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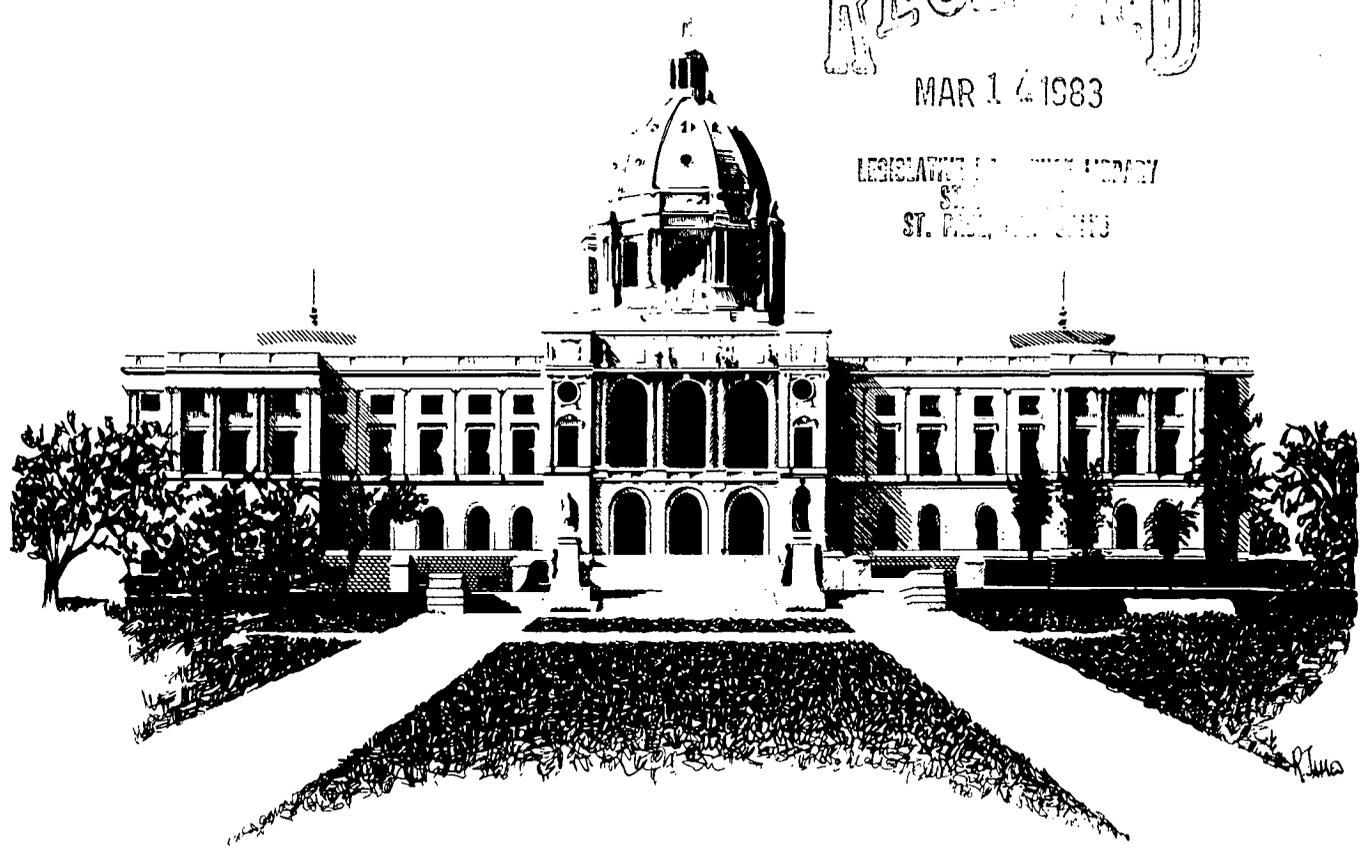
# STATE REGISTER

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**VOLUME 7, NUMBER 37**

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Table with 4 columns: Issue Number, Submission deadline for Executive Orders, Rules and Proposed Rules, Submission deadline for State Contract Notices and Official Notices, Issue Date. Includes SCHEDULE FOR VOLUME 7 with dates for issues 38-41.

\*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...

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

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Carol Anderson Porter
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Sandra J. Hale
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

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### How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

#### The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

#### The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

|                               |                               |
|-------------------------------|-------------------------------|
| Issues 1-13, inclusive        | Issue 39, cumulative for 1-39 |
| Issues 14-25, inclusive       | Issues 40-51, inclusive       |
| Issue 26, cumulative for 1-26 | Issue 52, cumulative for 1-52 |
| Issue 27-38, inclusive        |                               |

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# PROPOSED RULES

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Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
  2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
  3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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.

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## Department of Agriculture Plant Industry Division

### Proposed Amendments to Rules Governing Seed Potato Certification (3 MCAR §§ 1.0127-1.0135)

#### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, sections 14.11-14.20 (1982). If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, section 21.118. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The commissioner is authorized by Minnesota Statutes section 21.118 to provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The proposed amendments are of four types: (1) changing the tag color designation of the second grade of seed potatoes from red to yellow; (2) adding "late blight," a serious potato disease, to the grade statements and deleting its specific tolerance from permitted tolerances; (3) making changes in the yellow tag grade related to appearance factors of seed potatoes which do not affect their performance as seed potatoes; and (4) minor changes in language and form made by the Office of the Revisor of Statutes.

Changing the tag color designation from red to yellow will permit Minnesota certified seed potatoes to move more competitively in interstate commerce, since the current red tag designation in other states reflects lower quality potatoes than

the Minnesota red tag designation. The addition of "late blight" to the grade statements and the deletion of its current tolerance is proposed because it produces the same symptoms as "soft rot" and should therefore be subject to the same strict tolerance as "soft rot" rather than its current tolerance. The third set of changes relate to appearance factors of seed potatoes influenced by growing conditions. These changes include: removing sprouts as a grade factor after April 15 and removing sunburn and pressure bruising as factors. Tolerance changes include increasing the tolerance for serious damage by hollow heart and removing the tolerance for sunburn.

Please be advised that Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) 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 \$250.00, 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 \$250.00, 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, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

Copies of this notice and proposed rules are available and may be obtained by contacting Mr. Heil.

February 28, 1983

Jim Nichols  
Commissioner of Agriculture

### Rules as Proposed

#### 3 MCAR § 1.0129 General guidance.

The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A.-C. [Unchanged.]

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. [Unchanged.]

2. The ~~red~~ yellow tag certified seed potato grade is the second grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The ~~red~~ yellow tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. [Unchanged.]

E.-F. [Unchanged.]

#### 3 MCAR § 1.0131 Requirements for certified seed potato production.

The ~~following~~ standards ~~shall~~ in this rule must be met before potatoes may be classified as certified seed potatoes.

A.-C. [Unchanged.]

D. Tags, bulk certificates, seals.

1. Official blue, ~~red~~ yellow, or white tags, bearing the grower's name and address, variety, and the crop year, shall be issued when the potatoes meet the certification requirements described in 3 MCAR § 1.0130 and ~~3 MCAR § 1.031~~ A.-C.

2.-4. [Unchanged.]

E. [Unchanged.]

**KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## PROPOSED RULES

### 3 MCAR § 1.0132 Requirements for foundation certified seed potato production.

Foundation certified seed potatoes ~~shall~~ consist of potatoes which meet all the requirements of 3 MCAR § §§ 1.0130 and 3 MCAR § 1.0131 as well as the following additional requirements in this rule.

A.-F. [Unchanged.]

G. Blue, ~~red~~ yellow, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR § 1.0132 are met. In addition, the crop ~~shall~~ must be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

### 3 MCAR § 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming potatoes are eligible for grading as certified seed potatoes, the requirements of 3 MCAR §§ 1.0130 and 1.0131 ~~shall~~ must be met. In addition, Foundation certified seed potatoes ~~shall~~ must meet the requirements of 3 MCAR § 1.0132. Approved certified seed potatoes ~~shall~~ must meet the requirements of 3 MCAR § 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes ~~shall~~ must meet the following requirements:

a. The potatoes ~~shall~~ must be, at the time of final inspection, of one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. [Unchanged.]

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a)-(f) [Unchanged.]

(g) 6% for potatoes which fail to meet the remaining requirements of the grade, provided, that included in ~~this~~ that amount not more than the following percentages ~~shall be~~ are allowed for the following defects:

(i)-(iii) [Unchanged.]

~~(iv)~~ Late blight tuber rot 2.0%

~~(v)~~ (iv) Bacterial ring rot 0.0%

~~(vi)~~ (v) Powdery scab 0.0%

(2) [Unchanged.]

2. Minnesota ~~red~~ yellow tag certified seed potato grade. To be graded as Minnesota ~~red~~ yellow tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes ~~shall~~ must be, at the time of final inspection, of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts (after April 15, sprouts are not a factor), pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, ~~sunburn~~, hollow heart, or internal discoloration (other than hollow heart). Pressure bruising, or flattened or depressed areas with or without underlying flesh discoloration, are not factors.

b. [Unchanged.]

c. Lot tolerances. In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are provided:

(1) For defects:

(a) ~~10%~~ 20% for potatoes seriously damaged by hollow heart;

~~(b)~~ 10% for potatoes seriously damaged by sunburn;

~~(e)~~ (b) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

~~(d)~~ (c) 20% for potatoes damaged by sprouts; and

~~(e)~~ (d) 20% for potatoes which fail to meet the remaining requirements of the grade<sub>2</sub> provided, that included in ~~this~~ that amount not more than the following percentages ~~shall be~~ are allowed:

(i)-(ii) [Unchanged.]

(iii) 6% serious damage for other defects other than ~~sunburn~~, hollow heart, and internal discoloration (other than hollow heart) provided, that of this six percent not more than the following percentages ~~shall be~~ are allowed for the following defects:

|  |               |
|--|---------------|
| <del>(aa)</del> <u>Late blight tuber rot</u>                   | <del>2%</del> |
| <del>(bb)</del> <u>(aa) Soft rot, frozen, or wet breakdown</u> | 0.5%          |
| <del>(ee)</del> <u>(bb) Bacterial ring rot</u>                 | 0.0%          |
| <del>(dd)</del> <u>(cc) Powdery scab</u>                       | 0.0%          |

(2) [Unchanged.]

3. [Unchanged.]

B.-D. [Unchanged.]

## Minnesota Public Utilities Commission

### Proposed Rules of the Minnesota Public Utilities Governing Utility Delinquency Charges

#### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission (the commission) proposes to adopt the above-entitled rules without a public hearing. The commission has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Randall D. Young, Executive Secretary  
Minnesota Public Utilities Commission  
780 American Center Building  
Kellogg & Robert Streets  
St. Paul, Minnesota 55101  
Ref: Docket No. G,E-999/R-83-99

Authority for the adoption of these rules is contained in Minnesota Statutes sections 216A.05, 216B.03, and 216B.23. Additionally, a statement of need and reasonableness that describes the need and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Christopher K. Sandberg at the above address upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of

**KEY: 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." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## PROPOSED RULES

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this material to the Attorney General or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Sandberg.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. Sandberg.

Randall D. Young, Executive Secretary  
Minnesota Public Utilities Commission

### Rules as Proposed (all new material)

#### 4 MCAR § 3.0317 Definitions.

A. Scope. The terms used in 4 MCAR §§ 3.0317-3.0322 have the meanings given them in this rule.

B. Delinquent account. "Delinquent account" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a utility's budget billing plan or a payment schedule under 4 MCAR § 3.0299 G., "delinquent account" means the lesser of the outstanding account balance or the scheduled monthly payment.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent account.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02.

#### 4 MCAR § 3.0318 Billing terms.

A utility shall designate any late payment charge imposed on a customer as a late payment charge on that customer's bill. Other terms, including "penalties," "discounts," or "net-gross rate differentials," must not be used to indicate any charge which results from delinquent payment.

#### 4 MCAR § 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

A. Residential customer. If a residential customer's utility bill is not paid by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

B. Nonresidential customer. If a nonresidential customer's utility bill is not paid within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

#### 4 MCAR § 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly percentage rate of the late payment charge.

C. Uniformity. The utility shall administer its late payment charge in a nondiscriminatory manner.

#### 4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must consist of the following two components:

A. Finance fee. The utility may impose a finance fee no greater than 1½ percent per month on the delinquent account.

B. Collection fee. The utility may impose a collection fee no greater than \$1.

#### 4 MCAR § 3.0322 Crediting of payments.

The utility shall credit all payments received against the oldest outstanding account balance before the application of any late payment charge.

# ADOPTED RULES

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

If an adopted rule is identical to its proposed form as previously published, a notice of adoption 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.

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## Department of Natural Resources

### Commissioner's Order No. 2138

#### Rescinding Commissioner's Order No. 2119 and Amending Commissioner's Order No. 2084: Regulations for the Taking and Possession of Fish from the Minnesota-Canada Boundary Waters

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking and possession of fish from the Minnesota-Canada boundary waters.

Section 1. Commissioner's Order No. 2119 is hereby rescinded.

Sec. 2. Section 3 of Commissioner's Order No. 2084 is amended to read as follows:

Sec. 3. While on any Minnesota portion of the Minnesota-Canada boundary waters described above, no person who possesses both a Minnesota angling license and an angling license from the Canadian provinces of Ontario and/or Manitoba shall possess or transport more than the daily limit of fish allowed under any one but not more than one of his or her licenses, except that any person may possess or transport on the said boundary waters any number of fish that he or she has legally taken in Minnesota, Ontario and/or Manitoba only if all of the fish have been filleted or dressed, and then packaged by a person licensed under Minn. Stat. Sec. 98.46, subd. 5(7). Such packages must bear the name of the person who took the fish, the state and/or province(s) of origin of the fish, the number(s) of the license(s) under which the fish were taken, the number and species of fish contained, the net weight thereof, and the name and license number of the person preparing the shipment under Minn. Stat. Sec. 98.46, subd. 5(7).

Except as provided in this order, all provisions of Commissioner's Order No. 2084 shall remain in full force and effect.

Dated at Saint Paul, Minnesota, this 1st day of March, 1983.

Joseph N. Alexander, Commissioner  
Department of Natural Resources

# SUPREME COURT

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## Decisions Filed Friday, March 4, 1983

### Compiled by Wayne Tschimperle, Clerk

C6-82-1030 *State of Minnesota v. Michael S. Running*, Appellant. St. Louis County.

Record fails to establish presence of aggravating circumstances justifying departure from presumptive sentence with respect to consecutive service.

Affirmed as modified. Amdahl, C. J.

CX-82-477 *Trac T. Le v. State of Minnesota, University of Minnesota, Self-insured, Relator*. Workers' Compensation Court of Appeals.

An injured employee may not receive temporary partial disability benefits during a period of retraining, absent certification for retraining or demonstrated inability to find other employment.

Affirmed in part and reversed in part. Amdahl, C. J.

# SUPREME COURT

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**C7-82-162 Clement Savina v. Litton Industries/Litton Medical Systems, Relator and Reliance Insurance Companies, Intervenor. Workers' Compensation Court of Appeals.**

Although the employee's claim petition for workers' compensation benefits was filed more than seven years after the date of his injury, evidence in the record supports the Court of Appeals' determination that the action of the employer in arranging for the payment of wage and disability benefits after the employee had notified it of his work injury constitute an "action or proceeding" within the meaning of Minn. Stat. § 176.151(1) (1982) that is sufficient to toll the six year limitation period.

Affirmed. Amdahl, C. J.

**C7-81-1351, C7-82-484 State of Minnesota v. Leonard Allan Wallace, Appellant. Carlton County.**

Sheriff's deputies did not violate defendant's Fourth Amendment rights in stopping him, and the trial court did not prejudicially err in any evidentiary rulings or in its jury instructions.

Affirmed. Todd, J.

**C2-82-134 State of Minnesota v. Scott A. Guskey, Appellant. Hennepin County.**

Defendant received a fair trial on charge of aggravated robbery and evidence was sufficient to sustain his conviction of that charge.

Affirmed. Todd, J.

**C0-82-519 In re the Marriage of: James H. Lindberg v. Lorraine M. Lindberg. Anoka County.**

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

**C2-82-926 Holman Erection Company, Appellant v. Orville E. Madsen & Sons, Inc. Clay County.**

Summary judgment was properly granted in favor of the general contractor in a contract action brought by a subcontractor to recover damages for alleged breach of contract. No contract was formed by the mere act of listing the subcontractor as a proposed subcontractor in the general contractor's prime bid on a public construction project.

Affirmed. Yetka, J.

**CX-82-530 Mary Annette Westendorf by her Conservator, David J. Westendorf, and David J. Westendorf, Appellants v. Kevin Michael Stasson and Richard James Stasson and Group Health, Inc. Hennepin County.**

A Health Maintenance Organization (HMO) is not entitled under a reimbursement clause in its policy to be reimbursed for medical expenses paid out of the tort recovery obtained by its member when the recovery has not fully compensated the member for her injuries.

Reversed. Simonett, J.

**CX-82-897 Charles Easterlin, Relator v. State of Minnesota, University of Minnesota, Self-insured. Workers' Compensation Court of Appeals.**

An employee is required to give his or her employer notice of pending negotiations for a settlement pursuant to *Naig v. Bloomington Sanitation*, 258 N.W.2d 891 (Minn. 1977), in a manner and at a time that the employer has a reasonable opportunity to participate in the negotiations and to appear or intervene in any litigation to protect its interests.

Lack of notice is presumed prejudicial to the employer's exercise of its subrogation rights. If the presumption is not rebutted by the employee, the employer is entitled to a credit for future compensation payable against the employee's *Naig* recovery.

Affirmed. Simonett, J. Took no part, Yetka, J.

**C1-81-664 State of Minnesota v. Bryan L. Russell, Appellant. Hennepin County.**

Defendant has not established on appeal that he was denied a fair trial.

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

# STATE CONTRACTS

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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.

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## Department of Transportation

### Notice of Availability of Contract for Preparation of Bridge Construction Plans

The Mn/DOT requires the services of a qualified consultant to prepare construction plans for the bridges described below.

Bridge No. 27241, Trunk Highway 77 over Lake Nokomis, and approach roadway.

Bridge No. 27242, Trunk Highway 77 over Minnehaha Creek, in Minneapolis.

Estimated fee is about \$100,000.

The work is anticipated to start in June with approximately four (4) months allowed for design and plan preparation.

Minnesota firms will be given first consideration. Firms desiring consideration should express their interest to Mn/DOT before 4:30 p.m., April 1, 1983. Furnish a copy of Federal forms 254 and 255, and a company brochure *if needed* to update our files. Identify personnel to conduct the project and include resume of their training and work experience.

The Bridge Contractor Selection Committee will solicit a proposal from the list of responders.

Send your response to:

K. V. Benthin  
State Bridge Engineer  
Room 610 D  
Transportation Building  
St. Paul, Minnesota 55155

# 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 Soil and Water Conservation Board

### Notice of Cancellation of Meeting

The Minnesota Soil and Water Conservation Board has cancelled their regular monthly meeting for March.

## Department of Agriculture Agronomy Services Division

### Notice of Special Local Need (SLN) Registration for "Rozol Tracking Powder"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture (MDA), on March 3, 1983, issued a Special Local Need (SLN) Registration for "Rozol Tracking Powder", EPA Registration Number 7173-113, manufactured by Lipha Chemicals, Inc., Chempar Products Division, New York, New York 10021.

## OFFICIAL NOTICES

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

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the use of this product to control nuisance bats by licensed/certified structural pest control operators under a controlled permit system.

The application and other data required under Minnesota Statutes §§ 18A.22, subdivision 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN83-0001) is on file for inspection at:

Minnesota Department of Agriculture  
Agronomy Services Division  
Pesticide Control Section  
90 West Plato Boulevard  
St. Paul, Minnesota 55107  
Telephone: (612) 296-8547

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

March 3, 1983

Department of Agriculture  
Jim Nichols, Commissioner

## Department of Commerce Banking Division

### **Bulletin No. 2725: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of March 1983**

Notice is hereby given that pursuant to section 47.20, subd. 4a, Minnesota Statutes 1982, the maximum lawful rate of interest for conventional home mortgages for the month of March 1983 is thirteen and three-quarters (13.75) percentage points. Further, pursuant to section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of March 1983 is thirteen and three-quarters (13.75) percentage points.

It is important to note that this maximum lawful rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is the same rate as set for January and February 1983 and is based on the Federal National Mortgage Association (FNMA) December 20, 1982, auction results and an average yield for conventional mortgage commitments of 13.697%. No offers were accepted by FNMA at the February 28, 1983, auction. In this case, Section 47.20, Subd. 4a, Minnesota Statutes, provides that the previous month's rate continues in effect. Current rates regarding the monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

March 2, 1983

John D. Chisholm  
Commissioner of Banks

## **Minnesota Higher Education Coordinating Board**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing State Scholarships and Grants-in-Aid; Part-Time Student Grants; Work-Study Grants; Area Vocational-Technical Institute Tuition Subsidy; Assistance for Student Dependents of Minnesota Veterans; State Student Loans; Private College Contracts; and Private Institutions Registration and Approval of Degrees and Names**

Notice is hereby given that the Minnesota Higher Education Coordinating Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing the Scholarships and Grants-in-Aid Program, Part-Time Student Grants Program, Work-Study Grants Program, Area Vocational-Technical Institute Tuition Subsidy Program, Assistance for Student Dependents of Minnesota Veterans Program, State Student Loans Program, Private College Contracts Program, and Private Institutions Registration Program and Approval of Degrees and Names.

The promulgation of these rules is authorized by Minnesota Statutes §§ 136A.111, 136A.121, 136A.132, 136A.233, 136A.236, 136A.141, 136A.20, 136A.70 (1980).

The Minnesota Higher Education Coordinating Board requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Rose Herrera Hamerlinck  
Minnesota Higher Education Coordinating Board  
400 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 612/296-7963 and in person at the above address.

All statements of information and comment shall be accepted until March 31, 1983. Any written material received by the Minnesota Higher Education Coordinating Board shall become part of the record in the event that the rules are promulgated.

Clyde R. Ingle, Executive Director  
Minnesota Higher Education Coordinating Board

## **Department of Revenue Property Equalization Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)**

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing the valuation and assessment of utility companies. The promulgation of these rules is authorized by Minnesota Statutes section 270.06 (14), which permits the agency to make rules and regulations for the administration and enforcement of the property tax law.

The State Department of Revenue requests information and comments concerning the subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Ronald Cook  
Property Equalization Division  
Minnesota Department of Revenue  
Centennial Office Building  
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5137 and in person at the above address.

## OFFICIAL NOTICES

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All statements of information and comment shall be accepted until April 1, 1983. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

March 7, 1983

Lyle H. Ask, Director  
Property Equalization Division

### Department of Revenue Property Equalization Division

#### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing The Valuation and Assessment of Railroads

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules governing The Valuation of Railroads. These revisions are specifically concerned with The Capitalization Rate which is to be used in the valuation process. The promulgation of these rules is authorized by Minnesota Statutes section 270.81, which requires the agency to adopt rules governing the taxation and assessment of railroad company property.

The State Department of Revenue requests information and comments concerning the specific subject matter of these revised rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Wayne Gerwing  
Property Equalization Division  
Minnesota Department of Revenue  
Centennial Office Building  
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at 612-296-5144 and in person at the above address.

All statements of information and comment shall be accepted until April 1, 1983. Any written material received by the State Department of Revenue shall become part of the record in the event that the rules are promulgated.

March 7, 1983

Lyle H. Ask, Director  
Property Equalization Division

### Office of the Secretary of State

#### Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is April 5, 1983.

**BOARD ON AGING** has 1 vacancy open immediately for a member. The board develops, coordinates, evaluates, and administers federal and state funds for programs for the aging of approximately 15 million; makes grants to 12 area agencies on aging and non-profit agencies; and serves as an advocate for older persons, programs and legislation for older persons in Minnesota. Members are appointed by the Governor, and include at least 1 member from each congressional district. Monthly meetings are held at Metro Square Bldg., St. Paul; members receive \$35 per diem plus expenses. For specific information, contact the Board on Aging, Suite 204, Metro Square Bldg., St. Paul 55101; (612) 296-2770.

**MINNESOTA COUNCIL ON HEALTH PROMOTION AND WELLNESS** has 4 vacancies open immediately for 1 member from the 1st congressional district; 1 member from the 8th congressional district; and 2 members at large. Must be experienced or interested in health promotion and wellness and practice a healthy lifestyle. The council reports on the state of the state's health, sponsors projects related to health and wellness, and studies laws and practices of state government that encourage or discourage healthy lifestyles. Members are appointed by the Governor and are reimbursed for travel and other expenses. Bi-monthly meetings (2nd Monday) are held at the Fawkes Bldg., 1645 Hennepin Ave., Minneapolis. For specific information contact the Minnesota Council on Health Promotion and Wellness, 1645 Hennepin Ave., Mpls. 55403; (612) 341-7044.

## **Board of Teaching**

### **Notice of Intent to Solicit Outside Opinion Concerning Proposed Rules Relating to the Licensure of Media Personnel and the Licensure of Teachers of Reading**

Notice is hereby given that the Board of Teaching is seeking information or opinions from sources outside the board in preparing to propose the adoption, amendment, or repeal of rules governing the licensure of Media Personnel and the licensure of teachers of reading. Any interested persons may submit data or views on these subjects in writing or orally to:

Kenneth L. Peatross  
Minnesota Board of Teaching  
608 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-2415

Any written material received by the board shall become part of the hearing record in the event that the rules governing these subjects are promulgated.

February 28, 1983

Kenneth L. Peatross, Executive Secretary  
Minnesota Board of Teaching

## **Department of Transportation**

### **Proposed Amendment of Rules Governing State-Aid Operations under Minn. Stat. chs. 161 and 162 (1982)**

#### **Notice of Intent to Solicit Outside Opinion**

Notice is hereby given that the Minnesota Department of Transportation is seeking information or opinions from sources outside of the department in preparing to promulgate amended rules governing State-Aid Operations under Minnesota Statutes Chapters 161 and 162. The promulgation of these rules is authorized by Minn. Stat. §§ 161.082, 161.083, and §§ 162.02, 162.09; which require the department under rules to create a county state-aid highway system, and a municipal state-aid street system (within cities having a population of 5,000 or more); which systems shall be established, located, constructed, reconstructed, improved, and maintained as public highways.

The Minnesota Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statement of information or comment orally or in writing. Written statements should be addressed to:

Gordon M. Fay  
State Aid Engineer  
Division of Technical Services  
Minnesota Department of Transportation  
420 Transportation Building  
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-9877 and in person at the above address.

All statements of information and comment are requested to be provided by April 19, 1983. Any written material received by the Commissioner of Transportation shall become a part of the record of this proceeding in the event that amended rules are promulgated.

Please be advised that as required by Minn. Stat. ch. 162 the State-Aid Rules Advisory Committees have been formed. The Advisory Committees are in the process of obtaining a showing of opinion on matters of interest to Minnesota counties and cities, and will shortly offer their findings to the Commissioner of Transportation.

Dated this 7th day of March, 1983.

Richard P. Braun  
Commissioner of Transportation

STATE OF MINNESOTA

State Register and Public Documents Division  
117 University Avenue  
St. Paul, Minnesota 55155

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**FOR LEGISLATIVE NEWS**

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

**Briefly/Preview**—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

**Perspectives**—Publication about the Senate. Contact Senate Information Office.

**Weekly Wrap-Up**—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

**This Week**—weekly interim bulletin of the House. Contact House Information Office.

Legislative Reference Library  
Room 111 Capitol

Interoffice

Interoffice