

179 July 2

# STATE REGISTER



## STATE OF MINNESOTA

EXECUTIVE ORDERS

RULES

PROPOSED RULES

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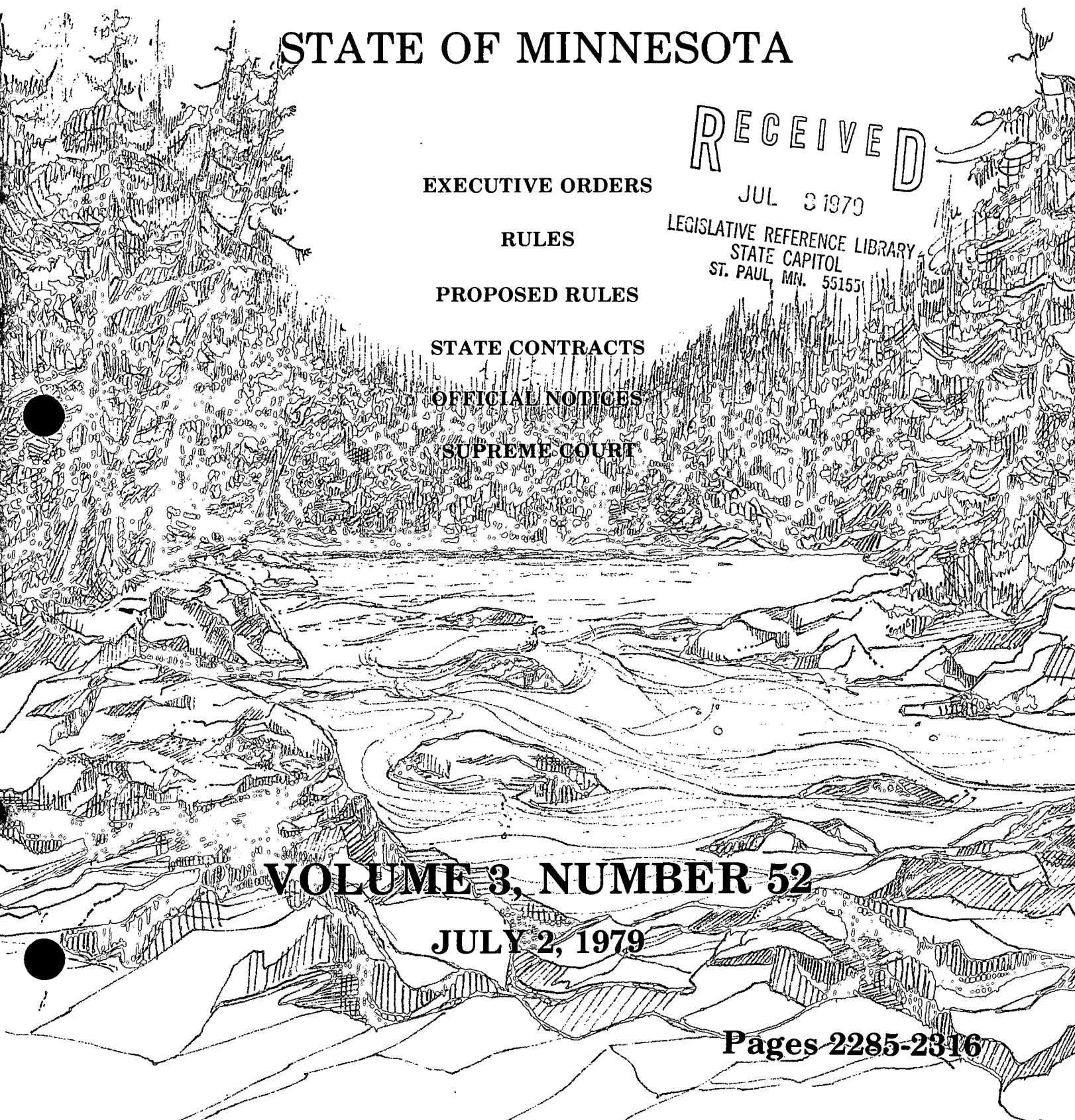
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# STATE REGISTER

## Volume 4 Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
<b>SCHEDULE FOR VOLUME 4</b>			
1	Monday June 25	Monday July 2	Monday July 9
2	Monday July 2	Monday July 9	Monday July 16
3	Monday July 9	Monday July 16	Monday July 23
4	Monday July 16	Monday July 23	Monday July 30

\*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.

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# EXECUTIVE ORDERS

## Emergency Executive Order No. 79-27

### Declaring a State of Emergency

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by Article V, Section 3 of the Constitution of the State of Minnesota, Chapter 12 of Minnesota Statutes, and other provisions of the Constitution of the State of Minnesota and Minnesota Statutes, do hereby issue this Executive Order:

WHEREAS, supplies of diesel fuel and other products available in the State of Minnesota have reached critically low levels; and,

WHEREAS, the shortages of diesel fuel have resulted in an inability to move agricultural produce and commodities to agricultural markets, processors and shipping terminals; and,

WHEREAS, said disaster conditions present an imminent threat to the health and safety of the people of Minnesota; and,

WHEREAS, it is necessary for the preservation of life and property in the State of Minnesota to effect the conservation and movement of critical materials and supplies over the public streets and highways of the State and to thereby preserve and protect the public peace, health, and safety;

NOW, THEREFORE, I Order:

1. A state of emergency is hereby declared to exist in the State of Minnesota. I do further direct all agencies of the State, in cooperation with local civil and law enforcement agencies, to take such actions as are appropriate under existing State law to preserve and protect the public peace, health, and safety, and to preserve the lives and property of the people of the State.

2. The Adjutant General of Minnesota shall order to active duty on and after June 19, 1979, in the service of the State, such elements of the military forces of the State as are necessary to protect the public peace, health, and safety, and to assure the movement and conservation of critical materials and supplies over the public streets and highways of the State. Those forces shall be utilized for such period of time as it is necessary to successfully achieve those purposes.

3. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals in the military forces of the State shall be defrayed from the General Fund of the State as provided for in Minn. Stat. §§ 192.49, subd. (1978) 1; 192.51; and 192.52.

4. The Commissioners of Public Safety, Transportation, and Agriculture, the Adjutant General, and the Directors of the Energy Agency and the Division of Emergency Services shall coordinate all State activities to be carried out under the terms of this Emergency Executive Order.

5. The Commissioner of Transportation is hereby authorized and directed to designate such routes and public highways in the State of Minnesota on an emergency basis to carry 80,000 lb. loads which, in the Commissioner's opinion, are capable of supporting said weights.

This Emergency Executive Order, which is issued for the protection of the citizens of the State from

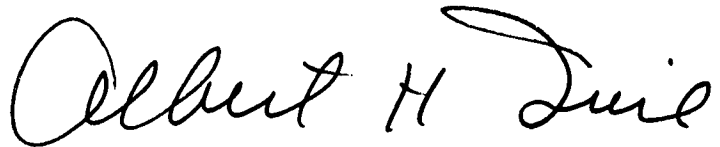
## **EXECUTIVE ORDERS**

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imminent threat to the public health and safety, shall be effective immediately, and shall remain in force until such date as the disaster conditions are relieved and the public peace, health, and safety are secure.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 19th day of June, 1979.



### **Executive Order No. 79-28**

#### **Relating to the Construction and Reconstruction of Dikes Along the Red River**

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, Minn. Stat. ch. 104 and § 105.42 require that authorizations be obtained from state and local government prior to the construction of levees and dikes within the designated floodplains of Minnesota rivers and streams; and,

WHEREAS, a series of agricultural levees along the Red River of the North in Minnesota have been constructed without appropriate authorizations, and during the flooding this past spring, the agricultural levees were overtopped and breached at various locations; and,

WHEREAS, extensive agricultural levees have also been constructed on the North Dakota side of the Red River, without authorization according to North Dakota law; and,

WHEREAS, these levees and future levees on both sides of the river constructed in an arbitrary fashion tend to pose the possibility of adverse impacts on the area; and,

WHEREAS, the Governor of North Dakota and I agree that it is necessary to develop a uniform means of dealing with this activity in the best interests of the states and to prohibit the reconstruction of any existing dikes, or the construction of any new dikes until uniform rules for dike construction are adopted by both states; and,

WHEREAS, we have set August 15th as the deadline for this effort;

NOW, THEREFORE, I order:

1. That the Commissioner of Natural Resources take immediate enforcement action against any individual who initiates reconstruction of any existing dike, or construction of any new dike, in Minnesota without compliance with the law.



## EXECUTIVE ORDERS

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2. That the Commissioner of Natural Resources immediately dedicate necessary staff personnel to meet with their state of North Dakota counterparts to adopt uniform rules concerning the construction of new dikes along the Red River.

3. That the Commissioner of Natural Resources immediately dedicate necessary staff personnel to meet with their state of North Dakota counterparts to negotiate procedures for addressing the issue of existing dikes along the Red River and proposals for the reconstruction.

4. That the efforts set out in items 2 and 3 be completed no later than August 15, 1979, at which time the results and conclusions shall be presented at a joint meeting between the Governors of Minnesota and North Dakota.

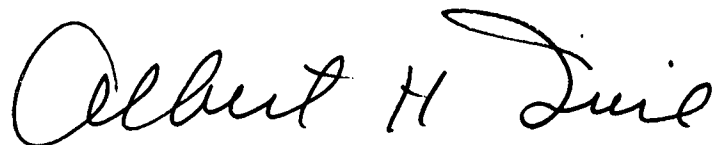
5. That the Commissioner of Natural Resources immediately dedicate staff personnel to cause an inventory and analyses to be made of existing dikes in Minnesota along the Red River.

6. That in implementing this Executive Order, the Commissioner of Natural Resources shall consult with and seek the advice of the Lower Red River Water Management Board.

7. That the agreement between the North Dakota State Water Commission and the Minnesota Department of Natural Resources shall be amended in a manner deemed appropriate.

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 (1978).

IN TESTIMONY WHEREOF, I hereunto set my hand this 20th day of June, 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.

## Ethical Practices Board

### Adopted Rules and Amendments to the Existing Rules Pertaining to Lobbyist Registration and Reporting

The rules and amendments to existing rules (9 MCAR §§ 1.0200-1.0209) proposed and published at *State Register*, Volume 3, Number 18, pp. 926-932, November 6, 1978 (3 S.R. 926) are adopted as proposed, with the following amendments:

#### Amendments as Adopted

**9 MCAR § 1.0201 B.** "Lobbyist" means an individual as set forth in Minn. Stat. § 10A.01, subd. 11. Lobbyist does not include an individual who merely communicates with a public official to obtain information or request an interpretation of a law, rule or agency action.

~~"Lobbyist" does not include: an individual who merely communicates with a public official to obtain information or request an interpretation of a law, rule or agency action.~~

**9 MCAR § 1.0201 C.** "Urging/urges others to communicate" means any written or oral communication by a lobbyist which requests that an individual or association to advocate a particular position to a public official concerning any legislative action or administrative action, or which requests an individual or association to advocate a public official initiate any particular legislative or administrative action. The term does not include mere presentation of factual material without comment.

**9 MCAR § 1.0202 B.** Paid expert witness registration. An individual who is hired or paid by a lobbyist as an expert witness and whose testimony is requested by a legislative committee, or an agency defined by Minn. Stat. § 15.0412, subd. 2, or a state hearing examiner, shall not be required to

register as a lobbyist if the committee, agency, or hearing examiner, by order, resolution, recorded vote or other formal means requests such expert testimony. This exclusion ~~shall be~~ is applicable only to the extent of preparing or delivering the requested testimony.

**9 MCAR § 1.0204 A.3.a.(2)(a)** Newsletters and publications. The cost of preparation, printing and distribution of a newsletter or other publication, including but not limited to, a reasonable estimate of pro rata office expenses and compensation paid to employees for the preparation of such a publication or a portion of the publication shall be reported as a lobbyist disbursement if used for lobbying purpose. Only the cost of that portion of a newsletter or publication which is lobbying material shall be reported as a lobbyist disbursement.

**9 MCAR § 1.0204 A.3.e.** Fees ~~salaries~~ and allowances. This category shall include disbursements for consulting fees, ~~salaries~~ or other fees, for services done or to be done, as well as expenses incurred in rendering such services. This category shall not include compensation paid to the lobbyist by his employer for services rendered as a lobbyist on behalf of the employer.

**9 MCAR § 1.0204 A.3.h.** Travel and lodging. This category shall include:

(1) All disbursements for travel and lodging of the lobbyist, any employer or employee of the lobbyist, or ~~of any those~~ those provided to a public official for a lobbying purpose, except those incurred for the purpose of enabling the lobbyist, or any employer or employee of the lobbyist, to attend a meeting of or to appear before a committee of the legislature, or a state board, commission or agency.

**9 MCAR § 1.0204 A.3.i.** Other disbursements. This category shall include ~~all disbursements not reported in categories (a) (h); including nonreimbursed, ordinary and necessary office expenses, including clerical expenses;~~ a reasonable estimate of a pro rata share of compensation paid to clerical employees incurred for the purpose of lobbying if not reported in categories (a)-(h).

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

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Public Hearings on Agency Rules

July 9-13, 1979

Date	Agency & Rule Matter	Time & Place
July 12	Dept. of Agriculture Disposal of Refuse from Transport Involved in Foreign Commerce	2:00 p.m., St. Louis County Courthouse, Duluth, MN

## Pollution Control Agency

### Proposed Rule Governing Air Pollution Control Requirements During Air Pollution Episodes

#### Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Tuesday, July 31, 1979, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

Hearings have been previously held on this matter on Tuesday, April 17, 1979, in the Board Room of the Minnesota Pollution Control Agency and public comment was received on the proposed rules through and including April 30, 1979. The proposed rules have been published at 3 S.R. 1758-1765 (March 19, 1979). The purpose of the July 31, 1979, hearing is to correct a technical defect in publication of the Notice of Hearing in connection with the April 17 hearing. Specifically, the notice appeared in the *State Register* for 29 days prior to the date of the April 17 hearing instead of 30 days as required by Minn. Stat. § 15.0412, subd. 4 (1978).

The Agency intends at this hearing to reintroduce the

entire record created in connection with the April 17 hearing, including all comments, oral and written, submitted by members of the public. All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

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

The proposed rules, if adopted, will establish criteria and procedures for the declaration by the Executive Director of the Minnesota Pollution Control Agency of air pollution episodes during which air pollutant emission reduction strategies will be required to be implemented by major air pollutant sources in the geographic area affected by the episode. The proposed rules, if adopted, will require operators of sources of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of 250 tons or more per year to submit air pollution episode control plans which, upon the declaration of an episode and notice to the source, will be required to be implemented during an episode.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 116.07, subd. 4 (1978).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## PROPOSED RULES

Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

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

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

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

June 12, 1979

Terry Hoffman  
Executive Director

### Rule as Proposed

#### 6 MCAR § 4.0039 Emergency episodes.

A. Applicability. This rule applies to any owner or operator of any emission facility having allowable emissions of air pollutants of 250 or more tons per year located within or having air pollutant emissions affecting any area within the State of Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air

pollution significant harm episode has been declared by the Director.

B. Definitions. As used in this rule, the following words shall have the meaning defined herein:

1. "Air pollutant" means particulate matter, sulfur dioxide, nitrogen oxides, photochemical oxidants, carbon monoxide or nonmethane hydrocarbons.

2. "Allowable emission" means the emission rate calculated using the maximum rate capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance set forth in Agency rules or the standard set forth in the permit, whichever is more stringent.

3. "Alert level" means the concentration of pollutants, as specified in paragraph C., at which first stage control actions are to be taken.

4. "Declaration" means the formal public notification of an episode made by the Director.

5. "Director" means the Executive Director of the Minnesota Pollution Control Agency or the Director's designee.

6. "Emergency level" means that concentration of pollutants, as specified in paragraph C., at which third stage control actions are to be taken.

7. "Episode" means that period of time during which ambient air concentrations of air pollutants equal or exceed the alert level and meteorological conditions are such that the air pollutant concentrations can be expected to persist or to increase in the absence of control actions.

8. "Significant harm level" means that concentration of pollutants, as specified in paragraph C., at which fourth stage control actions are to be taken.

9. "Warning level" means that concentration of pollutants, as specified in paragraph C., at which second stage control actions are to be taken.

C. Episode levels. The level at which an air pollutant alert, warning, emergency or significant harm episode shall be declared shall be determined by Table 1.

D. Episode declaration.

1. An air pollution alert shall be declared by the Director when the Director finds that the concentration of air pollutant has reached the alert level at any monitoring site

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and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the alert level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

2. An air pollution warning shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the warning level at any

monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the warning level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution warning shall also be declared by the Director when the Director finds that the alert level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

	SO <sub>2</sub> 24 Hr. Avg.	Part. 24 Hr. Avg.	CO 8 Hr. Avg.	NO <sub>2</sub> 24 Hr. Avg.	NO <sub>2</sub> 1 Hr. Avg.	Oxidant 1 Hr. Avg.	SO <sub>2</sub> Part. μg/m <sup>3</sup> × μg/m <sup>3</sup> 24 Hr. × 24 Hr.
ALERT	300 ppb 800 μg/m <sup>3</sup>	375 μg/m <sup>3</sup>	15 ppm 17 mg/m <sup>3</sup>	150 ppb 282 μg/m <sup>3</sup>	600 ppb 1130 μg/m <sup>3</sup>	200 ppb 400 μg/m <sup>3</sup>	65 × 10 <sup>3</sup>
WARNING	600 ppb 1600 μg/m <sup>3</sup>	625 μg/m <sup>3</sup>	30 ppm 34 mg/m <sup>3</sup>	300 ppb 565 μg/m <sup>3</sup>	1200 ppb 2260 μg/m <sup>3</sup>	400 ppb 800 μg/m <sup>3</sup>	261 × 10 <sup>3</sup>
EMERGENCY	800 ppb 2100 μg/m <sup>3</sup>	875 μg/m <sup>3</sup>	40 ppm 46 mg/m <sup>3</sup>	400 ppb 750 μg/m <sup>3</sup>	1600 ppb 3000 μg/m <sup>3</sup>	500 ppb 1000 μg/m <sup>3</sup>	393 + 10 <sup>3</sup>
SIGN. HARM	1000 ppb 2620 μg/m <sup>3</sup>	1000 μg/m <sup>3</sup>	50 ppm 57.5 mg/m <sup>3</sup>	500 ppb 938 μg/m <sup>3</sup>	2000 ppb 3750 μg/m <sup>3</sup>	600 ppb 1200 μg/m <sup>3</sup>	490 × 10 <sup>3</sup>

3. An air pollution emergency shall be declared by the Director when the concentration of any air pollutant has reached the emergency level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the emergency level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution emergency shall also be declared by the Director when the Director finds that the warning level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

4. An air pollution significant harm episode shall be declared by the Director when the concentration of any air pollutant has reached the significant harm level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the significant harm level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

5. The geographical area subject to episode levels of any air pollutant shall be delineated to the extent feasible and shall be identified in the Director's declaration.

6. The Director shall terminate the episode by declaration when:

a. The measured air pollutant concentrations no longer satisfy the criteria specified in paragraph C.; and

b. The meteorological conditions indicate that there will not be a recurrence of episode levels of air pollutants within 24 hours if control actions are reduced or eliminated.

### E. Control Actions.

1. Notwithstanding the provisions of other rules or of any installation permit, operating permit, stipulation agreement, variances, or order of the Agency, all persons shall, upon notification by the Director or the Director's designee, comply with episodes control directives issued by the Director.

2. Control directives issued to any owner or operator of an emission facility shall be based on the emission reduction plan submitted to the Director pursuant to paragraph E.3.; provided, however, that in the event that no emission reduction plan has been approved for such facility, the episode control directives shall be based upon the emission reduction objectives set forth at paragraph E.4.

3. The owner or operator of each emission facility located within the State having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date of this rule submit to the Director an episode emission reduction plan to be implemented at the facility in the event of a declaration by the Director of an air pollution

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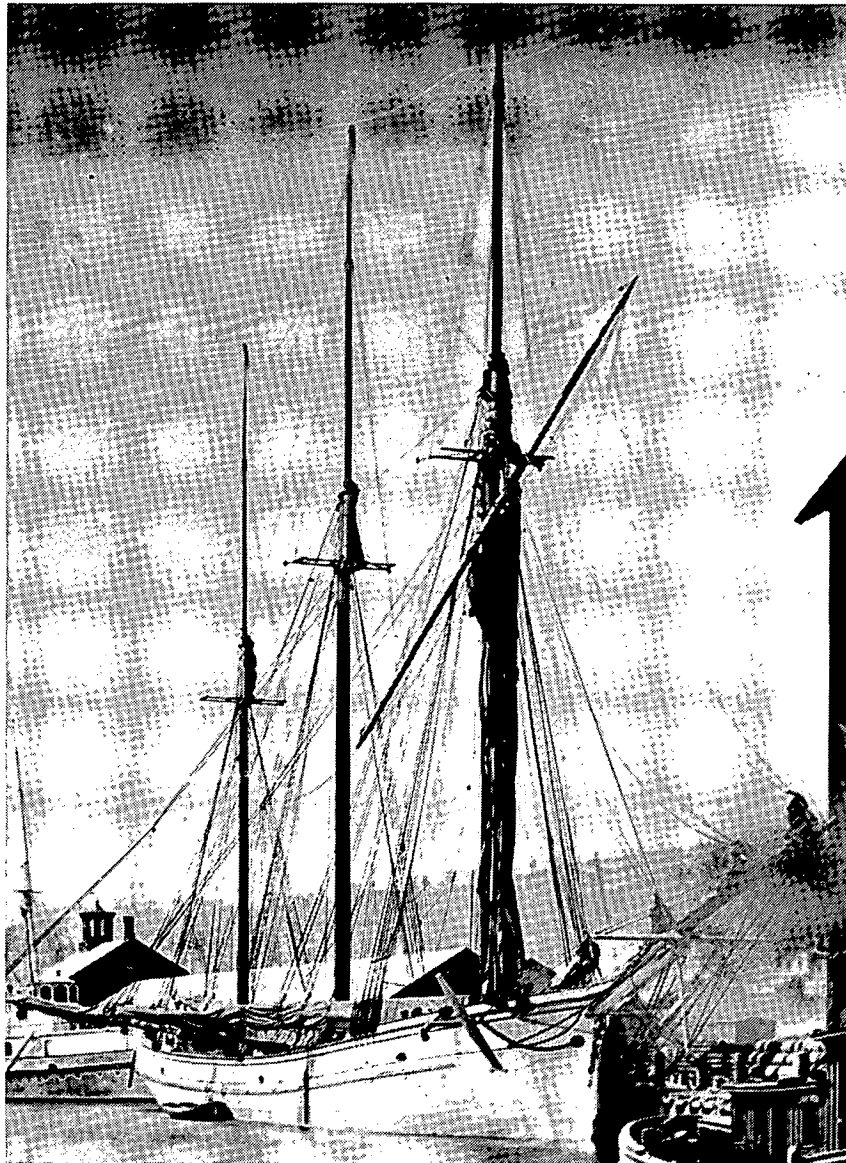
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episode. The plan shall be consistent with the emission reduction objectives set forth in paragraph E.4. and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the Director. If the Director finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency

within 30 days of notification of disapproval and shall re-submit the plan to the Director.

4. For the purposes of this rule, emission reduction objectives shall be as indicated in Tables 2 through 6. In the event of episode levels of both particulate matter and sulfur dioxide the Director shall direct coal fired electric power generating facilities which pollutant is to be reduced at each facility.



These wooden sailing schooners carried the first cargoes of iron ore from the Minnesota range mines to the lower lake ports during the 1880s. Loading and unloading was done with wheelbarrows. (Photograph courtesy of the Minnesota Historical Society)

TABLE 2

EMISSION REDUCTION OBJECTIVES FOR PARTICULATE MATTER

<u>SOURCE OF AIR CONTAMINATION</u>	<u>AIR POLLUTION ALERT</u>	<u>AIR POLLUTION WARNING</u>	<u>AIR POLLUTION EMERGENCY</u>
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Reduction of steam load demands consistent with continuing plant operations.	c. Reduction of steam load demands consistent with continuing plant operations.	c. Taking the action called for in the emergency plan.

TABLE 3

EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES

<u>SOURCE OF AIR CONTAMINATION</u>	<u>AIR POLLUTION ALERT</u>	<u>AIR POLLUTION WARNING</u>	<u>AIR POLLUTION EMERGENCY</u>
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having the lowest available sulfur content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	b. Taking the action called for in the emergency plan.
		c. Making ready for use a plan of action to be taken if an emergency develops.	

- 3. A — Manufacturing, processing, and mining industries.
    - AND
    - B — Other persons required by this rule to prepare standby plans.
  - 4. Refuse disposal operations.
- a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.
  - b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.
  - c. Reduction of heat load demands for processing continuing plant operations.
  - a. Maximum reduction by prevention of open burning.
  - b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.
  - a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
  - b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.
  - c. Reduction of heat load demands for processing continuing plant operations.
  - a. Maximum reduction by prevention of open burning.
  - b. Complete elimination of the use of incinerators.
  - a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
  - b. Elimination of air contaminants from trade waste disposal processes which emits particles, gases, vapors or malodorous substances.
  - c. Maximum reduction of heat load demands for processing.
  - a. Maximum reduction by prevention of open burning.
  - b. Complete elimination of the use of incinerators.

TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A — Manufacturing and processing industries.  AND  B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.



(CITE 3 S.R. 2301)

- |   |   |   |   |
|---|---|---|---|
| <p>3. A — Manufacturing and processing industries</p> <p>AND</p> <p>B — Other persons required by this rule to prepare standby plans.</p> | <p>a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for processing consistent with continuing plant operations.</p> | <p>a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for processing consistent with continuing plant operations.</p> | <p>a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.</p> <p>b. Elimination of air contaminants from trade waste disposal process which emit particles, gases, vapors, or malodorous substances.</p> <p>c. Maximum reduction of heat load demands for processing.</p> |
|---|---|---|---|

STATE REGISTER, MONDAY, JULY 2, 1979

TABLE 5  
EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
<p>1. Petroleum products storage and distribution.</p>	<p>a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.</p>	<p>a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.</p>	<p>a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.</p>
<p>2. Surface coating and preparation.</p>	<p>a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.</p>	<p>a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.</p>	<p>a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.</p>
<p>3. A — Manufacturing and processing industries.</p> <p>AND</p> <p>B — Other persons required by this rule to prepare standby plans.</p>	<p>a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for processing consistent with continuing plant operations.</p>	<p>a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.</p> <p>b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.</p> <p>c. Reduction of heat load demands for processing consistent with continuing plant operations.</p>	<p>a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.</p> <p>b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.</p> <p>c. Maximum reduction of heat load demands for processing.</p>
<p>4. Stationary internal combustion engines.</p>	<p>a. Reduction of power demands for pumping consistent with continuing operations.</p>	<p>a. Reduction of power demands for pumping consistent with continuing operations.</p>	<p>a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage.</p>

Page 2301

- 5. Refuse disposal operations.
  - a. Maximum reduction by prevention of open burning.
  - b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.
- a. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
  - b. Complete elimination of the use of incinerators.
- a. Maximum reduction by prevention of open burning.
  - b. Complete elimination of the use of incinerators.
- a. Maximum reduction by prevention of open burning.
  - b. Complete elimination of the use of incinerators.

TABLE 6

EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. A — Manufacturing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without injury to persons or damage to equipment.
2. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
3. Mobile Sources	a. Voluntary reduction in unnecessary vehicle use in response to Agency advisory.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.	a. Maximum reduction by banning vehicle use except for emergencies.

## PROPOSED RULES

5. During the time that an air pollution episode declaration is in effect and has not been terminated, the owner or operator of any emission facility who has been directed to implement any portion of the facility's emission reduction plan shall allow the Agency, or any authorized employee or agent of the Agency, when authorized by law and upon the presentation of proper credentials to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations pertaining to the operation of the emission facilities and the control equipment. The owner or operator shall make available on the premises to such Agency

employee a copy of the episode emission reduction plan for the emission facility and shall, upon request of the Agency employee, demonstrate that the control directives issued to the owner or operator are being implemented.

### F. Emergency powers.

Nothing in this rule shall be interpreted to preempt the Agency's emergency powers as provided in Minn. Stat. § 116.11 (1978) or to preclude appropriate actions from being taken by the Agency to protect the public health.

## STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

### Department of Corrections Health Care Unit Notice of Request for Proposals for Consultant Services Contracts

Notice is hereby given that the Minnesota Department of Corrections is seeking the services of a qualified Environmental Health and Safety Consultant to conduct comprehensive environmental health and safety surveys at the Minnesota State Prison at Stillwater, and the State Training School at Red Wing. Following completion of these surveys, the Consultant will present the Department of Corrections with reports noting deficiencies at each institution, and making recommendations for corrections of such deficiencies. The estimated cost of the contract will not exceed \$3,500. All inquiries should be directed to Howard L. Johnson, Health Care Administrator, Department of Corrections, 430 Metro Square Building, St. Paul 55101. Written proposals must be submitted no later than July 23, 1979.

### Department of Education Special and Compensatory Education Division

### Notice of Availability of Contract for Training of American Indian Educators in the Skills of Evaluation and Research

The Minnesota Department of Education will be accepting proposals to provide post-baccalaureate training in evaluation and research for 20-25 American Indian educators. It is anticipated that training activities will be designed around several intensive workshop seminars with individualized assistance available throughout the academic year. It is further anticipated that American Indian bicultural projects will serve as field sites for evaluation experiences.

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## STATE CONTRACTS

The program is to be implemented in FY 1980 at a cost not to exceed \$15,000. Proposals should be submitted by July 25, 1979.

Interested persons may request further information from:

Dr. Mike Mueller, Manager  
Indian Education Section  
Minnesota Department of Education  
800 Capitol Square Bldg.  
550 Cedar Street  
St. Paul, MN 55101

### Department of Health Health Systems Division

#### Request for Proposals for Rules Consultant

The Minnesota Department of Health is authorized and instructed by Laws of 1979, ch. 316, to promulgate as rules standards for the operation of various types of life support transportation services. To fulfill this obligation, the department wishes to contract with an individual or firm capable of performing the tasks entailed in drafting and promulgating these rules. Desired qualifications of potential responders are: formal legal training, educational or professional background in public health, and demonstrated experience in projects similar to the proposed activity.

Minimum tasks for the proposed contract include: researching appropriate literature, including records of pertinent legislative hearings in Minnesota, and developing a basic outline of the proposed rules along with generic justifications as appropriate; working with an ad hoc technical advisory group; preparing various drafts of rules and all justifications for departmental, legislative, and legal reviews and redrafting as necessary; arranging for and attending required public hearings; revising and preparing a final version of the rules and other required reports and documents for approval and execution; and preparing a draft summary of the final rules for publication as a technical assistance document for potential and current licensees and the interested public. Ch. 316 requires that these rules be promulgated by April 1, 1980.

Interested persons may call or write Daniel J. McNerney, Assistant Director, Health Systems Division, Minnesota Department of Health (phone 612/296-5511). Candidates must respond in the form of proposal as required by the Department of Administration. Maximum reimbursement for a total of 600 to 1,000 hours of assistance will be \$15,000, which includes all expenses. Reimbursement will be based on timely delivery of acceptable products. The deadline for proposals is 4:00 p.m., July 6, 1979.

### Department of Health Personal Health Services Division Maternal and Child Health Section Comprehensive Child Health Screening Unit

#### Notice of Availability of Contract

Minnesota Department of Health is contracting with Pediatric Nurse Associates to provide: (1) technical consultation evaluation to each Early and Periodic Screening and Preschool Screening program, and (2) to teach seminars for local nurses who will be screening children under the auspices of the Early and Periodic Screening and the Preschool Screening program.

Requirements: Pediatric Nurse Associates with teaching experience and knowledge of public health nursing will be considered.

Interested persons may apply by submitting a written resumé to Comprehensive Child Health Screening, Minnesota Department of Health, 717 S.E. Delaware Street, Minneapolis, MN 55440.

June 20, 1979

### Higher Education Coordinating Board

#### Notice of Request for Proposals for Auditing Services for the State Student Loan Program

Notice is hereby given that the Minnesota Higher Education Coordinating Board intends to engage the services of a certified public accounting firm to examine and report upon the financial statements of the State Student Loan Program for the fiscal year ending June 30, 1979. The audit must comply with generally accepted auditing standards which encompass the AICPA's industry's audit guide, "Audits of State and Local Governmental Units."

Those interested in receiving requests for proposals should contact:

## STATE CONTRACTS

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

Proposals will be accepted until 4:00 p.m., July 23, 1979.

### **Notice of Request for Proposals for Graphic Arts Illustration and Design**

Notice is hereby given that the Minnesota Higher Education Coordinating Board intends to engage the services of a technical consultant to prepare graphic arts materials on a project by project basis throughout the fiscal year. Proposals, including hourly rate schedules, must be submitted no later than July 11, 1979. Estimated amount of the contract is \$5,000.

Direct inquiries to:

Higher Education Coordinating Board  
Communications Office  
400 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-9684

### **Department of Personnel Employee Benefits Division**

#### **Notice of Request for Proposals for Health Testing Services for State of Minnesota Employee Group**

The Department of Personnel, Employee Benefits Division, needs services effective August 1, 1979, continuing through June 30, 1981, for the purpose of conducting an approved annual health evaluation and screening program for each eligible employee who elects to participate and who elects health insurance coverage under Blue Cross/Blue Shield of Minnesota.

The consultant will work with the Manager, Employee Benefits Division.

The estimated contract is about \$1,216,000.00 per year. This is based upon a fee of \$64.00 per eligible employee per fiscal year multiplied by the approximate number of employees who participated in the most recent year for which data is available.

Direct inquiries to Mr. Clements Oliver, Employee Benefits Division, 3rd floor, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Telephone (612) 296-2796. Proposals must be submitted on or before July 16, 1979.

### **Department of Public Welfare Mental Health Bureau**

#### **Notice of Request for Proposals Concerning Updating of the Fixed Asset Inventory Records of the State Hospitals/Nursing Homes for the Fiscal Year Ending June 30, 1979**

Notice is hereby given that in accordance with requirements contained in the U.S. Department of Health, Education, and Welfare Provider Reimbursement Manual of Depreciation, the Minnesota Department of Public Welfare is requesting proposals for updating of the fixed asset inventory records of the nine state hospitals and the two state nursing homes for the fiscal year ending June 30, 1979.

Responders, interested in obtaining additional information regarding the specific scope of the project, should contact:

Harvey G. Caldwell  
Assistant Commissioner  
Mental Health Bureau  
Department of Public Welfare  
4th Floor, Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
Telephone: (612) 296-2791

All proposals must be received by 3:30 p.m., July 23, 1979. This proposed contract is not to exceed \$10,500.

# OFFICIAL NOTICES

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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.

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## Department of Agriculture Marketing Services Division

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Establishment of a Logo for Use in Identifying Minnesota Grown, Processed, or Manufactured Foods

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed rules governing the establishment of a logo for use in identifying food grown, processed, or manufactured in Minnesota. Authority to promulgate such rules is found in Laws of 1979, ch. 36 (Minn. Stat. § 17.102).

In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing.

Written statements of information and comment may be addressed to:

M. C. Combs, Director  
Marketing Services Division  
540 State Office Building  
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2847, and in person at the above address.

All statements of information and comment must be received by 4:30 p.m., August 9, 1979. Any written material received by the department shall become part of the hearing record.

The proposed rules, if adopted, would establish criteria for the use of a Minnesota food logo.

June 25, 1979

Mark W. Seetin  
Commissioner

## Department of Education Vocational-Technical Education Division

### Notice of Intent to Solicit Outside Opinion Regarding Rules for Vocational Instructors and Administrators Licensure and Changes in the Post-Secondary Vocational Rules

The Department of Education, Division of Vocational-Technical Education, is drafting rules to implement Laws of 1978, ch. 764, § 77, which permits the State Board of Education to promulgate rules regarding licensure for vocational instructors and administrators.

The Department will also be drafting changes in the Post-Secondary Vocational Education Rules (Chapter Six, §§ 1.0100-1.0109), to comply with the following changes:

Laws of 1978, ch. 764, §§ 9, 10, 14, 64, 65, 66, 108, 130, 131, 132, 133, 134 and Laws of 1978, ch. 792, §§ 8, 24, 25, 26, 27 and 28.

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, Minnesota 55101.

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

**Department of Health**

**Notice of Intent to Promulgate  
Rules Governing the Operations  
of Life Support Transportation  
Services**

The Minnesota Department of Health, under the authority and requirements of Laws of 1979, ch. 316, §§ 144.801 to 144.8091, intends to draft and promulgate as rules standards for the operation of the following types of life support transportation services:

- (a) basic life support transportation services;
- (b) advanced life support transportation services;
- (c) scheduled life support transportation services;
- (d) life support transportation services provided by an employer for the benefit of its employees, and
- (e) life support transportation services operated by a non-profit entity and limited exclusively to providing service by contract for specific events and meetings.

These rules will include definitions, standards and procedures pertaining to the establishment of primary service areas for licensees, the authorization of training certificates, and the establishment of a State emergency medical communications plan.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of these should address their comments (either written or oral) to the Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, by writing or calling the person designated. Evidence submitted for consideration should be pertinent to the matter at hand. Written material received by the Department of Health will become part of the hearing record.

Contact: Daniel McInerney, J.D. (612) 296-5511.

**Department of Health  
Hospital Rate Review  
Program**

**Notice of Intent to Solicit Outside  
Opinion Concerning a Proposed  
Rule Relating to Hospitals and  
Providing for Exemption from  
Rate Review for Certain  
Hospitals**

Notice is hereby given that the Minnesota Department of Health is considering adoption of a rule which would:

1. Establish an acceptable increase in hospital gross acute care charges (all hospitals whose projected increases in gross acute care charges fall under the acceptable increase established by the Commissioner of Health would be exempt from the rate review process for that year);
2. establish the elements to be included in the abbreviated projected operating statement which must be filed by exempt hospitals; and
3. other technical aspects of Minn. Stat. § 144.7021.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comment should be addressed to:

Mr. Fredric L. Sattler, Director  
Hospital Rate Review Program  
Minnesota Department of Health  
717 S.E. Delaware Street  
Minneapolis, Minnesota 55440  
(612) 296-5572

All statements of information and comment must be received by July 31, 1979. Any written material received by this date will become part of the record of any hearing held on this subject.

June 11, 1979

Fredric L. Sattler, Director  
Hospital Rate Review Program

# Commissioner of Health Environmental Health Division

## Notice to Water Well Contractors

Notice is hereby given that by virtue of a recent enactment by the Legislature (Laws of 1979, ch. 312) plastic pipe may be used for casing water wells in 32 new counties. Prior to this enactment, the Legislature had authorized the use of plastic well casing in 18 southwestern counties (Laws of 1977, ch. 398). The commissioner's rule relating to installation of plastic well casing (7 MCAR § 1.224, formerly MHD 224) will henceforth apply to and be enforced in all of the following counties:

Aitkin	Kandiyohi	Pipestone
Becker	Kittson	Polk
Beltrami	Lac Qui Parle	Pope
Benton	Lake of the Woods	Red Lake
Big Stone	Lincoln	Renville
Cass	Lyon	Rock
Chippewa	Mahnomen	Roseau
Clay	Marshall	Sherburne
Clearwater	Martin	Stearns
Cottonwood	Meeker	Swift
Crow Wing	Mille Lacs	Stevens
Douglas	Morrison	Todd
Grant	Murray	Traverse
Hubbard	Nobles	Wadena
Isanti	Norman	Wilkin
Itasca	Otter Tail	Yellow Medicine
Jackson	Pennington	

Plastic casing is not permitted for use in water wells in the following counties:

Anoka	McLeod
Blue Earth	Mower
Brown	Nicollet
Carlton	Olmsted
Carver	Pine
Chisago	Ramsey
Cook	Redwood
Dakota	Rice
Dodge	St. Louis
Faribault	Scott
Fillmore	Sibley
Freeborn	Steele
Goodhue	Wabasha
Hennepin	Waseca
Houston	Washington
Kanabec	Watsonwan
Koochiching	Winona
Lake	Wright
LeSueur	

George R. Pettersen, M.D.  
Commissioner of Health

# 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 advance by contacting the Council's public hearing coordinator at (612) 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: (612) 291-6464.

Charles Weaver  
Chairman

## Prospect Park Health Center Notice of Public Hearing

The Metropolitan Health Board will hold a Certificate of Need/Federal 1122 Public Hearing on Wednesday, June 13, 1979, rescheduled from May 23, 1979, at 6:15 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, St. Paul, Minnesota 55101, for Prospect Park Health Center, 22-27th Ave. S.E., Minneapolis, Minnesota 55414 to remodel the existing facility at an estimated cost of \$1,459,000. For further information, contact the Metropolitan Health Board at the above address or telephone 291-6352.

Coral Houle, Chairperson  
Metropolitan Health Board



**Department of Public  
Welfare  
Mental Health Bureau**

**Notice of Intent to Solicit Outside  
Opinion Regarding the Draft  
Rules Governing the Licensing of  
Developmental Achievement  
Centers and the Licensing of  
Semi-Independent Living  
Services to People Who Are  
Mentally Retarded**

Notice is hereby given by the Minnesota Department of Public Welfare, Mental Health Bureau, has begun consideration of 1) a proposed rule 38 (12 MCAR § 2.038) governing the licensing of Developmental Achievement Centers and services for persons who are mentally retarded and/or cerebral palsied and 2) a proposed rule 18 (12 MCAR § 2.018) governing the licensing of semi-independent living services to people who are mentally retarded.

In order to determine the reasonableness and completeness of the draft rules, the Department of Public Welfare hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rule.

All interested or affected persons or groups are requested to participate. Statements of information and comment should be made in writing.

Written statements of information and comment may be addressed to:

Ardo Wrobel, Director  
Mental Retardation Division  
Department of Public Welfare  
Centennial Office Building  
St. Paul, Minnesota 55155

The draft rule 38 (12 MCAR § 2.038) if adopted, would supersede DPW Rule 3 (12 MCAR § 2.003) (1968 edition).

All statements of information and comment must be received by August 10, 1979. Any written material received by the Department shall become part of the hearing record.

**Department of  
Transportation**

**Notice of Application and  
Opportunity for Hearing  
Regarding Petition to Abandon  
and Remove Certain Trackage  
Serving Geo. A. Hormel & Co.,  
Austin, MN**

Notice is hereby given that Chicago, Milwaukee, St. Paul and Pacific Railroad Company with offices at 900 First National Bank Building, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, Subd. 3 (10) to abandon and remove certain trackage serving Geo. A. Hormel & Co., Austin, Minnesota.

The petition recites among other matters: "That Geo. A. Hormel & Co. has advised the petitioner (Chicago, Milwaukee, St. Paul and Pacific Railroad Company) of its intentions to begin construction of a new Plant in August, 1979, and has requested the removal of all trackage not needed by said Plant, . . . (trackage to be removed by August 1, 1979 and trackage to be removed) at a date later than August 1, 1979.

That the trackage which petitioner (Chicago, Milwaukee, St. Paul and Pacific Railroad Company) seeks authority to remove serves no shipper other than Geo. A. Hormel & Co., and its removal will, therefore, not harm any other shipper and will benefit said Hormel & Co. The continued maintenance and operation of said trackage is no longer needed and its removal is necessary for future expansion and development of Hormel & Co.'s Plant at Austin, Minnesota."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before July 23, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

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

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition

## OFFICIAL NOTICES

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to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

June 25, 1979

Richard P. Braun  
Commissioner

## Office of the Secretary of State Election and Legislative Manual Division

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

Pursuant to Minn. Stat. § 15.0597, subd. 4, notice is hereby given to the public that vacancies have occurred in a multi-member state agency. Application forms may be obtained at the office of the Secretary of State, 180 State Office Bldg., St. Paul, 55155; (612) 296-2805. Application deadline is Tuesday, July 17, 1979.

**Minnesota Commission on Uniform State Laws:** Three vacancies open immediately for terms expiring June 1, 1981. Commissioners must be learned in the law. The commission represents the state in the National Conference of Commissioners on Uniform State Laws, which considers and drafts uniform acts for submission to state legislatures. The governor, the attorney general, and the chief justice of the Supreme Court are the appointing authorities. There is an annual national meeting lasting one week. Members are compensated for expenses in attending this meeting. For specific information, contact Carl Norberg, 27 Capitol, St. Paul, 55155; (612) 296-4841.

# SUPREME COURT

## Decisions Filed Friday, June 22, 1979

**48512/414 Kathleen Sharpe O'Rourke, Widow of Leo Francis O'Rourke, Deceased, vs. North Star Chemicals, Inc., et al, Relators. Workers Compensation Court of Appeals.**

Though the evidence compels the inference that employee's fall was caused by a condition not having any relation to his employment whether the fall caused death due to suffocation and inability to obtain prompt resuscitative measures as result of his employment conditions, and therefore whether death arose out of his employment, is a question of fact on which the finding of the court of appeals must be affirmed.

Affirmed. Sheran, C. J. Dissenting, Otis, J.

**49467/288 In the Matter of the Welfare of Scott Burns. Hennepin County.**

A person generally does not have a right to forcibly resist a search, lawful or unlawful, by a known police officer.

Affirmed. Kelly, J.

**48746/149 Duluth Lumber and Plywood Company vs. Delta Development, Inc., Fond du Lac Housing Authority, Appellant. Carlton County.**

Minnesota state courts have jurisdiction over an action against an Indian housing authority when the basis of the suit is a commercial transaction which is not confined to the Indian Reservation and when the governing body of the tribe waives sovereign immunity by enacting a "sue and be sued" ordinance.

Under the facts of this case, materialmen were among the class of persons intended to be benefited by a contract which provided that the Housing Authority not make final payment to the contractor until it received evidence that materialmen had been paid.

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

**49300/212 Auto Owners Insurance Company, Appellant, vs. Northstar Mutual Insurance Company, Bradley Rice, et al, Colleen Zimny, et al. Douglas County.**

When two insurance policies cover a boat accident and contain conflicting excess insurance clauses, the determination of primary and secondary coverage is based on the closeness of each coverage to the accident risk.

The coverage under a boat owner's general liability policy is closer than the coverage under a boat operator's homeowner policy to the risk of a boat accident under circumstances where (a) the boat owner's policy specifically described the accident-causing instrumentality, (b) the boat owner paid an additional \$8 premium for coverage on the boat, and (c) the boat owner's policy contemplated with greater specificity the risk of liability for personal injury.

Reversed. Todd, J.

**48377/26 State of Minnesota vs. Nathaniel Lee Burton. Hennepin County.**

In defendant's trial for robbery, it was reversible error to permit the state to introduce evidence of an alleged prior robbery by defendant of which he had been acquitted.

Reversed and new trial ordered. Kennedy, J. Took no part, Rogosheske, J.

**49067/217 State of Minnesota vs. Arlan Dwayne Anderson, Appellant. Anoka County.**

The trial court's determination not to admit certain testimony was correct because there was nothing about the statements nor the circumstances under which they were made which would guarantee their trustworthiness.

Affirmed. Per Curiam.

**48935/294 Harmon Seaver, individually, and as parent and natural guardian of Mela Renee Seaver and Gordon Joshua Seaver, petitioner, Appellant, vs. Independent School District #166 of Cook County, Minnesota, et al. Cook County.**

Appeal from an order denying a motion to hold respondent school district and its superintendent in contempt for violating a prior order of that court is dismissed as moot.

Appeal dismissed. Per Curiam.

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## ORDER FORM

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