



STATE REGISTER

STATE OF MINNESOTA

EXECUTIVE ORDERS

RULES

OFFICIAL NOTICES

SUPREME COURT

VOLUME 3, NUMBER 47

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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			
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
51	Monday June 11	Monday June 18	Monday June 25

*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*.

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MCAR AMENDMENTS AND ADDITIONS

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

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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

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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

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

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5 MCAR § 3.108 (withdrawn) 2054

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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

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Part 5 Water and Wastewater Operators Board

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6 MCAR §§ 5.001-5.003 (adopted) 2048

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7 MCAR §§ 1.007, 1.013 (adopted) 2090

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

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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 (proposed) 1790

MOSHC 1 (adopted temporary) 1925

MOSHC 1 (adopted) 2090

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. 79-23

Creating Ten Governor's Committees on Judicial Nominations and Establishing Rule and Procedures for Their Operation

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

WHEREAS, according to the Constitution and applicable laws of the State of Minnesota, it is the responsibility of the Governor of the State to select and appoint qualified persons to fill judicial vacancies when they occur; and

WHEREAS, it is desirable that, when such vacancies occur, the Governor has the means to seek out and select the finest available persons learned in the law to serve the people of Minnesota as their trial court judges;

NOW, THEREFORE, I order:

I. Creation and Composition of Committees on Judicial Nominations

There are hereby created ten (10) Governor's Committees on Judicial Nominations, one in each of the ten (10) judicial districts of the State. It shall be the duty of these Committees to seek out, evaluate, and recommend to the Governor outstanding persons learned in the law to fill vacancies which may, from time to time, occur on the district, county, and county municipal court benches in their districts.

Each Committee shall be composed of six (6) permanent members and two (2) special members, who shall be selected in the following manner:

A. Two (2) permanent members shall be residents of the district appointed by the Governor for terms which shall be concurrent with the term of the Governor.

B. Two (2) permanent members shall be attorneys who are residents of the district elected by the members of the bar associations in the district for terms of four (4) years, who shall be elected in alternate odd-numbered years. Of the two members initially elected, one shall be elected for a two (2) year term and one shall be elected for a four (4) year term. Thereafter, each member elected in accordance with this paragraph shall be elected for a four (4) year term.

C. Two (2) permanent members shall be residents of the district elected by the district, county, and county municipal court judges in the district for terms of four (4) years, who shall be elected in alternate odd-numbered years. Of the two members initially elected, one shall be elected for a two (2) year term and one shall be elected for a four (4) year term. Thereafter, each member elected in accordance with this paragraph shall be elected for a four (4) year term.

D. Two (2) special members shall be residents of the county in which a county or county municipal court vacancy occurs or residents of the district in which a district court vacancy occurs and shall be appointed by the Governor each time a judicial vacancy occurs, but shall serve only until that vacancy is filled.

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Vacancies on a Committee shall be filled in the manner prescribed in Minn. Stat. § 15.059, subd. 4 1978.

Committee members shall attend meetings of their Committee and consider each candidate for a judicial vacancy in an impartial and objective manner. They shall actively seek out and encourage qualified individuals to apply for judicial office. Committee members shall not be entitled to payment of per diem or expenses.

II. Committee Officers

The Governor shall designate the Chairman of each Committee from among the members of the Committee. The Chairman's term shall be for two (2) years. The Chairman shall be responsible for calling such meetings of the Committee as are necessary to carry out its functions and shall preside at those meetings.

Each Committee shall select from among its own members a Secretary who shall prepare the minutes of all meetings of the Committee, keep a record of its official actions and maintain a list of names considered for each vacancy. The Secretary's term shall be for two (2) years.

Each Committee shall also select from among its members who are attorneys a Candidate Solicitor who shall be primarily responsible for actively seeking out candidates for vacancies as they occur. The Candidate Solicitor's term shall be for two (2) years.

III. Procedures When Vacancies Occur or Will Occur in the Future

Within ten (10) days after a judicial vacancy occurs, the Governor shall notify the Chairman of the Committee on Judicial Nominations in the judicial district in which the vacancy occurs of such vacancy. The Governor shall advise the Chairman of the names of the two (2) persons appointed to serve as special members of the Committee on Judicial Nominations for the purpose of considering candidates to fill that vacancy. The Chairman shall notify the members of the Committee that a vacancy has occurred and shall call a meeting of the Committee to consider the candidates for the vacancy to be held not less than fifteen (15) days nor more than twenty (20) days after notification of the vacancy by the Governor.

When it is known that a vacancy will occur at a definite future date, the Governor shall so notify the Chairman of the Committee on Judicial Nominations in the judicial district in which the vacancy is to occur. The Governor shall advise the Chairman of the names of the two (2) persons appointed to serve as special members of the Committee on Judicial Nominations for the purpose of considering candidates to fill that vacancy. The Chairman shall call a meeting of the Committee to consider candidates for the vacancy to be held not more than forty-five (45) days before the vacancy is to occur nor less than fifteen (15) days after he takes the actions described in Section A herein.

Upon receiving notice from the Governor that a judicial vacancy has occurred or will occur at a definite future date, the officers of the Committee on Judicial Nominations shall perform the following functions:

A. The Chairman shall immediately issue a news release stating that a judicial vacancy has occurred or will occur; that applications from qualified persons are being accepted by the Committee; that application forms may be obtained from the Secretary of the Committee at a specified address or by

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calling a specified telephone number; that application forms must be returned to the Secretary of the Committee by a specified date (which shall be three (3) days before the first meeting of the Committee called by the Chairman to consider candidates for nomination); and that any names submitted will be kept in strict confidence by the Committee until the names of nominees are transmitted to the Governor;

B. The Candidate Solicitor shall immediately distribute the Chairman's news release to all media serving the county or judicial district in which the vacancy has occurred or will occur, and shall transmit copies of the news release to the presidents of the bar associations in the county or judicial district. The Candidate Solicitor shall encourage the local bar associations, where practical, to directly contact their members and advise them of the procedures to be followed if they wish to apply for consideration by the Committee.

C. The Secretary of the Committee shall provide application forms to all interested persons and shall accept completed application forms on behalf of the Committee. Three (3) days before the first meeting of the Committee called by the Chairman to consider candidates for nomination, the Secretary shall transmit to each member of the Committee copies of all completed application forms received.

IV. Committee Procedures

The Chairman of the Committee shall convene and preside over all meetings of the Committee. The Chairman shall designate a member of the Committee to preside at meetings if the Chairman is absent. In the Secretary's absence, the Chairman shall designate a member of the Committee to be the Acting Secretary.

A quorum for Committee meetings shall be six (6) members.

Each person to be considered by the Committee must complete the application supplied by the Committee. Should the Committee require any further information in addition to that supplied by the application in order to evaluate candidates, it may take whatever steps it deems appropriate to obtain it.

Each Committee may establish its own rules and procedures for evaluating candidates. The Committee may conduct preliminary screening on the basis of data contained in the applications and such other information as may be brought to the attention of the Committee. The Committee need not interview all candidates. However, personal interviews with the most serious candidates should be conducted and no candidate should be nominated for appointment by the Governor without a personal interview conducted by a quorum of the Committee members. The Committee may, in its discretion, continue to accept applications for candidates until its nominees are selected and transmitted to the Governor.

The Committee shall recommend to the Governor no more than five (5) nor fewer than three (3) candidates for each vacancy, unless there are fewer than three (3) candidates available, in which case the Committee shall transmit those names to the Governor in the manner described in Article VI herein. The Committee shall not rank the candidates submitted to the Governor. The recommendations of the Committee to the Governor shall be advisory.

V. Standards for Evaluation of Candidates

In evaluating candidates, the Committee shall give consideration to the following factors, as well as such other factors as the Committee members deem important:

EXECUTIVE ORDERS

- A. Integrity and moral courage;
- B. Legal education and training;
- C. Legal and trial experience;
- D. Patience and courtesy;
- E. Common sense and sound, mature judgment;
- F. Ability to be objective and impartial;
- G. Capacity for work;
- H. Mental and physical health as they would affect the candidate's ability to perform judicial duties;
- I. Good personal habits compatible with judicial dignity and deportment;
- J. Knowledge and understanding of human nature; and
- K. Cooperativeness and ability to work with others.

VI. Transmittal of Nominees to Governor

Within thirty (30) days after the Governor has notified the Chairman of the Committee on Judicial Nominations that a vacancy has occurred, or within forty-five (45) days after the Governor has notified the Chairman of the Committee on Judicial Nominations that a vacancy is about to occur, the Secretary shall transmit to the Governor the names of nominees for the vacancy selected by the Committee. The names of the nominees shall be listed in alphabetical order. The Secretary shall transmit to the Governor all of the applications submitted to the Commission. No other information shall be transmitted to the Governor, except that the members of the Committee may consult with the Governor at his request and may provide him with such other information gathered by the Committee during its deliberations.

Pursuant to Minn. Stat. § 4.035 1978, this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is superseded or rescinded by proper authority or it expires in accordance with Minn. Stat. §§ 4.035 or 15.0593 1978.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 10th day of May 1979.



EXECUTIVE ORDERS

Executive Order No. 79-24

Writ of Special Election to Fill A Vacancy in the Office of Representative of Legislative District 67A within the Counties of Ramsey and Dakota, 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 67A within the Counties of Ramsey and Dakota; to the Secretary of the State of Minnesota; to the County Auditors of the above-named Counties; to all Election Officials of said District 67A; and to all others who may be concerned:

WHEREAS, on Friday, May 18, 1979, the House of Representatives has declared a vacancy in the office of Representative in Legislative District 67A; 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 Minn. Stat. §§ 202A.61 to 202A.71 1978, and other relevant statutes, do hereby direct:

1. That a special election to fill said vacancy be held in Legislative District 67A 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 Tuesday, the 29th day of May, 1979, and petitions for candidacy on or before Tuesday, the 29th day of May, 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 Minn. Stat. §§ 202A.61 to 202A.71 1978, and other applicable provisions of law.

IN WITNESS WHEREOF, I hereunto set my hand at the Capitol, in the City of St. Paul, Minnesota, this eighteenth 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 Adopted Rules Governing Vital Statistics

The following rules were proposed and published at *State Register*, Volume 3, Number 24, p. 1245-1255, December 18, 1978, and are now adopted with the following amendments:

7 MCAR § 1.007 General provisions.

M. Certificate forms. The form of birth and death certificates shall include as a minimum the items required by the respective standard certificates as recommended by the National Center for Health Statistics subject to the approval of and modification by be determined by the Commissioner. The form and use of such certificates shall be subject to the provisions of the Vital Statistics Act and these rules.

N. Fees.

1. Effective July 1, 1979, the fee for the issuance of either a certified copy of a birth, death, or marriage record or a certification that the record cannot be found shall be \$3.00. No fee shall be charged for a certified copy needed in connection with service in the armed forces or the Merchant Marine of the United States or in the presentation of claims to the United States Veterans Administration or the official veterans administration of any state or territory of the United States or for any copy needed by the Commissioner of Public Welfare in connection with the needs of state wards. No fee shall be charged for verification of information requested by official agencies of this state, local governments in this state or the federal government.

5. The fee for the verification of information from or a noncertified copy of a birth, death, or marriage record shall be \$.50 when the applicant furnishes specific information to locate the record. When the applicant does not furnish specific information the fee shall be \$5.00 per hour for staff time expended. Specific information shall include at least

the correct date of the event and the correct name of the registrant.

7 MCAR § 1.013 Access to records.

C. Upon receipt of a written request or completed application, the State Registrar or local registrar shall issue a copy of or verify information from a vital record. In determining whether or not to allow an applicant to do his own searching of the records, the registrar shall consider such things as the physical condition of the records to be searched and whether or not a file contains private or confidential data; the registrar's work load at the time the request is received; and the urgency of the request. The State Registrar may permit persons performing medical research access to information pertaining to out of wedlock births if those persons agree in writing not to disclose private data on individuals.

Department of Labor and Industry Occupational Safety and Health Division Adoption by Reference of Federal OSHA Standards

Pursuant to Minn. Stat. § 182.655 (1978), notice was duly published at *State Register*, Volume 3, Number 38, p. 1790 (3 S.R. 1790), dated March 26, 1979, specifying the establishment and modification of certain Occupational Safety and Health Standards. No written comments or requests for hearing on objections have been received concerning the adoption of said standards.

Therefore, those Occupational Safety and Health Standards are hereby adopted and are identical in every respect to their proposed form.

Harry D. Peterson
Commissioner

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture Agronomy Services Division

Notice of Special Local Need Registration for Gustafson Captan 30DD

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B, the Minnesota Department of Agriculture on May 17, 1979, issued a Special Local Need Registration for Gustafson Captan 30DD EPA #7501-9 manufactured by Gustafson, Inc., 653 LBL Freeway, Suite 180, Dallas, Texas 75240.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide for treatment on sunflower seed to control seed and soil borne diseases including damping off, seed decay organisms and seedling blights.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.250-162.158, subpart B relative to this registration (identified as SLN #MN 79-0010) is on file for inspection at:

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

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn.



Ignatius Donnelly (1831-1901) was a strong figure in Minnesota politics. One-time publisher of the *Emigrant Aid Journal* in Nininger, he also was a farmer, lawyer, state legislator, governor and U.S. congressman. He served as Lt. Governor and Governor of Minnesota from 1855 to 1863, helped form the Farmers' Alliance in 1880, and ran for vice president of the U.S. in 1898 under the People's Party banner. (Courtesy of the Minnesota Historical Society)

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

May 17, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Agsco D.B. Green EPA #554-109

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B, the Minnesota Department of Agriculture on May 17, 1979, issued a Special Local Need Registration for Agsco D.B. Green EPA #554-109 manufactured by Agsco, Inc., P. O. Box 458, Grand Forks, North Dakota 58201.

OFFICIAL NOTICES

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide for treating sunflower seed at planting to temporarily protect germinating seeds from insects and disease.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 79-0009) is on file for inspection at:

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

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 17, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Colloidal Lindane 40%

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B, the Minnesota Department of Agriculture on May 17, 1979, issued a Special Local Need Registration for Colloidal Lindane 40% EPA #682-26 manufactured by Woods Industries, Inc., DBA Crop King Chemical, P. O. Box 1016, Yakima, Washington 98907.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide as a seed treatment to be used in liquid or slurry treaters for various crop seeds to protect from damage by wireworms and seed corn maggots.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 79-0010) is on file for inspection at:

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

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 17, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Clean Crop Sevin 5 Bait

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on May 17, 1979, issued a Special Local Need Registration for Clean Crop Sevin 5 Bait manufactured by Platte Chemical Company, 150 South Main Street, Fremont, Nebraska 68025.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to control cutworms and grasshoppers on sunflowers grown for seed.

OFFICIAL NOTICES

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 79-0012) is on file for inspection at:

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

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 17, 1979

Mark W. Seetin
Commissioner

Notice of Special Local Need Registration for Hopkins Sevin Carbaryl Bait

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR 1.0338 B., the Minnesota Department of Agriculture on May 17, 1979, issued a Special Local Need Registration for Hopkins Sevin Carbaryl Bait manufactured by Hopkins Agricultural Chemical Company, P.O. Box 7532, Madison, Wisconsin 53707.

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

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to control cutworms and grasshoppers in sunflowers grown for seed.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 79-0013) is on file for inspection at:

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

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

May 17, 1979

Mark W. Seetin
Commissioner

Department of Commerce Banking Division

Bulletin No. 2092: Maximum Lawful Rate of Interest for Mortgages for for the Month of June 1979

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Minn. Stat. § 47.20, subd. 4, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of June 1979 is ten and one-half (10.50) percent.

May 16, 1979

Michael J. Pint
Commissioner of Banks

Department of Education School Management Services Division

Notice of Intent to Solicit Outside Opinion Regarding Financial Accounting Reporting Requirements Rules Change

The Department of Education is proposing revisions in financial accounting reporting requirements, 5 MCAR § 1.0768, in an effort to simplify the accounting and reporting treatment of mobile home taxes. Minn. Stat. § 121.902, subd. 2 requires the State Board of Education to meet the requirements of Ch. 15 in the initial adoption and maintenance of these standards.

The Department invites interested persons or groups to provide information, comment and advice on the subject, in writing or orally to Mr. Stan Tikkanen, Education Specialist, School Financial Management, 807 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

Written statements will be made part of the public hearing record.

All material to be considered in the original draft should be submitted by June 29, 1979.

Department of Education Special and Compensatory Education Division

Notice of Public Hearing on Minnesota's State Plan for Meeting the Requirements of the Education of All Handicapped Children Act, Title VI — Part B (Public Law 94-142)

A public hearing will be held on Minnesota's 1980 State Plan for meeting the requirements of Public Law 94-142, the Education of All Handicapped Children Act. The Act requires the publishing of a State Plan and an opportunity for the public to comment on it. Public testimony will be taken on June 20, 1979, between 9:00 a.m. and 3:00 p.m. in

the auditorium of the St. Paul Public School's Administration Building, 360 Colborne Street, St. Paul, Minnesota. The hearing will be conducted by Jo Gascoigne, Assistant Director of Special Education for Federal Programs, Minnesota State Department of Education.

Written comment may be submitted on or before June 30, 1979, to Dr. Will Antell, Assistant Commissioner of Education, Division of Special and Compensatory Education, Minnesota State Department of Education, 802 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Copies of the State Plan will be available on June 1, 1979, by written request or telephone through Dr. Antell's office (612) 296-7020, or through the office of a Special Education Regional Consultant located in Thief River Falls, Hibbing, Fergus Falls, Cambridge, Marshall, Faribault, Inver Grove Heights or St. Louis Park.

The purpose of the State Plan is to verify to the United States Office of Education, that Minnesota is in substantial compliance with Part B of the Act and is eligible to receive federal funds. Approximately \$16 million in federal funds will be made available to Minnesota in fiscal year 1980 for carrying out the intent of the Act, re., the development of educational programs for handicapped children. The Plan includes: Rights of parents and children, policies, procedures, monitoring, evaluation, confidentiality, personnel development and use of the federal funds.

Following public comment, the State Plan will be presented to the State Board of Education at its July 9, 1979, meeting. Subsequent to State Board approval the Plan will be signed by the Minnesota Commissioner of Education and then submitted to the United States Office of Education for its approval.

Department of Health Emergency Medical Services Section

Notice of Filing of Application for Licensure by Mid-Continent Airlines, Inc., for Emergency Air Ambulance Service in Anoka, MN

On April 25, 1979, Mid-Continent Airlines, Inc. filed application with George R. Pettersen, Commissioner of Health, for a license to operate an emergency air ambulance service with a base of operation in Anoka, Minnesota. The notice is made pursuant to Minn. Stat. § 144.802 (1977 Supp.). Please be advised that subd. 2 of that statute states,

in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Stat. § 144.802 (1977 Supp.) may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

Notice of Filing of Application for Licensure by Mid-Continent Airlines, Inc., for Emergency Air Ambulance Service in St. Paul, MN

On April 25, 1979, Mid-Continent Airlines, Inc. filed application with George R. Pettersen, Commissioner of Health, for a license to operate an emergency air ambulance service with a base of operation in St. Paul, Minnesota. The notice is made pursuant to Minn. Stat. § 144.802 (1977 Supp.). Please be advised that subd. 2 of that statute states in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Stat. § 144.802 (1977 Supp.) may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

Notice of Filing of Application for Licensure by F-M Ambulance, Inc., for Non-emergency Land Ambulance Service in Moorhead, MN

On January 9, 1979, F-M Ambulance, Inc. filed application with George R. Pettersen, M.D., Commissioner of Health, for a license to operate a non-emergency land ambulance service with a base of operation in Moorhead, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (1977 Supp.). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing based upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Stat. § 144.802 (1977 Supp.) may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

Metropolitan Council

Public Hearing on Transportation Air Quality Plan and Associated Amendments to the Transportation Development Guide/Policy Plan of the Metropolitan Development Guide

The Metropolitan Council will conduct a public hearing on Thursday, May 31, 1979 at 1:30 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul, Minnesota 55101, to receive public comments on the Transportation Development Guide/Policy Plan of the Metropolitan Development Guide. All interested persons are encouraged to attend the hearing and offer their comments. Persons wishing to speak may register in ad-

OFFICIAL NOTICES

vance by contacting the Council's public hearing coordinator at 291-6482. Those registering first will be scheduled to speak first. Written comments may also be submitted until June 6, 1979. Copies of the proposed plan and associated amendments are available free of charge from the Council's Public Information Office at the above address, telephone: 291-6464.

Charles Weaver
Chairman

Department of Public Service Public Service Commission Permit Truck Minimum Grain Rates and Class Rates Increased

By order served May 17, 1979, the Minnesota Public Service Commission denied the full measure of relief sought in the matter of the Complaint-Petition of the Minnesota Permit Truckers Association for the Investigation and Order

by the Commission relating to rates for grain and general commodity traffic, Docket No. GR-78-212, File T-9000. The Commission approved an increase in present minimum grain rates of generally 5 percent in mileages of 70 or more and also approved a 7 percent increase in present minimum class rates and an increase in present minimum charge per LTL shipment from \$6 to \$7. Effective date for the prescribed minimum rates is June 11, 1979. Further information can be obtained by calling (612) 296-2349.

CALENDAR

Public Hearings on Proposed Agency Rules

June 4-12, 1979

Date	Agency & Rule Matter	Time and Place
June 6	Dept. of Revenue Ad Valorem (Property) Taxes Imposed on Utility Companies Hearing Examiner: Steve Mihalchick	9:00 a.m., Rm. 51, Ground Floor, State Office Bldg., Wabasha St. and Park Ave., St. Paul, MN

SUPREME COURT

Decisions Filed Friday, May 18, 1979

Compiled by John McCarthy, Clerk

48405 **Thomas Mason, Appellant, vs. Farmers**
305(1978) **Insurance Companies. Hennepin County.**

The facts of this case do not support plaintiff's contention that the contract herein was unconscionable.

Minnesota law does not recognize bad faith termination of contract as giving rise to a cause of action independent of a contract action.

Minn. Reg. SDiv 1714(h) will not be applied retroactively.

Injunction, rather than damages, is the proper remedy under Minn. St. 80C.14.

Issues of fact not related to the cause of action need not be submitted to a jury.

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

49160/170 **Glen Ray Holscher, petitioner, Appellant,**
vs. State of Minnesota. Fillmore County.

Although the trial court did not follow the usual procedure in accepting petitioner's guilty plea, there was sufficient factual basis for accepting the plea.

The petitioner's claim that the plea was not voluntary was without merit.

Affirmed. Kelly, J.

48481/163 **State of Minnesota vs. John Edward**
Fisher, Appellant. Hennepin County.

The criminal conviction of aggravated robbery is affirmed because contrary to the defendant's contentions, the lineup

SUPREME COURT

was not impermissibly suggestive, evidence of a sawed-off shotgun was properly admitted, the prosecutor made no improper remarks during closing argument, and the evidence of guilt was legally sufficient.

Affirmed. Todd, J.

48598 **State of Minnesota, Appellant, vs. Ferris**
48599/373 **Alexander, and State of Minnesota, Ap-**
 pellant, vs. Edward Alexander. Hennepin
 County.

The act of producing an obscene film at a prior adversary hearing is sufficiently testimonial and incriminating to qualify for fifth amendment protection.

A trial court has the authority to issue orders to protect and preserve evidence for trial.

When an order to produce evidence is issued to defendants as individuals and not as representatives of a business entity, defendants will be allowed to claim the privilege against self-incrimination.

Affirmed in part, reversed in part, and remanded. Yetka, J. Concurring specially, Kelly and Peterson, JJ.

48759/84 **State of Minnesota vs. Gary Bruce Fossen,**
 Appellant. Anoka County.

The trial court's determination that the prosecuting attorney did not act improperly during final argument was soundly based.

The defendant's argument that the prosecutor improperly elicited testimony regarding defendant's sexual activities and relationships must be rejected under the circumstances of this case.

Where a proper foundation has not been or cannot be established, it is within the court's discretion to exclude such testimony.

Where the jury was advised that a certain tape would be heard but once and considered as all other evidence, and the repetitious playing of it might unfairly impassion the jury, the trial court did not abuse its discretion under Rule 26.03, subd. 19(1), Rules of Criminal Procedure, by refusing to allow the tape to be taken into the jury room.

In reviewing a jury verdict, we must examine the evidence in the light most favorable to that verdict. Here the jury could have reasonably found as it did and we will not upset that conclusion.

An inadvisable instruction that may confuse the jury on

the presumption of innocence, when rectified by further correct instructions, is harmless beyond a reasonable doubt.

Affirmed. Scott, J.

48963/87 **Clinton E. Smith, as trustee for the heirs**
 at law of Diane R. Smith, decedent, and
 Clinton E. Smith, as trustee for the heirs
 at law of Baby Girl Smith, decedent, Ap-
 pellant, vs. Dr. William David Knowles.
 Blue Earth County.

Where in a medical malpractice case against a physician there is a lack of sufficient expert testimony to show that the doctor departed from the proper standard of care or that his action or inaction was a direct cause of the injury, a jury should not be allowed to speculate and a directed verdict was therefore proper.

Affirmed. Scott, J. Took no part, Sheran, C. J. and Otis, J.

49048/150 **Dr. James J. Salmen, et al., Appellants,**
 vs. City of St. Paul, et al, and Dr. James
 J. Salmen, as Parent and Natural Guard-
 ian of Charles W. Salmen, a Minor, Ap-
 pellant, vs. Julia Salmen, City of St. Paul
 and Albert Shantos. Ramsey County.

A jury verdict must be sustained unless it is manifestly and palpably contrary to the evidence.

Where the trial court refused to give certain requested instructions that did not prejudice the case, the plaintiff is not entitled to relief.

This court will not reverse the trial court's determination of the adequacy of a jury verdict unless there is a clear abuse of discretion.

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

48854/20 **City of Winona, et al., vs. Policeman's Re-**
 lief Association of the City of Winona,
 Appellant, and Winona Police Relief As-
 sociation, Appellant, vs. Public
 Employee's Retirement Association, et
 al., and Robert M. Carstenbrook.
 Winona County.

Laws 1977, Chapter 429, Section 62 "affects" Winona, a local governmental unit, and therefore this legislation is constitutional by operation of Article 12, Section 2 of the Minnesota Constitution.

Nor does this statute violate the Equal Protection Clause of the United States Constitution.

Affirmed. Per Curiam.

SUPREME COURT

48812/157 State of Minnesota vs. Candace Crist, Appellant. Ramsey County.

Defendant's conviction of engaging in prostitution by intentionally offering to engage in sex for hire, Minn. St. 609.32, subd. 4(1), is affirmed. We find no merit to her claims that police conduct either constituted entrapment or was so outrageous as to amount to a violation of due process. Likewise, she suffered no prejudice as a result of certain testimony which tended to show that she had a prior record of prostitution and the trial court properly refused to give a requested jury instruction which may have misled the jury.

Affirmed. Per Curiam.

48862/174 State of Minnesota vs. Tyrone Lee Cobb, Appellant. Ramsey County.

The in-court identification of defendant was proper because the photographic display was not so impressively suggestive as to create a very substantial likelihood of irreparable misidentification.

Testimony that defendant had pawned property similar to that taken in the robbery was relevant and properly admitted.

Affirmed. Per Curiam.

49848/251½ State of Minnesota, Appellant, vs. David L. Juelfs. Ramsey County.

State's pretrial appeal from order dismissing criminal prosecution of defendant is proper pursuant to Rule 29.03, Rules of Criminal Procedure, because dismissal was based on constitutional collateral estoppel doctrine and order, if it

became final, would constitute a constitutional impediment to reissuance of complaint.

When a criminal defendant is acquitted on one charge and convicted on another a collateral estoppel doctrine does not apply to bar the conviction on the one charge even though the two verdicts may be said to be logically inconsistent.

Reversed and remanded. Per Curiam.

48630/436 Betty Spangrud vs. Precision Grinding Company, Inc., et al., Relators. Workers' Compensation Court of Appeals.

The decision of the Workers' Compensation Court of Appeals awarding employee benefits for a disability caused by an occupational disease was made in accordance with Minn. St. 1971, § 176.662 and is thus affirmed.

Affirmed. Remanded for the correction of the record only.

Per Curiam. Took no part, Todd, J.

Order Filed Tuesday, May 15, 1979

50111/Sp. In the Matter of the Application for the Discipline of James L. Wegner, an Attorney at Law of the State of Minnesota.

It is ordered that respondent James L. Wegner is hereby suspended from the practice of law in the State of Minnesota pending final disposition of the petition for his discipline and until further order of the court.

Suspended. Otis, J.

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