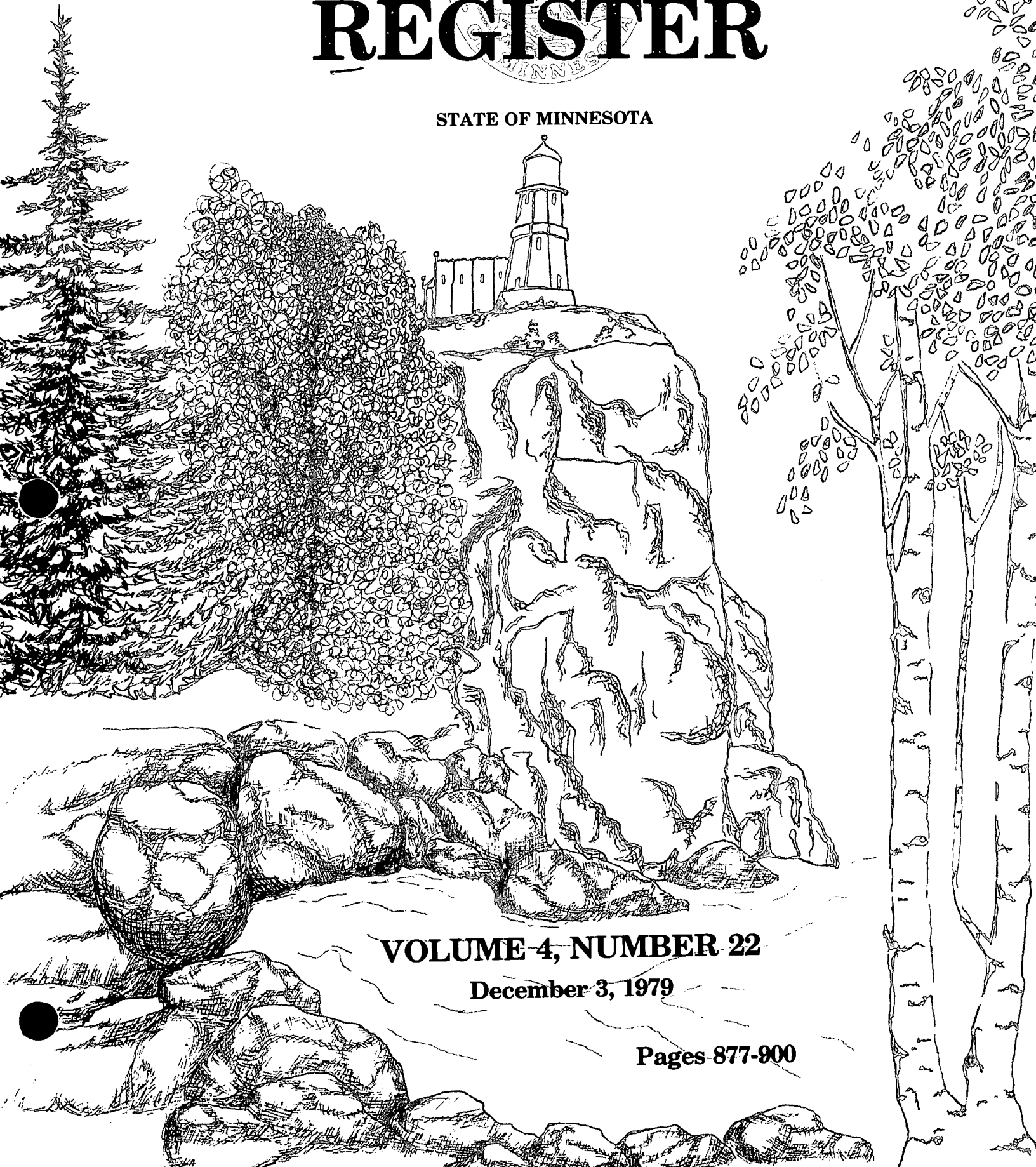


STATE REGISTER

STATE OF MINNESOTA



VOLUME 4, NUMBER 22

December 3, 1979

Pages 877-900



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
SCHEDULE FOR VOLUME 4			
23	Monday Nov 26	Monday Dec 3	Monday Dec 10
24	Monday Dec 3	Monday Dec 10	Monday Dec 17
25	Monday Dec 10	Monday Dec 17	Monday Dec 24
26	Monday Dec 17	Friday Dec 21	Monday Dec 31

*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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All adopted rules published in the *State Register* and listed below amend rules contained in the Minnesota Code of Agency Rules (MCAR). Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of all proposed and adopted rules on the following schedule: issues 1-13, inclusive; issues 14-25, inclusive; issue 26, cumulative for 1-26; issues 27-38, inclusive; issue 39, cumulative for 1-39; issues 40-51, inclusive; and issue 52, cumulative for 1-52. The listings are arranged in the same order as the table of contents of the MCAR.

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EXECUTIVE ORDERS

Executive Order No. 79-37

Providing for the Establishment of a Governor's Task Force on Strengthening Personnel Management in the Minnesota State Service

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

WHEREAS, management of the state's human resources through a progressive and efficient personnel management system is essential in order to provide the highest possible level of services to the citizens of the state; and,

WHEREAS, rapid and comprehensive changes in the type and delivery of personnel management services have brought new pressures and challenges to Minnesota's personnel management system; and,

WHEREAS, Laws of Minnesota, ch. 332 (1979) establishes a Legislative Committee on Employee Relations to monitor the state's civil service system in relation to the Public Employee Labor Relations Act (Chapter 179); and,

WHEREAS, Minnesota's personnel management system is currently receiving considerable attention and review by the Minnesota Legislature and interested groups; and,

WHEREAS, merit system principles which meet federal guidelines on civil service reform require identification and adoption into a model personnel law which will strengthen Minnesota's personnel management system;

NOW, THEREFORE, I order:

1. Creation of a Governor's Task Force on Personnel Management, consisting of 15 members representative of the community, business, labor, personnel, and management to conduct a study on personnel management in cooperation with the Commissioner of Personnel.

2. Establishment of a corps of knowledgeable career personnel and management professionals, representative of the federal and state executive branches, to assist the Task Force.

3. That the Task Force study and analyze Minnesota's personnel law as it applies to practices in examining and referral, total compensation, classification, work force size, turnover, training, affirmative action, labor relations, and general personnel management practices.

4. The Task Force to prepare a report on its findings and recommendations for the Governor and the Commissioner of Personnel by August 15, 1980.

5. The Task Force Chairman to make available a copy of its findings and recommendations to the Legislative Commission on Employee Relations.

6. That the Task Force work with the Commissioner of Personnel in developing its recommendations for improvement in Minnesota's personnel management system so that recommendations

EXECUTIVE ORDERS

accepted by the Commissioner can be incorporated into the Department of Personnel's policies and processes.

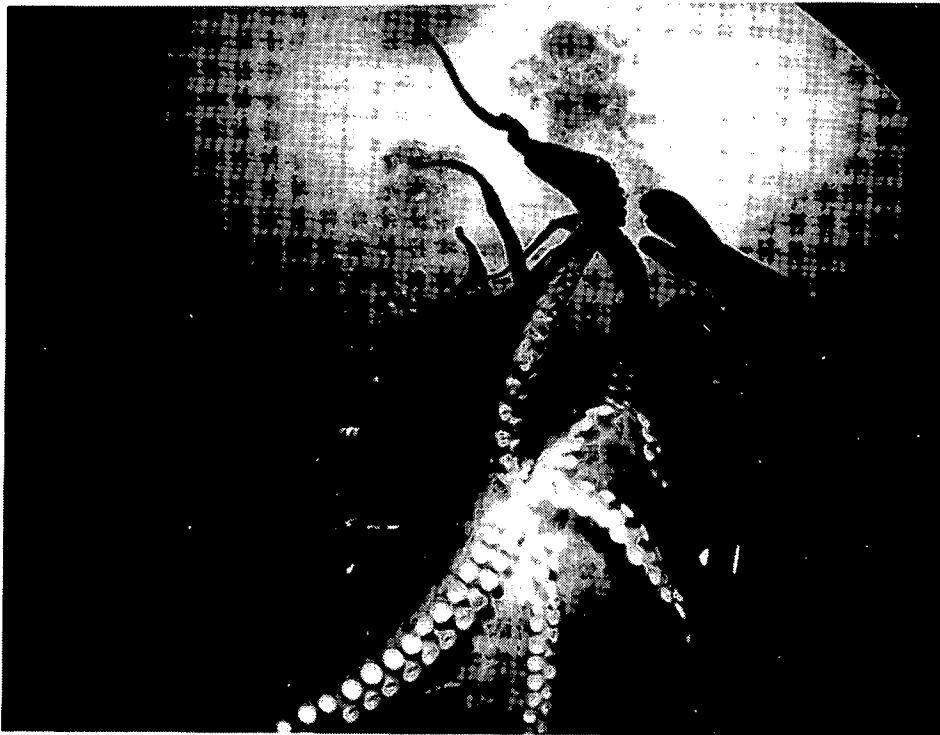
7. That the Task Force assist in development of a model personnel law by September 30, 1980, in accordance with the proposal for which federal Intergovernmental Personnel Act (IPA) grant monies have been provided.

8. That the Task Force will terminate on September 30, 1980.

Pursuant to Minn. Stat. § 4.035 (1978), this order shall be effective 15 days after filing with the Secretary of State and publication in the *State Register* and shall remain in effect until September 30, 1980, or until rescinded by proper authority or its expiration in accordance with Minn. Stat. § 4.035.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 20th day of November, 1979.

Albert H. Luie



OCEAN, the new film at the Science Museum of Minnesota's Omni-theater, includes this scene in which a giant octopus crawls over a diver. Also shown are "conversations" between killer whales, a beluga whale playing hide and seek with children, and results of scientific underwater research. The film is shown daily except Monday. Over 800,000 visitors have been to the Science Museum since the new building opened in September 1978. (Courtesy of Science Museum of Minnesota)

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 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 Labor and Industry Occupational Safety and Health Division

Adoption by Reference of Federal OSHA Standards

Pursuant to Minn. Stat. § 182.655 (1978), notice was duly published at *State Register*, Volume 4, Number 14, p. 562 (4 S.R. 562), dated October 8, 1979, specifying the establishment and modification of certain Occupational Safety and Health Standards, specifically as they relate to employee exposure to lead. No written comments or requests for hearing on objections have been received concerning the adoption of said standards.

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

Harry D. Peterson
Commissioner

Pollution Control Agency Adopted Rules for the Control of Pollution from Animal Feedlots

The rules proposed and published at *State Register*, Volume 3, Number 36, pp. 1716-1729, March 12, 1979 (3 S.R. 1716), are now adopted with the following amendments.

Rules as Adopted

MINNESOTA POLLUTION CONTROL AGENCY'S
Rules for the Control of Pollution from Animal Feedlots

Preamble

An adequate supply of healthy livestock, poultry, and other animals is essential to the well-being of Minnesota citizens

and the nation. These domesticated animals provide our daily source of meat, milk, eggs, and fiber. Their efficient, economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.

However, livestock, poultry, and other animals produce manure which may, when improperly stored, transported, or disposed, negatively affect Minnesota's environment. When animal manure adds to air, water, or land pollution in the State of Minnesota, it must be controlled.

The following rules for the control of livestock, poultry, and other animal ~~wastes~~ manures have been promulgated to provide protection against pollution caused by manure from domesticated animals. However, these rules recognize that animal manure often provides beneficial qualities to the soil and to the production of agricultural crops.

These rules provide for a cooperative program between counties and the Minnesota Pollution Control Agency (hereinafter Agency). County programs, in many instances, represent considerable experience and sensitivity to local agricultural practices and to successful soil and water conservation. Pollution control measures, where deemed necessary by the Agency, should be individually designed and developed to provide the site specific controls needed for the operation in question. Therefore, a joint county-state program is desirable because it will insure local involvement, minimal disruption to agricultural operations and protect the environment from further degradation.

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minn. Stat. chs. 115 and 116 (1978). Specifically, these rules are promulgated in accordance with Minn. Stat. § 116.07 (1978) and Minn. Stat. § 115.03 (1978). Finally, these rules shall have the force and effect of law and shall supersede and replace SW 51-55 (1971) and SW 56-61 (1974) upon filing with the Secretary of State twenty days after their publication in the *State Register*.

In repealing the old rules, controlling pollution from animal feedlots, specifically SW54 containing certain location requirements, the Agency will look to local units of government

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."

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to provide adequate land use planning for residential and agricultural areas. It has been the Agency's experience that residential and agricultural uses of land are often incompatible and that the best forum for resolving the conflicting use of land is at the local level. However, in promulgating these rules the Agency does not seek to abdicate its mandate to protect the purity of the natural resources of the State of Minnesota.

6 MCAR § 4.8051 Rules for the control of pollution from animal feedlots.

A. General applicability. The provisions of these rules govern the storage, transportation, disposal, and utilization of animal manure and the application for and issuance of permits and certificates of compliance for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment.

B. Definitions. All terms employed in these animal feedlot rules for which definitions are given in Minn. Stat. §§ 115.07 and 116.06 (1978) shall have the meaning ascribed to them therein. The terms specified below shall have the meanings ascribed to them:

1. "Agency." The Minnesota Pollution Control Agency as established in Minn. Stat. ch. 116 (1978).

2. "Animal feedlot." A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these rules.

3. "Animal manure." Poultry, livestock or other animal excreta or a mixture of excreta with feed, bedding or other materials.

4. "Animal unit." A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this rule, the following equivalents shall apply:

<u>Animal</u>	<u>Unit</u>
one mature dairy cow	1.4 animal unit
one slaughter steer or heifer	1.0 animal unit
one horse	1.0 animal unit
one swine over 55 pounds	.4 animal unit
one duck	.2 animal unit
one sheep	.1 animal unit
one swine under 55 pounds	.05 animal unit
one turkey	.018 animal unit
one chicken	.01 animal unit

For animals not listed above, the equivalent number of animal units shall be defined as the average weight of the animal divided by 1,000 lbs.

5. "Certification Certificate of Compliance." A letter from the Agency Director or the county feedlot pollution

control officer to the owner of an animal feedlot stating that the feedlot meets Agency requirements.

6. "Change in operation." An increase ~~in~~ beyond the permitted maximum number of animal units which can be confined at the site, an increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a construction investment, or a change in the construction or operation of an animal feedlot that would affect the storage, handling, utilization, or disposal of animal manure.

7. "Corrective or protective measures." A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal ~~facility~~ feedlot to a level in conformity with Agency rules.

8. "County feedlot pollution control officer." A county employee or officer who is knowledgeable in agriculture and who is designated by the county board to receive and process animal feedlot permit applications.

9. "Director." The Executive Director of the Minnesota Pollution Control Agency whose duties are defined in Minn. Stat. § 116.03 (1978).

10. "Domestic fertilizer."

a. Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth, or

b. Animal manure that is used as compost, soil conditioners, or specialized plant beds.

11. "~~Flood Plain.~~" "Floodplain." The areas adjoining a watercourse which have been or hereafter may be covered by a large flood known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

12. "Interim Permit." A permit issued by the ~~Executive Director of the Agency~~ or the county feedlot pollution control officer which expires no longer than ~~six~~ ten months from the date of issue.

13. "Manure storage area." An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these regulations.

14. "New animal feedlot." An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where ~~an~~ a pre-existing animal feedlot has been abandoned or unused for a period of five years or more.

15. "National Pollutant Discharge Elimination System (NPDES) Permit." A permit issued by the Agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

16. "Owner." All persons having possession, control, or title to ~~one or more~~ one or more animal feedlots.

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17. "Pastures." Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

18. "Permit." A document issued by the Agency, at no charge to the applicant, which contains requirements, conditions and compliance schedules relating to the discharge of animal manure pollutants.

19. "Potential pollution hazard." A condition which indicates a potential for pollution of the land or waters of the state including:

a. An animal feedlot or manure storage area whose boundaries are located within ~~designated~~ shoreland or ~~flood plain~~ floodplain, or are located in an area draining directly to either a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock, or are located within 100 feet of a water well, or

b. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the state in excess of applicable standards (including, but not limited, to WPC 14, 15, 24, and 25) during a rainstorm event of less magnitude than the 25 year — 24 hour event, or will allow uncontrolled seepage of pollutants into the ground water, or will violate any applicable state rules ~~and~~ regulations.

20. "Shoreland." Land located within the following distances from the ordinary high water elevation of public waters:

a. Land within 1,000 feet from the normal high watermark of a lake, pond or flowage, and

b. Land within 300 feet of a river or stream or the landward side of ~~flood plain~~ floodplain delineated by ordinance on such a river or stream, whichever is greater.

21. "Sinkhole." A surface depression which is connected to a cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

C. Animal feedlot pollution control requirements.

1. No animal feedlot or manure storage area shall be constructed, located ~~and~~ or operated so as to create or maintain a potential pollution hazard unless a certificate of compliance or an Agency permit has been issued.

2. All vehicles used to transport animal manure on county, state and interstate highways or through municipalities shall be leakproof. Manure spreaders with endgates shall be in compliance with this provision provided the endgate works effectively to restrict leakage and the manure spreader is leakproof. This shall not apply to animal manure being

hauled to fields adjacent to feedlot operations or fields divided by roadways provided the animal manure is for use as domestic fertilizer.

3. Animal manures, when utilized as domestic fertilizer, shall not be stored for longer than one year and shall be applied at rates not exceeding local agricultural crop nutrient requirements except where allowed by permit. Local agricultural crop nutrient requirements can be obtained at local Soil Conservation Service Offices or local Agricultural Extension Service Offices.

4. Any animal manure not utilized as domestic fertilizer shall be treated or disposed of in accordance with applicable state rules and regulations.

5. The owner of any animal feedlot shall be responsible for the storage, transportation and disposal of all animal manure generated in a manner consistent with the provisions herein.

D. Animal feedlot permitting procedure.

1. Animal feedlot permit application requirements.

a. The owner of a proposed or existing animal ~~facility~~ feedlot for greater than 10 animal units shall ~~be required to make application to the Director for a permit when any of the following conditions exist:~~

(1) A new animal feedlot is proposed; or

(2) A change in operation of an existing animal feedlot is proposed; or

(3) Ownership of an existing animal feedlot is changed; or

(4) ~~An inspection by the Agency staff or a county feedlot pollution control officer determines that an existing animal feedlot creates or maintains a potential pollution hazard; or~~

(4) ~~(5)~~ A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules and regulations.

b. The owner of any animal feedlot shall be required to make an application for a permit when an inspection by the Agency staff or a county feedlot pollution control officer determines that the animal feedlot creates or maintains a potential pollution hazard.

c. ~~b.~~ The permit application shall include the following items:

(1) A completed permit application form, listing all owners and signed by ~~the~~ at least one of the owners, ~~which includes including~~ animal types, the maximum number of animals of each type which can be confined at the animal

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feedlot, the location of ~~facilities~~ the animal feedlot, soil conditions, and hydrogeological conditions.

(2) A map or aerial photograph showing the location of all wells, buildings, lakes, and watercourses within 1,000 feet of the proposed feedlot.

(3) A manure management plan including manure handling and application techniques, acreage available for manure application and plans for any proposed manure storage structure. Any plans for manure storage structures of 500,000 gallons capacity or larger shall have been prepared or approved by a registered professional engineer or a qualified governmental employee ~~soil conservation service employee~~.

(4) Such additional information relating to the specific site or the specific feedlot operation as may be requested by the Director to evaluate compliance with federal and state rules and regulations.

d. When more than one person is in possession, control or has title to a single animal feedlot, only one person needs to apply for an animal feedlot permit; however, the permit application must list all owners in accordance with 6 MCAR § 4.8051 D.1.c.(1). All owners are responsible for compliance with these rules and permits or certificates of compliance issued pursuant to these rules.

2. The animal feedlot permit application shall be reviewed by the county feedlot pollution control officer or by the Director if a county permit processing program has not been implemented in the county where the animal feedlot will be located.

a. No permit shall be required when the review of the application indicates that all animal manures are being used as domestic fertilizer and that a potential pollution hazard does not exist or that potential pollution hazards have been satisfactorily addressed by corrective or protective measures. However, a certificate of compliance shall be obtained by the owner of such a ~~facility~~ an animal feedlot prior to commencing operation of the new feedlot ~~or~~, changing the operation of an existing feedlot or changing ownership of an existing feedlot.

b. The Agency shall consider the issuance of a permit when the review indicates that a potential pollution hazard exists and has not been addressed by corrective or protective measures or when manure is not being used as a domestic fertilizer.

(1) An interim permit shall be issued by the Director when the potential pollution hazard will be corrected within ~~six~~ ten months of the date of ~~application~~ permit issuance. When all necessary corrective and protective measures have been installed on a permitted animal feedlot, ~~the Director shall terminate the permit~~ the permit shall terminate and shall issue a certification certificate of compliance shall be issued.

(2) An animal feedlot permit may be issued by the Agency when the potential pollution hazard will not be corrected within ~~six~~ ten months of the date of ~~application~~

permit issuance or when manure is not used as a domestic fertilizer. This permit shall contain such conditions and requirements as the Agency deems necessary in order to insure compliance with applicable state rules and regulations.

(3) If it is determined during the review process that an animal feedlot must obtain a National Pollutant Discharge Elimination System (NPDES) permit, the applicant shall be notified and a permit shall be processed and issued as prescribed in WPC 36 (1974).

E. Existing permits for the construction and operation of livestock feedlots, poultry feedlots and other animal lots. The conditions and provisions of all Agency animal feedlot permits issued under SW 51-61 before the effective date of these rules shall continue to be in effect. Upon application for a change in operation or change of ownership of an existing, permitted animal feedlot, the permit shall be reconsidered pursuant to these rules.

F. Procedural rules and appeals. All requests for hearings, appeals and other procedural matters not specifically provided for herein shall be governed by the Agency Rules of Procedure, the rules of the Office of Hearing Examiners and other applicable ~~laws~~ statutes and rules.

G. Severability. If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of this rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections and subdivisions herein and the various applications thereof are declared to be severable.

H. Variance from rules. Any person may apply for a variance from any requirements of this rule. Such variances shall be applied for and acted upon by the Agency in accordance with Minn. Stat. § 116.07, subd. 5 (1978) and other applicable statutes and rules.

6 MCAR § 4.8052 Rules for the processing of animal feedlot permit applications by counties.

A. General applicability. Any Minnesota county board may, by resolution, assume responsibility for processing applications for animal feedlot permits as authorized by Minn. Stat. § 116.07, subd. 7 (1978). The provisions of these rules shall govern the exercise of approval and supervising authority by the Agency with respect to the processing of animal feedlot permit applications by a county.

B. County processing procedure for animal feedlot permit applications.

1. Any Minnesota county board desiring to assume responsibility for processing animal feedlot permit applications shall:

a. Submit to the Director a resolution duly adopted by the county board requesting permission to process animal feedlot permit applications in the county. Such resolution

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shall be accompanied by a statement describing the permit application processing procedure to be used by the county.

b. Receive written approval from the Agency authorizing the processing of animal feedlot permit applications within the county.

c. Designate a county feedlot pollution control officer as having the primary responsibility for the animal feedlot permit program and charge him with the following duties:

(1) ~~Distribution of~~ Distribute permit application forms made available by the Director to those required to make application for the permit.

(2) Provide, where requested, assistance to applicants to insure that application forms are properly completed.

(3) Receive and review completed application forms and conduct such inspections as necessary to determine if the proposed animal ~~facility~~ feedlot will comply with applicable state rules and regulations and applicable local ordinances.

(4) Maintain a record of all correspondence and material relating to animal feedlot applications, ~~certifications~~ certificates of compliance, and interim permits issued by the county ~~board~~.

2. The processing of applications for animal feedlot permits by a county board, as defined in Minn. Stat. § 116.07, subd. 7(a), (b), and (c) (1978), shall be accomplished according to the following procedure:

a. For animal feedlots with less than 1,000 animal units where manure is used as a domestic fertilizer and with no potential pollution hazard, the county feedlot pollution control officer shall ~~certify~~ provide a certificate of compliance to the Agency and the applicant stating that the animal feedlots comply with all aspects of 6 MCAR § 4.8051 and that no animal feedlot permit is required.

b. For animal feedlots of less than 300 animal units where manure is used as a domestic fertilizer and where all potential pollution hazards have been mitigated by protective or corrective measures the county feedlot pollution control officer shall ~~certify~~ provide a certificate of compliance to the Agency and to the applicant stating that the animal feedlots comply with 6 MCAR § 4.8051 and that no animal feedlot permit is required.

c. The county feedlot pollution control officer shall forward to the Director, with recommendations and comments, all animal feedlot permit applications which fall within the following categories:

(1) Animal feedlots of 1,000 animal units or more; or

(2) Animal feedlots of more than 300 animal units where a potential pollution hazard has been mitigated through corrective or protective measures; or

(3) Animal feedlots with a potential pollution hazard which has not been mitigated by corrective or protective measures; or

(4) Animal feedlots where manure is not used as domestic fertilizer; or

(5) Animal feedlots for which further technical review is desired by the county feedlot pollution control officer.

3. Any county board which has assumed responsibility for processing feedlot permit applications in accordance with 6 MCAR § 4.8052 B.1. may issue, deny, modify, impose conditions upon or revoke interim permits for animal feedlots smaller than 300 animal units where animal manure is used as a domestic fertilizer and with a potential pollution hazard which will be mitigated by corrective or protective measures within ~~six~~ ten months of the date of the issuance of the interim animal feedlot permit application.

These permits shall be issued, denied, modified, have conditions imposed upon them or revoked in conformance with the following requirements:

a. In order for the county to issue an interim permit:

(1) The Director must receive written notification of the intention of the county to issue an interim permit. Such notification must include the completed permit application, a copy of the draft interim permit proposed for issuance by the county and documentation concerning the potential pollution hazard and the corrective or protective measures to be taken by the owner;

(2) The Director shall, after receipt of written notification of intent to issue an interim permit, review the draft interim permit within 15 days to determine compliance with applicable Agency rules and shall approve, suspend, modify, or reverse the issuance of the interim permit. If the Director approves issuance of the interim permit, the interim permit and a certificate for display shall be returned to the county for issuance to the operator. If the Director suspends, modifies or reverses the issuance of the interim permit, the applicant retains all rights of appeal set out in 6 MCAR § 4.8052 C. If the Director fails to act within 15 days after receipt of the draft interim permit from the county, the county may proceed to issue the interim permit.

b. In order for a county to modify or impose conditions upon a interim permit the county shall notify the Director in writing of its intention to modify or impose conditions upon an interim animal feedlot permit. Such notification must

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RULES

include a copy of the interim permit together with the intended modifications and conditions. The Director shall determine compliance with the provisions of applicable Agency rules and shall either approve, suspend, further modify or reverse the recommended modification or conditions within 15 days of receipt of the aforementioned notice of intent. The county shall be notified of said Agency action. The applicant retains all rights of appeal set out in 6 MCAR § 4.8052 C. ~~If the Director fails to act within 15 days after the receipt of the draft interim permit from the county, the county may proceed to issue the interim permit.~~

~~(3) If the county has issued an interim permit, the county feedlot pollution control officer shall terminate the permit and issue a certificate of compliance when all necessary corrective and protective measures have been installed.~~

c. In order for a county to revoke an interim permit a copy of the interim permit together with a written justification for revocation must be submitted to the Director for review. The Director shall, after receipt of the justification for revocation by the county, review the matter within 15 days to determine compliance with the provisions of applicable Agency rules. The county must receive written approval of the interim permit revocation from the Agency prior to taking action. Where a revocation has been approved by the Agency, the applicant must be informed in writing by the county of the reasons for revocation and the applicant shall retain all rights of appeal set out in 6 MCAR § 4.8052 C.

d. In the case of a denial of an interim permit application by the county board, the applicant shall be informed by the county in writing of the reasons for denial and shall be informed of applicable appeal procedures. The applicant shall retain all rights of fundamental fairness afforded by law and the applicant may make an appeal to the Agency to review the county's action. Such a denial by a county shall be without prejudice to the applicant's right to an appearance before the Agency to request a public hearing or to file a further application after revisions are made to meet objections specified as reasons for denial. The Agency shall approve, suspend, modify or reverse the denial of an interim permit if the matter has been appealed to the Agency.

DARK BROWN in summer to match the deep shadows of northern thickets, the snowshoe hare turns as white as snow with the coming of winter. The snowshoe is so named because its large, well-furred feet enable it to run on soft snow without sinking. Snowshoes eat vegetation in summer, and twigs, buds, and bark in winter. They have been known to nibble on the frozen carcasses of other animals. Snowshoes become alternately numerous and scarce every few years, a fact which may be related to the population cycles of the lynx and other predators. (Drawing by Dan Metz, courtesy of the Department of Natural Resources)

4. If the county has issued an interim permit, the county feedlot pollution control officer shall terminate the permit and issue a certificate of compliance when all necessary corrective and protective measures have been installed.

5. 4. The Director shall review within 15 days all animal feedlot permit applications forwarded by the county and shall notify the county of the status of the review and of any intended action with respect to all properly completed animal feedlot permit applications.

6. 5. A county no longer wishing to continue in the application review process shall submit a resolution stating its reasons for withdrawal and the effective date of withdrawal to the Director.

7. 6. If the Agency finds that a county program is not meeting the requirements of these rules, the Agency may, after giving the county written notice and an opportunity to respond, revoke its approval of the county's application review authority.

C. Procedural rules and appeals. All requests for hearings, appeals and other procedural matters not specifically provided for herein shall be governed by the Agency Rules of Procedure, the rules of the Office of Hearing Examiners and other applicable laws statutes and rules.

D. Severability. If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of this rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections and subdivisions herein and the various applications thereof are declared to be severable.

E. Variance from rules. Any person may apply for a variance from any requirements of this rule. Such variances shall be applied for and acted upon by the Agency in accordance with Minn. Stat. § 116.07, subd. 5 (1978) and other applicable statutes and rules.



Snowshoe Hare

PROPOSED RULES

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

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

Public Hearings on Agency Rules December 3-19, 1979

Date	Agency and Rule Matter	Time & Place
Dec. 11	Public Welfare Payment for Abortion Services Under the Medical Assistance Program Hearing Examiner: Natalie L. Gaul	9:00 a.m., State Office Bldg., Rm. 81, Wabasha Street, St. Paul, MN
Dec. 12	Public Safety Certification of Motor Vehicle Insurance Hearing Examiner: Jon L. Lunde	1:00 p.m., Transportation Bldg. Rm. B9, John Ireland Blvd., St. Paul, MN
Dec. 13	Public Welfare Foster Care for Children and Child Protective Services Rule Hearing Examiner: George Beck	9:00 a.m., Centennial Office Bldg., Rm. A, Fourth Floor, 658 Cedar St., St. Paul, MN
Dec. 17	Revenue Dept. Income Tax Energy Credit Hearing Examiner: Jon L. Lunde	9:00 a.m., State Office Bldg., Rm. 83, 435 Park St., St. Paul, MN

Department of Agriculture Shade Tree Program

Proposed Amendments to the Existing Permanent Rules Governing Sanitation and Reforestation Grants and Wood Utilization, and Disposal System Grants (3 MCAR §§ 1.0112- 1.0113)

Notice of Hearing

Public hearings concerning the proposed rule will be held at the Regional Law Enforcement Center Building,

Basement Meeting Room, Front and Liberty Streets, Mankato, Minnesota, on January 10th, 1980, commencing at 10:00 a.m.; and also in the Administration Building, Room 116A, 50 Sherburne Avenue, Saint Paul, Minnesota, on January 11th, 1980, commencing at 9:00 a.m.; and also at the Stearns County Courthouse, Courthouse Square, St. Cloud, Minnesota, on January 11th, 1980, commencing at 3:00 p.m. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the Agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-5938, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period of time not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052; and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include all of the evidence which will be presented by the Department justifying both the need for and the reasonableness of the proposed rule. The Department intends to present only a summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The proposed rule would modify existing rules governing grants-in-aid to municipalities for sanitation and reforestation

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PROPOSED RULES

activities and wood utilization and disposal systems. The proposed rule, if adopted, would amend existing rules 3 MCAR §§ 1.0109 through 1.0113 to bring them into compliance with Minnesota Laws of 1979, ch. 257. Basically, the proposed rule would change the local share participation costs of the aforementioned grants, made to municipalities to conduct such program activities. The rule also changes the limits of assistance allowed for trees for reforestation purposes, modifies certain eligibility criteria, and makes other changes regarding the conditions of such grants.

The Department's authority to adopt the proposed rule is contained in Minnesota Laws of 1979, ch. 257.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Jane Meyer, Administrator, Shade Tree Program, Minnesota Department of Agriculture, 90 West Plato Boulevard, Saint Paul, Minnesota 55107, telephone (612) 296-8580. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule, contact Ms. Meyer.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, as amended by Laws of 1979, ch. 59, § 3, as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

November 16, 1979

Mark W. Seetin
Commissioner of Agriculture

Amendments as Proposed

3 MCAR § 1.0112 Grants-in-aid to municipalities for sanitation and reforestation program. The commissioner may, in the name of the state and within the limits of appropriations provided, make grants-in-aid to a municipality with an approved disease control program for the partial funding of municipal sanitation and reforestation programs. One grant shall be made for all eligible sanitation and reforestation costs.

A. Sanitation and reforestation grants.

1. ~~A.~~ Sanitation ~~grants~~. Grants to any municipality for sanitation shall not exceed ~~forty-five~~ fifty (45 50) percent of the municipality's total cost for sanitation approved by the commissioner. The total cost may include any amounts paid for sanitation by special assessments, ad valorem taxes, federal grants, or other funds. A municipality may assess to the abutting property not more than fifty (50) percent of the expense of treating with an approved method or removing diseased shade trees located on street terraces or boulevards to that abutting property.

Grants shall not be made to a municipality if the total cost of tree removal has been incurred solely by the individual property owner and the municipality has not reduced the cost of the property owner via direct subsidy or reduced special assessment. The only amount that may be included in the municipality's total cost for purposes of computing the above described reimbursement is the reduction of the cost to the property owner. Provision is made for municipalities with population of less than 1,000 pursuant to Minn. Stat. § 18.023, subd. 3c, as amended.

2. ~~B.~~ Reforestation ~~grants~~. Grants to any municipality for reforestation shall not exceed ~~either~~ fifty (50) percent of the cost to the municipality for reforestation; ~~or forty (40) dollars multiplied by the number of trees planted on public lands pursuant to the reforestation programs, whichever is less.~~ The grant for these trees shall not exceed fifty (50) dollars per tree.

~~1. Reforestation grants to a municipality shall be limited in any calendar year to grants for not more than the number of trees removed from public lands in the sanitation program in the previous calendar year except during the first year of an approved disease control program. During the first year of an approved disease control program, there shall be no restriction upon the number of trees for which grants may be made.~~

a. ~~2.~~ Reforestation grants to any county with an approved disease control program may include ninety (90) percent of the cost of planting the first fifty (50) trees on public lands in a town not defined as a municipality of less than 1,000 population, upon the town's application to the county and county's designation of the town as a disease control area. The grant for these fifty (50) trees shall not exceed sixty (60) dollars per tree.

PROPOSED RULES

b. ~~3-~~ Reforestation grants to towns and home rule charter or statutory cities with an approved disease control program which are defined as municipalities in the act and are less than ~~4,000~~ 4,000 in population may include ninety (90) percent of the cost of planting the first fifty (50) trees on public lands. The grant for these fifty (50) trees shall not exceed sixty (60) dollars.

c. Any municipality as defined in this act that receives a grant for reforestation shall appoint up to seven (7) residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the municipality in the administration of the reforestation program.

B. ~~C-~~ Program eligibility. Any municipality is eligible to receive sanitation and reforestation grants upon submitting to the commissioner by November 15 a completed program application form provided by the commissioner, and upon receiving notice of an approved disease control program designation. Extensions shall be granted for good cause shown.

1. The program application shall serve as the basis for approving the municipality's shade tree disease control program.

2. Approval shall be granted only upon the municipality's agreement to conduct its sanitation program in conformance with these rules and disease control practices designated by the commissioner upon the recommendation of the Shade Tree Advisory Committee.

3. Approval shall only be granted upon the municipality's agreement to conduct its reforestation program in a manner consistent with advice and counsel given the commissioner by the Minnesota Agricultural Extension Service.

4. Program approval may be revoked upon a determination by the commissioner that the municipality has failed to conduct its sanitation and reforestation program in conformance with the standards set forth in this rule. Such a determination or disapproval of a municipal program or control area may be appealed by the municipality and upon request, a hearing pursuant to Minn. Stat. ch. 15 shall be granted.

5. Sanitation and reforestation grants may be terminated upon municipality's failure to maintain an approved shade tree disease control program and upon evidence that proper record-keeping and documentation has not been maintained.

C. ~~D-~~ Program application. To receive a sanitation and reforestation grant, a municipality shall submit to the commissioner by November 15 a completed program application form provided by the commissioner.

1. A municipality's program application shall include, but not be limited to the following information:

a. An inventory of shade trees within the municipality's disease control area and an estimate of the distribution of these shade trees between public and private lands;

b. A complete description of the municipality's sanitation and reforestation programs which shall include:

(1) The method and schedule of diseased trees surveys;

(2) The extent of disease control tree trimming activities;

(3) The policies for removal of trees on public lands;

(4) The policies for removal of trees on private lands;

(5) The method and location of disposal tree wastes;

(6) The policies for planting new shade trees, including:

(a) The source of nursery stock, if known;

(b) Species planted;

(c) Type of stock planted;

(d) Distribution of species; and,

(e) Other relevant information;

(7) The methods of financing sanitation and reforestation programs, including:

(a) The use of funds derived from general tax levies;

(b) Special assessments;

(c) Federal funds;

(d) Other sources of funding; and,

(8) A complete description of the municipality's subsidy program, if any.

(9) The name or names of the person or persons or committee appointed by the municipality to advise the municipality in the administration of the reforestation program.

c. A statement of planned expenditures for the sanitation and reforestation program for the calendar year.

d. A copy of the local ordinances and resolutions authorizing the local shade tree program.

e. Other information deemed necessary and relevant by the commissioner.

2. ~~Grants for sanitation shall be forty-five (45) percent of the applicant's planned expenditures for sanitation, unless forty-five (45) percent of the total planned expendi-~~

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PROPOSED RULES

tures for all applicants exceeds the funds designated for sanitation grants; in which case, grants shall be a pro-rata allocation among the eligible applicants.

2. 3- Except for the first fifty (50) trees for towns and cities as set forth in 3. 4- below, grants for sanitation and reforestation shall be fifty (50) percent of the applicant's planned expenditures for sanitation and reforestation, unless fifty (50) percent of the total planned expenditures for all applicants exceeds the funds designated for sanitation and reforestation grants; in which case, grants shall be a pro rata allocation among the eligible applicants. Such grants shall not exceed fifty (50) dollars per tree.

3. 4- Grants for ~~reforestation~~ planting the first fifty (50) trees on public lands in eligible towns and cities ~~shall~~ may be ninety (90) percent of the town's or city's planned expenditures for planting ~~the first fifty (50) trees on public lands those trees-~~, providing the availability of sufficient funding. The grant for these fifty (50) trees shall not exceed sixty (60) dollars per tree.

3 MCAR § 1.0113 Grants-in-aid for wood utilization and disposal systems.

A. The commissioner shall within the monies appropriated, make grants-in-aid to eligible applicants for the cost of facilities, equipment, and systems for the disposal or utilization of diseased shade trees. Such grants-in-aid shall be made to:

1. Any home rule charter or statutory city, ~~of more than 40,000 population in the metropolitan area or a combination of such cities with a combined population of 40,000 under a joint powers agreement pursuant to Minn. Stat. § 471.59 (1976);~~

2. ~~Any home rule charter or statutory city of more than 20,000 population outside the metropolitan area or a combination of such cities with a combined population of 20,000 under a joint powers agreement pursuant to Minn. Stat. § 471.59 as amended;~~

2. 3- Any special purpose park and recreation board organized under a charter of a city of the first class;

3. 4- Any non-profit corporation serving a city of the first class; or,

4. 5- Any county.

B. Such grants shall be made with the following provisions:

1. The city (cities) or county has an approved shade tree disease control program as described in the act or these rules;

2. Grants-in-aid may be less than but shall not exceed fifty (50) percent of the cost of such facility, equipment, or system;

3. Grants-in-aid shall not be made for costs of operating such facility, equipment, or system;

4. Grants-in-aid for site acquisitions shall be made only for land used in the actual operational site;

5. Grants-in-aid shall not be made by the commissioner until he receives certified evidence of the actual cost of the equipment or site; and,

C. Criteria for administration of grants-in-aid.

1. Grants-in-aid to eligible applicants shall be made by the commissioner provided that such wood disposal utilization system meets the following criteria:

a. It aids in the control of shade tree diseases;

b. It aids in the recovery of material or energy from wood.

c. It is located to accomplish the above with maximum efficiency and use of available facilities;

d. It is available to all parties, public and private;

e. It is able to render wood pest-risk free within five (5) days of delivery to the site unless an extension of time has been granted by the commissioner based on existing circumstances of the disposal/utilization site;

f. It includes adequate manpower to operate and service equipment; and,

g. It provides for proper handling and the timely removal of processed wood from the site.

2. In addition to the general criteria under C. 1. above, the commissioner, as appropriate, may consider other specific criteria including the following in evaluating grant payment requests:

a. Sites for wood disposal systems:

(1) Shall be selected on the basis of anticipated volumes of wood and/or the need for a wood disposal system;

(2) Shall be accessible by roadways that permit year-round truck traffic;

(3) Shall have adequate storage areas for both processed wood and equipment;

(4) Shall have protective enclosures, adequate control, and supervision to prevent entry of unwanted materials and unauthorized persons;

(5) Shall be in compliance with all applicable Federal and State statutes, rules and regulations; and,

(6) Shall be in conformance with regional solid waste management plans and requirements.

b. Equipment for wood disposal systems:

(1) Shall, where feasible, be portable so that it can be used for servicing more than one site;

(2) Shall be stationary only when the anticipated volume over a five-year period will fully utilize the facility;

(3) Shall be capable of processing large-diameter logs; and,

PROPOSED RULES

(4) Shall include auxiliary units and equipment necessary to the operation of the system.

3. Requests for grant-in-aid payments shall be made on forms provided by the commissioner. Contingent upon the availability of funds, the timeliness of applications and other administrative considerations, the commissioner may set deadlines for consideration of requests which shall be published in the *State Register* at least thirty (30) days prior to the deadline. Requests for payments shall include the following:

a. An itemized list of the applicant's proposed expenditures for qualifying equipment and/or site, and the total amount of these expenditures; and,

b. Additional documents or other information deemed relevant by the commissioner.

4. Records.

a. Applicants receiving grants-in-aid under this rule shall keep detailed records concerning the operation of the wood disposal and utilization system and shall make these records available to the commissioner at any reasonable time. Such records shall include:

(1) Hours of operation;

(2) Clientele served;

(3) Volume of wood handled; and,

(4) Other information deemed necessary and relevant by the commissioner.

b. A yearly report containing a summation of these records shall be made to the commissioner by December 1.

SUPREME COURT

Decisions Filed Friday, November 23, 1979

Compiled by John McCarthy, Clerk

49558/369 Kathleen Jean Wessels vs. Mark Swanson, Appellant. Jackson County.

Although the trial court did not abuse its discretion in its denial of defendant's motion to vacate a default judgment adjudicating him the father of plaintiff's children, affirmance of the order is directed effective 90 days from the filing of this opinion unless within that period of time defendant presents to the trial court evidence described herein to substantiate his denial of paternity.

Remanded for further proceedings. Sheran, C. J.

49809/381 State of Minnesota vs. James Roy Hodges, Appellant. Anoka County.

A sublessee by failing to pay rent when due on commercial property did not thereby forego a reasonable expectation of privacy in the use of his leased property. The fact that the lease authorized the sublessor to enter the property for inspection, did not thereby authorize him to consent to a warrantless search by the police.

Although a search warrant affidavit contained information which was obtained illegally in violation of defendant's Fourth Amendment rights, the exclusionary rule does not require suppression of the evidence seized since there was also lawfully obtained information which gave the police probable cause to search the premises.

Affirmed. Otis, J.

49200/373 State of Minnesota vs. Ronald DeWayne Stevenson, Appellant. Nobles County.

Evidence of defendant's guilt of two separate acts of criminal sexual conduct in the third degree was not, as defendant contends, legally insufficient.

Trial court, in sentencing defendant to two consecutive terms for two separate sex offenses committed by defendant, did not violate Minn. Stat. § 609.035, which bars multiple punishment of a defendant for multiple offenses arising from the same behavioral incident.

Affirmed. Peterson, J.

47695/254 State of Minnesota vs. Dennis Michael Hamilton, Appellant. Scott County.

Because the aggravated sodomy statute under which defendant was convicted, Minn. Stat. § 609.293, subd. 2 (1976), was repealed before final judgment of defendant's case so as to mitigate punishment, the more recent statute is to be applied.

The trial court's denial of defendant's request to cross-examine the complainant concerning her prior sexual conduct did not prejudice defendant's right of confrontation.

The evidence supports the guilty verdicts for criminal sexual conduct in the third degree and aggravated assault.

The sentencing restriction of Minn. Stat. § 609.035 (1978) applies to the convictions for criminal sexual conduct in the third degree and aggravated assault, requiring that the sentence for aggravated assault be vacated.

Affirmed in part and reversed in part. Maxwell, J.

Decision Filed Friday, November 16, 1979

50541/505 State of Minnesota, Appellant, vs. John M. Vangstad. Douglas County.

Held, on this pretrial appeal from an order suppressing evidence in a criminal prosecution the state has not met its burden of demonstrating that the district court erred in suppressing the evidence, and accordingly we affirm.

Affirmed. Sheran, C. J.

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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 Agriculture Shade Tree Program

Notice of Request for Proposals for Graphic Design of Arbor Month Printed Promotional Materials and Handbook of Reforestation Information

The Shade Tree Program of the Department of Agriculture is seeking individuals or organizations to provide (1) a graphic theme design for the 1980 Arbor Month printed promotional materials, and (2) design of a 16-22 page handbook of reforestation information for the adult public. These design services are outlined in detail in the Request for Proposals (RFP) Statement of Work. Responders may submit proposals for one or both of the contract projects. The formal RFP may be requested from and inquiries directed to:

Peg Wetzel
Shade Tree Program
Department of Agriculture
90 W. Plato Blvd.
St. Paul, MN 55107
(612) 296-6909

It is anticipated that the total cost to accomplish the graphic design work for the Arbor Month theme will not exceed \$2300; that the total cost to accomplish the design of the handbook will not exceed \$2200; and that the combined total for both projects will not exceed \$4500. The deadline for the submission of completed proposals will be 4:30 p.m., December 21, 1979.

Amendment to Notice of Request for Proposals for Public Information and Media Relations Services

The Department of Agriculture Shade Tree Program hereby amends the Request for Proposals for the above services published in the November 26, 1979, *State Register* to include the following contact person:

Bruce Hall Nelson
Department of Agriculture
Shade Tree Program
90 West Plato Blvd.
St. Paul, MN 55107
(612/296-8580)

Please note: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline, 4:30 p.m., December 17, 1979.

Department of Economic Security Office of Economic Opportunity

Notice of Request for Proposals for Auditing Services on CSA and DOE Grants

1. Agency name and address: Minnesota Department of Economic Security, Office of Economic Opportunity, 690 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.

2. Contact Person: Certified Public Accounting Firms wishing to receive this Request for Proposals Package or additional information may write the contracting officer, Jim Markoe, at 390 North Robert Street, CETA/CSA Internal Audit Unit, St. Paul, Minnesota 55101, or call at (612) 296-4983.

3. Description: An RFP is scheduled for issuance on December 3, 1979 for the purpose of contracting financial and compliance audits of U.S. Community Services Administration (CSA) and U.S. Department of Energy (DOE) grants awarded to the Office of Economic Opportunity.

4. Cost: One or more awards will be granted, estimated to exceed \$10,000 in aggregate.

5. Final proposals must be received by 4:30 p.m., December 20, 1979.

STATE CONTRACTS

Department of Transportation Technical Services Division

Notice of Availability of Contract for Rewrite of Mn/DOT Road Design Manual

The Minnesota Department of Transportation (Mn/DOT) requires the services of a qualified consultant to rewrite the Department's Road Design Manual. The work program would include the following:

1. Discussions with Department chapter specialists on needs.
2. A review of currently published Department design information.

3. Review of currently published federal design standards, i.e.: FHWA, AASHTO, etc.

4. Incorporate all collected information into preparation of chapter drafts and submit to the Department for review.

5. Revise drafts as necessary and submit final manual to Department for approval.

Estimated cost for the project-up to \$90,000.

Firms desiring consideration should submit their brochure and/or experience resume such as the federal forms 254 and 255 before Dec. 18, 1979. This is not a request for proposal. Please send your response to:

B. E. McCarthy
Consulting Services Engineer
Room 612-B
Transportation Building
St. Paul, Minnesota 55155
Telephone (612) 296-3051

OFFICIAL NOTICES

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

the subject, either orally or in writing.

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

Department of Education Special and Compensatory Education Division

Notice Concerning Minnesota's FY '80 State Plan

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

Minnesota's 1980 State Plan, final draft, has been approved by the Commissioner of Education, the Bureau of Education for the Handicapped. Public Law 94-142 funds have been received by the State Department of Education. Copies of the plan or information about the plan may be obtained by contacting either Dr. Antell, Assistant Commissioner of Special and Compensatory Education, Minnesota State Department of Education, 802 Capitol Square Building, St. Paul, Minnesota 55101, telephone (612) 296-7020, or the Special Education Regional Consultant for your region.

Department of Labor and Industry Workers' Compensation Division

Announcement of Open Hearing Regarding Rehabilitation under Minn. Stat. § 176.102

Notice is hereby given that the Workers' Compensation Division, Department of Labor and Industry, State of Minnesota, pursuant to Senate File 1, Special Session, Chapter EX3, Laws of Minnesota (1979) will hold a hearing to take testimony and written materials relating to the operation of the rehabilitation section of the division and relating to qualifications of approved rehabilitation consultants.

Said hearing will begin at 9 a.m. on December 19, 1979 at the auditorium of the State Office Building, Wabasha Street and Park Avenue, St. Paul, Minnesota and continue until adjourned. Additional written materials will be accepted at the Department of Labor and Industry, 5th Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101 until 4:30 p.m. on December 26, 1979.

Copies of the written material may be obtained by contacting:

Gladys Westberg, Director of Rehabilitation
Workers' Compensation Division
Department of Labor and Industry
444 Lafayette Road
St. Paul, MN 55101
Telephone: 297-2684

Metropolitan Council

Public Hearing on Amendments to the Housing Guide Chapter to Revise the Subsidized Housing Allocation Plan

Pursuant to Minn. Stat. § 473.145 the Metropolitan Council will hold a public hearing on Monday, January 7, 1980, at 7 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts. (use Jackson St. entrance), St. Paul, Minnesota 55101 to receive public comments on proposed amendments to the Housing Guide Chapter of the Metropolitan Development Guide. The proposed amendments relate to Metropolitan Council policy for allocating subsidized housing. All interested persons are invited to attend the public hearing and offer comments on the proposed amendments. Persons may register to speak at the

hearing in advance by contacting the Council's public hearing coordinator at 291-6482. Copies of the proposed *Subsidized Housing Allocation Plan Amendments* are available free of charge from the Metropolitan Council's Public Information Office at 291-6464.

Charles Weaver
Chairman

Department of Transportation

Notice of Application and Opportunity for Hearing Regarding Petition of Chicago, Milwaukee, St. Paul and Pacific Railroad Company for Authority to Abandon and Remove Track No. 359 Serving Hiawatha Grain Company, Minneapolis, MN

Notice is hereby given that the 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) for authority to abandon and remove track No. 359 serving Hiawatha Grain Company in Minneapolis, Minnesota. The petition recites among other matters:

1. "That . . . (Petitioner) owns and maintains Track 359, approximately 293 feet in length, which served Hiawatha Grain Company; said track serves no other shipper of petitioner."

2. "On September 27, 1979, the Hiawatha Grain Company plant was destroyed by fire, and the Company has no intention of rebuilding the plant. The property will be sold, and Hiawatha Grain Company has requested the removal of the track."

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 December 26, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

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

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

OFFICIAL NOTICES

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.

November 26, 1979

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building
408 St. Peter Street
St. Paul, Minnesota 55102
(612) 296-8239

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