

79 Feb. 19



# STATE REGISTER

## STATE OF MINNESOTA

RULES

SUPREME COURT

STATE CONTRACTS

OFFICIAL NOTICES

RECEIVED

FEB 20 1979

LEGISLATIVE REFERENCE LIBRARY  
STATE CAPITOL  
ST. PAUL, MINN. 55155

### VOLUME 3, NUMBER 33

FEBRUARY 19, 1979

Pages 1577-1592

# STATE REGISTER

## Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
34	Monday Feb 12	Friday Feb 16	Monday Feb 26
35	Tuesday Feb 20	Monday Feb 26	Monday Mar 5
36	Monday Feb 26	Monday Mar 5	Monday Mar 12
37	Monday Mar 5	Monday Mar 12	Monday Mar 19

\*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.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

**Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.**

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*.

Albert H. Quie  
**Governor**

Carol Anderson Porter  
**Editor**

William G. Strusinski  
**Commissioner (Temporary)  
Department of Administration**

James Clancy, Paul Hoffman, Robin PanLener  
**Editorial Staff**

Stephen A. Ordahl  
**Manager  
Office of the State Register**

Jack Richter  
**Information Officer**

Roy Schmidtke  
**Circulation Manager**

Cindy Riehm  
**Secretarial Staff**

# CONTENTS

**MCAR AMENDMENTS AND ADDITIONS** ..... 1580

## CALENDAR

**Public Hearings on Proposed Agency Rules**  
Feb. 26-March 1, 1979 ..... 1580

## RULES

**Department of Public Safety**  
Adopted Rules Regarding Standards for Safe Operating Condition of Passenger Automobile Tires ..... 1580

## SUPREME COURT

**Decisions Filed Friday, February 9, 1979** ..... 1581

## STATE CONTRACTS

**Housing Finance Agency Home Improvement and Mortgage Loan Division**  
Notice of Availability of Contract for Construction of Earth Sheltered Park Manager's Residence, Whitewater State Park ..... 1583

**Department of Natural Resources Minerals Division**  
Notice of Request for Proposals to Investigate Certain Vegetation and Sloping Requirements of the Mineland Reclamation Standards ..... 1583

**State University System/Mankato State University**  
Notice of Need of the Services of a Consultant ..... 1584

**Department of Transportation**  
Notice of Availability of Contract for Facilitators of Participatory Management ..... 1584

## OFFICIAL NOTICES

**Department of Agriculture Plant Industry Division**  
Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Seed Potato Certification ..... 1585

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Disposal of Refuse and Dunnage of Foreign Origin from Vessels at Minnesota Ports on Lake Superior Waters ..... 1585

**Department of Commerce Banking Division**  
Bulletin No. 2025 Re: Maximum Lawful Rate of Interest for Mortgages for the Month of March 1979 ..... 1586

**Office of the Governor**  
Notice of Appointment of Department Heads ..... 1586

**Office of the Secretary of State Administration Division**  
Open Appointment Process: Notice of Openings on State Agencies — Application Procedures ..... 1586

**Department of Transportation**  
Notice of Application and Opportunity for Hearing Regarding Chicago and North Western Transportation Company Petition for Authority to Retire and Remove Three Unnumbered Stub Tracks at Rochester, Minnesota ..... 1586

# CALENDAR

## Public Hearings on Proposed Agency Rules

Feb. 26-March 1, 1979

Date	Agency and Rule Matter	Time and Place
Mar 1	POST-Board Standards of Conduct for Peace Officers and Constables  Hearing Examiner: Natalie Gaul	1:30 p.m. and 7:00 p.m.; St. Louis County Bd. Rm., 2nd Floor, 5th Ave. West at 1st St., Duluth, MN 55802
Mar 1	Dpt. of Natural Resources Rules Concerning Dam Safety  Hearing Examiner: Howard Kaibel	10:00 a.m., Weyerhaeuser Rm., MN Historical Society, 690 Cedar St., St. Paul, MN
Mar 2	Dpt. of Education Board of Education Library Grant Programs  Hearing Examiner: Peter C. Erickson	9:a.m., Rm. 716, Capitol Square Bldg., 550 Cedar St., St. Paul, MN 55101

# MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in this issue of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* will be published on a quarterly basis and at the end of the volume year.

## TITLE 11 PUBLIC SAFETY

### Part 1 Public Safety Department

11 MCAR §§ 1.0166-1.0168 (adopted) ..... 1580

# RULES

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

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

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

## Department of Public Safety

### Adopted Rules Regarding Standards for Safe Operating Condition of Passenger Automobile Tires

The rules published at *State Register*, Volume 3, Number 17, page 890, October 30, 1978 (3 S.R. 890), are adopted as proposed, with the following amendment:

#### 11 MCAR § 1.0168 Unsafe tires.

B. There is any bump, bulge or a separation which may be indicated by a bump or bulge of the sidewall, tread or ply.

# SUPREME COURT

## Decisions Filed Friday, February 9, 1979

### Compiled by John McCarthy, Clerk

**48096/316 Mohine W. Bakhos, et al, Appellants, vs. Wayne Driver. Chisago County.**

Plaintiff who fell from a tree when a limb which he had been sawing was pulled from it negligently by the Defendant and others, did not assume the risk of this negligent conduct as to bar recovery.

Damage awards examined and held to be consistent with the evidence.

Reversed and remanded. Sheran, C. J.

**47551/301 Dale E. Hanke, Appellant, vs. Lowell Pogatchnik, John F. Nash, et al, American Bancorporation, Inc. Ramsey County.**

In this action by the seller against the buyer for breach of an oral contract for the sale of the seller's controlling interest in a bank and alleged fraudulent inducement of the breach of contract by third parties, the trial court's finding that a written option contract signed by the seller was the complete integrated contract of the parties to the sale is adequately supported by the evidence.

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

**48380/294 Lois C. Armstrong, As Trustee for the Next of Kin of Erling G. Armstrong, Decedent, et al, Appellants, vs. Wallace M. Mailand and Mary Ellen Mailand, Individually and d.b.a. Mailand Construction Company, L. P. Gas Equipment, Inc., E. S. P., Inc., Transunion Company, et al, International Harvester Company, Trinity Industries, Corken Pump Company, Dahlen Transport, Inc., Skelly Oil Company, and Dahlen Transport, Inc., Wallace M. Mailand and Mary Ellen Mailand, Individually and d.b.a. Mailand Construction Company, third party plaintiffs, International Harvester Company, City of West St. Paul. Dakota County.**

In the context of a landowner's duty of care, firemen entering upon the land are neither invitees, licensees, nor sui generis. The firemen are owed a duty of reasonable care unless they assumed the risk in a primary sense. Firemen assume, in a primary sense, all risks reasonably apparent to

them that are a part of firefighting. However, they do not assume, in a primary sense, risks that are hidden or unanticipated by the firemen.

A firemen's primary assumption of the risk in the context of a landowner's duty of care applies equally to relieve the duties otherwise owed by defendants who are not landowners. Whether a duty is otherwise owed to a fireman because of the law of negligence, negligence per se, strict products liability or strict liability for an abnormally dangerous activity, this duty is relieved to the extent the fireman assumes the risk in the primary sense.

Under the facts of this case, the firemen assumed, in a primary sense, the risk of a BLEVE (boiling liquid expanding vapor explosion) because it was reasonably apparent to the firemen.

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

**47072/312 State of Minnesota vs. James Dean Stewart, Appellant. Jackson County.**

Under the facts of this case, there was sufficient evidence to sustain the jury's finding of first-degree murder. The trial court properly refused to submit to the jury the lesser included offense of third-degree murder under Minn. St. 609.195(1) because there would be no rational basis for a conclusion that the defendant's actions were eminently dangerous to more than one person.

The admission of character evidence was not grounds for reversal because the record indicates the defendant placed his character in issue and, even if he did not place his character in issue, the evidence was not sufficiently prejudicial to constitute reversible error.

Comments by the trial judge to prospective jurors, criticizing this court's decision to make voir dire open to the public, did not have any adverse effects on the prospective jurors or infringe upon the defendant's right to have a fair trial by impartial jury.

A defendant should not be restrained in the courtroom unless (1) the restraint is eminently necessary to protect the security and order of the courtroom, and (2) such necessity is supported by reasons stated on the record at the time the restraint is ordered. Moreover, if circumstances allow, it is preferable if the trial judge gives a warning and uses increasingly severe sanctions before imposing restraints.

Under the facts of this case, the trial judge did not abuse his discretion in ordering that the defendant be shackled during voir dire and trial.

Affirmed. Todd, J. Dissenting, Otis, J., Rogosheske, J. Took no part, Wahl, J.

## SUPREME COURT

**48329/322 Catherine Hart, Individually, and Catherine Hart, Trustee for the Heirs of Lee Hart, Decedent, vs. Cessna Aircraft Company, defendant and third party plaintiff, Appellant, vs. Thomas Vogt, third party defendant. Ramsey County.**

Where a plaintiff is unsuccessful in an action against one tortfeasor and brings a subsequent action for the same injury against a second tortfeasor, the second tortfeasor is barred by the verdict in the first action from bringing an action for contribution against the first, nonnegligent, tortfeasor.

The second tortfeasor shall be liable to the plaintiff, however, only for that portion of the damages attributable to his own negligence.

The second tortfeasor alone shall have the option to request that the question of damages be relitigated in the second action. The determination of damages in the first action shall bar the plaintiff from such option.

Affirmed in part, reversed in part, and decided by the court en banc.

Yetka, J.

**47970/325 Eleanor Colby, as Special Administratrix of the Estate of Earl William Nesler, Deceased, Appellant, vs. William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor. Freeborn County.**

It is not an abuse of discretion for the trial court to prohibit the plaintiff from leading and impeaching an employee of an adverse party whom the plaintiff called, where the witness' prior written statement does not contradict his testimony at trial but is only more equivocal. The impeachment would only have added evidence cumulative to that given by other witnesses.

Where testimony deals with an essential element in plaintiff's case and relates to a time period not too remote, it is prejudicial error to exclude the testimony.

A statement made by a railroad employee to a railroad official in which the employee admits being at fault in causing a railroad accident that the official is investigating is part of the res gestae, where although the statement was made half an hour after the accident, the excitement of the accident was still present.

Where a party does not object to certain jury instructions before the jury retires, he cannot raise objections on appeal. Rule 51, Rules of Civil Procedure.

The trial court did not abuse its discretion in limiting testimony about matrimonial affairs to the period of reconciliation immediately before the husband's death, where the court sought to protect the plaintiff from undue prejudice and possible speculation by the jury concerning the decedent's future contributions to the family.

Reversed in part and affirmed as to damages and remanded for a new trial on the issue of liability only. Yetka, J.

**48212/381 John L. Turner and Yvonne Turner, husband and wife, Plaintiffs, vs. Alpha Phi Sorority House, C. F. Haglin & Sons Co., defendant and third party plaintiff, vs. Spancrete Midwest Company, third party defendant, Appellant. Hennepin County.**

Where the determination of the meaning of an indemnification clause is a question of law, it will be reviewed as such even though the issue was submitted to the jury. In addition, where the trial court had an opportunity to rule on the verdict, the court in effect did construe the meaning of the clause.

Where the parties did not introduce evidence as to the meaning of the indemnification clause, the jury and trial court could properly interpret the term "state laws" according to its plain and ordinary meaning so as to allow Haglin to recover against Spancrete for common law negligence.

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

**48640/359 State of Minnesota, petitioner, Appellant, vs. In re Welfare of F. C. R. Hennepin County.**

Under the facts and circumstances, an eight-month delay in prosecution was not an abuse of prosecutorial discretion on which the juvenile court could base its dismissal of the prosecution's adult reference motion.

The eight-month delay in prosecution did not violate respondent's Sixth Amendment right to a speedy trial because that right did not attach until respondent was formally charged. Respondent failed to prove actual prejudice arising from the delay sufficient to constitute a violation of his Fifth Amendment right of due process.

On remand, the juvenile court is directed to make specific findings as required by Minn. St. § 260.125, subd. 2.

Remanded to the juvenile court for further proceedings. Wahl, J.

**Order Filed January 24, 1979**

49320/182 State of Minnesota, City of Maplewood, petitioner, Appellant, vs. James Joseph Auger. Ramsey County.

It is hereby ordered that the appeal to this court be dismissed on the ground that leave to appeal was improvidently granted. Sheran, C. J.

**STATE CONTRACTS**

---

Pursuant to the provisions of Laws of 1978, ch. 480, 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 con-

tract 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.

**Housing Finance Agency  
Home Improvement and  
Mortgage Loan Division**

**Notice of Availability of Contract  
for Construction of Earth  
Sheltered Park Manager's  
Residence, Whitewater State Park**

The Minnesota Housing Finance Agency announces that it intends to provide financing, in cooperation with the Department of Natural Resources, for the construction of an earth-sheltered park manager's residence at Whitewater State Park as part of its Solar/Earth Sheltered Demonstration Housing Program.

Construction drawings have been prepared for the project and the agency is seeking general contractors who are interested in reviewing the drawings and submitting a bid for the project. Interested contractors should contact:

Mary Tingerthal  
Minnesota Housing Finance Agency  
333 Sibley St. Suite 200  
St. Paul, MN 55101  
(612) 296-8844

Contact should be made by no later than February 26, 1979.

**Department of Natural  
Resources  
Minerals Division**

**Notice of Request for Proposals  
to Investigate Certain Vegetation  
and Sloping Requirements of the  
Mineland Reclamation Standards**

The Department of Natural Resources is seeking a consultant to:

1) Develop and recommend criteria for the selection of vegetative reference areas by which reclamation revegetation success can be measured;

2) Identify typical vegetated areas along the Mesabi Iron Range which might be used as reference areas. The type and number of examples should correspond to the various typical site conditions which are expected to occur at future mining operations along the range; and

3) Design, estimate the costs and perform construction inspection of a demonstration project which exhibits the sloping, erosion control and revegetation requirements prescribed by the reclamation regulations, along 300 feet of either an overburden stockpile or the overburden portion of a pit wall.

## STATE CONTRACTS

---

The estimated amount of the contract is \$10,000.

The deadline for proposals is March 12, 1979. Parties desiring consideration should submit a technical proposal outlining their plans to:

William Brice  
Division of Minerals  
Department of Natural Resources  
Box 45 Centennial Building  
St. Paul, Minnesota 55155  
Telephone: (612) 296-4807

### **State University System/ Mankato State University Notice of Need of the Services of a Consultant**

#### **Description:**

Assess the present recruitment methods employed in our Admissions Office and prepare a critical analysis.

Review all routine standardized correspondence to potential students and suggest improvement opportunities.

Attend a one-day recruitment workshop on campus to appraise the attitudes of university administrators and faculty regarding recruitment.

Work intensively with a representative of the university in planning effective recruitment strategies specific to Mankato State's needs.

Design reporting devices (forms, computer generated reports) for a more effective analysis of marketing efforts.

Assist in the design of a Master Recruitment Plan for the 1980 Mankato State University Freshman Class.

Review and edit two preliminary drafts of the Master Plan.

**Compensation:** \$1,000.00

**Submission Date:** February 23, 1979

**Contact:** Dr. Carl Lofy, Vice-President  
Student Services  
Mankato State University  
Mankato, MN 56001

### **Department of Transportation**

### **Notice of Availability of Contract for Facilitators of Participatory Management**

The Minnesota Department of Transportation (Mn/DOT) seeks the services of a team of proven facilitators who can bring a group of 120 managers to consensus on a myriad of complex organizational issues.

The results, through group interaction, must provide the basis for any change in organizational structure. This facilitative process must be accomplished by mid-April and at a cost not to exceed \$7,500.

Proposals offering the requested services will be accepted through Friday, March 9, 1979. Interested and qualified contractors should contact D. G. Wicklund, Personnel Director, 315 Transportation Building, St. Paul, Minn. 55155, (612) 296-3100 for further information.

# OFFICIAL NOTICES

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

either orally or in writing.

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

## Department of Agriculture Plant Industry Division

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Seed Potato Certification

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed amending rules governing the Seed Potato Certification program. Minn. Rules Agr. 121-135 presently govern this matter.

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

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

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director  
Plant Industry  
670 State Office Building  
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by March 30, 1979. Any written material received by the Department shall become part of the hearing record.

The proposed amendments, if adopted, would include a Red Tag grade on Foundation Seed classification; delete language no longer applicable and clarify language for easier interpretation.

February 8, 1979

Mark W. Seetin, Commissioner  
Department of Agriculture

## Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Disposal of Refuse and Dunnage of Foreign Origin from Vessels at Minnesota Ports on Lake Superior Waters

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of amending rules governing the disposal of refuse and dunnage of foreign origin from vessels at Minnesota ports on Lake Superior waters. Minn. Rules Agr. 190-212 presently govern this matter.

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

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

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director  
Plant Industry Division  
670 State Office Building  
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by March 2, 1979. Any written material received by the Department shall become part of the hearing record.

The proposed amendments, if adopted, would allow for additional methods of acceptable disposal of refuse and dunnage.

February 9, 1979

Mark W. Seetin, Commissioner  
Department of Agriculture

## Department of Commerce Banking Division

### Bulletin No. 2025 Re: Maximum Lawful Rate of Interest for Mortgages for the Month of March 1979

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

February 12, 1979

Robert A. Mampel  
Acting Commissioner of Banks

## Office of the Governor Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

<u>Dept.</u>	<u>Name</u>	<u>Date</u>
Consumer Services	Krista Sanda	Jan. 29, 1979
Corrections	Jack G. Young	Feb. 5, 1979
Economic Development	David L. Printy	Feb. 1, 1979
Housing Finance	James J. Solem	Jan. 18, 1979
Revenue	Clyde Allen	Feb. 1, 1979
Banks (Commerce)	Michael Pint	Feb. 26, 1979
Insurance (Commerce)	Michael Markman	March 2, 1979
Planning	Arthur Sidner	Feb. 12, 1979
Securities (Commerce)	Mary Alice Brophy	Feb. 15, 1979
Pollution Control	Marcelle (Terry) Hoffman	Feb. 5, 1979

## Office of the Secretary of State

### Administration Division

### Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has

implemented an Open Appointment process by which the public is informed of openings on state multi-member agencies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. Application deadline is Friday, March 9, 1979.

**INVESTMENT ADVISORY COUNCIL:** Five (5) vacancies; open immediately. The Council gives advice and makes recommendations as they pertain to pension investments in good faith as specified by prudent man rule to the State Board of Investment which is comprised of the Governor, Treasurer, Auditor, Attorney General, and the Secretary of State. Meetings are held once a month. Members are reimbursed for expenses.

**NURSING HOME ADVISORY COUNCIL:** One vacancy for a physician representative; open immediately. The Council is responsible for advising and making recommendations to the Commissioner of Health on proposed rules and other matters relating to nursing homes. Meetings are held twice each month from 9:30 a.m. to 3:30 p.m. Term expires in January, 1980.

## Department of Transportation

### Notice of Application and Opportunity for Hearing Regarding Chicago and North Western Transportation Company Petition for Authority to Retire and Remove Three Unnumbered Stub Tracks at Rochester, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, Subd. 3 (10) to retire and remove three unnumbered stub tracks located at Rochester, Minnesota.

The petition recites among other matters that: "The subject tracks are no longer needed for rail transportation service, and constitute a continuing and burdensome maintenance expense. The tracks are not used at the present time,

## OFFICIAL NOTICES

---

and there is no present prospect that the subject track will be needed in the future.”

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 March 12, 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 Intervene to the Hearing Examiner pursuant to Minn. Reg. HE 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.

February 7, 1979

Richard P. Braun  
Commissioner



Maple sugar was a food staple of Minnesota Chippewas. In spring they moved to special maple sugar camps to gather sap in birch-bark palls. The sap was boiled, strained, reheated slowly, poured into a trough, and stirred with a wooden paddle until it granulated. Then the coarse brown sugar was stored in baskets. This engraving by Henry Schoolcraft appeared in *Indian Tribes of the United States* in 1852. (Courtesy of the Minnesota Historical Society)

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

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

## ORDER FORM

**State Register.** Minnesota's official weekly publication for agency rules, notices and executive orders.

- \_\_\_\_\_ Annual subscription \$110.00
- \_\_\_\_\_ Additional subscription \$85.00
- \_\_\_\_\_ Single copy \$2.25 each

**State Register Finding Aids Annual.** Contains cumulative finding aids to Volume 2 of the *State Register*, including Subject Matter Index, Agency Index, MCAR Amendments and Additions, and Executive Order List.

- \_\_\_\_\_ Single copy \$3.00 each

**State Register Binder.** Durable 3½ inch, forest green binders imprinted with the *State Register* logo.

- \_\_\_\_\_ *State Register* Binder \$5.00 + \$.20 (sales tax) = \$5.20\* each

**Minnesota Code of Agency Rules (MCAR).** The permanent, 15 volume set of state agency rules. An indispensable reference work for the practice of administrative law.

- \_\_\_\_\_ 15 volume set \$325.00, includes the annual update service subscription for the year of order (a \$105.00 value) and a set of MCAR binders.

**MCAR Binders.** A set of 15 sturdy, three-inch, three-ring binders in attractive forest green, imprinted with the MCAR logo.

- \_\_\_\_\_ 15 volume set \$35.00 + \$1.40 (sales tax) = \$36.40\*

**Guidebook to State Agency Services.** A detailed guide to every service available to the public.

- \_\_\_\_\_ Single copy \$4.95 + \$.20 (sales tax) = \$5.15\*

**Audio-Video Resources of Minnesota State Agencies.** A 250-page catalog of films, records, slides, and tapes available to the public.

- \_\_\_\_\_ Single copy \$3.85 + \$.15 (sales tax) = \$4.00\*

\*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Minnesota Department of Revenue.

Please enclose full amount of items ordered. Make check or money order payable to "Minnesota State Register."

Name \_\_\_\_\_

Attention to: \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Legislative Reference Library  
Attn: Stephen Plumb  
Room 111 State Capitol

INTEROFFICE CORRESPONDENCE

I