods and procedures in sales tax audits; if appropriate, develop modifications thereon; and advise on the audit of a large international corporation. Interested firms should contact Assistant Commissioner Gregg Miller (612) 296-1022 for a pre-bidders' appointment and conference. Pre-bidders' conferences are to be completed by May 23, 1979 and proposals are to be submitted by May 31, 1979. The department has estimated the cost not to exceed \$20,000.

SUPREME COURT

Decisions Filed Friday, May 4, 1979

Compiled by John McCarthy, Clerk

47985 Patrick M. Quinn, Robert G. Quinn, vs.
47986/298 Winkel's, Inc., d.b.a. McDonough's,
(1978) a.k.a. Fran McDonough's, Appellant,
Francis J. McDonough, et al. Ramsey
County.

A barkeeper's duty is dependent upon the probability or foreseeability of injury to his patrons.

Where a barkeeper is aware of the violent nature of a person who frequents his premises, he has a duty to protect his patrons from the person.

It is within a trial court's discretion to refuse to hold a Schwartz hearing where the requesting party has alleged insufficient facts to suggest jury misconduct or attempted jury tampering.

Evidence of prior misconduct relating to whether or not individuals should have been excluded from a bar by the respondent barkeeper is relevant where the individuals subsequently enter the bar and injure plaintiffs.

The trial court will not be reversed for allowing a party to lead its witnesses to speed up a lengthy trial where the leading is nonprejudicial.

The trial court did not err in excluding evidence of how quickly one could fire 7 shots from a .45 calibre automatic where all testimony in evidence indicated that the shots had been fired over several minutes.

Where a plaintiff was injured in a shooting in a bar and sued the barkeeper, the trial court did not exceed its discretion in admitting evidence that the bar manager became intoxicated and belligerently ordered police out of his establishment approximately 3 hours after the shooting.

A barkeeper is required to react reasonably to a common altercation and should not be allowed the protection of the emergency doctrine.

Affirmed. Kelly, J.

SUPREME COURT

48571/383 Gregory McEwen vs. State Farm Mutual Insurance, Appellant. Pennington County.

When the issues are in doubt, the existence and terms of a contract are questions for the factfinder.

Evidence was properly excluded where it was relevant only to impeachment of collateral fact.

Affirmed. Kelly, J.

48732/83 Joel Praver, Appellant, vs. David Essling, John L. Duffy. Ramsey County.

Summary judgment in favor of defendant was appropriate in an action for attorney malpractice because plaintiff's allegations were unsupported and did not establish a prima facie case.

Affirmed. Kelly, J. Took no part, Todd, J.

48439/104 Marjorie Blanchard, widow of George Blanchard, deceased employee, vs. Koch Refining Company, et al, Relators. Workers' Compensation Court of Appeals.

Award of dependency compensation to widow of deceased employee was reversed where the medical opinion that employee's heart attack and resultant death was causally related to his work was based on an assumption not reasonably inferable from the evidence.

Reversed. Kelly, J.

48948/117 W. P. Quarnstrom, Administrator with Will Annexed of the Estate of Emma A. Murphy, Deceased, Appellant, vs. Dr. Michael E. Murphy. Lyon County.

Defendant was not liable for the expenses of plaintiff's decedent either by reason of an equitable charge imposed by an earlier devise or by order of the probate court.

Affirmed. Kelly, J. Took no part, Otis, J.

48452/162 State of Minnesota vs. Jeffrey Allen Blohm, Sr., Appellant. Hennepin County.

Details of complaints made by the victim of a sex crime were properly admitted as corroborative evidence of the victim's testimony.

The evidence of defendant's guilt was adequate to sustain the verdict.

Affirmed. Kelly, J.

49198/166 Donald James Jensen, Appellant, vs. State of Minnesota. Ramsey County.

The evidence is sufficient to sustain defendant's conviction.

Defendant's statements to the police were properly admitted under the circumstances of this case.

There is no merit to defendant's claim of prejudice in the admission of the victim's prior consistent statement and police testimony concerning prior contact with defendant.

There is no error in refusing to instruct the jury on the reasonable use of force to defend another where the evidence does not support the theory.

Affirmed. Wahl, J.

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