

179 May 21

STATE REGISTER



STATE OF MINNESOTA

EXECUTIVE ORDERS

RULES

PROPOSED RULES

OFFICIAL NOTICES

STATE CONTRACTS

SUPREME COURT

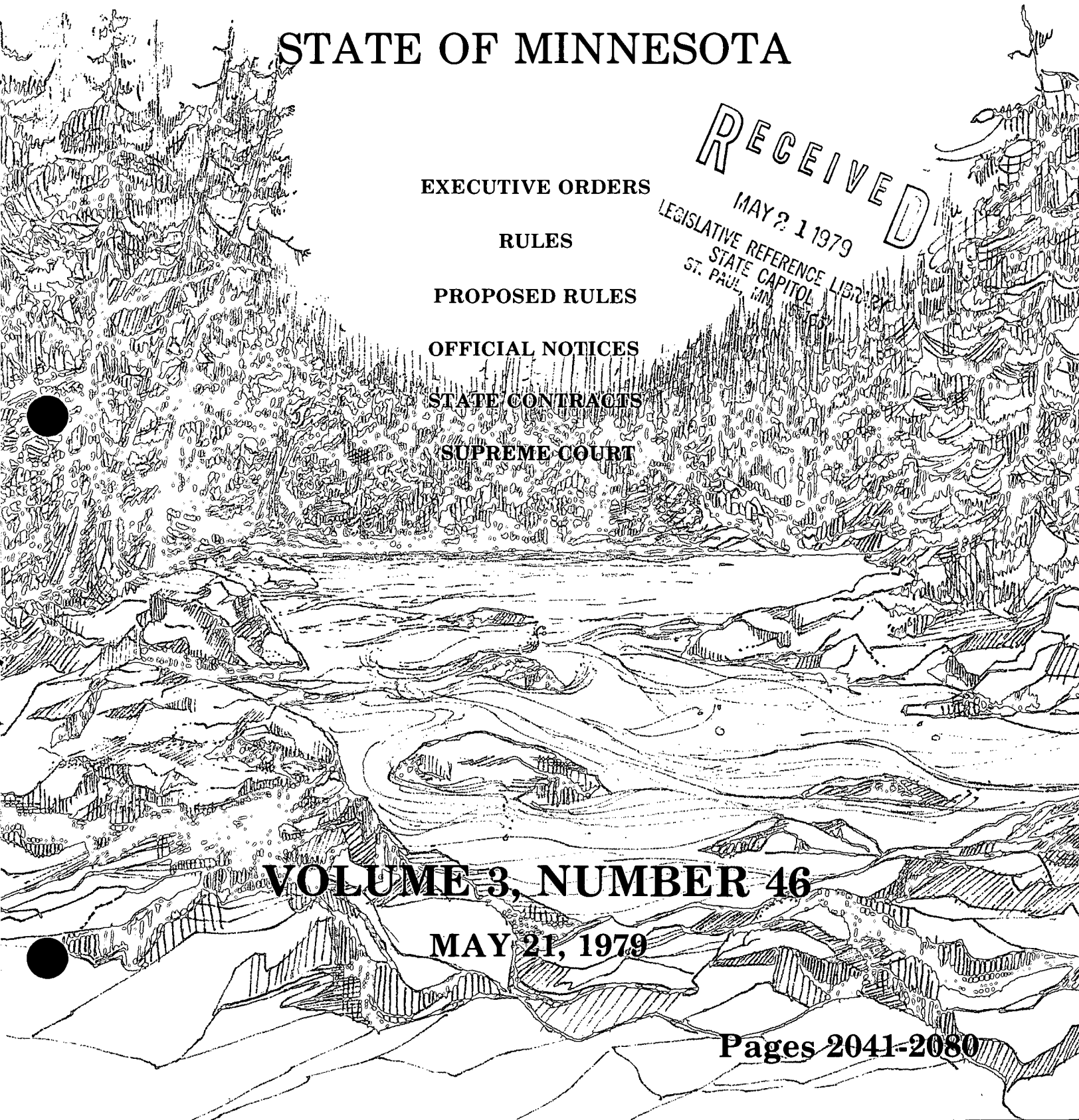
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STATE REGISTER

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			
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
50	Monday June 4	Monday June 11	Monday June 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.

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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

Paul Hoffman, Robin PanLener
Editorial Staff

Stephen A. Ordahl
Manager
Office of the State Register

Jack Richter
Information Officer

Roy Schmidtke
Circulation Manager

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Secretarial Staff

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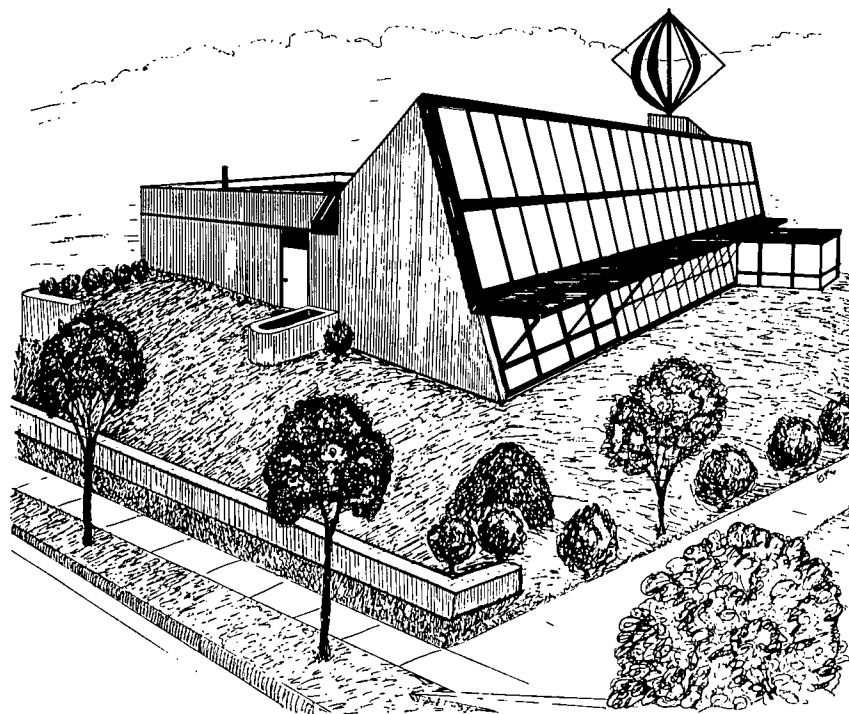
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The recently completed program center of the Girl Scout Council of St. Croix Valley at 400 South Robert Street in St. Paul includes virtually all known energy systems in a single building. Designed by the firm of Bergstedt, Wahlberg, Bergquist, Rohkohl, Inc., the 13,810-square foot structure has an internal Clivus Multrum dry sewage system with compost as a final end product. In addition, there are solar panels, a heat-pump system which not only draws warmth from the air but also increases the efficiency of the solar system, and an experimental vertical-axis wind turbine funded by the Minnesota Energy Agency. The building is located partially below ground to conserve additional energy. Its roof, also soil-covered for insulation purposes, will be planted with authentic prairie grass and prairie wildflowers. The building will be headquarters for the Council and will be used for indoor camping, but is designed to be a teaching device. It is hoped that the energy system features will stimulate and answer energy-related questions and provide examples of a variety of ways to conserve energy resources. (Drawing courtesy of Girl Scout Council of St. Croix)

MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Numbers 40-46 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

Part 3 Board of Teaching

5 MCAR § 3.073 (adopted) 2054

5 MCAR § 3.108 (withdrawn) 2054

5 MCAR § 3.140-3.141 (adopted) 2054

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

Part 5 Water and Wastewater Operators Board

WWOB 1 (adopted) 2048

6 MCAR §§ 5.001-5.003 (adopted) 2048

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR §§ 1.141, 1.151-1.152, 1.155, 1.162-1.163,

1.165, 1.441-1.445 (proposed) 2055

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

Executive Order No. 79-21

Writ of Special Election to Fill A Vacancy in the Office of the State Senator of Legislative District 41 within the County of Hennepin, State of Minnesota, and of Special Primary Election to Nominate Candidates for Said Election

To the People of the State of Minnesota and particularly of Legislative District 41 within the County of Hennepin; to the Secretary of the State of Minnesota; to the County Auditor of the above-named County; to all Election Officials of said District 41; and to all others who may be concerned:

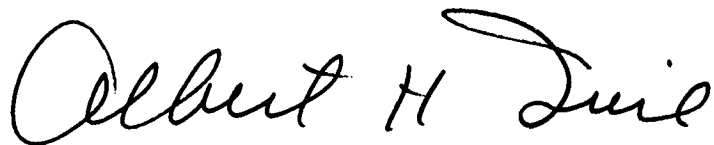
WHEREAS, a vacancy now exists in the Office of State Senator from District 41 of the State of Minnesota, caused by the death of the Senator, the Honorable B. Robert Lewis; and

WHEREAS, a special election to fill said vacancy is necessary;

NOW, THEREFORE, I, ALBERT H. QUIE, AS GOVERNOR OF THE STATE OF MINNESOTA, acting under the authority and direction vested in me by Minnesota Constitution Art. IV, Sec. 4, and Minnesota Statutes 1978, Sections 202A.61 to 202A.71, and other relevant statutes, do hereby direct:

1. That a special election to fill said vacancy be held in Legislative District 41 on Tuesday, the 19th day of June, 1979.
2. That a special primary election for the nomination of candidates for the office be there held on Tuesday, the 5th day of June, 1979.
3. That affidavits of candidacy must be duly filed on or before Saturday, the 29th day of May, 1979, and petitions of candidacy before Saturday, the 12th day of June, 1979.
4. That the notices of this special election and special primary election be given, that the nomination and election of candidates be conducted, and that all things pertaining thereto be done as provided by Minnesota Statutes 1978, Sections 202A.61 to 202A.71, and other applicable provisions of law.

IN WITNESS WHEREOF, I hereunto set my hand at the Capitol, in the City of Saint Paul, Minnesota, this third day of May, 1979.



EXECUTIVE ORDERS

Executive Order No. 79-22 (Repealing No. 79-21)

Writ of Special Election to Fill A Vacancy in the Office of the State Senator of Legislative District 41 within the County of Hennepin, State of Minnesota, and of Special Primary Election to Nominate Candidates for Said Election

To the People of the State of Minnesota and particularly of Legislative District 41 within the County of Hennepin; to the Secretary of the State of Minnesota; to the County Auditor of the above-named County; to all Election Officials of said District 41; and to all others who may be concerned:

WHEREAS, a vacancy now exists in the Office of State Senator from District 41 of the State of Minnesota, caused by the death of Senator, the Honorable B. Robert Lewis; and,

WHEREAS, a special election to fill said vacancy is necessary; and,

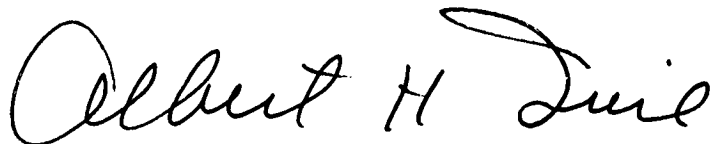
WHEREAS, Executive Order No. 79-21 was issued on May 3, 1979, prescribing dates for primary and special elections to fill that vacancy; and,

WHEREAS, said Executive Order provided for filing of affidavits and petitions of candidacy on Saturday, May 29, 1979 and Saturday, June 12, 1979, respectively;

NOW, THEREFORE, I, Albert H. Quie, as Governor of the State of Minnesota, acting under the authority and direction vested in me by Minnesota Constitution Art. IV, Sec. 4, and Minnesota Statutes 1978, Sections 202A.61 to 202A.71, and other relevant statutes, do hereby direct:

1. Executive Order No. 79-21 is hereby repealed and shall be replaced by this Executive Order.
2. That a special election to fill said vacancy be held in Legislative District 41 on Tuesday, the 19th day of June, 1979.
3. That a special primary election for the nomination of candidates for the office be there held on Tuesday, the 5th day of June, 1979.
4. That affidavits of candidacy must be duly filed on or before Tuesday, the 29th day of May, 1979, and petitions for candidacy on or before Tuesday, the 29th day of May, 1979.
5. That the notices of this special election and special primary election be given, that the nomination and election of candidates be conducted, and that all things pertaining thereto be done as provided by Minnesota Statutes 1978, Sections 202A.61 to 202A.71, and other applicable provisions of law.

IN WITNESS WHEREOF, I hereunto set my hand at the Capitol, in the City of Saint Paul, Minnesota, this fourth day of May, 1979.



RULES

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 Health Environmental Health Division

Adopted Rules of the Water and Wastewater Operator Council of Certification

The rules proposed and published at *State Register*, Volume 3, Number 18, pp. 958-970, for which the Notice of Hearing was published at 3 S.R. 933, are now adopted with the following amendments:

Rules as Adopted

6 MCAR § 5.001 This rule states the purpose for and the definitions which are to apply in the interpretation of 6 MCAR §§ 5.001, 5.002, and 5.003.

A. These rules are intended to:

1. serve as a vehicle by which persons desiring to demonstrate their competency in the operation and maintenance of water supply systems or wastewater treatment facilities may demonstrate such competency;

2. implement the requirements of Laws, 1971, Chapter 828, as amended, (Minn. Stats. Section 115.71 et seq.), that persons in direct responsible charge of a water supply system or wastewater treatment facility must obtain a certificate of competency from the Council in a class equal to or higher than the class of his or her system or facility; and

3. promote the employment of trained, experienced, reliable and efficient personnel in positions relating to the operation and maintenance of such systems and facilities, whether or not such personnel are required by these rules regulations to obtain proper certification.

B. Definitions. Terms and abbreviations used in these rules shall have the meanings specified in this section. Terms and abbreviations used herein which are not spe-

cifically defined shall be construed in conformance with Minn. Stat. chs. 115 and 116 (~~1976~~), the context, and professional usage.

1. "Agency" means the Minnesota Pollution Control Agency;

2. "Department" means the Minnesota Department of Health;

3. "Facility" means wastewater treatment facility as defined in Minn. Stat. § 115.71 (~~1976~~);

4. "Population equivalent" is a means of expressing the strength of pollutorial material in wastewater. For the purpose of these rules the population equivalent shall be determined by dividing a daily pound load of 5-day, 20 degree centigrade biochemical oxygen demand (BOD) of the raw waste by 0.17;

5. "Responsible experience" means

a. where shift operation is not required, permanent accountability for and performance of active daily on-site operation;

b. where shift operation is required,

(1) permanent accountability for active daily on-site technical and administrative supervision, and

(2) permanent, active, daily, on-site charge of an operating shift, or a major segment of a system or facility.

A city manager, superintendent of public works, or other administrative officials shall not be deemed to have direct responsibility of a system or facility unless their duties include the day-to-day operation of the system or facility;

6. "System" means water supply system as defined in Minn. Stat. § 115.71 (~~1976~~).

6 MCAR § 5.002 Classification of systems and facilities.

A. Classification of water supply systems. The commissioner hereby establishes the basis for classification of all

RULES

public water supply systems based on the degree of hazard to the public health, together with the type and loading of plant and the population affected.

1. Water supply system classification shall be based on the following rating values:

<u>Item</u>	<u>Points</u>
a. Water Supply Source	
(1) Ground Water	3
(2) Surface Water	15
b. Quality of Water Supply	
(1) Less than 1.0 Coliform per 100 ml (milliliters)	2
(2) 1.0 to 100 Coliform per 100 ml	4
(3) 100 to 1,000 Coliform per 100 ml	6
(4) 1,000 to 5,000 Coliform per 100 ml	8
(5) 5,000 to 20,000 Coliform per 100 ml	10
(6) More than 20,000 Coliform per 100 ml	12
c. Unit Treatment Processes	
(1) Ground Water Source	
(a) Aeration	2
(b) Chemical Precipitation (Softening)	16
(c) Filtration other than after softening process	10
(d) Ion Exchange	5
(e) Disinfection	5
(f) Chemical Oxidation	2
(g) Stabilization	2
(h) Fluoridation	5
(i) Ammoniation	5
(j) Taste and Odor Control	2
(2) Surface Water Source	
(a) Aeration	2
(b) Coagulation	10
(c) Sedimentation	5
(d) Filtration	10
(e) Disinfection	35
(f) Ion Exchange	5
(g) Chemical Oxidation	2
(h) Stabilization	2
(i) Fluoridation	5
(j) Ammoniation	5
(k) Taste and Odor Control	2
d. Distribution Storage Capacity	
(1) 0 to 5,000 gallons	1

(2) 5,001 to 50,000 gallons	2
(3) 50,001 to 500,000 gallons	3
(4) 500,001 to 5 MG (million gallons)	4
(5) Over 5 MG	5
e. Number of Wells	
(1) 1 to 3	2
(2) 4 to 7	4
(3) 8 to 15	6
(4) Over 15	8
f. Population Affected	
(1) 0 to 1,000 persons	2
(2) 1,001 to 5,000 persons	5
(3) 5,001 to 10,000 persons	11
(4) 10,001 to 20,000 persons	20
(5) 20,001 to 50,000 persons	32
(6) 50,001 to 100,000 persons	47
(7) 100,001 persons and over	70

2. Class of Water Supply System	Accumulated Point Value
a. Class A	76 or more
b. Class B	56 to 75
c. Class C	31 to 55
d. Class D	30 or less

B. Classification of wastewater treatment facilities. The director hereby establishes the basis for classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons based on the degree of hazard to the public health, together with the type and loading of the facilities and the population served or the average population equivalent of the sewage wastewater handled.

1. Wastewater treatment facility classification shall be based on the following rating values:

<u>Item</u>	<u>Points</u>
a. Size	
(1) Maximum population equivalent (P.E.) served	1 per 10,000 P.E. or part thereof
(2) Design flow, average day, or peak months' flow, average day, whichever is greater	1 per million gallons daily or part thereof
b. Effluent Discharge:	
(1) Receiving stream sensitivity based on general standards applicable to all intra- and inter-state waters, as	

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."

RULES

prescribed in WPC 14(d)* and WPC 15(d)*			
(a) Domestic consumption		(6) Any number of secondary clarifiers	5
(i) Class B	6	(7) On-site generation of oxygen	5
(ii) Class C	5	g. Advanced Waste Treatment	
(iii) Class D	4	(1) Aerated polishing ponds designed for less than 180 days' detention time	5
(b) Fisheries and recreation		(2) Polishing ponds without aeration	2
(i) Class A	5	(3) Chemical and physical	15
(ii) Class B	3	(4) Biological treatment for nitrogen removal	8
(iii) Class C	2	(5) Chemical addition for phosphorous and/or solids removal	8
(2) Dechlorination	5	(6) Multi-media filters and/or activated carbon beds	8
(3) Land disposal — evaporation	2	(7) Ion exchange	10
(4) Subsurface disposal	4	(8) Reverse osmosis, electro dialysis	15
c. Variation in Raw Wastes		(9) Chemical recovery, carbon regeneration	4
(1) 1-5% industrial flow contributed to facility	1	(10) Micro-strainers	4
(2) 6-10% industrial flow contributed to facility	2	h. Solids Handling	
(3) 11-25% industrial flow contributed to facility	3	(1) Thickening including chemical treatment	5
(4) 26-50% industrial flow contributed to facility	4	(2) Anaerobic digestion	10
(5) 51% or more industrial flow contributed to facility	5	(3) Aerobic digestion	6
(6) For special treatment of industrial wastes at the wastewater treatment facility	1	(4) Evaporative sludge drying	2
d. Pretreatment		(5) Mechanical dewatering	8
(1) Screening, comminution	3	(6) Solids reduction, such as incineration, wet oxidation	12
(2) Grit removal	3	(7) On-land disposal	5
(3) Plant pumping of main flow	3	i. Disinfection	
(4) Preaeration with less than 2 hours' detention time	3	(1) Chlorination or comparable	5
(5) Hydro sieve	4	(2) On-site generation of disinfectant	5
e. Primary Treatment		j. Laboratory Monitoring	
(1) Primary clarifiers	5	(1) Minimum required tests (pH, Cl ₂ , residual D.O., settleable solids, B.O.D. and T.S.S.)	2
(2) Combined sedimentation and digestion	5	(2) Bacteriology (fecal coliform, total coliform, fecal streptococcal, etc.)	3
(3) Chemical addition, except chlorine and enzymes	4	(3) Activated sludge process control	3
f. Secondary Treatment		(4) Nutrients	1
(1) Trickling filter	5	(5) Ground water monitoring	1
(2) Activated sludge including pure oxygen activated sludge	10	2. Class of Wastewater Treatment Facility	
(3) Stabilization ponds, designed for more than 180 days' detention time	5	Accumulated Point Value	
(4) Aerated ponds designed for more than 2 hours' detention time	8	a. Class A	76 or more points
(5) Rotating biological surface	5	b. Class B	56-75 points
		c. Class C	31-55 points
		d. Class D	30 and less

*adopted in 1973

RULES

3. Type S Treatment Facility shall mean a system of collection, pumping and conveyance facilities which are distinctly separate in operation or maintenance from a wastewater treatment facility which treats, stabilizes or disposes of the sewage wastewater collected, pumped or conveyed therein. Where such a conveyance facility is not so distinctly separate, it is considered to be part of the treatment facility for which the designated operator is responsible. A type S treatment facility shall be subclassified as follows:

- a. Class S-A. Serving a population of 50,000 or more;
- b. Class S-B. Serving a population of 15,000 or more but less than 50,000;
- c. Class S-C. Serving a population of 1500 or more but less than 15,000;
- d. Class S-D. Serving a population of less than 1500.

C. Reclassification. When the accumulated point value necessitates a change in the classification of a system or facility, or when unusual factors may affect the degree of hazard to the public health, the type and loading of the system or facility, or the average population served or population equivalent of the sewage wastewater handled, the commissioner or director may modify the classification of a system or facility.

6 MCAR § 5.003 Certification.

A. Qualifications for certification of water supply system and wastewater treatment facility operators.

1. General. In order to be certified, an applicant must

a. demonstrate that he or she possesses the skill, knowledge, experience and education that a person must have to operate a specified class of system or facility successfully, to maintain it economically, to safeguard the public health and protect the waters of the state, and

b. have passed a written examination taken pursuant to this rule.

2. In addition, before applying to take an examination, a person who seeks certification in a particular class must meet the qualifications for that class as specified below:

a. Class A Certificate: An applicant shall

(1) have been certified as a Class B operator for two years, and

(2) have a

(a) bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least four years of responsible experience in the operation and management of a Class A or B system or facility or a similar industrial facility, or

(b) high school diploma with at least eight years of responsible experience in the operation and management of a Class A or B system or facility, or a similar industrial facility, and

(3) take and pass an oral examination;

b. Class B Certificate. An applicant shall

(1) possess a bachelor's degree in an appropriate branch of engineering or in a physical or biological science, and submit satisfactory evidence of at least two years of experience in the operation of a Class A, B, or C system or facility, or similar industrial facility, or

(2) be a high school graduate with at least six years of experience in the operation of a Class A, B, or C system or facility, or a similar industrial facility;

c. Class C Certificate. An applicant shall be a high school graduate with a minimum of three years of experience in the operation of a water supply system, wastewater treatment facility, or similar industrial facility;

d. Class D Certificate. An applicant shall be a high school graduate

(1) who has a minimum of one year of experience in a water supply system, wastewater treatment facility or in a related field, or

(2) who has satisfactorily completed an approved, post-secondary program of courses in water and wastewater technology at an accredited institution.

e. An applicant for a type S wastewater treatment certificate shall possess the same educational and experiential qualifications as are required of one who applies for a regular wastewater certificate in the same class, with the following exceptions:

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(1) experience shall have been gained in a regular wastewater or type S facility, and

(2) when one applies for an S-A or S-B type certificate, he or she shall ~~already possess the appropriate class of type S certificate~~ have been certified as an S-B operator for two years.

3. Substitutions.

a. When a person applies for certification to operate

(1) a wastewater treatment facility, experience gained in a water supply system or a type S wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of facility for which the applicant seeks the certificate, or

(2) a water supply system, experience gained in a wastewater treatment facility may be given up to 50% credit towards meeting the experience requirement for that class of system for which the applicant seeks the certificate. Experience gained in a type S wastewater treatment facility may not be substituted when one applies for a water supply system certificate.

b. Persons who apply for a Class A, S-A, B, S-B, C or S-C certificate may substitute education for experience according to the following formulae:

(1) Except as noted below, the Council may reduce the experience required in subsection A.2 above by up to six months for the successful completion of:

(a) each academic year beyond high school in which the applicant took courses relating to water supply and wastewater treatment, or in an appropriate branch of engineering, or in the chemical or biological sciences, or

(b) one hundred contact hours of courses relating to water supply or wastewater treatment.

(2) In no event shall such education be substituted for experience so as to reduce the experience requirement to less than one year.

(3) An applicant may be given credit for taking the same course more than once if there is a substantial difference in course content and only upon approval of the council.

c. One year of experience in the operation of a water supply system or wastewater treatment facility may be considered as equivalent to one year of high school. Experience which is substituted for education cannot also be used to satisfy the experience requirements.

B. Examination procedure.

1. Application for examination:

a. Application for examination shall be made in writing to the Commissioner or director on a prescribed form, and ~~should~~ shall be submitted at least 15 days prior to the date on which the examination will be given.

b. The examination fee shall accompany the application.

c. The appropriate reviewing authority shall review all information and documents needed to determine the eligibility for examination and notify the applicant of his or her status.

d. The applicant may be required to submit a copy of the school or college diploma, equivalency certificate or other proof of school or college attendance and/or graduation.

2. Examinations:

a. The council shall authorize the preparation of written and oral examinations to be used in determining the knowledge, ability and judgment of operators.

b. Separate written examinations shall be prepared for each designated water supply system and wastewater treatment facility class to cover basic differences in the duties and responsibilities of operators, types of water and wastewater treatment, variations in water and wastewater characteristics, water distribution systems, and wastewater collection systems. The written examination shall test the applicant's knowledge in any one or more of the following areas, as they relate to either water or wastewater treatment: basic science, mathematics, operating procedures, treatment processes, equipment and its maintenance and applicable law and rules.

c. The oral examination for an A certificate will include questions concerning the scope of the applicant's experience, supervisory and managerial responsibilities, and operational capabilities. Such an examination may be conducted by a subcommittee of the council.

d. All examinations shall be closed-book.

e. For the written examination, a grade of 70% shall be considered a passing grade. For the oral examination, the grade shall be either PASS or FAIL.

f. The applicant shall be notified of the results. Papers shall not be returned to the applicant, but upon request within 60 days' notification of the results, the applicant may be allowed to review the written examination.

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g. An applicant who fails to pass may not retake the same examination for a period of three months.

C. Restricted certificate.

1. The operator of a system or facility which is reclassified to a higher class pursuant to 6 MCAR § 5.002 C. is eligible for a restricted certificate in the higher class, except as noted in 6 MCAR § 5.003 C.2. A restricted certificate shall be issued upon receipt of the certificate fee and shall be effective for three years from the date of issue. A restricted certificate may be renewed in the same manner as an unrestricted certificate. A restricted certificate shall specify that the operator named therein is certified to operate only the reclassified system or facility for which the restricted certificate is issued.

2. No restricted certificate will be granted if reclassification was the result of a major alteration to the system or facility, the operation of which would require considerably more training, knowledge or experience than that ~~possessed by the current operator~~ required by the system or facility as it was formerly classified.

D. Issuance of certificates. Certificates shall be issued by the commissioner or director when all the conditions prescribed in these rules have been satisfied.

E. Renewal.

1. A certificate in any given classification must be renewed within 30 days of its expiration date. Except as provided in 6 MCAR § 5.003 E.2., a renewal certificate will be issued upon receipt of the application, renewal fee and evidence of the fact that the operator has, during the preceding three years, obtained credit for attending approved water and wastewater training courses, or participated in substantially similar educational activities, for the number of hours specified in the following schedule:

Class A and S-A, 32 contact hours;

Class B and S-B, 24 contact hours;

Class C and S-C, 16 contact hours;

Class D and S-D, 8 contact hours.

2. A person who has obtained a Class D or S-D certificate pursuant to 6 MCAR § 5.003 A.2.d.(2) and who has not worked as an operator for at least one year during the

time the certificate was in effect shall not be eligible to renew such a certificate.

3. The council shall annually prepare and make available to operators and the public a list of accredited training courses and approved educational activities for which credit may be obtained.

F. Reinstatement. A person whose certificate has expired may apply to the commissioner or ~~director~~ secretary for reinstatement of the certificate in the same classification. Before a certificate will be issued, such person must submit the following:

1. the application for reinstatement,

2. the fee for a reinstatement certificate, which fee is non re-fundable, and

3. evidence of the fact that he or she had complied with the continuing education requirements imposed in 6 MCAR § 5.003 E.1. during the entire time since the expired certificate was last issued or renewed.

4. A person who is denied reinstatement will be required to follow the procedure imposed for a new applicant. In such case the reinstatement fee already paid shall be credited towards the fees for examination and a new certificate.

G. Fees.

1. Fees for certification shall be as follows:

a. Application for examination	\$15.00
b. Issuance of certificate	\$15.00
c. Re-examination resulting from failure to pass an examination	\$15.00
d. Renewal of certificate	\$15.00
e. Replacement certificate	\$ 5.00
f. Reinstatement or reciprocity certificate	\$20.00

2. Only fees from persons who are rejected for examination will be returned to them.

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Board of Teaching

Adopted Rules Governing Teachers of Industrial Arts, School Nurses, Coaches of Interscholastic Sports, Institutional Approval, and Program Approval

The Minnesota Board of Teaching proposed and published the following rules at *State Register*, Volume 2, Number 41, pp. 1897-1907, April 17, 1978.

Of these rules, 5 MCAR § 3.106 (School nurse.) is severed pending approval by the Board, and 5 MCAR § 3.108 (Coaches of interscholastic sports in the elementary and secondary schools.) has been withdrawn by the Board.

The rules listed below are now adopted, with the following amendments:

Rules as Adopted

5 MCAR § 3.073 Teachers of industrial arts.

D. Programs ~~may~~ shall be approved which vary in curricular design provided that program components meet the requirements in A., B., C., above, and that these components provide education personnel who are recommended for licensure with the knowledge, skills, and understandings specified in rules for each licensure area. When the term competency is used, it is understood that other appropriate terms which refer to learning outcomes may be substituted. Examples of such terms are: knowledge, skills, and understandings.

5 MCAR § ~~3.130~~ 3.140 The approval of Minnesota institutions to prepare persons for teacher licensure.

E.10.b. Supervision of student teaching experiences is under the control and direction of faculty assigned to the professional education component of teacher licensure programs. Student teaching experiences are also supervised by practicing teachers who hold at least a continuing license, as defined in 5 MCAR § 3.001 and granted by the Minnesota Board of Teaching, in the licensure field and at the licensure level for which they supervise.

5 MCAR § ~~3.131~~ 3.141 The approval of teacher licensure programs in Minnesota institutions which are approved to prepare teachers.

C.3. Necessary faculty and physical resources are allocated to implement and maintain the teacher licensure program. Faculty shall be assigned to the component of professional education for which they have academic preparation and teaching experience. In addition, faculty assigned to provide instruction in methods of teaching and supervise student teaching experiences in the teacher licensure program shall have teaching experience at the licensure level of the licensure program. Classroom teachers who supervise student teaching experiences shall hold at least a continuing license, as defined in 5 MCAR § 3.001 and granted by the Minnesota Board of Teaching, in the licensure field and at the licensure level for which they supervise.

H. Teacher licensure programs which vary in curricular design ~~may~~ shall be approved provided that program components meet the requirements of Board of Teaching rules for each teacher licensure program, and that these components are designed to provide persons completing each teacher licensure program with the knowledge, skills, and understandings which are enumerated in those rules.

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 28-June 1, 1979

Date	Agency and Rule Matter	Time and Place
May 31	Livestock Sanitary Board Control of Pseudorabies; Aleutian Disease-Free Herds of Mink; Control of Glanders-Farcy; Control of Hog Cholera; Horse Mange or Scabies; Cleaning and Disinfection of Railroad Cars; Condemnation & Slaughter of Animals with Tuberculosis, Paratuberculosis, & Bang's Disease Hearing Examiner: Harry Seymour Crump	9:30 a.m., Conference Rm. D, Veterans Service Bldg., 20 W. 12th St. and Columbus Ave., St. Paul, MN
June 1	Dept. of Administration, Building Code Division Training & Certification of Evaluators for Energy Disclosure Program Hearing Examiner: Natalie Gaul	9:30 a.m., Conference Rm., 408 Metro Square Bldg., 7th & Robert St., St. Paul, MN

Department of Health Environmental Health Division

Proposed Amendments to Rules Relating to Food, Beverage and Lodging Establishments, License Fees, Clean Indoor Air and Swimming Pools

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Friday, June 22, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to existing rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Natalie Gaul, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8114, either before the hearing or within five (5) working days after the close of the hearing or for a longer period not to exceed 20 calendar days, if ordered by the Hearing Examiner at the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in be-

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PROPOSED RULES

half of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners, 9 MCAR §§ 2.101-2.199.

If adopted, the proposed amendments would result in the following changes:

1. Increase 1980 license fees for food, beverage and lodging establishments by three times;
2. Define a new license category for limited food service establishments;
3. Set a maximum of 130°F. for hot water in guest areas of lodging establishments;
4. Provide for hiring a licensed exterminator to rid a lodging establishment of pests;
5. Prohibit public access to open ice bins in lodging establishments after 1982;
6. Bring spa pools and whirlpools within the scope of construction standards of the swimming pool code;
7. Revise certain definitions and requirements of the Clean Indoor Air rules; and
8. Make various minor technical amendments to the above-captioned rules.

Statutory authority of the Commissioner of Health to promulgate the above revisions is contained in Minn. Stat. §§ 144.12, 144.122, 144.05, 144.417, and ch. 157 (1978).

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Minnesota Department of Health, Division of Environmental Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice: The proposed amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments rule to participate in the rule hearing process.

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 amendments. Copies of the Statement of Need and Reasonableness

may be obtained from the Office of Hearing Examiners at a minimal charge.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 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 communication 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

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).

May 7, 1979

s / Ellen Z. Fifer, M.D.
For George R. Pettersen, M.D.
Commissioner

Rules as Proposed

Lodging establishments.

7 MCAR § 1.151 ~~MHD 151~~ Scope and definitions.

A. Scope. ~~(a)~~ This rule regulation shall be applicable to all lodging establishments, such as hotels, motels, lodging houses and resorts as defined in Minn. Stat. ch. 157.

PROPOSED RULES

B. Definitions.

1. ~~(a)~~ Board Commissioner. The term “Board” ~~“Commissioner”~~ shall mean the Minnesota State Board Commissioner of Health and the Minnesota Department of Health, which terms shall be synonymous.

2. Approved. The term “approved” shall mean acceptable to the Board Commissioner following ~~its~~ his determination as to conformity with ~~departmental standards~~ and established public health practices.

3. ~~(e)~~ Clean. The term “clean” shall mean the absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.

4. ~~(d)~~ Good repair. The term “good repair” shall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.

~~(e)~~ Standards. The term “standards” means the criteria of compliance of the Board and available on request.

5. ~~(f)~~ Usable floor space. The term “usable floor space” means all floor space in a sleeping room not occupied by closets, toilet rooms, shower or bathrooms.

7 MCAR § 1.152 MHD-152. Sanitation requirements. The construction, operation, maintenance and equipment of lodging establishments shall be regulated as follows:

A. ~~(a)~~ Building. Every building, structure or enclosure used to provide lodging accommodations for the public shall be kept in good repair, and so maintained as to promote the health, comfort, safety and well being of persons accommodated.

B. ~~(b)~~ Floors. The floors of all guest rooms, hallways, bathrooms, store rooms, and all other spaces used or traversed by guests shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair. Cleaning of floors shall be done as to minimize the raising of dust and the exposure of guests thereto. The requirements of this section shall not prevent the use of rugs, carpets or natural stone which can be kept clean. Abrasive strips for safety purposes may be used wherever deemed necessary to prevent accidents.

C. ~~(c)~~ Walls and ceilings. The walls and ceilings of all rooms, halls and stairways shall be kept clean and in good

repair. Studs, joists or rafters shall not be left exposed except when suitably finished and kept clean.

D. ~~(d)~~ Screening. When flies, mosquitoes, and other insects are prevalent, all outside doors, windows and other outer openings shall be screened: Provided that such screening shall not be required for rooms deemed by the Board Commissioner to be located high enough in the upper stories of the building as to be free of such insects, or in such areas where other effective means are provided to prevent their entrance.

E. ~~(e)~~ Lighting and ventilation. All rooms and areas used by patrons and guests and all other rooms or spaces in which lighting and ventilation, either natural or artificial, are essential to the efficiency of the business operation shall be well lighted and ventilated.

An area shall be considered well ventilated when excessive heat, odors, fumes, vapors, smoke or condensation is reduced to a negligible level and barely perceptible to the normal senses. ~~Air replacement vents shall be designed to permit the entrance of an equal volume of displaced air and to prevent the entrance of insects, dust or other contaminating materials.~~ During seasons when weather conditions require tempering of make-up air, adequate equipment shall be provided to temper the make-up air. Every gas-fired or oil-fired room heater and water heater shall be vented to the outside air.

F. ~~(f)~~ Space. Every room occupied for sleeping purposes by one person shall contain at least 70 sq. ft. of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 sq. ft. of usable floor space for each occupant thereof. Under no circumstances shall there be provided less than 400 cu. ft. of air space per occupant. Beds shall be spaced at least 3 ft. apart when placed side by side. No sleeping quarters shall be provided in any basement having more than half its clear floor to ceiling height below the average grade of the adjoining ground. When strict compliance herewith is impracticable, the Board Commissioner may waive any of the provisions of this paragraph subject to such conditions as may be deemed desirable in the individual case.

G. ~~(g)~~ Bedding and linen. All beds, bunks, cots, and other sleeping places provided for guests in hotels, motels, resorts and lodging houses shall be supplied with suitable pillow slips and under and top sheets. All bedding including mattresses, quilts, blankets, pillows, sheets, spreads, and all bath linen shall be kept clean. No bedding including mattresses, quilts, blankets, pillows, bed and bath linen,

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shall be used which are worn out or unfit for further use. Pillow slips, sheets and bath linen after being used by one guest shall be washed before they are used by another guest, a clean set being furnished each succeeding guest. For any guest occupying a guest room for an extended period of time, a fresh set of sheets and pillow slips shall be furnished at least once each week, and at least two clean towels shall be furnished each day, except that the proprietor will not be responsible for the sheets, towels, pillow slips, and bath linen furnished by a guest.

H. (h) Room furnishings. All equipment, fixtures, furniture and furnishings, including windows, draperies, curtains and carpets, shall be kept clean and free of dust, dirt, vermin and other contaminants, and shall be maintained in good order and repair.

I. (i) Toilets. Every hotel, motel and lodging house shall be equipped with adequate and conveniently located water closets for the accommodation of its employees and guests. Water closets, lavatories and bath tubs or showers, shall be available on each floor when not provided in each individual room. Toilet, lavatory and bath facilities shall be provided in the ratio of one toilet and one lavatory for every ten occupants, or fraction thereof, and one bath tub or shower for every twenty occupants, or fraction thereof. The hot water temperature shall not exceed 130°F (~55° C). Toilet rooms shall be well ventilated by natural or mechanical methods. The doors of all toilet rooms serving the public and employees shall be self-closing. Toilets and bathrooms shall be kept clean and in good repair and shall be well lighted and ventilated. Handwashing signs shall be posted in each toilet room used by employees. Every resort shall be equipped with adequate and convenient toilet facilities for its employees and guests. If privies are provided they shall be separate buildings and shall be constructed, equipped, and maintained in conformity with the standards of the Board Commissioner and shall be kept clean.

J. (j) Water supply. A safe adequate supply of water shall be provided. The water supply system shall be located, constructed and operated in accordance with the rules standards of the Board Commissioner. When strict compliance herewith is impracticable the Board may waive any of the provisions for location and construction specified in this item, subject to such conditions as may be deemed desirable in the individual case.

K. (k) Handwashing. All lavatories for public use or furnished in guest rooms at hotels, motels, lodging houses and resorts shall be supplied with hot and cold running water and with soap. The hot water temperature shall not exceed 130° F (~55° C). Scullery sinks should not be used as handwashing sinks.

In the case of separate housekeeping cabins at resorts not

supplied with running hot water, equipment shall be provided for heating water in the cabin.

Individual or other approved sanitary towels or warm-air dryers shall be provided at all lavatories for use by employees or the public.

L. (l) ~~Cleaning and bactericidal treatment.~~ Eating utensils and drinking vessels provided in guest rooms.

1. After each usage, all multi-use eating utensils and drinking vessels shall be thoroughly washed in hot water containing a suitable soap or synthetic detergent, rinsed in clean water, and effectively subjected to a bactericidal process approved by the Board Commissioner. Approved facilities for manual dishwashing shall consist of a three compartment sink with stacking and drainboards at each end. Dishwashing machines shall be equipped with thermometers which will accurately indicate the temperature of the wash and rinse water. All mechanical dishwashing machines installations installed on or before January 1, 1968, shall conform to Standard Number 3 of the National Sanitation Foundation, dated April, 1965.

Either of the following bactericidal processes for manual dishwashing is regarded as approved:

(1) Complete immersion in clean water at a temperature of not lower than 170° Fahrenheit for at least two minutes. The bactericidal compartment must be properly equipped with a heating unit or other means to maintain the specified temperature while in use.

(2) Complete immersion in clean water containing not less than 50 parts per million of available chlorine if hypochlorites are used; or not less than 200 parts per million if chloramines are used; for not less than two minutes. Other compounds acceptable to the Board may be used in accordance with standards recommended at the time of acceptance.

Any other processes acceptable to the Board may be used for machine or manual dishwashing.

All dishes, glasses, utensils and equipment after washing and bactericidal treatment shall be permitted to drain and air dry.

2. Single service utensils or vessels as defined in MHD 162(s) must be handled in a sanitary manner. Such utensils may not be re-used.

M. (m) Waste disposal. All liquid wastes shall be disposed of in an approved public sewerage system or in a sewerage system which is designed, constructed and operated in accordance with the standards of the Board rules of the Minnesota Pollution Control Agency (6 MCAR § 4.8040).

PROPOSED RULES

Prior to removal, all garbage and refuse in storage shall be kept in water-tight, non-absorbent receptacles which are covered with close-fitting, fly-tight lids. All garbage, trash and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions, and shall be disposed of in a sanitary manner. All garbage receptacles shall be kept clean and in good repair.

N. (¶) Insect and rodent control. Every hotel, motel, lodging house and resort shall be so constructed and equipped as to prevent the entrance, harborage or breeding of flies, roaches, bedbugs, rats, mice and all other insects and vermin, and specific means necessary for the elimination of such pests such as cleaning, renovation or fumigation shall be used. The Commissioner may order the facility to hire an exterminator licensed by the state to exterminate pests when:

1. The infestation is so extensive that it is unlikely that a non-professional can eradicate the pests effectively, or
2. The extermination method of choice can only be carried out by a licensed exterminator, or
3. Upon reinspection, it is found that an establishment has not been brought into compliance with a prior order to rid the establishment of pests.

O. (¶) Personnel health and cleanliness. No person shall resume work after visiting the toilet without first thoroughly washing his hands.

Personnel of hotels, motels, lodging houses and resorts may be required to undergo medical examination to determine whether or not they are cases or carriers of a communicable disease.

P. (¶) Cleanliness of premises. The premises of all hotels, motels, lodging houses and resorts shall be kept clean and free of litter or rubbish.

Q. (¶) Fire protection. All lodging establishments shall provide suitable fire escapes which shall be kept in good repair and accessible at all times. Hallways shall be marked and exit lights provided; fire extinguishers shall be provided and shall be recharged annually and kept accessible for use. No sleeping quarters shall be maintained in rooms which do not have unobstructed egress to the outside or to a central hall leading to a fire escape. **All fire protection measures shall be in accordance with requirements of the State Fire Marshal.**

R. (¶) Plumbing and swimming pools. All new plumbing in hotels, motels, lodging houses and resorts, and all plumbing reconstructed or replaced after January 1, 1968 ~~the effective date of this regulation~~ shall be designed, constructed and installed in conformity with the Minnesota Plumbing Code (7 MCAR §§ 1.120-1.134).

All swimming pools and other artificial recreational bathing facilities shall be located, constructed and operated in conformity with ~~the standards of the Board~~ 7 MCAR § 1.141.

S. Sanitary dispensing of ice. Any lodging establishment which makes ice available in public areas, including but not limited to lobbies, hallways, and outdoor areas shall restrict access to such ice in accordance with the following provisions:

1. after the effective date of this rule, any newly-constructed lodging establishment which installs ice-making equipment, and any existing lodging establishment which replaces its ice-making equipment, shall install only automatic dispensing, sanitary ice-making and storage equipment;
2. after December 31, 1982, any existing lodging establishment which has not converted to automatic dispensing ice-making and storage equipment shall no longer permit unrestricted public access to open-type ice bins, and shall dispense ice to guests only by having employees give out prefilled, individual, sanitary containers of ice, or by making available prefilled, disposable, closed, bags of ice.

7 MCAR § 1.155 ~~MHD 155~~ Initial and renewal license fees: License Expiration dates.

A. (¶) Fee schedule. License applications for lodging establishments as defined in 7 MCAR § 1.151 ~~MHD 151~~ shall be accompanied by the applicable fee as determined from the following fee schedule.

<u>Fee Schedule</u>	
<u>Number of Sleeping Rooms</u>	<u>Fee</u>
1 — 18	\$ 7.50 <u>\$23.00</u>
19 — 35	\$15.00 <u>\$45.00</u>
36 — 100	\$20.00 <u>\$60.00</u>
101 and over	\$25.00 <u>\$75.00</u>

B. (¶) Expiration date. Initial and renewal lodging establishment licenses shall be issued for the calendar year for

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which application is made and shall expire on December 31 of such year.

C. (e) License renewals. License renewals shall be obtained on an annual basis. License renewal applications shall be submitted to the Commissioner State Board of Health on forms provided by it no later than December 31 of the year preceding the year for which application is made.

D. (d) Penalty fee. A penalty fee of \$10.00 shall be added to the amount of the license fee if the application has not reached the office of the Commissioner State Board of Health before January 31, or in the case of a new business, 30 days after the opening of such business.

E. (e) Reduced license fee. From and after October 1 of each year, the license fee for new establishments or new operators shall be one half of the appropriate annual license fee plus any penalty which may be required.

F. (f) Effective date. The fees prescribed in 7 MCAR § 1.155 regulation MHD 455 shall apply to all licenses which become effective on or after January 1, 1975 September 1, 1979.

Restaurants and Places of Refreshment

7 MCAR § 1.165 MHD 465 Initial and renewal license fees: License expiration dates.

A. (a) Fee schedule. Initial and renewal license applications for food and beverage establishments as defined in 7 MCAR § 1.162 MHD 462 shall be accompanied by the applicable fee as determined from the schedule below. The average number of employees shall be computed in accordance with Minn. Stat. § 157.03.

Food or Beverage Establishment Fee Schedule

Number of Employees	Fee	Proposed Fee
1-4	\$ 7.00	\$21.00
5-18	\$12.00	\$36.00
19-28	\$18.00	\$54.00
29-35	\$25.00	\$75.00
36 and over	\$30.00	\$90.00
limited or temporary food service		\$15.00

B. (b) . . .

C. (c) . . .

D. (d) . . .

E. (e) . . .

F. (f) Effective date. The fees prescribed in regulation MHD 465 7 MCAR § 1.165A shall apply to all licenses

which become effective on or after January September 1, 1975 1979.

7 MCAR § 1.162 MHD 462 Definitions.

M. (m) Food Establishment shall mean food and beverage service establishments as defined in Minn. Stat. chs. 157 and 144.72 and shall include drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts and churches, temporary and limited food service establishments, except as exempted by § 157.14.

W. Limited Food Service Establishment shall mean an itinerant establishment, or one serving only prepackaged foods which receive no more than heat treatment.

7 MCAR § 1.163 S. (MHD 462) (s) Temporary or limited food service establishments.

A temporary or limited food-service establishment shall comply with all provisions of this regulation 7 MCAR §§ 1.161-1.165 which are applicable to its operation: provided, that the Board Commissioner may augment such requirements when needed to assure the service of safe food, may prohibit the sale of certain potentially hazardous food, and may modify specific requirements for physical facilities when in his opinion no health hazard will result.

W. Emergency first aid for choking: Any food service establishment which is not a temporary or limited food service establishment shall post a chart illustrating the use of an emergency first aid procedure which is approved by the commissioner for use to relieve a patron with a restricted airway. Such an illustration shall be posted in the food preparation area where all employees may easily see it.

7 MCAR § 1.141 MHD 141 Public swimming pools.

B. (b) Definitions. The following definitions shall apply in the interpretation and enforcement of this Regulation rule. The word "shall" as used herein indicates a mandatory requirement.

I. (i) Swimming pool. Any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational bathing, including special purpose pools.

2. (2) Public swimming pool. Any swimming pool, other than a private residential swimming pool, intended to be used collectively by numbers of persons for swimming or bathing, operated by any person as defined herein, whether he be owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for such use.

3. (3) Private residential swimming pool. Any swimming

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pool, located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by members of his family or their invited guests. (The design, construction, and operation of such pools are not subject to the provisions of this Regulation.)

4. (4) Person. Any person, firm, partnership, association, corporation, company, governmental agency, club, or organization of any kind.

5. (5) ~~State Board of Health. The State Board of Health of the State of Minnesota; hereinafter referred to as the Board.~~ Commissioner means Commissioner of Health.

6. (6) Wading pool. Any pool used or designed to be used exclusively for wading or bathing and having a maximum depth of 24 inches.

7. (7) Special purpose pool. Treatment pools, therapeutic pools, ~~and~~ special pools for water therapy, whirlpools, spas, and cold plunges.

Clean Indoor Air Rules

7 MCAR § 1.441 ~~MHD-441~~. Authority, scope and purpose.

A. (a) These rules are promulgated pursuant to authority granted to the ~~State Board~~ Commissioner of Health in Minn. Stat. § 144.417, subd. 1, relating to prohibition of smoking in public places and at public meetings.

B. (b) These rules apply to "public places" and "public meetings," as defined in Minn. Stat. § 144.413, subs. 2 and 3. "Public place" includes all enclosed, indoor areas used by the general public or serving as a place of work, regardless of type of ownership of the area. Restrictions and prohibitions on smoking in "factories, warehouses and similar places of work" shall be regulated under rules of the Department of Labor and Industry.

C. (c) Nothing in these rules shall be construed to in any way affect smoking prohibitions imposed by the fire marshal or other laws, ordinances or regulations.

D. (d) It is the purpose of these rules to provide clarification of certain provisions of the Minnesota Clean Indoor Air Act and to maintain the same public policy position as the Act.

7 MCAR § 1.442. ~~MHD-442~~. Definitions. All terms which

are defined in Minn. Stat. §§ 144.411–144.417 shall have the meanings attributed to them therein. For the purpose of these rules the terms defined herein shall have the meanings given to them.

A. (a) "Acceptable Smoke-free Area" means:

1. (1) A contiguous portion of the public place or public meeting including seating arrangements, measuring a minimum of 200 square feet, where smoking is prohibited and,

2. (2) At least one of the following conditions exists:

a. (aa) There is a continuous, physical barrier such as a wall, partition or furnishing, of at least 56 inches (1.42 meters) in height to separate the smoking-permitted and no-smoking areas. The barrier may contain doors or portals for exit and entry.

b. (bb) There is a space of at least four feet (1.22 meters) in width to separate the smoking-permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area acting as a buffer zone in which smoking is not permitted, but which itself is not part of the "acceptable smoke-free area."

c. (cc) The ventilation system in the room containing both a smoking-permitted and no-smoking area has total air circulation (recirculated plus outside air) of not less than six air changes per hour including supply of tempered outside air determined according to ~~Regulation~~ Regulation rules of the Department of Administration, Minnesota Building Code, Minn. Reg. SBC 6007 (e) (3).

(dd) ~~The concentration of carbon monoxide in the no smoking area shall at no time exceed concentration of carbon monoxide in outside air within 12 feet (3.7 meters) of the building by more than 10 milligrams per cubic meter (9 parts per million).~~

B. (b) "Act" means the Minnesota Clean Indoor Air Act of 1975, Minnesota Laws 1975, Chapter 211, Minn. Stat. §§ 144.411–144.417.

C. (c) "Bar" shall mean any establishment or portion of an establishment where one can purchase and consume alcoholic beverages, but excluding any such establishment or portion of the establishment having table and seating facilities for serving of meals to more than fifty people at one time, and where, in consideration of payment, meals are served at tables to the public.

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D. (d) "Educational facilities" means any location used for instruction of enrolled students, including but not limited to, day care centers, nursery schools, elementary schools, middle schools, junior and senior high schools, vocational schools, colleges and universities. This classification shall include all areas supportive of instruction which are under the responsibility of the school administration, including but not limited to classrooms, lounges, study area and libraries.

E. (e) "Factory, warehouse or similar place of work" means the indoor area of any facility of an enterprise used principally to manufacture or assemble goods, products or merchandise not for the purpose of direct retail sale, and shall include those areas incidental but related to the primary operation.

F. (f) "Health care facilities" means any institution, place, building or agency which is required to be licensed under Minn. Stat. §§ 144.50 to 144.58, including but not limited to, hospitals, nursing homes, boarding care homes, supervised living facilities and surgical centers.

G. (g) "Meals" shall mean any foods made available to be consumed on the premises except foods which are pre-packaged when served to the patron and foods which are served as snacks or appetizers.

H. (h) "Office" means any building, structure or area which is used by the general public or serves as a place of work at which the principal activities consist of professional, clerical or administrative services. This classification shall include professional offices, financial institutions, business offices and government offices.

I. (i) "One side of the room" shall mean a contiguous portion of the room, including any seating arrangements.

J. (j) "Other person in charge" shall mean the agent of the proprietor authorized to perform administrative direction to and general supervision of the activities within the public place at any given time.

K. (k) "Place of work" shall mean any location at which two or more individuals perform any type of a service for consideration of payment under any type of employment relationship, including but not limited to such employment relationship with or for a private corporation, partnership, individual, or government agency. This term shall also include any locations wherein two or more individuals gratuitously perform services for which individuals are ordinarily paid.

L. (l) "Private social function" shall mean any function for which all the following conditions are met:

1. (1) The function is a specific social or recreational

event for which an entire room or hall has been reserved for the purpose of entertainment or pleasure and not for the principal purpose of education, sales or business.

2. (2) The function is limited in attendance to people who have been specifically designated and their guests.

3. (3) Seating arrangements for the function, if any, are under control of the sponsor of the function and not of the person otherwise responsible for the public place.

M. (m) "Proprietor" means the party, regardless of whether he is owner or lessee of the public place, who ultimately controls, governs or directs the activities within the public place. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place. The term proprietor may apply to a corporation as well as an individual.

N. (n) "Public Conveyance" means any air, land or water vehicle used for the transportation of persons whether or not for compensation, including but not limited to airplanes, trains, buses, boats, and taxis. The term includes vans and trucks which may be used to transport persons to, from and during work or jury duty. The term does not include privately owned vehicles when used for private purposes.

O. (o) "Responsible person" means the proprietor or other person in charge as herein defined.

P. (p) "Restaurant" means any building, structure, or area used as, maintained as, or advertised as, or held out to the public to be an enclosure where meals, for consideration of payment, are made available to be consumed on the premises. For the purpose of these rules, the term "restaurant" shall not depend upon licensure as such under Minnesota Statutes, Chapter 157.

Q. (q) "Room" means any indoor area which is bordered on all sides by a wall or partition of at least 56 inches (1.42 meters). Such sides shall be continuous and solid except for door portals for entry and exit.

7 MCAR § 1.443 MHD-443. General provisions.

A. (a) General prohibition. Smoking shall be prohibited in all sections of public places or public meetings except in areas designated as Smoking Permitted areas.

B. Notice to be posted. To advise persons of the existence of "No Smoking" and "Smoking Permitted" areas, the statement "Smoking is prohibited except in designated areas" shall be conspicuously posted at all major entrances to any public place.

C. (c) Smoking Permitted area.

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1. (4) If smoking is to be permitted in an area of a public place or public meeting, the responsible person shall designate such area as "smoking-permitted." One and only one Smoking Permitted area shall be designated per room. However, rooms containing at least 20,000 square feet (1,858 square meters) in total floor space may designate more than one Smoking Permitted area and shall otherwise comply with these rules.

2. (2) In a public place which contains two or more rooms which are used for the same activity, the responsible person may designate one entire room as smoking permitted as long as at least a portion of one other comparable room has been designated as a No Smoking area.

3. (3) Entry or exit areas, ticket areas, registration areas, common traffic areas or similar sections of public places shall not be designated in their entirety as a Smoking Permitted area if non-smokers would be required to use the area to participate in activities for which the public place is intended. This rule shall not be construed to prevent designation of a Smoking Permitted area in a portion of the establishment which non-smokers must briefly cross to reach the intended activity.

4. (4) The size of the designated Smoking Permitted area shall not be more than proportionate to the preference of users of that location for a Smoking Permitted area, as can be demonstrated by a responsible person. The proportional preference of users of a Smoking Permitted area in that location may be demonstrated by the responsible person by evidence of any of the following:

a. (aa) the percentage of users of the location who express a preference for a smoking-permitted area when the responsible person asks all users for their preference, or

b. (bb) the percentage of users of the location who request or select a Smoking Permitted area when the responsible person does not ask all users for their preference, or

c. (cc) the percentage of users who are determined by the proprietor to prefer a Smoking Permitted area by an alternate method which reasonably indicates the user's preference. In no case shall the smoke-free area measure less than 200 square feet, or 30 percent of the total public area, whichever is greater. For the purpose of these calculations, total public area does not include hallways, foyers or similar waiting areas.

5. Smoking is permitted in a private office. "Private office" means an enclosed room in an office which is oc-

cupied exclusively by smokers, even though such room may occasionally be visited by non-smokers.

D. (e) Single room. In the case of a public place consisting of a single room in which a Smoking Permitted area is designated, the responsible person shall be responsible for reserving and clearly designating a No Smoking area on one side of the room.

E. (4) Signs.

1. (4) All signs which are used to identify a bar that has been designated as a smoking area in its entirety shall use the statement, "This establishment is a Smoking Area in its entirety," or a similar statement. The sign shall be conspicuously posted either on all outside entrances or in a position clearly visible on entry into the establishment.

2. (2) All signs which are used to identify a location where the responsible person prohibits smoking in an entire public place or public meeting shall use the statement, "No smoking is permitted in this entire establishment," or a similar statement. The sign shall be conspicuously posted either on all outside entrances or in a position within the establishment.

3. (3) All signs which are used to identify a Smoking Permitted area shall use the words "Smoking Permitted" and/or use the international smoking symbol. ~~and all~~ Signs which are used to identify a No Smoking area shall use the words "No Smoking" and/or the international No Smoking symbol. ~~Additional words and symbols, including the international smoking symbol, may be used, but the additional printing shall not obscure the basic words "smoking permitted" or "no smoking."~~

4. (4) All signs which are used to identify Smoking Permitted and No Smoking areas shall be placed at a height and location easily seen by a person in the establishment and not obscured in any way. "Smoking Permitted" and "No Smoking" signs, except signs on tables or seats, shall be in printed letters of not less than 1.5 inches (3.8 centimeters) in height. Whenever either of the international symbols is used, the diameter of the outer circle shall not be less than 4 inches. In large areas where signs may have to be read from a distance, the following are minimum sizes which must be used:

<u>Furthest distance from which sign is to be read:</u>	<u>Height of lettering</u>	<u>Diameter of outer circle on symbol</u>
<u>150 feet</u>	<u>4 inches</u>	<u>6 inches</u>
<u>200 feet</u>	<u>6 inches</u>	<u>10 inches</u>

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350 feet
500 feet

8 inches
12 inches

15 inches
18 inches

The boundary between a No Smoking area and Smoking Permitted area shall be clearly designated so that persons may differentiate between the two areas.

5. (5) All signs which are used on tables or seats to designate No Smoking and Smoking Permitted areas shall use printed letters of not less than 0.5 inches (1.3 centimeters) in height. Whenever either of the international symbols is used, the diameter of the outer circle shall not be less than 3 inches. When such signs are used, the responsible person shall conspicuously post at least one "No Smoking" sign and one "Smoking Permitted" sign either at the boundary between the two areas or on the walls adjacent to the No Smoking and Smoking Permitted areas.

6. (6) The size of lettering on signs reading "Smoking Permitted" shall not exceed the size of lettering on signs reading "No Smoking" in the same public place.

(7) To advise patrons of existence of "no smoking" and "smoking permitted" areas, the statement, "In accordance with the Minnesota Clean Indoor Air Act, smoking is prohibited except in designated smoking areas," may be conspicuously posted at the entry to the establishment.

7. (8) In lieu of sign provisions specified in MHD 443(d)(3) and (4), a responsible person shall be in compliance with the law if all persons are asked their preference for a smoking-permitted or a no-smoking area and all persons are then directed to the appropriate area. Furthermore, at least one sign advising the public of this mechanism shall be conspicuously posted at all entrances normally used by the public. A restaurant or other public place which has controlled seating (an employee directs patrons to seating or waiting areas) must ask each person whether he prefers a Smoking Permitted or a No Smoking area before directing that person to a seat in the appropriate area. Similarly a restaurant or other public place which takes advance reservations shall ask the person's preference for a Smoking Permitted or No Smoking area at the time the reservation is made. A restaurant or other public place which uses controlled seating as defined above shall be exempt from the sign requirements contained in 7 MCAR § 1.443 E.3., 4., 5. and 6.

F. (e) Acceptable smoke-free area. The responsible person shall make arrangements for an acceptable smoke-free area as defined in MHD 442(a) 7 MCAR § 1.442 A. The size and location of any Smoking Permitted area shall be determined such that toxic effects of smoking are minimized in the adjacent No Smoking area.

G. Permissible ash trays. Portable ash trays are banned in all no-smoking areas. Only ash stands and permanent ash

trays may be used at or near the entrance to a No Smoking area. Such ash stands and permanent ash trays shall be conspicuously labelled with the following message placed on or near the ash stand:

SMOKING IS PROHIBITED
PLEASE EXTINGUISH ALL SMOKING
MATERIALS IMMEDIATELY

7 MCAR § 1.444 MHD 444. Categories of affected places.

A. (a) Absent irreconcilable conflict, the responsible person shall be expected to comply with Minn. Reg. MHD 443 7 MCAR § 1.443 and the specific provisions governing that public place in Minn. Reg. MHD 444 7 MCAR § 1.444. If the provisions of the rules governing specific affected places conflict with or are inconsistent with a general provision of Minn. Reg. MHD 443 7 MCAR § 1.443, the specific portion of Minn. Reg. MHD 444 7 MCAR § 1.444 shall prevail over the general. The public places specified in this rule shall be expected to comply with applicable provisions according to functional activities taking place in a public area and not according to the nature of a controlling establishment.*

B. (b) Places of work.

1. (4) As an alternative to Minn. Reg. MHD 443(b)(1) 7 MCAR § 1.443 C.1. requiring one and only one Smoking Permitted area per room, a place of work which is not customarily frequented by the general public may contain several, separate No Smoking and Smoking Permitted areas within the same room provided each No Smoking area is at least 200 square feet (18.2 square meters) in area. Such No Smoking areas must comply with the requirements for an acceptable smoke-free area as defined in Minn. Reg. MHD 442(a) 7 MCAR § 1.442 A.2. Under this alternative for places of work which are not customarily frequented by the general public, the responsible person shall not be required to comply with sign provisions of Minn. Reg. MHD 443(d) 7 MCAR § 1.443 B., but the responsible person must conspicuously post at least one sign on each floor which states, "Smoking is prohibited except in designated smoking areas."

2. (2) These rules shall not apply to a private residence when the residence is not customarily used as a "place of work."

3. (3) Any "factory, warehouse or similar place of work," as defined in MHD 442(e) 7 MCAR § 1.442 E., shall be regulated by rules of the Department of Labor and Industry.

*For example, different rules may apply to component areas of a medical center according to the actual functional activities of each area, such as a restaurant, office or health care facility.

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C. ~~(e)~~ Offices. When a public place which is a factory, warehouse or similar place of work contains an office which is incidental but related to the primary operation, such office shall for the purposes of this Act, be regulated under rules of the Department of Labor and Industry.

D. ~~(d)~~ Restaurant.

1. ~~(4)~~ During hours of operation when a facility which may otherwise be considered a restaurant does not serve food but does serve alcoholic beverages, the facility shall be considered a "bar."

2. ~~(2)~~ When a public place which is a factory, warehouse or similar place of work contains a restaurant which is intended as an employee eating area and which is incidental to the primary operation, such restaurant shall, for the purposes of this Act, be regulated under rules of the Department of Labor and Industry.

E. ~~(e)~~ Public conveyance.

1. ~~(4)~~ No person is permitted to smoke in a public conveyance except in designated smoking areas. Smoking Permitted sections may be designated in any public conveyance with a capacity of ten or more persons including the driver.

2. ~~(2)~~ A public conveyance with a capacity of less than ten persons may be considered to be a smoking area in its entirety if the driver and all passengers expressly consent.

~~(f)~~ Educational Facility

Smoking permitted areas in educational facilities shall not be located in areas normally used by persons under 18 years of age.

F. ~~(g)~~ Health care facilities.

1. ~~(4)~~ The requirement for posting of appropriate signs in ~~Minn. Reg. MHD 443~~ 7 MCAR § 1.443 shall be satisfied in patient or resident rooms if there is at least one sign at the entrance to each floor and wing which states: "Smoking is prohibited except in designated smoking areas."

2. ~~(2)~~ One of the following procedures shall be used in patient or resident rooms:

a. ~~(aa)~~ The responsible person shall ask all prospective patients or residents or a person authorized to represent the patient or resident whether a Smoking Permitted or No

Smoking area is preferred. The responsible person then shall assign rooms according to this preference when space is available. When space is not available in a No Smoking room and a person is admitted to a room originally designated for smoking, smoking shall be prohibited in that room unless expressly permitted by the non-smoker.

b. ~~(bb)~~ If the responsible person does not assign patient or resident rooms according to the smoking preference of the patient or resident, smoking shall be prohibited in all such rooms except rooms occupied exclusively by persons who smoke or persons who have expressed permission for smoking.

3. ~~(3)~~ Visitors and staff shall be prohibited from smoking in patient or resident rooms unless the occupants expressly permit.

4. In hospitals, smoking shall be prohibited in corridors, emergency rooms, treatment rooms, admitting areas and intensive care units.

G. ~~(h)~~ Hotels, motels and resorts. No person may smoke in hotels, motels and resorts except in designated smoking areas. This prohibition does not apply to sleeping rooms which are rented to a guest.

7 MCAR § 1.445 ~~MHD 445~~: Application for waiver of the law.

A. ~~(a)~~ To apply for a waiver of the Act, the responsible person for a public place or public meeting shall submit a written application to the ~~State Board~~ Commissioner of Health stating the grounds for the waiver. ~~The Board Commissioner~~ has the right to request any other information reasonably necessary to determine the merits of the waiver application. Failure to submit such requested information may result in denial of the waiver application.

B. ~~(b)~~ An applicant for waiver shall have the burden to provide clear and convincing evidence to demonstrate that ~~both~~ ~~(4)~~ compelling reasons exist to necessitate a waiver. Such compelling reasons may consist of evidence that implementation of the Act and these Rules would endanger the ability of the public place to produce sufficient income to meet its operating expenses. Acceptable evidence of such compelling reasons shall consist of financial records and/or projections, based upon demonstrable proof, reasonably showing changes of income and/or expenses which are directly attributable to the Act or these rules.

~~(2)~~ Even with waiver of the Act and these Rules

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the concentration of carbon monoxide in all sections of the public place shall at no time exceed the concentration of carbon monoxide in outside air within 12 feet (3.7 meters) of the building by more than 10 milligrams per cubic meter (9 parts per million):

C. (e) In making determination of the eligibility of an applicant for a waiver, the State Board Commissioner of Health shall:

1. (1) Consider information supplied by the responsible person in the application for waiver.

2. (2) Consider prevailing smoking restrictions and other practices relating to similar public places in the community.

3. (3) Consider other relevant information consistent with the public policy expressed in the Act.

D. (d) After the Board Commissioner has reviewed the information required in Minn. Reg. MHD 445(e) 7 MCAR § 1.445C., The Board Commissioner shall make the final decision on the waiver application and shall respond in writing to the applicant indicating that the waiver request has been denied or approved and reasons therefor.

Energy Agency Conservation Division

Notice of Rescheduling of Hearing Regarding Proposed Rules Relating to Establishing Materials, Installation and Labeling Standards for Thermal Insulation Products

Notice is hereby given that the public hearing in the above-entitled matter originally scheduled for 9:00 a.m. on May 14, 1979, in Room D of the Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, as published in Volume 3, Number 40 of the *State Register*, on April 9, 1979, on page 1855, has been rescheduled on June 21, 1979, in Room A of the Capitol Square Building, 550 Cedar Street between 10th Street and 11th Street, St. Paul, Minnesota, beginning at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. Notice of postponement of the hearing in the above-entitled matter was published in Volume 3, Number 44 of the *State Register*, of May 7, 1979.

May 7, 1979

Algernon H. Johnson
Director



This 1914 Hupmobile, believed to be the first bus built in the U.S., carried passengers from the old Hibbing site to a new one when mining operations necessitated moving the town. Operated by Carl Wickman and Andrew Anderson, the pioneer bus line was called the Mesaba Transportation Company. Later it became the Northland Transportation Company, and eventually it gained national fame as the Greyhound Corporation.

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 Education Special and Compensatory Education Division

Minnesota's FY '79 State Plan

As required by the final regulations for the Education of All Handicapped Children Act (E.H.A.), Part B (P.L. 94-142), § 121a.284), notice is given of the following:

Minnesota's 1979 State Plan, final draft, has been approved by the Commissioner of Education, the Bureau of Education for the Handicapped. Public Law 94-142 funds have been received by the State Department of Education. Copies of the plan of information about the plan may be obtained by contacting either Dr. Antell, Assistant Commissioner of Special and Compensatory Education, Minnesota State Department of Education, 802 Capitol Square Building, St. Paul, Minnesota 55101, telephone (612) 296-7020, or the Special Education Regional Consultant for your region.

Notice of Public Hearings on Minnesota's State Plan for the U.S. Education for All Handicapped Act

A hearing will be held on Minnesota's 1980 State Plan for Public Law 94-142, Education for All Handicapped Act. The purpose is to verify to the U.S. Office of Education that Minnesota is in substantial compliance with Part B of the Act and is eligible to receive funds. About \$16 million will then be released to schools to develop programs for handicapped children. The plan includes: Rights of parents and children, policies, procedures, monitoring, evaluation, confidentiality, personnel training and use of the funds. The public must have an opportunity to review and comment on the plan or submit written comments by June 30, 1979, to Dr. Will Antell, 550 Cedar Street, St. Paul, Minnesota 55101. The hearing will be conducted by Jo Gascoigne, Administrator of Federal Programs. For copies contact Dr. Will Antell (612) 296-7020 or a Special Education Regional Consultant. The plan will go to the Commissioner of Education in July and then to USOE. For information, contact Keith Kupcho (612) 296-4896.

The hearing will be conducted at the St. Paul Administration Building Auditorium, 360 Colborne in St. Paul, Minnesota. The auditorium is located on the main floor. Free parking and parking for the handicapped are available. The hours of the hearing are from 9:00 a.m. to 3:00 p.m. Also to be published in the *St. Paul Dispatch* and used as a flyer to various agencies. (Copies of the 1980 State Plan will be available beginning June 1, 1979.)

Department of Labor and Industry

Mandatory Retirement Act: Notice of Effective Date and General Requirements

Minn. Stat. § 181.811 (1978) in general prohibits employers from requiring employees to retire prior to age 70. Minn. Laws of 1979, ch. 40 makes that prohibition EFFECTIVE AS OF APRIL 24, 1979. The act further requires all employers to post a notice stating that the mandatory retirement age is age 70 and requires employers to notify each employee at least 90 days prior to the employee's 65th birthdate, of the employee's right to remain an employee until age 70.

The act provides limited exceptions to its prohibitions. Information with respect to individual rights and duties under the act and information with respect to the notice requirements of the act may be obtained from:

Department of Labor and Industry
Pension Protection Division
5th Floor — Space Center Building
St. Paul, Minnesota 55101
Phone: (612) 296-2934

Any employee who believes that rights under the act have or may be violated may file a complaint with the Minnesota Department of Human Rights, Room 240 Bremer Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

May 8, 1979

Harry D. Peterson
Commissioner

**Office of the Secretary of
State**

Administration Division

**Open Appointment Process: Notice
of Openings on State Agencies —
Application Procedures**

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an open appointment process by which the public is informed of openings on state multi-member agencies.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. **Application deadline is Tuesday, June 5, 1979.**

**Post High School Planning Program Advisory Task
Force:**

Eight (8) vacancies; open July 1, 1979. Task force provides to the Higher Education Coordinating Board recommendation on the administration of the program, including objectives, procedures, and test instruments. Applicants should be knowledgeable in career guidance and testing programs. Task force meets monthly in the Twin Cities during afternoon hours; members are reimbursed for expenses. Members to be appointed now must represent the following (one from each): Minnesota School Counsellors Association, Minnesota Association of Secondary School Principals, Minnesota School Boards Association, University of Minnesota, Minnesota Association of Private Vocational Schools, a secondary school student, a postsecondary school student, and Minnesota Association of School Administrators. Term for these vacancies ends on June 30, 1980. The Higher Education Coordinating Board is the appointing authority; specific information about the task force is available from the Board, 400 Capitol Square, 550 Cedar Street, St. Paul, Minnesota 55101; (612) 296-9681.

Board of Nursing: One (1) vacancy, open immediately. The Board licenses, renews licenses, disciplines licensees; approves nursing schools, and registers nursing corporations. Members appointed include three public members, three LPNs, and five RNs. This vacancy is for a public member. Board meets in Minneapolis four times a year and outside the metro area two times a year. Members receive \$35 per diem plus expenses. Appointing authority is the Governor. Specific information about the Board is available from the Board of Nursing, 717 Delaware, Minneapolis, MN 55414; (612) 296-5493.

**Department of
Transportation**

**Notice of Application and
Opportunity for Hearing
Regarding Petition to Retire and
Remove an Unnumbered Track,
789 Feet Long Including Turnout,
Located at South Saint Paul,
Minnesota**

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove an unnumbered track, 789 feet long including turnout, located at South St. Paul, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years is Ajax Transfer Company . . ."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before June 11, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.201, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other

OFFICIAL NOTICES

representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

May 7, 1979

Richard P. Braun
Commissioner

Notice of Application and Opportunity for Hearing Regarding Petition to Retire and Remove the Easterly 1100 Feet of ICC Track Number AFE 89994 and the Easterly 820 Feet Including Turnout of An Unnumbered Track, All Located at Waterville, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove the easterly 1100 feet of ICC Track No. AFE 89994 and the easterly 820 feet including turnout of an unnumbered track, all located at Waterville, Minnesota.

The petition recites among other matters that: "The subject tracks are no longer needed for rail transportation service, and constitute a continuing and burdensome maintenance expense. The tracks are not used at the present time,

and there is no present prospect that the subject tracks will be needed in the future. Further, Independent School District 395 and Schmidtke Standard Oil have requested the removal of these tracks. The shippers, patrons or members of the public who might have an interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years are Independent School District No. 395, Fahning Homes, Standard Oil Company, and Schlecta Plumbing."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul; Minnesota 55155, not later than the date specified below. An objection must be received on or before June 11, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.201, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

May 7, 1979

Richard P. Braun
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

Notice of Availability of Contract for Professional/Technical Services

The Correctional Industries Division of the Minnesota Department of Corrections requires industrial planning expertise in connection with the design of the industrial shop areas proposed for the new High Security Prison. We wish to contract with a company which is willing to provide the services of an individual to furnish such expertise. Professional and technical services are needed at once to coincide with the prison planning and construction schedule.

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

1. Make a scale drawing of the space to be occupied by the complete industrial complex.
2. Provide a finished scale drawing showing the best location for each industry; proper location of equipment; best location for processing, storage and material handling.
3. Make recommendations on the adequacy or limitations of electrical, mechanical, service areas, storage areas and material handling affecting these areas.
4. Provide specifications on loading factors which will occur for the mechanical and electrical capacities, and provide the estimated load factor for each.

Qualifications of the contractor should include broad experience in plant layouts of different industries; communication skills; technical knowledge of blueprints, structures, mechanical and electrical requirements; in depth knowledge of methods and material handling.

Reimbursement: It is anticipated that the total compensation for the contract period will be approximately \$8,000 including travel expense 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 for proposals is June 4, 1979.

Department of Corrections Minnesota Home School, Sauk Centre

Notice for Request for Psychological Services Proposals

The Minnesota Home School, a correctional facility for juveniles and female adults, requires the services of a licensed consulting psychologist to: (1) interpret test data; (2) interview inmates; (3) write psychological evaluations and (4) assist in devising treatment plans. This will require one to two days service per week.

It is estimated that the cost of this service will not exceed \$17,000.00 per year. Final proposals are due by 9:00 a.m., May 14th, 1979.

Contact Dennis N. Rykken, Group Living Supervisor, (612) 352-2296.

Department of Corrections Minnesota Correctional Facility — Lino Lakes

Notice of Availability of Contract for Clinical Psychologist

Contact person:

William J. McGrath, Business Manager
Minnesota Correctional Facility — Lino Lakes
7525 Fourth Avenue
Lino Lakes, MN 55014

STATE CONTRACTS

The program at the Minnesota Correctional Facility at Lino Lakes requires the services of a licensed consulting psychologist. This person will provide psychological evaluation of selected inmates. Such evaluations are used by the classification teams and by the Minnesota Corrections Board to assess an inmate's progress in the program and his readiness for parole. The consultant is also involved in prescribing treatment for inmates displaying behavior problems or who are in emotional conflict. Two consulting sessions of 5 hours apiece are required, preferably on Tuesdays and Thursdays. Total number of sessions limited to 90 per year.

Response to the contact person must include required fee and must be made within 21 days of the date of this publication.

Department of Corrections Minnesota State Prison

Notice of Request for Proposals for Providing Family Counseling

Notice is hereby given that the Minnesota State Prison requests proposals to provide Family Counseling to inmate residents and their relatives as outlined in the Residential Family Counseling Program description at an annual cost not to exceed \$10,000.

These proposals must be submitted by 4:30 p.m., June 8, 1979, to Peter E. Bjurstrom, Director of Minimum Security, Minnesota State Prison, Stillwater, MN 55082. Please contact Mr. Bjurstrom at (612) 439-1910, ext. 403, if interested.

Notice of Request for Proposals for Providing Food Services

Notice is hereby given to request proposals for the professional management of our Food Service Activity at an annual cost not to exceed \$200,000. This proposal shall include all civilian personnel to operate the service. These proposals must be submitted by 4:30 p.m., June 8, 1979, to Fred Holbeck, Associate Warden of Administration, Minnesota State Prison, Stillwater, MN 55082. Please contact Mr. Holbeck at (612) 439-1910, ext. 337, if interested.

Department of Economic Development Research Division

Notice of Request for Proposals for Preliminary Feasibility Study of Locating a Cement Plant in Minnesota

Proposals are being accepted for a preliminary feasibility study of locating a cement plant in Minnesota.

The purpose of the study is to survey the natural resources and cement demand situation in the state to identify potential sites for a plant.

The Department estimates the cost of such a study to be \$16,000. The contractor will be provided with \$4,000 of in-kind services.

Proposals must be submitted no later than 4:00 p.m., June 11, 1979. Further information is available by writing to Research Director Kirk Watson, Department of Economic Security, 480 Cedar St., St. Paul, MN 55101, or by calling (612) 296-0581.

Higher Education Coordinating Board

Notice of Request for Proposals for Fiscal Consultants for Selling Student Loan Revenue Bonds

Notice is hereby given that the Minnesota Higher Education Coordinating Board intends to engage the services of a fiscal consultant to assist in the preparation of official statements and provide consultive services regarding the issuance of revenue bonds and the selling of student loan notes to secondary markets for fiscal years 1980 and 1981.

This notice is contingent upon approval of pending legislation.

STATE CONTRACTS

Those interested in receiving requests for proposals should contact:

Arlon J. Haupt
Administrative Services Manager
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9685

Proposals will be accepted until 4 p.m., June 11, 1979.

Department of Health Personal Health Services Division Crippled Children Services Notice of Availability of Contracts for Certain Medical and Related Services

Crippled Children Services contracts with persons to provide services at field clinics.

Openings exist for:

1. Board Certified or Approved physicians to provide medical examinations;
2. Certified Audiologists to provide audiological examinations;
3. Registered Public Health or Pediatric nurses to provide nursing services;
4. Social Workers to provide medical social services.

Qualified, interested persons should contact Alpha Adkins, Assistant Director of Crippled Children Services, 2829 University Avenue Southeast, Minneapolis, Minnesota 55414.

State Board of Investment Notice of Request for Proposals for Consultant Services

The State of Minnesota, State Board of Investment (The State Board) has the responsibility to keep records of the investments managed by the State Board and held in the

custody of the State Treasury. The State Board requires the means to value these investments and analyze and evaluate actual current performance and possible future performance.

The State Board has determined that it can best perform these duties with a computerized system that allows complete and immediate control of data entry and reporting functions.

In order to obtain this control, the State Board has acquired and developed a computer based accounting system that is the exclusive property of the State and has been designed and programmed by a computer services firm. This system is currently operating on a timeshared Honeywell 1648A computer.

The State Board has need of a contractor to provide the necessary data processing equipment and expertise to maintain the existing software systems and also provide consulting in the investment and data processing area for the current systems and for any proposed modifications and additions.

An account not to exceed \$170,000.00 is available for this project during the period July 1, 1979 through June 30, 1981. All proposals must be submitted no later than June 1, 1979. Direct request for proposals to:

Roger A. Derksen (612) 296-9344
State Investment Board
Room 105, MEA Building
55 Sherburne Ave.
St. Paul, Minnesota 55155

Iron Range Resources and Rehabilitation Board Notice of Request for Proposals for Advertising and Promotion

The Iron Range Resources and Rehabilitation Board's Division of Tourism Activities is seeking proposals from Minnesota advertising agencies and public relations firms to administer the Iron Range Interpretative Center's program of public promotion and advertising.

The purpose of this project will be to effectively administer an estimated \$100,000 advertising and promotion campaign utilizing all media forms of advertising from July 1, 1979 to June 30, 1980.

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

STATE CONTRACTS

Richard A. Nordvold, Information Officer
Iron Range Resources and Rehabilitation Board
Iron Range Interpretative Center
Box 392
Chisholm, Minnesota 55719
Phone: (218) 254-3323

Closing date for submission of proposals 4:30 p.m., June 1, 1979.

Department of Public Welfare Faribault State Hospital

Notice of Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that the Faribault State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1979, through June 30, 1980. These services are to be performed as requested by the Administration of the Faribault State Hospital.

1) Services of a group of physicians to provide "on call" services for Faribault State Hospital on Saturdays/Sundays (24 hours). The estimated amount of the contract will not exceed \$12,500.00.

2) Services of a Radiologist or group of Radiologists to interpret x-ray films taken by the hospital's x-ray technician. The estimated amount of the contract will not exceed \$10,500.00.

Responses for the above services must be received by June 11, 1979. Direct inquiries to:

C. H. Thurber, Business Manager
Faribault State Hospital
Faribault, Minnesota 55021
(507) 334-6411, Ext. 301

Department of Public Welfare Rochester State Hospital

Notice of Request for Proposals for Child Psychiatrist

Notice is hereby given that Rochester State Hospital, Mental Health Division, Department of Public Welfare, issues a request for proposals for a child psychiatrist to assist ward physician and staff on an adolescent psychiatric unit. This will involve up to twenty patients and approximately thirty-two hours per month.

The estimated amount of the contract in each of these areas will not exceed \$15,360.00. Responses must be received by June 11, 1979.

Direct inquiries to:

Steven L. Greene
Rochester State Hospital
2110 East Center Street
Rochester, MN 55901

SUPREME COURT

Decisions Filed Friday, May 11, 1979

Compiled by John McCarthy, Clerk

48749/29 Joyce Martin, et al, vs. Veterans of Foreign Wars, Heinzen and Ditter Post No. 5903, Appellant. Hennepin County.

Under the facts of this case the evidence presented sustained the jury's findings.

Allegations of hostility toward the defendant on the part of the trial court were not supported by the record.

Allegations of conflict of interest on the part of opposing counsel are insufficient to require reversal where an adverse impact on the administration of justice is neither obvious nor demonstrated.

Affirmed. Sheran, C. J. Took no part, Otis and Todd, JJ.

49226/134 C. H. Hatting Gravel Company, Inc., vs. Jerome W. Kapperman, Appellant. Rock County.

Where the agreement was void of any language of assignment or assumption, and the plaintiff retained control over the place of payment, defendant did not assume plaintiff's indebtedness.

Affirmed. Sheran, C. J.

48982/68 Eden Prairie Independent School District 272 and Insurance Company of North America vs. Auto-Owners Insurance Company, Appellant, Russell L. Jacques, individually and as trustee for the heirs of Kellie Lynn Jacques, decedent; Milton Hafd Banks; and Cindy Jean Banks. Hennepin County.

Respondent School District's general liability policy and not its schoolbus liability policy affords coverage to the School District's potential liability in an action for wrongful death where the student's death resulted from being struck by an automobile while crossing a highway to reach a bus stop. There was no "loading" of the schoolbus within the meaning of the schoolbus liability policy.

Reversed. Rogosheske, J.

49388
49406/178 County of Pine, and John J. Scanlan, et al, intervenors, vs. State of Minnesota, Department of Natural Resources, et al, Appellants, and Ronald M. Christianson, intervenor, Appellant. Pine County.

Where the facial constitutionality of a zoning ordinance is challenged, the constitutional issues will be addressed, but where the constitutional challenge relates only to the ordinance, as applied, an aggrieved party must first exhaust available remedies before the claims will be considered ripe for review, absent a showing of immediate, irreparable harm or that the application for a variance would be a futile gesture.

A zoning ordinance is not an invalid exercise of the police power where it promotes aesthetics and is reasonably related to promoting the general welfare and other traditional zoning objectives.

The Kettle River Wild and Scenic Rivers Ordinance is fully authorized by the Wild and Scenic Rivers Act, Minn. St. 104.31 to 104.40.

Reversed and remanded to the district court with instructions to dissolve the permanent injunction against enforcement of the ordinance. Rogosheske, J.

48478/379 Zions First National Bank, a national banking association located in Salt Lake City, Utah, Appellant, vs. World of Fitness, Inc., Leonard Rice, a.k.a. D. L. Rice. Hennepin County.

Where defendant has fully and fairly litigated the issue of personal jurisdiction on a motion to quash service of process and has failed to appeal from denial of his motion, the default judgment entered against him is res judicata and is not subject to attack on a Rule 60.02, Rules of Civil Procedure, motion to dismiss.

Nonjoinder of defendant's former wife does not justify vacating a default judgment where complete relief could be accorded in her absence and she did not claim an interest relating to the subject of the action.

Reversed. Peterson, J.

48752/45 State of Minnesota vs. Howard Daniel Underwood, Appellant. Steele County.

On a claim that the evidence was insufficient to support the verdict, this court will accept the evidence most favorable to the party in whose favor the verdict was returned. Where, as here, the jury acted with due regard for the presumption of innocence and the necessity of overcoming it with proof beyond a reasonable doubt, this court should not disturb the verdict.

A prosecution witness may be cross-examined regarding a contemplated lawsuit against the defendant arising out of the same acts which are the basis of the criminal charges. The admission of that evidence is within the sound discre-

SUPREME COURT

tion of the trial court. Here, the exclusion of the testimony constituted prejudicial error.

Responses by a prosecution witness which constituted comments on defendant's constitutional right to remain silent were prejudicial even though elicited by defendant's counsel on cross-examination.

The introduction of evidence that defendant did not have a permit for the firearm used in the shooting should have been excluded. Evidence of other crimes is admissible only under limited circumstances not present in this case.

Jury instructions on credibility which specifically singled out the defendant may have influenced the jury to disbelieve defendant and were prejudicial. A presumed responsibility instruction was inappropriate under the facts of this case and constituted error.

Reversed and remanded. Kelly, J.

48578/2 B & Y Metal Painting, Inc., Appellant, vs. Delphus H. Ball. Ramsey County.

Terms of covenant not to compete entered incident to sale of defendant's business were reasonable.

Plaintiff must prove that damages have been suffered as result of defendant's breach of covenant not to compete.

Where plaintiff proved its sales to certain customers declined after defendant entered competition, and defendant admitted doing business with these customers, plaintiff's damages may reasonably be informed.

Affirmed in part; reversed in part. Todd, J.

49087/67 Arthur James McIntee, petitioner, Appellant, vs. State of Minnesota, Department of Public Safety. Hennepin County.

Notice of a proposed license revocation under Minn. St. 169.123 is sufficient when the notice is sent by certified mail and the licensee disregards a postal notice to pick up the certified mail.

A person is entitled to a driver's license reinstatement hearing under Minn. St. 171.19 even though he has waived a prerovocation hearing under § 169.123.

Affirmed in part; reversed in part; and remanded. Todd, J.

48901/141 The Southland Corporation, et al, Appellants, vs. The City of Minneapolis, The Housing and Redevelopment Authority in and for the City of Minneapolis. Hennepin County.

Under the facts of this case, the time for appeal commenced upon entry of a second judgment rather than the entry of an original, vacated judgment.

Self-service gasoline pumps at a convenience store qualify as an "automobile service station" within the context of an urban renewal plan and deed restriction.

Reversed and remanded. Todd, J. Took no part, Otis, J.

49690/181 In re Application of William W. Gahan for Admission to the Bar of Minnesota. Supreme Court.

The Supremacy Clause of the United States Constitution precludes the denial of admission to the Minnesota bar on the basis of a prior bankruptcy or on the basis of an applicant's unwillingness to pay debts previously discharged in bankruptcy. However, the Supremacy Clause does not preclude the assessment of an applicant's financial responsibility and commitment to the rights of others, including creditors, provided the assessment is not based on the mere fact of bankruptcy.

Applicants to the Minnesota bar who flagrantly disregard the rights of others and default on serious financial obligations, such as student loans, are lacking in good moral character if the default is neglectful, irresponsible, and cannot be excused by a compelling hardship that is reasonably beyond the control of the applicant.

Affirmed. Todd, J.

47900 Minnesota-Dakotas Retail Hardware Association, et al, and Sibley Company, intervenor, Modern Merchandising, Inc., et al, intervenor, Minnesota Food Retailers Association, intervenor, vs. The State of Minnesota, et al, Appellants, and Minnesota Automobile Dealers Association, intervenor. Ramsey County.

The scope of judicial review of prospective administrative regulations under Minn. St. 15.0417 is limited to a determination of whether the rule violates constitutional provisions, exceeds the agency's statutory authority or was adopted without compliance with statutory rulemaking procedures.

Minn. St. 45.16 confers on Consumer Services the power to adopt interpretative rules to implement its statutory duty to enforce the provisions of law relating to consumer fraud and unlawful practices by making more specific the acts that will be considered by Consumer Services to violate the Minnesota laws on consumer fraud, but does not confer the authority to adopt legislative rules with the force and effect of law. Minn. Regs. CS 20-34 are valid interpretative rules

SUPREME COURT

adopted pursuant to Minn. St. 45.16. The weight and effect to be given to Minn. Regs. CS 20-30 must be adjudicated on a case-by-case basis when controversies over the enforcement of Minn. Sts. 325.78 and 325.79 arise within specific fact situations.

Reversed. Wahl, J. Took no part, Otis, J.

48919/393 Invention Marketing, Incorporated, Appellant, vs. Warren Spannaus, Attorney General for the State of Minnesota. Hennepin County.

In this action for declaratory judgment, the trial court properly held the Invention Services Act, Minn. St. 325A.01-325A.10, constitutional. The Act does not violate due process, is not unconstitutionally vague or ambiguous, and does not deny appellant equal protection of the law.

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

48781/153 In re: Matter of Petition of Attorney Fees, Richard Schander, Relator, vs. Northern States Power Company, (self-insured), Order Workers' Compensation Division of Department of Labor and Industry.

Fees awarded to attorney for legal services to workers' compensation claimant were reasonable and within discretion vested in commissioner or Department of Labor and Industry by Minn. St. 176.081, subd. 2.

Affirmed. Per Curiam.

49971/301 State of Minnesota, Appellant, vs. William A. Christenson. Todd County.

Held, under totality of circumstances one-on-one pretrial confrontation of witness with defendant and not create "very substantial likelihood of irreparable misidentification" and therefore district court erred in suppressing in-court identification testimony.

Reversed, dismissal vacated, and remanded for trial. Per Curiam.

49713/183 In the Matter of the Contest of General Election Held on November 7, 1978, for the Purpose of Electing a State Representative in the Counties of Ramsey and Dakota, State of Minnesota. James Scheibel, et al, contestants, Appellants, vs. Robert Pavlak, contestee. Ramsey County.

In spite of the exclusive constitutional authority of the House of Representatives to determine the eligibility of its members, foreclosing judicial resolution of this matter, considerations bearing on the ultimate legislative disposition are specified.

Sheran, C. J. Dissenting in part, concurring in part, Peterson and Kelly, JJ.

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