



STATE REGISTER

STATE OF MINNESOTA

RULES

STATE CONTRACTS

OFFICIAL NOTICES

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 VOLUMES 3 AND 4			
52	Monday June 18	Monday June 25	Monday July 2
1 (Volume 4)	Monday June 25	Monday July 2	Monday July 9
2 (Volume 4)	Monday July 2	Monday July 9	Monday July 16
3 (Volume 4)	Monday July 9	Monday July 16	Monday July 23

*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 40-51 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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- 5 MCAR §§ 2.0902, 2.0904, 2.0906, 2.0918 (adopted) 2009

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- 5 MCAR § 3.073 (adopted) 2054
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2.2120 (proposed) 1927
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- 7 MCAR §§ 1.141, 1.151-1.152, 1.155, 1.162-1.163,
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- 7 MCAR § 1.457 (adopted) 1897
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Part 1 Ethical Practices Board

- EPB 100 (proposed) 1929
- 9 MCAR §§ 1.0100-1.0111 (proposed) 1932
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- 10 MCAR §§ 1.300-1.302, 1.304-1.305 (proposed) 1904

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- 11 MCAR §§ 1.0188-1.0196 (proposed) 1901

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- 11 MCAR §§ 2.401-2.404, 2.408, 2.412, 2.416, 2.418,
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13 MCAR §§ 1.0001-1.0007 (proposed) 1984

TITLE 14 TRANSPORTATION

Part 1 Transportation Department

14 MCAR § 1.3010 (adopted) 2265

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which

has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

Department of Education Board of Education

Adopted Rules Governing Library Grant Programs

The rules proposed at *State Register*, Volume 3, Number 30, pp. 1516-1521, January 29, 1979, (3 S.R. 1516) are adopted as proposed, with the following amendments.

Rules as Adopted

Chapter Forty: Libraries

5 MCAR § 1.0800 D. 4. It will comply with the provisions of title VI of the civil rights act of 1964, (42 USC Sec. 2000d *et seq.*), its regulations and all other applicable federal and state laws, rules and regulations.

Department of Transportation

Adopted Rule Governing the Airport Zoning Standards

The rule proposed at *State Register*, Volume 3, Number 10, pp. 532-535, September 11, 1978 (3 S.R. 532) is adopted with the following changes:

Rule as Adopted

14 MCAR § 1.3010 Airport zoning standards.

A. Airport zoning. Contained herein are minimum standards for the zoning of public airports as to airspace, land use safety, and noise sensitivity.

B. Airport zoning powers. Any person or governmental body having airport zoning powers under Minn. Stat. §§ 360.061 to 360.076 may adopt airport zoning ordi-

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nances, orders, or regulations more restrictive than the minimum zoning standards set forth herein or in any other applicable law.

C. **Airspace zones.** The following airspace zones are established with relation to an airport and each runway:

1. **Primary zone.** All that land which lies directly under an imaginary primary surface as defined in 14 MCAR § 1.3009 E.1.

2. **Horizontal zone.** All that land which lies directly under an imaginary horizontal surface as defined in 14 MCAR § 1.3009 E.2.

3. **Conical zone.** All that land which lies directly under an imaginary approach surface as defined in 14 MCAR § 1.3009 E.4.

4. **Approach zone.** All that land which lies directly under an imaginary transitional surface as defined in 14 MCAR § 1.3009 E.6.

5. **Precision instrument approach zone.** All that land which lies directly under an imaginary precision instrument approach surface as defined in 14 MCAR § 1.3009 E.5.

6. **Transitional zone.** All that land which lies directly under an imaginary transitional surface as defined in 14 MCAR § 1.3009 E.6.

D. **Height restrictions.** Except as necessary and incidental to airport operation, no structure or tree shall be constructed, altered, or allowed to grow in any airport zone so as to project above any of the imaginary airspace surfaces as established in paragraph C.

E. **Land use safety zones.** The following land-use safety zones are established with relation to an airport and each runway:

1. **Safety Zone A.** In the approach zones of a runway, Safety Zone A extends outward from the end of the primary surface a distance equal to two-thirds the runway length or planned runway length.

2. **Safety Zone B.** In the approach zones of a runway, Safety Zone B extends outward from Safety Zone A a distance equal to one-third the runway length or the planned runway length.

3. **Safety Zone C.** All that land which is enclosed within the perimeter of the horizontal zone defined in paragraph C.2. and which is not included in Zone A or Zone B.

F. **Use restrictions.** In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from an airport, and furthermore to limit

population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use safety zones:

1. **General.** No use shall be made of any land in any of the safety zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. **Zone A.** Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, raising of livestock, animal husbandry, wildlife habitat, light outdoor recreation (nonspectator), cemeteries and auto parking.

3. **Zone B.** Zone B shall be restricted in use as follows:

a. Each use shall be on a site whose area shall not be less than three acres.

b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

c. Each site shall have no more than one building plot upon which any number of structures may be erected.

d. A building plot shall be a single, uniform and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (sq. ft.)	Max. Site Population (15 persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,600	90
	10	8:1		
10		6:1	72,500	150
	20	6:1		
20	and up	4:1	218,000	300

e. The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums,

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hotels and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

4. Zone C. Zone C is subject only to the general restrictions contained in paragraph F.1.

5. Existing residential neighborhoods as of January 1, 1978. The provisions of paragraphs F.2. and F.3. above shall not apply to land uses which existed as of January 1, 1978, in "established residential neighborhoods in built-up urban areas." Such "established residential neighborhoods in built-up urban areas" which existed as of January 1, 1978, shall be subject to the use restrictions contained in this paragraph F. 5. ~~The existing provisions of paragraphs F.2. and F.3. shall continue to apply to land uses which were not in existence as of January 1, 1978, and which were not located in "established residential neighborhoods in built-up urban areas" as of that date.~~

a. Statement of purpose. Airport Safety Zoning balances the public interest involved in safety for persons on the ground, safety of persons traveling in aircraft and the public interest in maintaining existing land uses. The legislature has mandated special protection for existing land uses existing as of January 1, 1978, in "established residential neighborhoods in built-up urban areas." The provisions of paragraphs F. 1.-4. above strike the appropriate balance with regard to other land uses and areas and shall therefore be applied in those cases.

b. "Established residential neighborhoods in built-up urban areas." Each governmental authority having airport zoning powers shall determine which areas located in Safety Zones A and B of each airport within its jurisdiction are also located in "established residential neighborhoods in built-up urban areas." as of January 1, 1978. In making such determination, the factors enumerated in subparagraph d. below shall be considered. Such neighborhoods which existed on such date and which were located in whole or part in Safety Zones A or B shall be specifically located on the airport zoning map and shall be legally-described in the airport zoning ordinance. Each governmental authority having airport zoning powers shall submit its proposed zoning map and ordinance to the Commissioner of Transportation for review and approval prior to holding a public meeting hearing or taking other action thereon.

c. As of January 1, 1978. No land use in Safety Zones A or B and in an area designated as having been an "established residential neighborhood in a built-up urban area" as of January 1, 1978, shall be prohibited by an airport zoning ordinance except as provided in subparagraph e.

below. In addition, any isolated, low-density residential building lot or low-density residential structure which existed on January 1, 1978, in an "established residential neighborhood in a built-up urban area," must either be allowed to continue as a conforming use under the terms of the local zoning ordinance or must be acquired, altered or removed as provided in subparagraph e.(2) below. For this purpose, a low-density residential structure shall mean a single-family or two-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

d. In determining what constitutes an "established residential neighborhood in a built-up urban area" the governmental unit having zoning powers shall apply and consider the following criteria in relation to the neighborhood as it existed on January 1, 1978, the effective date of these rules:

- (1) location of the airport;
- (2) nature of the terrain within Safety Zones A and B;
- (3) existing land uses and character of the neighborhood around the airport;
- (4) population of the community;
- (5) ~~population density;~~
- (5) that the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;
- (6) population density near the airport compared with population density in other areas of the community;
- (7) the age and the economic, political and social stability of the neighborhood and the community as a whole;
- (8) the proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;
- (9) ~~the character of the community as residential;~~
- (9) presence or absence of public utilities including, but not limited to, public central sanitary sewer system, electric service and gas mains;

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(10) whether or not the factors listed in subparagraphs (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;

(11) whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and

(12) ~~(10)~~ other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban and built-up.

e. Safety hazards.

~~e-~~ (1) The following land uses if they exist in Safety Zones A or B and in an "established residential neighborhood in a built-up urban area" are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances:

(a) ~~a-~~ any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zone A and within 1000 feet of the end of the primary zone;

(b) ~~b-~~ any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zone A or B and which penetrates an imaginary approach surface as defined by 14 MCAR 1.3009 E.4.;

(c) ~~e-~~ any land use in Safety Zone A or B which violates the provisions of 14 MCAR 1.3010, F.1., any of the following standards;

(i) the land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;

(ii) the land use must not make it difficult for pilots to distinguish between airport lights and other lights;

(iii) the land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

(d) ~~d-~~ as of January 1, 1978, any isolated residential building lot zoned for single-family or two-family residences on which such a any structure, if built, would be prohibited by subparagraphs e.(1) (a), (b) or (c) above. An "isolated" residential building lot is one located in an area

in which the predominant land use is single-family or two-family residential structures; and

(e) ~~e-~~ any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:

(i) possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;

(ii) possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;

(iii) tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;

(iv) effect of the land use on availability of clear areas for emergency landings; and

(v) flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

(2) In the case of any land use prohibited by paragraph e.(1) above and which is located in an "established residential neighborhood in a built-up urban area" as defined by the local government unit and as reviewed and approved by the Commissioner, the property on which the use is located shall be acquired at public expense by the governmental unit owning the airport and the prohibited use shall be eliminated. the prohibited land use must be acquired, altered or removed at public expense by the governmental body which owns the airport. This may be accomplished by an exchange of land, purchase of development rights, acquisition of easements or other method to be negotiated with the landowner or by outright purchase or exercise of eminent domain, if necessary.

(3) ~~f-~~ The prohibited uses enumerated in paragraph e.(1) above are only those which present the most severe safety hazards to the air-traveling public or persons on the ground, as the case may be. Local governmental units may also prohibit other land uses in Safety Zones A and B as being unsafe to the public. The use restrictions contained in 14 MCAR § 1.3010 F.1.-4. provide guidance as to what uses the Commissioner deems not to be public interest in these Safety Zones. See also subparagraphs e.(1)(c) and e.(1)(e) above. However, low density residential structures and isolated low density residential building lots in "established residential neighborhoods in built up

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urban areas" as of January 1, 1978, must be acquired at public expense, as required by Minn. Stat., § 360.066, subd. 1 (a) (d) (1978), if such land uses are to be prohibited under a local zoning ordinance. The local governmental unit must note the requirement of Minn. Stat. § 360.066, subd. 1a (a) and (d) (1978) that certain prohibited land uses must be acquired, altered or removed at public expense.

f. In the event that the provisions of this section F.5., as reflected in a proposed local zoning ordinance, would require the acquisition, alteration or removal of any land use, then , in such event, at least sixty (60) days prior

to the first hearing on adoption of the ordinance, the local zoning authority shall so notify the airport owner. The airport owner shall then consider the alternatives of closing a runway, runway realignment or relocation, runway extension or shortening and displaced thresholds and shall then promptly notify the local zoning authority in writing, if it proposes to take any of such alternative actions.

g. These rules shall be effective five working days after publication at *State Register*, except as provided above as to isolated, low-density residential building lots and low-density residential structures.

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 Administration Architectural and Engineering Division Notice of Availability of Contracts for Architects, Engineers, and Landscape Architects

The Department of Administration (DOA) intends to retain the services of qualified professionally registered architects, engineers, and landscape architects to design, prepare construction drawings, and monitor construction of a number of projects during the year commencing July 1, 1979. These projects will be varied in nature and scope and will involve new construction, remodeling, and facility studies. The cost of construction or remodeling projects will be less than \$400,000.00 and the fees associated with facility studies will be less than \$35,000.00. Particular emphasis

will be placed on the background and experience of the firm on similar projects as well as the firm's geographic proximity to the project.

Firms wishing to be considered for these projects are asked to submit a brochure or resume giving qualifications and experience of the firm to Room G-10, State Administration Building, St. Paul, MN 55155, Attention: Paul F. Cummings. Brochures or resumes must be received at the above address no later than July 13, 1979. Qualified applicants will be contacted and may be requested to appear in St. Paul for an interview.

Firms, in submitting their brochures or resumes, shall indicate the area or areas of the list shown below in which they feel qualified.

- 1) Research and Programming
- 2) Educational
- 3) Health and Medical
- 4) Correctional
- 5) Restoration
- 6) Office and Administration
- 7) Recreational

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- 8) Service and Industrial
- 9) Arts, including Performing Arts
- 10) Exhibition and Display
- 11) Landscape and Site Planning
- 12) Interiors
- 13) Water and Waste Facilities
- 14) Energy Supply and Distribution
- 15) Pollution Control

Names of qualified firms will be retained on file with DOA until June 30, 1980. This will be the only opportunity for firms to indicate their interest in these projects.

Designers for projects with estimated costs or fees in excess of those shown above will be selected through the State Designer Selection Board. Projects referred to the Board will be advertised in the *State Register* as well as through Board issued requests for proposal.

Notice of Availability of Contracts for Registered Professional Testing Services

The Department of Administration (DOA) intends to retain the services of qualified professional registered individuals and firms to conduct site surveys, materials testing and soil borings and tests during the year commencing July 1, 1979. These projects will be varied in nature and scope. The fees associated with these projects will generally be less than \$2,000.00, although the fees for some projects will exceed this amount.

As projects arise, it is the intention of DOA to contact firms who have expressed an interest in providing such services to the State. The selection will be made on the basis of the background and experience of the firm, the geographic proximity of the firm to the project site, and an estimate of the fees to be charged for the specific project. Such estimates will be requested when a specific project exists.

Firms wishing to be considered for these projects are asked to submit a brochure or resume outlining their background, qualifications, and fields of expertise to Room G-10, State Administration Building, St. Paul, MN 55155, Attention: Paul F. Cummings. Brochures or resumes must be received at the above address no later than July 13, 1979. Qualified applicants will be contacted and may be requested to appear in St. Paul for an interview.

Names of qualified firms will be retained on file with DOA until June 30, 1980. This will be the only opportunity for firms to indicate their interest in these projects.

Department of Administration Information Systems Division

Notice of Request for Contractual Programming Services

The State of Minnesota, Department of Administration, Information Systems Division, has determined that additional programming resources are needed for the six months beginning 7/15/79. To that end, a contract will be available for three qualified individuals to work full time for that period. (Note that equivalent hours supplied by other than the three individuals, except in the event of illness, disability, or loss of the individual to the organization, will not be acceptable).

Two qualified applicants will be familiar with the ISD site, including, but not limited to, experience with the following:

- TOTAL 8, DBMS (TOTAL 7 experience will be acceptable)
- PANVALET
- IBM OS/MVS
- IBM 370/168
- COBOL (2 years experience minimum)

The third applicant will have, in addition to the above, the following:

- Experience with the state's teleprocessing monitor, TPEXEC
- Three years (minimum) of BAL

Respondents must send resumes of prospective applicants, including rates and availability dates, to:

Ron Larson, Manager — Programming
5th Floor, Centennial Office Building
St. Paul, Minnesota 55155
(612) 296-6343

Resumes must be received by July 9, 1979, and selection will be made and successful candidates will be notified by Thursday, July 12, 1979.

Department of Corrections

Notice of Availability of Contract to Provide Consultation and Technical Assistance in the Area of Staff and Program Development

The contract is to provide unit team building, program development and management systems development assistance at the Minnesota state prison and state reformatory for men. The contractor will develop the services to be provided in concert with the chief administrator of the respective institution. The activities will be with individual organizational units on an ongoing and follow-up basis. The training is to be individualized and original in nature after assessing the needs of the specific institution and/or unit involved. The target populations are managers and their teams. The limited annual cost of this project is \$16,000. The payment is \$160.00 per day plus travel expenses and per diem.

For further information contact:

Julie Chamberlin
Department of Corrections
404 Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101
Telephone 296-3520

The final submission date is June 30, 1979.

Department of Health

Notice of Availability 1979-81 Special Grants for Health Care and Referral Services to Migrants in Action, St. Paul, for Migrants and Ex-Migrants

I am pleased to announce the availability of \$50,000 of state funds to be awarded by the Minnesota Department of Health through grants to the Migrants in Action program located in St. Paul for the purpose of providing health care and referral services to migrant and ex-migrant agricultural workers.

Effect of Grant Rules

These grants are subject to provisions of Minnesota Department of Health Rules 7 MCAR §§ 1.451-1.455.

How to Apply for Funds

Letters of Intent to apply for these funds must be submitted to the Commissioner of Health by July 25, 1979.

Applications for new grants must be completed as provided by Department of Health Rule, 7 MCAR § 1.452. Application materials are available upon request from the Commissioner of Health.

Five copies of the completed applications must be submitted to the Commissioner of Health by August 15, 1979; letters of intent should be submitted prior to that date. Copies of the application shall also be submitted to the Regional Development Commission and to the Health System Agency as required by Department of Health, 7 MCAR § 1.453. Applications will be considered for approval in accordance with provisions of Department of Health Rule, 7 MCAR § 1.452. The Commissioner will act on these applications within sixty days of receipt.

Duration of Funding

Funds for grants for these purposes are available through June 30, 1981; applications for two year funding will be accepted.

Notice of Availability 1979-81 Special Grants to Local Boards of Health for Health Services for Native Americans

Amount, Purpose and Eligibility

I am pleased to announce the availability of \$340,000 of state funds to be awarded by the Minnesota Department of Health through extension of existing special grants or new grants to establish, operate, or subsidize clinic facilities and services to furnish health services for Native Americans who have no established county of residence. These grants are available to boards of health whose Community Health Services Plans contain a proposal for the delivery of services and documentation of input to the Plans by the affected segments of the community.

Effect of Grant Rule

These grants are subject to provisions of Minnesota Department of Health Rules, 7 MCAR §§ 1.451-1.455.

STATE CONTRACTS

How to Apply for Funds

Letters of Intent to apply for new special grants must be submitted to the Commissioner of Health by July 25, 1979.

Application for funds to extend previously approved grants must include a revised budget and program descriptions if necessary which indicate proposed use of additional funds. Applications for new grants must be completed as required by Department of Health Rules, 7 MCAR § 1.452. Application materials are available upon request from the Commissioner of Health.

Five copies of complete applications must be submitted to the Commissioner of Health by August 15, 1979; letters of intent should be submitted prior to that date. Copies of the application shall also be submitted to the Regional Development Commission and to the Health Systems Agency as required by Department of Health Rule, 7 MCAR § 1.453. Applications will be considered for approval of funding in accordance with provisions of Department of Health Rules, 7 MCAR § 1.452. The Commissioner will act on these applications within sixty days of receipt.

Duration of Funding

Funds for these purposes are available through June 30, 1981 and applications for two year funding will be accepted.

Notice of Availability 1979-81 Special Grants for Health Services for Migrant Agricultural Workers

Amount, Purpose and Eligibility

I am pleased to announce the availability of \$300,000 of state funds to be awarded to the Minnesota Department of Health through extension of existing special grants or new grants to establish, operate, or subsidize clinic facilities and services, including mobile clinics, to furnish health services for migrant agricultural workers and their families in areas of the state in which significant numbers of migrant workers are located. These grants are available to cities, counties, groups of cities or counties, or nonprofit corporations.

Effect of Grant Rule

These grants are subject to provisions of Minnesota Department of Health Rules, 7 MCAR §§ 1.451-1.455.

How to Apply for Funds

Letters of Intent to apply for new special grants must be submitted to the Commissioner of Health by July 25, 1979.

Applications for new grants must be completed as provided by Department of Health Rule, 7 MCAR § 1.452. Application materials are available upon request from the Commissioner of Health.

Five copies of the completed applications must be submitted to the Commissioner of Health by August 15, 1979; letters of intent should be submitted prior to that date. Copies of the application shall also be submitted to the Regional Development Commission and to the Health System Agency as required by Department of Health Rule, 7 MCAR § 1.453. Applications will be considered for approval of funding in accordance with provisions of Department of Health Rule, 7 MCAR § 1.452. The Commissioner will act on these applications within sixty days of receipt.

Duration of Funding

Funds for grants for these purposes are available through June 30, 1981; applications for two year funding will be accepted.

Housing Finance Agency Notice of Extension of Submission Date for Proposals for Professional and Technical Services

Due to setbacks in implementation of a Minnesota Housing Finance Agency (MHFA) Mortgage Purchase Program because of the Ullman Bill which is pending in Congress, we will be able to extend the time for submitting proposals. Proposals to perform the Review Contractor or Underwriting Contractor functions may be submitted to the Agency until June 29, 1979.

For further information please contact Gail L. Vetter (612) 296-9813.

June 12, 1979

OFFICIAL NOTICES

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

either orally or in writing.

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

Department of Commerce

Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Special Meeting of Board

A special meeting of the Board of Architecture, Engineering, Land Surveying, and Landscape Architecture will be held in Duluth, Minnesota June 29 and 30, 1979. The meeting on June 29 will commence at 1:30 p.m. and will be held in the mayor's conference room on the 4th Floor of City Hall. The meeting will reconvene at 9 a.m. on June 30 in the Water and Gas Department Training Room, 3rd Floor, 414 West 1st Street, pursuant to Section 326.07, Minnesota Statutes.

Comments which are received prior to July 25 will be considered in the drafting of the rules. All written statements, regardless of when received, will be made part of the public hearing record.

Department of Education School Management Services Division

Notice of Intent to Solicit Outside Opinion Regarding Computing Centers, Plans, Budget and Data Items

The Department of Education is drafting rules to implement Minn. Stat. § 16.93, subd. 5 (1979), for the review of plans and budgets, the creation of regional computing centers, and the inclusion of data elements in the data element dictionary and data acquisition calendar.

Persons or organizations wishing to offer advice, comment or suggestions on the content of these rules are invited to submit such statements in writing to:

Mr. Donald Thomas
Room 803 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Department of Education Vocational-Technical Education Division

Notice of Intent to Solicit Outside Opinion Regarding Rules for the Vocational Aid Program and Changes in the Post-Secondary Vocational Rules

The Department of Education, Division of Vocational-Technical Education is drafting rules and changes to implement Minn. Stat. chs. 121 and 124 (1978) as amended by Laws of 1979, H.F. No. 223, Art. V §§ 1-3, 9-12 and 16-22.

The Department will also be drafting changes in the Post-Secondary Vocational Education Rules (Chapter Six, 5 MCAR §§ 1.0100-1.01102) and the Adult Vocational-Technical Education Rules (Chapter Six-A 5 MCAR §§ 1.0111-1.0118) to comply with the above statutes.

The Department invites interested persons or groups to provide information, comment and advice on these subjects in writing or orally to Mr. Robert Van Tries, Assistant Commissioner for Vocational-Technical Education, 564 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101.

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

All materials to be considered in the original draft should be submitted by July 23, 1979.

Energy Agency Data and Analysis Division

Owatonna Public Utilities Application for A Certificate of Need for A 25 Megawatt Electric Generating Facility

Order for Hearing and Notice Thereof

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter will commence at 7:00 p.m. on July 30, 1979, in the City Council Chambers, 540 West Hills Circle, Owatonna, Minnesota. The hearing will continue at 9:00 a.m. on July 31 at the same place and at other times and places to be specified by the Hearing Examiner.

This matter is being heard upon the Application for Certificate of Need for a Large Electric Generating Facility filed by Owatonna Public Utilities on May 21, 1979. The Application was submitted, and the Agency is convening the hearing, on the authority of Minn. Stat. § 116H.13 and 6 MCAR §§ 2.0601-.0641.

The hearing will be held before Allan W. Klein, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8104, an independent hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to represent themselves or to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.052 and procedural rules 9 MCAR §§ 2.201-.222 and Minn. Rule EA 500-520 (6 MCAR §§ 2.0500-.0520). Where the procedural rules conflict, the Hearing Examiner's Rules, 9 MCAR §§ 2.201-.222, supersede the Agency's rules, EA 500-520 (6 MCAR §§ 2.0500-.0520). Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 720 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, telephone (612) 296-8278.

The purpose of the hearing is to determine whether Owatonna Public Utilities (hereinafter the "applicant") has justified the need for the facility proposed in its application. The application is for the construction of one oil-fired combustion gas turbine electric generating plant with a net base load generating capability of approximately 25 megawatts. The facility's functions are (1) to be a quick-start power source providing standby for other units in applicant's sys-

tem and (2) to provide peaking capacity to augment operational steam turbines in applicant's system during peak load periods. No specific site for the plant has been selected.

The hearing will address, among other things, the accuracy of the applicant's forecast of demand for the type of energy that will be supplied by the proposed facility, and alternative ways of meeting the demand. Determination must be made whether the consequences of granting the certificate of need outweigh the consequences of denying it, considering socioeconomic and environmental factors. In addition, a certificate of need cannot be granted if it has been demonstrated on the record that the proposed facility will fail to comply with relevant policies, rules and regulations of other state agencies, federal agencies, and local governments which have been considered during the hearing process.

Any person wishing to become a party to the proceeding must file a Notice of Intervention or a Petition to Intervene with the Hearing Examiner pursuant to Minn. Rule EA 506 (6 MCAR § 2.0506) and 9 MCAR § 2.210 A. The Notice or Petition must be received by the Hearing Examiner on or before July 16, 1979, and a copy must be served on the attorney for the Energy Agency, Dwight S. Wagenius, at the address given above, on the applicant (at O'Connor and Hannan, Thirty-Eighth Floor, IDS Center, Minneapolis, Minnesota 55402 c/o William R. McGrann, Jr.), and on known parties at time of intervention. Early intervention is strongly encouraged. Parties must file a Notice of Appearance at least ten (10) days prior to the hearing. (The Notice of Appearance is not a substitute for a Petition to Intervene.)

A prehearing conference will be held pursuant to 9 MCAR § 2.213 A. at 1:30 p.m. on July 17, 1979, at the Office of Hearing Examiners, Room 300, 1745 University Avenue, Saint Paul, Minnesota. The applicant shall have its prefiled testimony available for distribution at the prehearing conference. Intervenors must attend the prehearing conference and be prepared to present a complete list of witnesses with prepared testimony or a summary of testimony to be presented. All parties must also present at the prehearing conference the exhibits to be sponsored and relied upon by their witnesses, clearly indicating the witness who will sponsor each exhibit.

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to 9 MCAR § 2.210 E., without having attained party status by intervention. Registration forms for such appearances will be available at the hearing. The time specified for receipt of testimony from persons not parties to the proceeding is Tuesday, July 31, 1979, starting at 7 p.m. However, if this time is inconvenient other times can be arranged. If you desire to testify at another time, please contact the Hearing Examiner.

OFFICIAL NOTICES

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or by the Director in the determination of the above-entitled matter. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

The procedural rules cited above are available for review at the Office of Hearing Examiners (9 MCAR §§ 2.201-.222) and at the offices of the Energy Agency (Minn. Rules EA 500-520 (6 MCAR §§ 2.0500-.0520)). The applicant's application for a certificate of need and the substantive rules applicable to this matter, 6 MCAR §§ 2.0601-.0641, are also available for review at the offices of the Energy Agency and at libraries designated as Minnesota Environmental Quality Board distribution points. The latter are: the Minnesota Valley Regional Library, Mankato; the Rochester Public Library; the Legislative Reference Library, State Capitol, Saint Paul; and the Environmental Conservation Library, Minneapolis. Copies of the three sets of rules and the application will also be available for review at the Owatonna Public Library. All rules may be purchased from the Documents Section, Department of Administration, 140 Centennial Building, Saint Paul, Minnesota, 55155, telephone (612) 296-2874. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross-examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendation of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the Hearing Examiner in writing, pursuant to 9 MCAR § 2.216.

If persons have good reason for requesting a delay in the hearing, the request must be made in writing to the Hearing Examiner at least 5 days prior to the hearing. A copy of the request must be served on the Agency and any other parties.

June 15, 1979

Algernon H. Johnson
Director

Department of Natural Resources

Notice of Intent to Solicit Outside Opinion on Rules for Water Appropriation

The Department of Natural Resources has begun drafting rules containing standards and criteria for granting and denying permits for the appropriation and use of surface and ground waters of the State, exclusive of the domestic needs of less than 25 persons.

Statutory basis for the rules is found in Minn. Stat. ch. 105 including but not limited to: 105.37, 105.38, 105.41 through 105.541, 105.55 and 105.64.

The matters covered by the proposed rules include appropriation from lakes, streams, and ground water sources for domestic, municipal, agricultural, commercial, industrial, power plant, mining, dewatering, recreational and other purposes.

Copies of the draft proposed rules will be available for review and comment by July 12, 1979. The Department welcomes information, opinions and comments concerning the subject matter of the proposed rules. Copies of the proposed draft can be obtained, and written and/or oral statements or comments can be sent or made to:

Hedia Rieke
Department of Natural Resources
Division of Waters
444 Lafayette Road
St. Paul, MN 55101
(612) 296-4800

Statements will be accepted through August 10, 1979.

May 31, 1979

Larry Seymour, Director
Division of Waters

Department of Revenue Income Tax Division

Notice of Intent to Solicit Outside Opinion Regarding Rules of the Income Tax Division

The Income Tax Division of the Department of Revenue is beginning to draft rules concerning the energy credit contained in Laws 1979, Chapter 303, Article V.

The Department invites interested persons or groups to provide information, comments, and advice on the subject in writing or orally to Dale Busacker, Attorney, Income Tax Division, Department of Revenue, Centennial Office Building, St. Paul, Minnesota 55145 or (612) 296-3436.

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

Office of the Secretary of State Election and Legislative Manual Division

Notice of Vacancy in Multi-member Agency — Application and Appointment Procedures

Notice is hereby given to the public that a vacancy has occurred in a multi-member agency, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155; (612) 296-2805. Application deadline is Tuesday, July 10, 1979.

Advisory Task Force for the Minnesota Post-High School Planning Program: One vacancy open immediately for a member from the State University System for a term expiring June 30, 1980. The task force provides recommendations to the Minnesota Higher Education Coordinating Board on the administration of the Post-High School Planning Program. Meetings are held monthly. Members are compensated for expenses. The appointing authority is the Minnesota Higher Education Coordinating Board. For specific information, contact Bettie S. LaDuke, 400 Capitol Square, St. Paul, 55101; (612) 296-9681.

The Advisory Task Force on Bilingual Education: One

vacancy open immediately for a public member for a term expiring June 30, 1980. The task force makes recommendations to the State Board of Education concerning approval or modification of proposals for bilingual education programs and advises the board on the administration of duties under the bilingual education act. Meetings are held every other month. Members receive expenses in the same manner as state employees. The State Board of Education is the appointing authority. For specific information, contact Jessie Montano, Department of Education, Capitol Square Bldg., St. Paul 55155; (612) 296-1060.

The Workers' Compensation Court of Appeals: Two vacancies created by Laws of 1979, Special Session, Chapter 3, open July 1, 1979, for six year terms. Of the five judges comprising the court, at least three shall be learned in the law. The court exercises appellate jurisdiction in all cases under the Minnesota Workers Compensation Law and other laws governing public employees. This is a full time position. Members receive \$36,000 per year. Members are appointed by the governor and confirmed by the Senate. Judges must file with the Ethical Practices Board. For specific information, contact Charles C. Reischel, Space Center Building, 444 Lafayette Rd., St. Paul 55101; (612) 296-6409.

Committee on Non-Public Schools: Five vacancies open immediately for members representative of the various areas of the state and knowledgeable about non-public schools, for four year terms. The committee defines issues and makes recommendations on non-public schools to the commissioner of education and the State Board of Education. Meetings are held at the call of the committee chairman. Members are compensated \$35 per day plus expenses. The appointing authority is the governor. For specific information, contact Mary Jo Richardson, Governor's Office, 130 Capitol, St. Paul 55155; (612) 296-3391.

Citizens' Advisory Task Force on the Boundary Waters Canoe Area: Seventeen vacancies open July 1, 1979, for members selected as follows: three residents of St. Louis County, three residents of Cook County, three residents of Lake County, eight residents of the state residing outside of the aforementioned counties. Terms of office expire June 30, 1983. The task force shall conduct research into all matters related to the establishment and operation of the Boundary Waters Canoe Area and make recommendations to the United States Forest Service and other agencies. Meetings are held at the call of the chairman. Members receive expenses in the same manner as state employees. The appointing authority is the governor. For specific information, contact Mary Jo Richardson, Governor's Office, 130 Capitol, St. Paul 55155; (612) 296-3391.

Rehabilitation Review Panel: Eleven vacancies open July 1, 1979, for members selected as follows: two members each from labor, employers, insurers, vocational re-

OFFICIAL NOTICES

habilitation, and medicine, and one member representing chiropractors. Terms are for four years. The panel shall review rehabilitation plans, hold revocation of certification approval hearings, study rehabilitation, and advise the commissioner of labor and industry. Meetings are held at the call of the chairman. Members shall receive \$35 per day plus expenses. The appointing authority is the governor. For specific information, contact Mary Jo Richardson, Governor's Office, 130 Capitol, St. Paul 55155; (612) 296-3391.

Council on Quality Education: One vacancy open immediately for a public member for a term expiring January 7, 1980. The council encourages and performs research and development for quality education in Minnesota elementary and secondary schools and evaluates the results of significant innovative programs. Members receive \$35 per day plus expenses. The appointing authority is the governor. For specific information, contact Eugene Kairies, 722 Capitol Square Building, St. Paul 55101; (612) 296-5072.

Public Hearings on Agency Rules

July 2-6, 1979

Date	Agency and Rule Matter	Time and Place
July 6	Dept. of Public Welfare Per Diem Rates for Nursing Home Providers under the Title XIX Medical Assistance Program Hearing Examiner: George Beck	Minnesota Veterans Home, Bldg. 15, Auditorium Chapel, East 51st St. at Minnehaha, Minneapolis, MN

ERRATA

1. At 3 S.R. 2167: 3 MCAR § 1.0191 Agri 190 Registration. should read 3 MCAR § 1.0191 Agri 190 Registration.

2. At 3 S.R. 2168: 3 MCAR § 1.0192 Operating Standards. Agr 191 Disposal facilities and procedures. should read, 3 MCAR § 1.0192 Operating standards. Agr 191 Disposal facilities and procedures.

3. At 3 S.R. 2241, APC 4 H.6.d.(1) should read: "(1) For anthracitic coal according to A.S.T.M. D388-66, $F = 0.01139 \text{ dsem}/10^4 \text{ cal} \times 2.732 \times 10^{-7} \text{ dscm}/j (101.4 \text{ dsef}/10^4 \text{ BTU}) (10140 \text{ dscf}/10^6 \text{ BTU})$."

SUPREME COURT

Decisions Filed Friday, June 15, 1979

48337/93 State of Minnesota vs. Ralph Charles Schluter, Appellant. Hennepin County.

The evidence was sufficient to support the verdict.

The trial court did not abuse its discretion in admitting clothing and photographs over a prejudice objection.

Defendant could not prevent the submission of lesser offenses.

Instructions were proper.

Affirmed. Sheran, C. J.

49018/101 Donald Saenger, Relator, vs. Liberty Carton Company, et al. Workers Compensation Court of Appeals.

The finding of the Workers Compensation Court of Appeals has substantial support in the evidence and will not be disturbed.

Affirmed. Sheran, C. J.

48563/113 Nick D. Dereschuk, Appellant, vs. Charles B. Knudsen, individually, and d.b.a. Knudsen Realty Company, Virgil Doerfler, Al Sieben, First Merchants State Bank of St. Paul. Ramsey County.

Assignment of interest in real estate venture as security on note, with assignment to be released upon payment of the note, does not eliminate the assignor's interest in the venture.

Remanded. Sheran, C. J.

49011/151 Jose Madrigal vs. King Seeley, et al., Relators, Liberty Mutual Insurance Company, Insurer. Workers Compensation Court of Appeals.

There is no reason here to substitute the judgment of this court for that of the court of appeals regarding the credibility of the employee.

Affirmed. Sheran, C. J. Dissenting, Otis and Peterson, JJ.

48713/221 State of Minnesota vs. James W. Meehan, Jr., Appellant. Ramsey County.

The evidence here was sufficient for conviction.

Affirmed. Sheran, C. J.

48583/423 Eunice M. Adee, Appellant, vs. Robert Evanson, d.b.a. Kentucky Fried Chicken, International Falls, Minnesota. Koochi-ching County.

In a negligence action arising out of "slip and fall" on the icy sidewalk of defendant's store, the trial court erred in instructing the jury that a store owner has no duty to warn a customer of risks about which the customer had present knowledge and present realization.

Reversed and remanded for a new trial on the issue of liability.

Rogosheske, J.

48443/23 National Pool Builders, Inc., Plaintiff, vs. Summit National Bank, defendant and third-party plaintiff, vs. Richard A. Zappa, et al., third-party defendants, Appellants. Ramsey County.

Directed verdict was proper where appellants did not present sufficient evidence that defendant bank agreed to lend \$50,000 to a corporation run by appellants or that any of appellants' claimed damages were proximately caused by defendant bank's dishonor of an \$11,818.75 check issued by appellants' corporation to a supplier of the corporation.

Affirmed. Peterson, J.

48509/62 Miller Brewing Company, Appellant, vs. State of Minnesota, Minnesota Department of Revenue, and Commissioner of Revenue. Ramsey County.

The classifications established by Minn. St. 340.47, subd. 2, of fermented malt beverages produced by brewers with brewing production facilities in Minnesota do not contravene the equal protection guarantees contained in Minn. Const. art. 1, § 2, and art. 10, § 1.

Affirmed. Peterson, J.

48813/70 Richard Thomas Kinning, a minor, by Thomas Robert Kinning, Jr., his father and natural guardian, Appellants, vs. Dr. Ronald John Nelson, et al. Ramsey County.

In this medical malpractice case, neither the trial court's

SUPREME COURT

exclusion of opinion testimony by a physician on the ground of nonqualification as an expert nor the court's summation of the evidence, limited to that which was undisputed with full opportunity for counsel to argue their versions of all the evidence, nor the court's instructions to the jury constituted prejudicial error, so that plaintiff's motion for a new trial was properly denied.

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

48992/287 State of Minnesota vs. Donald Kim Schallock, Appellant. Morrison County.

Evidence of defendant's guilt was sufficient, and defendant was not denied a fair trial by (a) the prosecutor's unintentional, nonprejudicial elicitation of evidence in violation of a court order, (b) the presence of the complaining officer at the counsel table during trial, and (c) the trial court's refusal to instruct the jury that it would disregard all of the testimony of any witness who had lied as to any material fact.

Affirmed. Peterson, J.

49012/164 Velda Joens, Relator, vs. Campbell Soup Company, et al. Workers Compensation Court of Appeals.

The evidence reasonably permits the inference, drawn by the majority of the court of appeals, that plaintiff intended to work until her 62nd birthday, at which time she retired, and is entitled to work-related temporary total disability only until that time.

Affirmed. Yetka, J.

48025/418 State of Minnesota vs. Richard Coolidge, Appellant. St. Louis County.

Where a defendant in a criminal case is convicted under a statute that is subsequently repealed or amended so as to mitigate punishment, the more recent statute is to be applied to the acts committed before its effective date, so long as no final judgment has been reached.

Conviction affirmed, but sentence reduced to time served. Yetka, J.

49036/139 Willie Jones vs. Honeywell, Inc., Hiawatha Metalcraft, Inc., et al., Relators, The State Treasurer as Custodian of the Special Compensation Fund.

The Workers Compensation Court of Appeals did not err in denying the employer reimbursement from the special com-

pensation fund where the filing of a medical report no longer constituted registration for the fund under the applicable statute when the filing occurred.

Affirmed. Wahl, J.

48937/211 Rai-Anne May Seeley, et al., by Theresa Seeley, their mother and natural guardian, and Theresa Seeley, individually, Appellants, vs. Anna I. Sobczak and Elwood B. Lee, d.b.a. Eagle Tavern, et al. St. Louis County.

In an action brought under the Civil Damage Act, a person is not obviously intoxicated as a matter of law, within the meaning of Minn. St. 1974, § 340.14, subd. 1a, simply by virtue of having reached a certain blood alcohol content.

The evidence sustains the verdict for defendants.

Affirmed. Maxwell, J. Concurring specially, Otis, J. Took no part, Wahl, J.

48191/245 In re Welfare of H. M. P. W., R. F. W. and K. W. Hennepin County.

Record supports termination of parental rights of father who had been repeatedly convicted of criminal sexual conduct, on ground that he was unfit by reason of lewd or lascivious behavior, and other conduct likely to be detrimental to the physical or mental health or morals of his children.

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

48694 Irvin Hilton vs. Dale Nelsen, et al., Appellants (48695), Lyle Mandt, Appellant (48694). Marshall County.

A purchaser under a contract to sell real estate who, after the sellers' default, attempts to protect his interest in the real estate by buying the sellers' mortgage at a foreclosure sale, has not abandoned the contract where he has not explicitly relinquished his rights under the contract and has pursued his contractual remedy promptly after the sellers' default, and where the property is subsequently redeemed from the purchaser under the 1-year right of redemption.

It was not within the scope of the trial court's equitable discretion to order specific performance of a contract to purchase farmland when the purchaser was an investor rather than a homesteader and had not relied detrimentally upon the sellers' performance to such an extent that damages would not compensate for the sellers' breach; where the contract contained substantial elements of unfairness or over-

reaching by the purchaser; where the sellers were unrepresented before signing the contract and misunderstood its basic terms; where a third party's interests have intervened by his redemption of the sellers' mortgage; and where numerous unfulfilled conditions to the purchaser's performance, which the purchaser has not waived, render the purchaser's performance insecure.

The purchaser under a contract to sell farmland will be left to his remedy at law for damages to compensate for the seller's breach where the totality of circumstances renders specific performance inequitable.

Affirmed in part, reversed in part, and remanded. Stone, J. Took no part, Todd, J.

48841/233 Eleanor M. Erickson vs. Brown & Bigelow, et al., Relators. Workers Compensation Court of Appeals.

Where Workers Compensation Court of Appeals is required to evaluate and resolve conflicts in evidence, its findings will be upheld on appeal if it is substantially supported by the evidence.

Affirmed. Per Curiam.

48882/282 State of Minnesota vs. Clifton Cruise. Hennepin County.

There is no merit to defendant's contention that the evi-

dence of guilt was legally insufficient nor did the trial court abuse its discretion in sentencing defendant without ordering a presentence investigation.

Affirmed. Per Curiam.

48847/277 L978) State of Minnesota, by Arnold K. Skeie and Jacqueline A. Skeie, Appellants, vs. Minnkota Power Cooperative, Inc. Polk County.

A prima facie case under the Minnesota Environmental Rights Act is not made by showing the use of farmland will be made more difficult.

Affirmed. Sheran, C. J. Dissenting, Yetka, J. Concurring specially, Otis and Scott, JJ.

Opinion Filed Thursday, June 7, 1979

49956/305 State of Minnesota, Appellant, vs. William Helenbolt. St. Louis County.

State, appealing from pretrial suppression order in criminal case, failed to demonstrate clearly and unequivocally that court's order was erroneous.

Affirmed. Per Curiam.

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