

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-1022

RECEIVED
MAR 22 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

March 21, 1983

Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: Review of the Proposed Adoption of Amendments to and Repeal of Rules Relating to Inheritance and Estate Tax (13 MCAR Section 1.2220)

Dear Sir or Madam:

In accordance with Minn. Stat. Section 15.0412, Subdivision 4h and 1 MCAR Section 1.203, I enclose the following documents for your review:

1. Rule as Adopted (original and 3 copies).
2. Order Adopting (two copies).
3. Order for Notice of Intent to Adopt a Rule Without a Public Hearing.
4. Notice of Intent to Adopt a Rule Without a Public Hearing.
5. Affidavit of Mailing (Notice of Intent to Adopt a Rule Without a Public Hearing).
6. Certificate of Completeness and Accuracy (Mailing List Certificate).
7. Rule as Proposed.
8. Copy of the State Register, Volume 7, Number 27, January 3, 1983, in which the rule was published.
9. Statement of Need and Reasonableness.
10. Written comments on the proposed rule received by the Department of Revenue.
11. Findings of Fact and Conclusions.
12. Statement of Compliance with Rulemaking Procedure.
13. Notice of Submission to the Attorney General.

Please contact me if there are any questions.

Very truly yours,

Luci Mitchell

LUCI MITCHELL, Attorney
Commissioner's Staff

PAL:dlw
Enclosures

Our File No. 844

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-22-83
DATE FOR REVIEW 4-1-83
DATE DUE 4-5-83

Adopted w/a hearing _____
Adopted w/o hearing _____
Temporary rule _____

Approved 4/5/83 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 3/16/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 3.16.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency miscite to authorizing statute

✓ Affidavit of Mailing Notice or rulemaking
12.29.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
1.3.83 At least 30/20 days prior to ~~hearing~~/adoption
contains same miscite as Notice

N/A Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact changes have been made pursuant to adverse comment - see order adopting
↑ not submitted

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

Comm

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Arthur C. Roemer, Commissioner of Revenue

Attn: LUCI MITCHELL, Attorney
Commissioner's Staff

DATE: April 5, 1983

FROM : LARRY D. STARNS
Special Assistant
Attorney General

LDS

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Amendments to and Repeal of the Rules Relating to Inheritnace and Estate Tax

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
LDS/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Revenue
Estate and Fiduciary Tax Division

Adopted Amendments to and Repeal of the Rule Relating to Inheritance and Estate Tax

Rule as Adopted

~~13-MCAR-S-1.2220-Safe-deposit-boxes.~~

~~A.--General-rule.--Except-as-provided-in-B.-and-C.,-the contents-of-a-safe-deposit-box-to-which-the-decedent-had-access shall-not-be-surrendered-by-the-depository-to-any-person-until the-contents-have-been-inventoried-by-the-county-treasurer-or-a person-authorized-by-the-county-treasurer-to-perform-the inventory.~~

~~B.--Exception-for-surviving-spouse.--If-the-person-seeking access-to-a-safe-deposit-box-is-a-surviving-spouse-of-the decedent-and-if-the-surviving-spouse-had-a-contractual-right-as a-joint-tenant-to-enter-the-safe-deposit-box-prior-to-the decedent's-death,-the-depository-may-grant-access-to-the-safe deposit-box-without-requiring-an-inventory-by-the-county treasurer-or-the-county-treasurer's-designee.~~

~~If-the-person-seeking-access-to-a-safe-deposit-box-is-a surviving-spouse-and-the-court-appointed-personal-representative of-the-decedent's-estate,-the-depository-may-grant-access-to-the safe-deposit-box-without-requiring-an-inventory-by-the-county treasurer-or-the-county-treasurer's-designee.~~

~~If-the-depository-intends-to-grant-access-to-a-surviving spouse,-the-depository-must-send-a-notice-to-the-county treasurer-giving-the-name-and-address-of-the-surviving-spouse and-must-also-indicate-if-the-surviving-spouse-is-a-joint-tenant or-the-personal-representative-of-the-decedent's-estate.--The depository-must-also-indicate-the-date-when-access-is-to-be granted.~~

~~C.--Safe-deposit-boxes-rented-to-organizations.--The commissioner-of-revenue-may-waive-the-requirement-of-the inventory-if-an-application-is-filed-with-the-commissioner~~

~~stating that the safe deposit box is rented to an organization, association, partnership, or other entity which grants authority to certain of its officers, members, or agents to enter the safe deposit box in the course of the business or activities of the organization, association, partnership, or other entity.~~

~~The application shall contain the following information:~~

~~1. the name of the organization, association, partnership, or entity;~~

~~2. the type of activities in which applicant is engaged;~~

~~3. the character of the property or documents usually stored in the safe deposit boxes;~~

~~4. the names and titles of all to whom right of access to the box is given; and~~

~~5. a statement, under oath, that no personal property of any officers, members, or agents will be kept in the box.~~

~~If the application is approved, the commissioner will notify the applicant that the death of a person authorized to enter the safe deposit box rented by the applicant will not require an inventory by the county treasurer. Upon presentation of the approved application, the depository may grant access without requiring an inventory.~~

Repealer. Rules Inh Tax 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 56, 57, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 86, 87, 88, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 111, 112, 113, 114, 115, 116, 126, 127, 128, 129, 130, 136, 137, 158, 159, 174, 175, 176, 177, 178, 179, 180, 181, 186, 187, and 188~~, and 219~~ are repealed.

APPROVED AS TO LEGALITY

April 5, 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

APPROVED AS TO LEGALITY

_____ 19__

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR - 6 1983

10:05

Rule as proposed (all new material)

13 MCAR S 1.2220 Safe deposit boxes.

A. General rule. Except as provided in B. and C., the contents of a safe deposit box to which the decedent had access shall not be surrendered by the depository to any person until the contents have been inventoried by the county treasurer or a person authorized by the county treasurer to perform the inventory.

B. Exception for surviving spouse. If the person seeking access to a safe deposit box is a surviving spouse of the decedent and if the surviving spouse had a contractual right as a joint tenant to enter the safe deposit box prior to the decedent's death, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee.

If the person seeking access to a safe deposit box is a surviving spouse and the court-appointed personal representative of the decedent's estate, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee.

If the depository intends to grant access to a surviving spouse, the depository must send a notice to the county treasurer giving the name and address of the surviving spouse and must also indicate if the surviving spouse is a joint tenant or the personal representative of the decedent's estate. The depository must also indicate the date when access is to be granted.

C. Safe deposit boxes rented to organizations. The commissioner of revenue may waive the requirement of the inventory if an application is filed with the commissioner stating that the safe deposit box is rented to an organization, association, partnership, or other entity which grants authority to certain of its officers, members, or agents to enter the safe deposit box in the course of the business or activities of the organization, association, partnership, or other entity.

The application shall contain the following information:

APPROVED BY THE
REVISOR OF STATUTES
OFFICE BY:

1. the name of the organization, association, partnership, or entity;

2. the type of activities in which applicant is engaged;

3. the character of the property or documents usually stored in the safe deposit boxes;

4. the names and titles of all to whom right of access to the box is given; and

5. a statement, under oath, that no personal property of any officers, members, or agents will be kept in the box.

If the application is approved, the commissioner will notify the applicant that the death of a person authorized to enter the safe deposit box rented by the applicant will not require an inventory by the county treasurer. Upon presentation of the approved application, the depository may grant access without requiring an inventory.

Repealer. Rules Inh Tax 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 56, 57, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 86, 87, 88, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 111, 112, 113, 114, 115, 116, 126, 127, 128, 129, 130, 136, 137, 158, 159, 174, 175, 176, 177, 178, 179, 180, 181, 186, 187, 188, and 219 are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULES RELATING TO INHERITANCE AND ESTATE TAX (13 MCAR § 1.2220)

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 3, 1983, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4, on December 29, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice; and receiving more than seven written negative comments regarding proposed Rule 13, MCAR § 1.2220, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 13 MCAR § 1.2220 Safe Deposit Boxes are adopted this 16th day of March, 1983, pursuant to authority vested in me by Minnesota Statutes Section 291.31, subd. 2, except for 13 MCAR § 1.2220 and except for Repeal of Inh. Tax Rule 219.

STATE OF MINNESOTA

Arthur C. Roemer

ARTHUR C. ROEMER
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

ESTATE AND FIDUCIARY TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULE RELATING TO INHERITANCE AND ESTATE TAX

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, Subdivision 4h (1981).

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the 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 rule within the thirty-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 Statute, § 15.0412, Subdivisions 4 - 4f.

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

Luci Mitchell, Attorney
Commissioner's Staff
Minnesota Department of Revenue
Second Floor Centennial Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of this rule is contained in Minnesota Statutes § 296.27. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Luci Mitchell upon request. A copy of the proposed rule is also available from Luci Mitchell.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule 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 proposed for adoption, should submit a written statement of such request to Luci Mitchell.

The rule proposed for adoption relates to repeal of several obsolete inheritance tax rules and modification of the existing rule relating to inventory of safety deposit boxes.

Date: December 17, 1982

Clyde E. Allen Jr.
CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

ESTATE AND FIDUCIARY TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULE RELATING TO INHERITANCE AND ESTATE TAX	ORDER FOR NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

IT IS ORDERED this 17th day of December, 1982, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

Clyde E Allen Jr

Date: December 17, 1982

CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

ESTATE AND FIDUCIARY TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULE RELATING TO INHERITANCE AND ESTATE TAX

AFFIDAVIT OF MAILING

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 29th day of December, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt a Rule Without a Public Hearing, in the State of Minnesota Central Mail System for United States mailing at said city of St. Paul, a copy thereof, properly enveloped, with first-class postage prepaid, to all persons and associations who have requested that their names be placed on file with the Minnesota Department of Revenue for the purpose of receiving notice of the proposed adoption of rules by this Department.

Donna L Walbridge

DONNA L. WALBRIDGE

Subscribed and sworn to before me this 29th day of December, 1982.

Patricia Zentzis

PATRICIA ZENTZIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES APRIL 19, 1989

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

ESTATE AND FIDUCIARY TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULE RELATING TO INHERITANCE AND ESTATE TAX

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages numbered 1 through 30 consisting of 319 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 29th day of December, 1982, have requested, pursuant to Minn. Stat. § 15,0412, Subd. 4, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

STATE OF MINNESOTA
CLYDE E. ALLEN, JR.
COMMISSIONER OF REVENUE

By: Luci A. Mitchell
LUCI A. MITCHELL, Attorney
Commissioner's Staff

MAILING LIST FOR OFFICIAL NOTICE OF AGENCY RULEMAKING #1

INDEP. BANKERS OF MN
Attn: Norbert McCrady, Exec. V.P.
327 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

Paul M. Leegard
Personnel Administrator
White Motor-Hopkins
130 - 9th Avenue South
Hopkins, MN 55343

Advocate for the Blind
1821 University Avenue, Rm. 389S
St. Paul, MN 55104

Peter S. Popovich
Peterson, Popovich, Knutson
and Flynn,
314 Minnesota Building
St. Paul, MN 55101

James C. Shipman
Executive Director
Association of MN Counties
2305 Ford Parkway
St. Paul, MN 55116

Paul J. Huber LTD
Certified Public Accountants
1821 University Avenue
St. Paul, MN 55104

Kent E. Eklund, Commissioner
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Richard C. Buske
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Charles Schaffer
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Susan P. Robertson, Exec. Dir.
Legis. Comm. to Review
Admin. Rules
Room 430, State Office Bldg.
St. Paul, MN 55155

Gordon Forbes
MN Railroads Association
303 Hanover Building
480 Cedar Street
St. Paul, MN 55101

David R. Knodell, Esq.
Olson, Gunn and Seran, Ltd.
315 Peavey Building
730 Second Avenue South
Minneapolis, MN 55402

Darrel Johnson, Finance Dir.
City of Winona
City Hall
4th & Lafayette St.
Winona, MN 55987

Mr. James N. Denn
MN Motor Transport Assoc.
1821 University Avenue, Rm 134N
St. Paul, MN 55104

John T. Farmer, Exec. Dir.
MN Manufactured Housing Assoc.
222 E Little Canada Rd, Ste. 222
Little Canada, MN 55117

John G. Horner
Minn. Multi-Housing Ass'n.
3100 West Lake Street
Minneapolis, MN 55416

Mr. Robert B. Fering
Wiese and Cox, Ltd.
Attorneys at Law
2022 IDS Center
Minneapolis, MN 55402

P. D. Brick
Pickands Mather & Co.
Ste. 811, 200 W. Superior St.
Duluth, MN 55802

T. J. Manthey
Pickands Mather & Co.
1100 Superior Avenue
Cleveland, OH 44114

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

Claudia Smith
Corp. Law Dept.
The St. Paul Co., Inc.
385 Washington Street
St. Paul, MN 55102

Janice M. Devens
Dir. Human Service Agency
Wright Co. Courthouse
Buffalo, MN 55313

Jean Dawson, Editor
The MN Government Report
B-12, Press Room
State Capitol
St. Paul, MN 55155

John S. Jackson
General Counsel
Minnesota Bankers Association
332 Baker Building
Minneapolis, MN 55402

Abe Rosenthal, Executive Vice President
Minnesota Transport Services Association
1821 University Avenue (N310)
St. Paul, MN 55104

Ronald B. Sieloff, P.A.
Attorney at Law
9th Floor, Commerce Building
St. Paul, MN 55101

L. H. Biegert, Partner
Peat, Marwick, Mitchell & Co.
Certified Public Accountants
1700 IDS Center
Minneapolis, MN 55402

Harold R. Johnson
LANCO Data Proc. Serv., Inc.
219 Little Canada Road
St. Paul, MN 55117

R. A. Garvey
Vice President/General Manager
NORTH STAR STEEL CO.
P. O. Box 43189
1678 Red Rock Road
St. Paul, MN 55164

Robert H. Dillon
Director, Tax Admin.
Honeywell Inc.
Honeywell Plaza, MN 12-4184
Minneapolis, MN 55408

James C. Berger, Vice President
Tax-MEN, Inc.
923 W. Excelsior
Hopkins, MN 55343

J. J. Knip, Jr.
Treasurer
Peavey Company
Peavey Building
730 - 2nd Avenue South
Minneapolis, MN 55402

F. James Rybak, PhD.
MN Department of Economic Security
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101

Kenneth A. Johnson
Director of Taxation
Pillsbury Company - MS 1075
608 - 2nd Avenue South
Minneapolis, MN 55402

MN Chapter of Associated Builders &
Contractors, Inc.
Attn: Donald E. Montgomery, Exec. Director
6300 Walker Street, Ste. 109
(Hwy 7 at Woodale)
Minneapolis, MN 55416

Jerome A. Geis, Esq.
Briggs & Morgan, P.A.
W-2200 First National Bank Building
St. Paul, MN 55101

Philip M. Hanft
Attorney at Law
1200 Alworth Building
Duluth, MN 55802

General Mills, Inc.
c/o R. D. Mueller, Tax Manager
P. O. Box 1113
Minneapolis, MN 55440

Corporate Tax Division/3M
Attention: W. R. Spangler
Director of Tax Compliance
P. O. Box 33441
St. Paul, MN 55133

President
Interstate Power Company
1000 Main Street
Dubuque, IA 52001

Office of the Legislative Auditor
Program Evaluation Division
1st Floor, Veterans Service Building
St. Paul, MN 55155

LARSON, ALLEN, WEISHAIR & CO.
Certified Public Accountants
Attention: David A. Krahn, CPA
Shelard Tower, Ste. 1560
600 South Co. Rd. 18
Minneapolis, MN 55426

Tri-County Community Action
Program, Inc.
Attention: Mark G. Sexton, Planner
404 NE 2nd Avenue
Little Falls, MN 56345

Mr. Walter Pickhardt
1300 N.W. Bank Building
Minneapolis, MN 55402

Mr. Bruce Akerman
1300 N.W. Bank Building
Minneapolis, MN 55402

G. F. Blissenbach, Income Tax Spec.
3M
3M Center, Tax Division
220-13W
St. Paul, MN 55144

Robert J. Murphy
Corporate Tax Manager
Super Valu Stores, Inc.
101 Jefferson Avenue South
Hopkins, MN 55343

Mr. Mark A. Sellner
Touche Ross & Co.
900 Pillsbury Center
Minneapolis, MN 55402

Lake Superior Industrial Bureau
Attention: Alfred E. France, President
828 First National Bank Building
Duluth, MN 55802

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, MN 55934

R. W. Brust, Vice Pres., Taxes
3M Company
3M Center - 220 - 13W
St. Paul, MN 55144

Research Manager
TYMSHARE, Inc.
212 No. Market, Ste. 208
Wichita, KS 67202

Mr. W. C. Viitala
Dir. of Public Affairs
Honeywell Inc.
Honeywell Plaza
Minneapolis, MN 55408

Minnesota Petroleum Council
300 Northern Federal Building
St. Paul, MN 55102

Phillips Legislative Service Inc.
459 Rice Street
St. Paul, MN 55103

Don G. Paterick
Executive Director
MN Taxpayers Association
280 Cedar Street
St. Paul, MN 55101

H & R Block, Inc.
Regional Office
Attn: Richard Fretland
3990 Central Avenue N.E.
Minneapolis, MN 55421

Terry Wightman, Controller
PBS Computing
3550 No. Lexington Ave.
St. Paul, MN 55112

Mr. John M. Gendler
Lapp, Lazar, Laurie & Smith
1800 First Bank Place West
Minneapolis, MN 55402

Savings League of Minnesota
625 - 2nd Avenue South
Minneapolis, MN 55402

Lyle R. Olson
Director Staff Services
2215 W. Old Shakopee Road
Bloomington, MN 55431

Herbert W. Meyer
City Manager's Office
2215 W. Old Shakopee Road
Bloomington, MN 55431

PRENTICE-HALL, Inc.
Englewood Cliffs, NJ 07632
Attn: R. Jerry Alba
Planning Coordinator
State and Local Taxes

Conrad M. Fredin
Attorney at Law
811 1st National Bank Bldg.
Duluth, MN 55802

S & FA Reporting Services, Inc.
Attn: Regulatory Department
1101 - 15th Street N.W.
Washington, D.C. 20005

Mary Samoszuk
Admin. Asst. to Exec. Dir.
Minn. Higher Ed. Coord. Board
Suite 400, Cap. Square Bldg.
550 Cedar Street
St. Paul, MN 55101

Peter J. Benson
Benson Tax Service
3109 Bloomington Ave. S.
Minneapolis, MN 55407

Donald V. Bailey
Attorney at Law
306 Minnesota Federal Bldg.
607 Marquette Avenue
Minneapolis, MN 55402

Lyle L. Boehlke
Boehlke & Son, Inc.
Box 86
Buffalo Lake, MN 55314

Minnesota Independent Retailers Assc.
Attn: Ken Wingard, Ex. Director
P. O. Box 12892
New Brighton, MN 55112

John Koffroth, Tax Specialist
CCH Computax Inc.
P. O. Box 92938
Worldway Postal Center
Los Angeles, CA 90009

Eleanor Ziesmer
Olivia, MN 56277

Stephen L. Taylor
Prentice-Hall, Inc.
Englewood Cliffs, NJ 07632

Angus M. Vaughan
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Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive, Suite 800
Minneapolis, MN 55420

Myron C. Martin
Tax Department
Minnesota Gas Company
733 Marquette Avenue
Minneapolis, MN 55402

Ralph Ziegelman
Ralph's Electric
Route 1, Box 434
Alexandria, MN 56308

Lois Mann, Bookkeeper
Distributors Novelty House, Inc.
119 North 4th Street
Minneapolis, MN 55401

Bob Dietrick, Treasurer
City of Excelsior
339 Third Street
Excelsior, MN 55331

Mary Lou Eltgroth
306 E. 4th Street
Morris, MN 56267

Olympia Brewing Company
Attn. Tax Department
707 E. Minnehaha Avenue
St. Paul, MN 55165

Mr. Gerald W. Poppe
Midwest Electric Products, Inc.
P. O. Box 910
Mankato, MN 56001

Karen Habert
Habert Accounting
2127 West Superior St.
Duluth, MN 55806

Maurice L. Londer
Standard Upholstering Co., Inc.
Box 8595
Minneapolis, MN 55408

John Pierson, Sec. - Treas.
Spartan Mechanical, Inc.
9801 Valley View Road
Eden Prairie, MN 55344

Anderson, Johnson & Co., Ltd.
Certified Public Accountants
1068 South Lake St.
Forest Lake, MN 55025

Laclede Steel Company
Equitable Building
St. Louis, MO 63102
Attn. D. K. Shipley

Carol A. Chap, Office Manager
Crest Electronics
Simon at Third
Dassel, MN 55325

Wolverton Farmers Elevator
Wolverton, MN 56594

Mrs. Mary V. Nelson, Accountant
City of Edina
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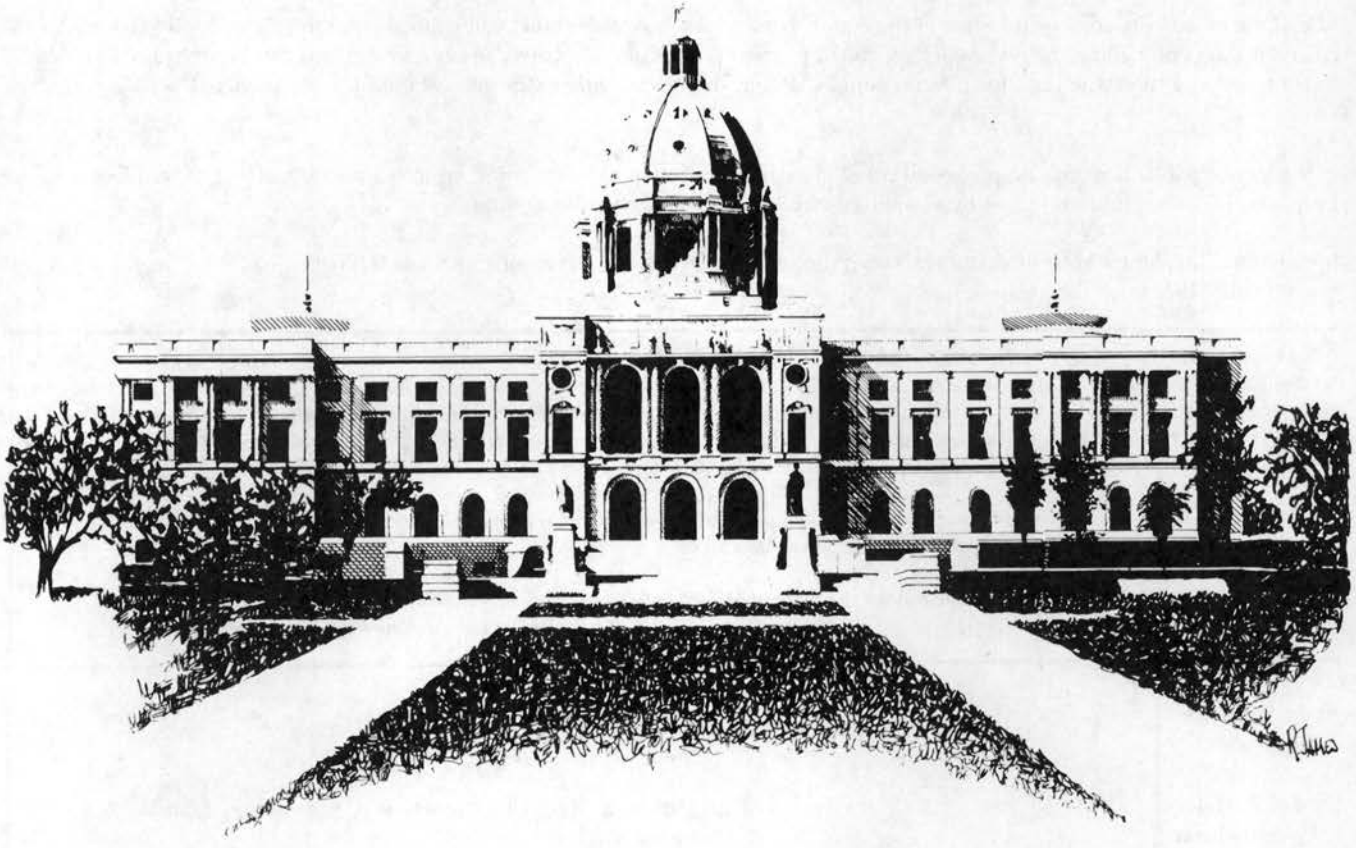
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NOTICE

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
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The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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Part 1 Agriculture Department

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PROPOSED RULES

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.

Department of Agriculture
Grain Inspection Division

Proposed Amendments to Rules Governing the Licensing, Bonding and Auditing of Grain Banks, Public Grain Warehouses, and Public Terminal Warehouses (Chapter Nine: PSC 240-249)

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 § 15.0412, subdivision 4h (1980).

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 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 § 15.0412, subdivisions 4-4f. 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 §§ 232.22, subd. 4; 232.24, subd. 1; 233.02; 235.01; and 236.08. 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.

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.

The commissioner is authorized by Minnesota Statutes §§ 232.22, subd. 4; 232.24, subd. 1; 233.02; 235.01; and 236.08 to set requirements for the licensing, bonding and auditing of grain banks, public grain warehouses and public terminal warehouses. The proposed amendments to the rules are of three types: (1) entirely new material developed pursuant to Laws of 1982, chapter 508 relating to the bonding and auditing of grain warehouses; (2) repeal of current rules which were incorporated into Minnesota Statutes, chapter 232 by the 1982 law; and (3) changes in language and form made by the Office of the Revisor of Statutes.

Because large portions of the current rules were incorporated into the 1982 statute, it was determined easier to repeal one of the current rules and propose current material as new material, even though there is no change in the content of the rule. The proposed amendments to the rules pertain to the following: licensing of grain banks, public grain warehouses and public terminal warehouses; requirements for the amount of bonds; provisions governing waiver or breach of bond; conditions for the movement of encumbered grain; insurance coverage and the settlement of claims; termination of storage contract; duplicate receipts; posted statements of charges; grain held for special purposes; termination of licenses; sale or lease of grain warehouses; provisions governing unsufficient grain in the grain warehouse; insolvency of a grain warehouse; audits, the schedule of inspection and financial reports; grain banks subject to the rules; demand date on grain sale transaction; contents of scale tickets; limitation on service charges; complaints to the commissioner; and penalty for violations. The proposed amendments to the rules also include definitions of terms used in the rules and a general statement of purpose and authority.

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.

December 20, 1982

Mark W. Seetin
Commissioner of Agriculture

Rules as Proposed

CHAPTER ~~NINE: PSC 240-249~~ TWELVE
~~LOCAL~~ GRAIN WAREHOUSES

3 MCAR § 1.0260 Purpose and authority.

Rules 3 MCAR §§ 1.0260-1.0264 are prescribed by the commissioner pursuant to Minnesota Statutes, sections 232.22, subdivision 4; 232.24, subdivision 1; 233.02; 235.01; and 236.08, to govern the licensing, bonding, and auditing of grain banks, grain warehouses, and public terminal warehouses.

3 MCAR § 1.0261 Definitions.

A. Scope. For the purposes of 3 MCAR §§ 1.0260-1.0264, the terms "bond," "commissioner," "condition one bond," "depositor," "grain," "grain warehouse," "grain warehouse receipt," "person," "producer," "public grain warehouse operator," and "scale ticket," have the meanings given in Minnesota Statutes, section 233.21, and the terms defined in this section have the meanings given them.

B. Department. "Department" means the Department of Agriculture.

C. Grain bank. "Grain bank" has the meaning given in Minnesota Statutes, section 236.01, subdivision 3.

D. Public terminal warehouse. "Public terminal warehouse" has the meaning given in Minnesota Statutes, section 233.01, subdivisions 3 and 4.

~~PSC 241~~ 3 MCAR § 1.0262 Licensing and bonding.

A. Licensing. The director of the warehouse division ~~is hereby authorized and directed to~~ shall issue, in a manner approved by the ~~commission~~ commissioner, all licenses for ~~which provision is made in the statute~~ grain banks, grain warehouses, and public terminal warehouses and ~~to~~ approve~~,~~ ~~in like manner,~~ all license renewals of a routine nature. ~~Said~~ The director shall require all licensees to maintain necessary bonds in a penal sum fixed by the ~~commission~~ commissioner and shall, at least twice annually, transmit to the ~~commission~~ commissioner a report on the status of all licensees together with any recommendations deemed pertinent. There shall be no deviation from established licensing and bonding policy without prior approval of the ~~commission~~ commissioner. ~~Licenses which may be issued in this manner are:~~

~~DESIGNATION:~~	~~STATUTORY AUTHORITY:~~
~~A. License to buy grain~~	~~MSA 232.02, subdivision 1~~
~~B. License to buy and store grain~~	~~MSA 232.02, subd. 2~~
~~C. License to buy grain (other than a licensed warehouseman)~~	~~MSA 232.02, subd. 3~~
~~D. Grain bank license~~	~~MSA 236.02~~
~~E. Itinerant grain buyer's license~~	~~MSA 232.02, subd. 3~~
~~F. Flax straw, flax tow or hay buyer's license~~	~~MSA 223.12, subdivision 1~~
~~G. Commission merchant's license~~	~~MSA 223.02~~
~~H. Public terminal warehouse license~~	~~MSA 233.08~~

B. Bonding.

1. The penal sum of a public grain warehouse operator's bond must be at least $20,000 and at least 40 percent of the local market value of all grain outstanding on negotiable grain warehouse receipts.

2. The initial penal sum of the bond shall be fixed by the commissioner effective July 1 for each license period.

3. When it is established pursuant to Minnesota Statutes, section 232.22, that the bond is insufficient to maintain 40 percent coverage based on the local market value of receipted grain in the grain warehouse, the public grain warehouse operator must within 15 days provide the commissioner with verification of the increased bond coverage to maintain the level of 40 percent coverage of receipted grain stored in the grain warehouse.

4. The amount of a bond shall not be reduced during a licensing period.

5. A public grain warehouse operator may petition the commissioner to waive an increase in the penal sum of the bond if the public grain warehouse operator certifies in writing that receipted grain obligations will be reduced prior to the next monthly statement of inventory so that the 40 percent level of bond coverage requirement is met. The commissioner need not grant a waiver, and a waiver may be granted only once during a licensing period. The waiver must terminate in 30 days.

6. A petition for waiver shall cause an immediate inspection by the department or the Agricultural Marketing Service of the United States Department of Agriculture. The public grain warehouse operator must agree to pay the cost of this inspection in the petition for waiver.

7. A breach of a bond set under this part means:

a. a failure to deliver the quantity and quality of the grain upon demand to the depositor in possession of an outstanding grain warehouse receipt; or

b. failure to make payment for receipted grain based on the local market value price of the grain less applicable charges for storage, drying, or other costs incurred in the handling and marketing of the grain, not more than 21 days after written notice to sell is received by the public grain warehouse operator from the depositor of the grain.

8. Condition one of the board covers all valid claims filed against the public grain warehouse operator storing grain for others and shall apply to the licensing and bonding period in which the outstanding grain warehouse receipt originally was issued.

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.

C. Separate bonds. Separate bonds are required for public grain warehouse operators and grain bank operators.

3 MCAR § .0263 Public grain warehouses.

A. Movement of encumbered grain. Grain encumbered by an outstanding grain warehouse receipt may be moved from the issuing grain warehouse only under the following conditions:

1. When the original grain warehouse receipt is presented by the depositor for cancellation, the grain may be moved to any licensed grain warehouse provided a receipt is issued by the public grain warehouse operator to the depositor if requested by the depositor;

2. When a public grain warehouse operator leases space in a licensed grain warehouse within the state for the purpose of reconcentrating grain, the original grain warehouse receipts must be cancelled, with the depositor's consent, and a single receipt issued containing the current date and the information stated in Minnesota Statutes, section 232.23, subdivision 12.

B. Insurance coverage; settlement of claims. Every public grain warehouse operator must carry insurance in accordance with Minnesota Statutes, section 232.23, subdivision 16. The insurance may provide for a deductible provision not exceeding one percent of the net worth of the public grain warehouse operator. If damage occurs to receipted grain, the public grain warehouse operator shall, upon demand by the depositor and upon being presented with the grain warehouse receipt or other legal evidence of ownership, make settlement, after deducting the public grain warehouse operator's charges and advances. The value of the grain in question shall be determined on the basis of the market value less freight charges, at the time of loss or damage, at the terminal market selected by the public grain warehouse operator for the purpose of determining cash value on the insurance reporting form for the preceding month. If a settlement or other satisfactory arrangement for payment has not been made within 90 days from the date of demand, the depositor may seek recovery from the surety.

C. Termination of storage contract; charges. The storage contract may be terminated by the depositor in accordance with Minnesota Statutes, section 232.23, subdivision 11. Delivery charges may be assessed only when actual delivery of the grain is made to the depositor or the depositor's order from the issuing grain warehouse or, at the request of the depositor, from another grain warehouse as provided under A. Nothing in C. prohibits the assessment and collection of delivery charges set by the public grain warehouse operator's posted tariff, for grain handled and delivered to cars on consignment.

D. Duplicate receipt. While a grain warehouse receipt is outstanding, no other receipt shall be issued for any of the grain represented by the original grain warehouse receipt, except that in case of a lost, stolen, or destroyed grain warehouse receipt, the depositor shall be entitled to a new receipt, plainly designated to be a duplicate or substitute for the one missing, indicating the dates of issuance of the original and the replacement grain warehouse receipts. Before issuing a duplicate, the public grain warehouse operator shall require the depositor to make and file an affidavit stating that the applicant is lawfully entitled to possession of the original receipt and that the applicant has not negotiated or assigned it, the circumstances in which it was lost or destroyed, and that, in case of loss, a diligent effort has been made to find it. The public grain warehouse operator may require the applicant to post a bond in an amount not more than double the value, at the time the bond is given, of the grain represented by the lost or destroyed receipt. The bond shall be conditioned to indemnify the public grain warehouse operator against any loss which might be sustained because of the issuance of a duplicate grain warehouse receipt, shall be in a form approved by the commissioner, and shall be executed by a corporate surety licensed to operate in the state, or by at least two individuals who are Minnesota residents each of whom owns real property within the state having a value, in excess of all exemptions and encumbrances, equal to the amount fixed as the penal sum of the bond. A valid duplicate or substitute grain warehouse receipt has the same effect as the document in lieu of which it was issued.

E. Posted statement of charges. Every public grain warehouse operator shall post conspicuously in the grain warehouse a statement of charges, including those for storage and redelivery, for the various services rendered to depositors. No charge different from that posted may be made to any depositor.

F. Grain held for special purposes. Any grain held in a special bin or received for direct consignment, custom drying, or any other purpose, which remains in a grain warehouse for a period exceeding 24 hours following completion of the service for which the grain was tendered, or subsequent to the spotting of an acceptable vehicle for the transportation of the grain, shall be considered stored grain. Scale tickets and grain warehouse receipts issued for the grain shall show the name of the owner, the kind of grain and its weight. Grade and dockage need not be shown.

G. Termination of license; sale or lease of grain warehouse. When a grain warehouse license is terminated by reason of sale, discontinuance of business, failure to renew the license, or any other reason, the public grain warehouse operator must discontinue accepting grain for storage and deliver or purchase all grain belonging to others on store in the grain warehouse. No licensee may sell or lease the grain warehouse unless proper indemnity is provided to all depositors. A written agreement by the

public grain warehouse operator's successor to assume liability for all grain warehouse receipts outstanding at the time of the take-over or cancellation and reissue of outstanding grain warehouse receipts by the successor shall constitute sufficient indemnity.

H. Insufficient grain on hand. Whenever it appears that a public grain warehouse operator does not have on hand grain of sufficient quality and quantity to cover outstanding grain warehouse receipt obligations, the commissioner shall notify the public grain warehouse operator that the shortage must be corrected immediately. If the public grain warehouse operator fails to comply with the order within ten days, the commissioner may petition the district court for an order authorizing the seizure of some or all of the grain stored in the grain warehouse, together with all pertinent books and records. If the petition is granted, written notice of any action taken shall be given to the public grain warehouse operator's surety. If deemed necessary, depositors of record, as shown by the public grain warehouse operator's books, may be notified to present their grain warehouse receipts for inspection or accounting. An audit or other investigation of the affairs of the grain warehouse, if approved by the court, may be made by the commissioner or the commissioner's agents for the purpose of determining the amount of shortage and computing the portion of loss sustained by each depositor. The public grain warehouse operator and the public grain warehouse operator's surety shall be notified immediately of the approximate amount of any shortage and each depositor shall also be informed by a notice mailed to the depositor's last known address as evidenced by the records of the public grain warehouse operator. Unless ordered by the court to do so sooner, the commissioner shall surrender jurisdiction when the public grain warehouse operator, the surety, or both, have satisfied all valid claims.

I. Insolvency. If, during the course of any audit or investigation conducted pursuant to the provisions of H., the commissioner finds evidence that the public grain warehouse operator is insolvent or is unable to satisfy the claims of all depositors, the court shall immediately be so informed and petitioned to appoint a receiver to operate or liquidate the business of the public grain warehouse operator in accordance with the provisions of law.

J. Audit; schedule of inspection.

1. "Audit" as used in Minnesota Statutes, section 232.24, subdivision 1, means an inspection of the financial records, a verification of grain outstanding on grain warehouse receipts showing the commodity, grade, and condition of the grain in storage, and a physical inventory of the grain in the warehouse.

2. Two inspections of grain warehouses will be performed annually.

3. One inspection must be performed by the department or the Agricultural Marketing Service of the United States Department of Agriculture. The second inspection may be performed by the above named governmental units or by a qualified nongovernmental unit.

4. A request for the second inspection to be performed by a governmental agency must be submitted to the commissioner at the time the application for renewal of license is made.

5. If the second inspection is to be performed by a nongovernmental unit, a statement of the qualifications of the nongovernmental unit desiring to conduct the inspection must be on file with the commissioner prior to the inspection.

6. As used in this part, a "qualified nongovernmental unit" means a firm able to meet the requirements for providing a financial report as described in K.

K. Audit; financial reports.

1. "Audit" as used in Minnesota Statutes, section 232.24, subdivision 2, means a financial statement prepared by a nongovernmental unit in accordance with generally accepted accounting principles.

2. The findings of an examination by a nongovernmental unit must be filed with the commissioner within 30 days after the completion of the annual financial statement.

3. The findings of a financial statement prepared by a nongovernmental unit shall include, but are not limited to, the following:

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.

a. a balance sheet of the grain warehouse;

b. a statement of income, including profit and loss;

c. a statement of retained earnings;

d. a statement of changes in financial position;

e. notes with respect to financial statements; and

f. a statement of how the inventory was performed.

4. Each financial statement shall be accompanied by one of the following:

a. an audit or review report prepared by an independent certified public accountant or an independent public accountant in accordance with standards established by the American Institute of Certified Public Accountants, including the accountant's certifications, assurances, opinions, comments, and notes with respect to the financial statement; or

b. a compilation report accompanying the financial statement prepared in accordance with generally accepted accounting principles by a firm that has been authorized by the United States Secretary of Agriculture to provide a compilation report of financial statements.

~~PSC 243~~ 3 MCAR § 1.0264 General provisions.

A. Grain banks. All grain banks, whether operated separately or in conjunction with a ~~public local~~ grain warehouse, ~~shall be~~ are subject to the provisions of ~~Rule PSC 242~~ 3 MCAR § 1.0263 insofar as they apply to ~~such operation~~ their operations.

B. Demand date on grain sale transaction. For the purpose of determining whether a voluntary extension of credit has been made where the statutory limitation relating to bonded purchasers of grain is at issue, the demand date on any transaction which involved the sale of grain shall be no later than the end of the business day next succeeding the day upon which delivery of the grain by the seller to the buyer is completed.

C. Contents of scale tickets, receipts. All scale tickets~~,~~ and negotiable and nonnegotiable grain warehouse receipts must, in addition to containing those statements required by statute, be consecutively prenumbered and have stamped or printed ~~thereon~~ on them the name and location of the issuing grain warehouse.

D. Only one receipt issued. In no event may more than one grain warehouse receipt, either negotiable or nonnegotiable, be issued against the same parcel of grain except in the case of a lost, stolen, or destroyed receipt replaced in accordance with ~~Rule PSC 242 H~~ 3 MCAR § 1.0263 D.

E. Service charges limited. The charge for receiving, handling, and delivering grain at any public terminal warehouse shall not exceed the tariff which has been filed with the ~~commission~~ commissioner by the ~~warehouseman~~ public terminal warehouse assessing ~~such~~ the charge: All filed tariffs must comply with the provisions of ~~MSA Sec.~~ Minnesota Statutes, section 233.10.

F. Complaints to commissioner. Any complaint to the ~~commission~~ commissioner must be in writing, state specifically the charge ~~or charges~~ upon which ~~such~~ the complaint is based, and ~~must~~ be signed by the complainant.

G. Violation; penalty. The intentional violation of any of the provisions contained in ~~these rules shall make~~ 3 MCAR §§ 1.0260-1.0264 renders the violator liable ~~to~~ for the full penalty provided by law ~~in such cases~~.

~~H. These rules replace and supersede any and all rules heretofore made and adopted by the commission for the regulation and operation of grain warehouses.~~

Repealer. Rules PSC 240 and 242 of the Department of Public Service are repealed.

Department of Commerce
Insurance Division

Proposed Amendments to Rules Relating to Proxies, Consents and Authorizations

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Insurance Division proposes to adopt amendments to the above-entitled rules without a public hearing. The Commissioner of Insurance has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1980).

Persons interested in these rules, which were published in the *State Register* January 4, 1982, shall have 30 days to submit comments. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should mail them to:

J. P. Koleski
Insurance Division
500 Metro Square Bldg.
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minn. Stat. § 60A.22. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Any person who desires to be advised of the submission of this material to the Attorney General for approval may make this request in writing to the above named person.

Thomas L. O'Malley
Temporary Commissioner of Insurance

Department of Revenue
Estate and Fiduciary Tax Division

Proposed Amendments to and Repeal of the Rule Relating to Inheritance and Estate Tax

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subdivision 4h (1981).

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the 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 rule within the thirty-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 Statute § 15.0412, subdivisions 4-4f.

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

Luci Mitchell, Attorney
Commissioner's Staff
Minnesota Department of Revenue
Second Floor Centennial Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of this rule is contained in Minnesota Statutes § 296.27. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Luci Mitchell upon request. A copy of the proposed rule is also available from Luci Mitchell.

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.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule 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 proposed for adoption, should submit a written statement of such request to Luci Mitchell.

The rule proposed for adoption relates to repeal of several obsolete inheritance tax rules and modification of the existing rule relating to inventory of safety deposit boxes.

Clyde E. Allen, Jr.
Commissioner of Revenue

Rule as proposed (all new material)

13 MCAR § 1.2220 Safe deposit boxes.

A. General rule. Except as provided in B. and C., the contents of a safe deposit box to which the decedent had access shall not be surrendered by the depository to any person until the contents have been inventoried by the county treasurer or a person authorized by the county treasurer to perform the inventory.

B. Exception for surviving spouse. If the person seeking access to a safe deposit box is a surviving spouse of the decedent and if the surviving spouse had a contractual right as a joint tenant to enter the safe deposit box prior to the decedent's death, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee.

If the person seeking access to a safe deposit box is a surviving spouse and the court-appointed personal representative of the decedent's estate, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee.

If the depository intends to grant access to a surviving spouse, the depository must send a notice to the county treasurer giving the name and address of the surviving spouse and must also indicate if the surviving spouse is a joint tenant or the personal representative of the decedent's estate. The depository must also indicate the date when access is to be granted.

C. Safe deposit boxes rented to organizations. The commissioner of revenue may waive the requirement of the inventory if an application is filed with the commissioner stating that the safe deposit box is rented to an organization, association, partnership, or other entity which grants authority to certain of its officers, members, or agents to enter the safe deposit box in the course of the business or activities of the organization, association, partnership, or other entity.

The application shall contain the following information:

1. the name of the organization, association, partnership, or entity;
2. the type of activities in which applicant is engaged;
3. the character of the property or documents usually stored in the safe deposit boxes;
4. the names and titles of all to whom right of access to the box is given; and
5. a statement, under oath, that no personal property of any officers, members, or agents will be kept in the box.

If the application is approved, the commissioner will notify the applicant that the death of a person authorized to enter the safe deposit box rented by the applicant will not require an inventory by the county treasurer. Upon presentation of the approved application, the depository may grant access without requiring an inventory.

Repealer. Rules Inh Tax 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 56, 57, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 86, 87, 88, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 111, 112, 113, 114, 115, 116, 126, 127, 128, 129, 130, 136, 137, 158, 159, 174, 175, 176, 177, 178, 179, 180, 181, 186, 187, 188, and 219 are repealed.

ADOPTED 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 Natural Resources

Commissioner's Order No. 2136

Regulations for the Guiding of Turkey Hunters and the Issuance of Turkey Hunting Guide Licenses

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the guiding of turkey hunters and the issuance of turkey hunting guide licenses.

Section 1. No person shall for compensation engage in guiding or otherwise assisting hunters who seek to take turkeys without first obtaining a turkey hunting guide license. No person shall be issued a turkey hunting guide license unless he has first obtained a turkey hunting license.

Sec. 2. Persons possessing a turkey hunting guide license may guide only within the zone and during the time period for which their turkey hunting license is valid.

Sec. 3. All persons engaging in the activities described in Sections 1 and 2 of this order shall be subject to all provisions of this order and the commissioner's order regulating the taking of turkeys.

Sec. 4. Applications for turkey hunting guide licenses can be obtained from the Department of Natural Resources License Bureau, 625 North Robert Street, Saint Paul, Minnesota 55101.

Sec. 5. No turkey guide license shall be issued after the day before the opening day of the season for which the guide has a valid turkey hunting license.

Sec. 6. All licensed turkey hunting guides shall complete any report form provided and return it to the Department of Natural Resources, Division of Fish and Wildlife at the specified address and by the specified date indicated on the forms. Failure to submit these reports or failure to provide all requested information shall result in ineligibility for a turkey hunting guide license for the following turkey season.

Sec. 7. This order shall remain in effect until amended, rescinded or superseded.

Dated at Saint Paul, Minnesota, this 16th day of December, 1982.

Joseph N. Alexander, Commissioner
Department of Natural Resources

SUPREME COURT

Decisions Filed Thursday, December 23, 1982

Compiled by John McCarthy, Clerk

81-974 State of Minnesota v. Paul C. Johnson, Appellant. Hennepin County.

Self-induced intoxication by a chronic alcoholic is not involuntary intoxication within the meaning of the criminal law defense of involuntary intoxication.

Trial court properly departed from presumptive sentence and sentenced defendant to 20-year prison term for criminal sexual conduct in the first degree where record established that defendant committed the crime with particular cruelty.

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

82-237 State of Minnesota v. Keith Michael Alesso, Appellant. Ramsey County.

Police officer did not violate defendant's fourth amendment rights in investigation that led to discovery of cocaine in defendant's possession.

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

81-133 State of Minnesota v. Donald Manfred Carlson, Appellant. Anoka County.

The evidence supports the jury's rejection of defendant's mental illness defense.

The trial court did not err in refusing to instruct the jury as to depraved mind third-degree murder where defendant clearly intended to shoot the particular victims who were shot.

The trial court did not err in refusing to instruct the jury in accordance with the Model Penal Code definition of mental illness.

The words "or innocence" in jury verdict forms did not deny defendant a fair trial where the jury instructions as a whole were correct.

The trial court did not abuse its discretion in permitting an expert witness to testify in rebuttal for the state where his identity was first given to defendant during trial but where the prosecutor had not known of the witness until that time.

Defendant's right to counsel was not violated by failure of police to inform him of his right to counsel immediately before asking him to sign a receipt for a copy of his taped statement given to police.

Affirmed. Peterson, J.

81-447, 81-469 Barbara Marston, Appellant (81-447), and Nancy E. Williams, Appellant (81-469), v. Minneapolis Clinic of Psychiatry and Neurology, Ltd., *et al.* Hennepin County.

In determining whether intentional acts of employee were within scope of employment, inclusion of that part of JIG II 252 which requires consideration of whether the employee was motivated by a desire to serve the principal was prejudicial error. Rather, where employee was a psychologist and engaged in sexual acts with patients, rule for intentional torts as set forth in *Lange v. National Biscuit Company*, 297 Minn. 399, 211 N.W.2d 783 (1973), applies and use of motivation test is improper.

It is a question of fact whether sexual acts committed by employee were within scope of employment. Whether act was within scope of employment should include consideration of whether acts were foreseeable, related to and connected with duties of employee and were committed during work-related limits of time and place.

Punitive damages awarded against employee were not excessive.

Reversed in part, affirmed in part, and remanded. Yetka, J. Conc. spec. Todd, J. Dissenting, Peterson and Kelley, JJ. Took no part, Coyne, J.

82-191 Steven A. Clapp, Appellant, v. Richard E. Peterson, individually and as President of Ells Personnel Systems, Inc. Hennepin County.

Equitable defenses are available to a defendant in an action for recission based on a technical violation of the Minnesota Franchise Act.

Affirmed. Scott, J.

81-914 State of Minnesota v. Adrian Oquist, Appellant. Itasca County.

A warrantless search by police of garbage bags placed near an alley for collection was permissible under the fourth amendment because under the facts defendant had no reasonable expectation of privacy in the contents of the garbage bags.

The trial court did not err in admitting evidence of defendant's prior convictions for impeachment purposes.

Affirmed. Coyne, J.

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.

Northeast Minnesota Economic Protection Trust Fund

Notice of Request for Proposals for Engineering Services

Introduction

The University of Minnesota Mineral Resources Research Center and the U.S. Bureau of Mines Research Center conduct long range research on the minerals of Northeast Minnesota and the state as a whole. There are several existing processes which might possibly offer the potential for upgrading Minnesota iron ore concentrate and/or pellets, preferably utilizing abundant energy sources such as Minnesota peat, Dakota lignites, or Western sub-bituminous coals. This Request for Proposal is seeking an engineering appraisal for the ranking of economic and technical viability of the potential processes. The successful responder should review prior reports and the most recent Battelle report dated March, 1982. We believe it would be wise to develop a program to monitor and evaluate at least the following processes on a continuing basis:

Molten Iron or Steel

1. Inred
2. Plasmamelt—SKF Sweden
3. Midrex Electrothermal
4. MRRC—Plasma Tech
5. Davy McKee—Staged Electrothermal
6. Voest—Alpine International Plasma

DRI

1. Korf
2. Plasmared—SKF Sweden
3. Elred-Lurgi and ASEA Sweden
4. Bureau of Mines—Grate Kiln Metalizing Process

This Request for Proposal does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

Project Scope

The responder shall monitor and update technical and economic information relative to the ten (10) processes listed in the "introduction" section for the production of molten iron (6) and DRI (4), and any other process which achieves the goal of increased value of Minnesota resources and shows commercial potential.

The above information will be evaluated and compared on a monthly basis as directed in the "reporting relationships" section.

Use of Minnesota peat and/or lignites and coal as an energy source for all applicable processes will be encouraged and evaluated.

This project will conclude with a summary report which includes a recommendation for continued work on the process which possesses the greatest chance for commercial success.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

Goals and Objectives

To determine the available processes for utilizing and increasing the dollar value of Minnesota iron ore and peat resources, and a ranking of the technical and economic attributes of the processes which will contribute to the commercial success of each process. The ultimate goal will be the establishment of a demonstration plant or plants for such process or processes by private industry with cooperation of the State of Minnesota.

Selection Criteria

1. Responder must be an engineering firm with a metallurgical background and capabilities.
2. Responder firm must be located in the Taconite Tax Relief Area.
3. Responder cannot have an economic or related interest in any of the processes referred to herein.
4. Responder must have a working knowledge of all taconite and mining facilities located in Minnesota.

Reporting Relationships

The organization selected should issue their first report 60 days after being awarded the contract and thereafter a progress report should be made on a monthly basis to the Administrator of the Northeast Minnesota EconomicProtection Trust Fund.

Department Contacts

Prospective responders who have any questions regarding this Request for Proposal may call or write:

Ted Barker, Administrator
Northeast Minnesota Economic Protection Trust Fund
PO Box 441
Eveleth, MN 55734
218/744-4638

Submission of Proposals

All proposals must be sent to and received by:

Ted Barker, Administrator
Northeast Minnesota Economic Protection Trust Fund
PO Box 441
Eveleth, MN 55734

no later than 1:00 p.m., February 14, 1983.

Late proposals will not be accepted. Submit four (4) copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed, in ink, by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

Project Costs

The agency has estimated that the cost of this project should not exceed $150,000.

Project Completion Date

The project will be completed by December 31, 1983 or within ten (10) months from the date of project authorization.

Proposal Contents

The proposal, at a minimum, should include a statement of the firm's credentials and business philosophy; resumes of the principal parties who would be assigned the project; an outline of the methodology proposed; a proposal for remuneration; and an assignment of the personnel and the time responsibilities assigned to each. The credentials of the individuals assigned and their commitment in time and responsibilities will weigh heavily in the selection of the successful firm.

Evaluation

All proposals received by the deadline will be evaluated by the Board of Trustees and the Technical Advisory Committee. In some instances, an interview will be part of the evaulation process.

Evaluation and selection will be completed by February 21, 1983. Results will be sent immediately by mail to all responders.

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 Agronomy Services Division

Notice of Special Local Need (SKN) Registration for "Ectrin Insecticide 10% Water Dispensible Liquid"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture (MDA), on December 21, 1982, issued a Special Local Need (SLN) Registration for "Ectrin Insecticide 10% Water Dispensible Liquid", manufactured by Diamond Shamrock Corporation.

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.

This Special Local Need (SLN) Registration permits the use of this product as a livestock premise spray to control flies.

The application and other data required under Minnesota Statutes, Sections 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. MN82-0016) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
Saint 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.

December 21, 1982

Mark W. Seetin, Commissioner
Minnesota Department of Agriculture

Department of Agriculture Agronomy Services Division

Notice of Special Local Need (SLN) Registration for Gramoxone Paraquat Herbicide

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture (MDA), on December 21, 1982, issued a Special Local Need (SLN) Registration for Gramoxone Paraquat Herbicide, manufactured by ICI Americas, Inc.

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 for post harvest desiccation of kentucky bluegrass seed fields to facilitate burning.

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. MN82-0015) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
Saint 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.

December 21, 1982

Mark W. Seetin, Commissioner
Department of Agriculture

Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Opinion on Rules Relating to the Examination of Architects and Land Surveyors

Notice is hereby given that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture is seeking information and opinions from sources outside the board in preparing revisions to board rules 4 MCARf § 7.009 Examination of Architect Applicants and 4 MCAR § 7.011 Examination of Land Surveyor Applicants. The authority for revising these rules is contained in Minn. Stat. § 326.06 (1980).

The board is considering revisions to these rules including:

1. 4 MCAR § 7.009 Examination of Architect Applicants. Revising the examination format from the current Qualifying Test; Section A, Professional Examination (12-hour Site Planning and Design Test); and Section B, Professional Examination (16-hour, four part, multiple choice test) to the new four-day Uniform Architect Registration Examination (ARE) which will be the only national examination available for use beginning in June 1983. Requiring that candidate education and experience requirements be completed as of the date of administration of the examination. Modifying credit allowances for certain non-architectural education.

2. 4 MCAR § 7.011 Examination of Land Surveyor Applicants. Revising education requirements from the current degree requirement effective January 1, 1985 to four years after the establishment of a four-year land surveying program within the State of Minnesota, whichever is later. Revising the total number of years of combined land surveying education and experience required on a scale from seven to ten years. Specifying certain areas of land surveying activity in which experience is required.

Any person with information, comments, or questions concerning the proposed rules revision should submit them either orally or in writing before January 31, 1983. Address correspondence to:

Lowell E. Torseth, Executive Secretary
Board of Architecture, Engineering, Land
Surveying and Landscape Architecture
500 Metro Square
St. Paul, Minnesota 55101
(612) 296-2388

The board expects to publish proposed rules in February, 1983. Written materials received will be made part of the record when these rules are proposed. Oral comments made will be considered by the board.

Department of Commerce
Banking Division

Bulletin No. 2695: Maximum Law Rate of Interest for Mortgages and Contracts for Deed for the Month of January 1983

Notice is hereby given that pursuant to Section 47.20, Subd. 4a, Minnesota Statutes 1980, the maximum lawful rate of interest for conventional home mortgages for the month of January 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 January 1983 is thirteen and three-quarters (13.75) percentage points.

It is important to note that this maximum lawful interest 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 based on the Federal National Mortgage Association (FNMA) December 20, 1982, auction results and an average yield for conventional mortgage commitments of 13.697%. Current rates regarding the monthly publication are available by telephoning the Banking Division's 24-hour information number (612) 297-2751.

December 22, 1982

Michael J. Pint
Commissioner of Banks

Metropolitan Council

Notice of Preliminary Review Schedule

Solid Waste Management Development Guide Amendments

The Metropolitan Council will begin review of proposed amendments to its Metropolitan Development Guide chapter on solid waste management. The Guide chapter will be amended to include the following:

1. Regional landfill abatement plan;
2. Schedule for development of new landfills;
3. Schedule for closing of existing landfills;
4. Standards and procedures for certificates of need for new solid waste facilities;
5. Standards and procedures for county plan implementation;
6. Allocation of cost for debt service for Council bonds sold for landfill sites.

The following is a tentative schedule for reviewing the proposed amendments.

May 4, 1983	The Metropolitan Waste Management Advisory Committee of the Metropolitan Council adopts the proposed amendments for public hearing.
May 12, 1983	The Physical Development Committee of the Metropolitan Council reviews public hearing draft.
May 19, 1983	The Physical Development Committee adopts the proposed amendments for public hearing.
May 26, 1983	The Metropolitan Council sets public hearing.
June 28, 1983	Public hearing on the proposed amendments.
July 8, 1983	Hearing record closes.
August 3, 1983	The Metropolitan Waste Management Advisory Committee reviews final hearing reports and adopts final amendments.
August 11, 1983	The Physical Development Committee reviews final hearing report and adopts final amendments.
August 18, 1983	If necessary, the Physical Development Committee adopts final amendments.
August 25, 1983	The Metropolitan Council adopts plan.

This schedule is tentative and subject to change. A subsequent notice of the public hearing will be published. If you have any questions regarding the schedule or the plan, call Paul Smith, Environmental Planner, at 291-6408.

Department of Public Welfare
Support Services Bureau

Notice of Intent to Solicit Outside Opinion Concerning Revision of Rules Govenring Licensure of Child-Caring Institutions and Group Homes for Children

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.005; Standards for child-caring institutions (DPW Rule 5).

This rule governs the licensure of residential facilities that engage in the provision of care and treatment for emotionally disturbed children.

Authority for this rule is found in Minn. Stat. §§ 245.783; 256.01, subd. 2; and 257.175.

The proposed changes would merge existing DPW Rules 5, Standards for Child-Caring Institutions, and 8, Standards for Group Homes, and may include revisions or deletions of portions of the existing rules as well as specific additions governing program administration, staffing requirements, physical environment of facilities, resident rights and services.

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:

Cheryl Nyhus, Supervisor
Residential Licensing
Division of Licensing
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at 612/296-4037.

All statements of information and comment must be received by February 2, 1983. Any written material received by the department shall become part of the hearing record.

Errata

At 7 S.R. 925, Department of Health rule 7 MCAR § 1.155 A., the fee "$120.00" should be underlined, but not struck out.

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.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

ESTATE AND FIDUCIARY TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULE RELATING TO INHERITANCE AND ESTATE TAX

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule. It is submitted pursuant to 9 MCAR Section 2.104 requiring a Statement of Need and Reasonableness.

Authority to Adopt the Rule

Minn. Stat. Section 291.31, Subd. 2, grants the Commissioner statutory authority to establish rules concerning the estate and inheritance taxes.

Statement of Need

The 1979 Legislature passed the Omnibus tax bill which included a repeal of the existing inheritance tax law replacing it with the Minnesota estate tax provisions. The bill was approved by the Governor on June 1, 1979, and became known as Laws 1979, Chapter 303. The estate tax provisions are contained in Article III of Chapter 303 and are effective for estates of decedents dying after December 31, 1979.

The adoption of an estate tax to replace the inheritance tax caused a significant change in the audit requirements. First of all, the number of estates required to file and pay a tax was reduced. The threshhold of taxability was raised. Under the inheritance tax, a tax liability could occur if even $500 passed to a person not related to the decedent. Under the estate tax a return was not required if the entire estate was less than $161,000 in the first year, 1980.

Our estate tax is based on the federal estate tax laws. In most instances, questions of taxability are determined under federal law and rules without an independent Minnesota law. The starting point for the Minnesota estate tax is the federal gross estate. In determining the federal gross estate, most of the issues relating to taxability and valuation are addressed under the appropriate federal provisions. The statutory provisions which directed independent Minnesota determinations and established guidelines in these areas have been repealed. The proposed

repealer relates to portions of Minn. Stat. Chapter 291 which were repealed or amended by the 1979 amendments.

Rules Proposed for Repeal

Inh Tax 11-14: Transfers in Contemplation of Death

These rules relate to the provisions of Minn. Stat § 291.01, subd. 1, clause 3, concerning transfers within three years prior to death. As this section was repealed for deaths on or after January 1, 1980, and the treatment of these transfers is controlled by federal law under the new provisions, these rules should also be repealed for deaths after 1979.

Inh Tax 19-30: Transfers Intended to Take Effect in Possession or Enjoyment At or After Death

The section relating to this series of rules, Minn. Stat. § 291.01, subd. 1, clause 3, was repealed for deaths on or after January 1, 1980, and these determinations are now made under federal code provisions and the related regulations.

Inh Tax 56: Tax Borne by Other Legatee

Under an inheritance tax the relationship of the beneficiaries to the decedent was significant due to the different rate and exemption schedules based on relationship. Under an estate tax, with the tax assessed against the estate itself without regard to relationships, tax payment clauses have no impact on the tax assessment. As a result, this rule no longer has significance or validity.

Inh. Tax 57: Bona Fide Contests

As with the tax payment clauses, since the relationship of the parties is of no consequence under an estate tax and since the marital deduction is determined under federal code provisions, this rule is obsolete for deaths after December 31, 1979.

Inh Tax 63-79: Powers of Appointment

These rules relate to the provisions of Minn. Stat. § 291.01, subd. 3, which were repealed for deaths on or after January 1, 1980. For deaths on or after that date, the determination as to whether certain powers of appointment are includable in the taxable estate is controlled by federal code provisions in the determination of the federal gross estate.

Inh Tax 86-88: Jointly Owned Property

These rules relate to the provisions of Minn. Stat. § 291.01, subd. 4, repealed for deaths on or after January 1, 1980. For deaths on or after that date, treatment of joint tenancy assets in a decedent's estate are controlled by federal code provisions.

Inh Tax 94-107: Insurance Proceeds

These rules relate to the provisions of Minn. Stat. § 291.01, subd. 5, which were repealed for deaths on or after January 1, 1980. Taxability of insurance proceeds now controlled by federal code provisions.

Inh Tax 111-116: Interests Passing by Inheritance or Survivorship

These rules explained the procedures and implications of disclaiming under Minnesota law. As part of the estate tax legislation, the disclaimer procedures for disclaiming for death tax purposes were distinguished from substantive law disclaimer procedures under Minnesota law. The amended Minn. Stat. § 291.111 reads: "An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part if said interest is disclaimed pursuant to sections 2045 and 2518 of the Internal Revenue Code." As such, the procedures and implications of disclaimers are controlled by federal law for deaths on or after January 1, 1980.

Inh Tax 126-130: Life Estates: Remainders - Contingent Interests - Composition Agreements

These rules apply generally to situations where interests are split between beneficiaries or where interests passing to certain beneficiaries are contingent. Since under an estate tax, the relationship of the beneficiaries to the decedent are of no consequence, except that of surviving spouse, and since in the case of a surviving spouse, the marital deduction is determined under federal law, these rules are obsolete for deaths after December 31, 1979.

Inh Tax 136-137: Value of Certain Transfers Made by Decedent During Lifetime

These rules relate generally to the provisions of Minn. Stat. § 291.01, subd. 1, clause 3, which addressed the taxability of certain transfers made during decedents lifetime. This section was repealed for deaths after December 31, 1979, and the determination as to the taxability of these transfers is made under federal law in arriving at the federal gross estate.

Inh Tax 158-159: Deductions

These rules relate to deductions which are no longer allowed under Minnesota law. Minn. Stat. § 291.05, clause (3) (ii), relating to deductions for family maintenance was repealed for deaths after December 31, 1979. Minn. Stat. § 291.07, subd. 1, clause (6), which allowed a deduction for selection of personal property was also repealed effective the same date.

Inh Tax 174-181: Exemptions

This series of rules relate primarily to the provisions of

Minn. Stat. § 291.065, concerning the taxation of employee retirement plans. The provisions of this section were substantially amended as part of the 1979 legislation effective for deaths after December 31, 1979, and render these rules obsolete. The last two rules in this series cover the exemption in lieu of maintenance and exemptions for children. Both these exemptions were repealed by the 1979 legislature.

Inh Tax 186-188: Minnesota Estate Tax

These sections cover a concept no longer valid under current Minnesota law since the "pick-up" tax is now an integral part of the assessment procedural rather than an add on as under the inheritance tax.

Inh Tax 219: Release of Inheritance Tax Liens

The lien provisions of Minn. Stat. § 291.14 were repealed for deaths after December 31, 1979. This rule is obsolete for deaths after that date.

New Rule: 13 MCAR § 1.2220

Under the existing rule, Inh Tax 219, it was required that every safe deposit box be inventoried if a contracting party died. There was only one exception which is also included in clause C of this new rule. The inventory was performed by the county treasurer of a person designated by the treasurer. The inventory when forwarded to the commissioner was a valuable audit tool. It was used to verify that all assets were reported when a return was filed.

While still helpful, the procedures have been re-examined in light of the following changes.

1. Under current law, there is an unlimited marital exemption. All assets passing to a surviving spouse are exempt from federal and state estate taxes.

2. The minimum filing requirement for 1983 is $275,000 and increases to $600,000 in 1987. Fewer estates will be required to file a Minnesota return and still fewer will be subject to a tax liability.

3. The fiscal crunch has caused cutback in county offices and the availability of personnel to perform the inventories has been curtailed. This has caused delays in responding to requests for performing inventories.

Our proposed rule allows access, without an inventory, to a surviving spouse if the surviving spouse is the personal representative of the decedent's estate or the surviving spouse had a contractural right to enter the safe deposit box prior to decedent's death.

The depository must notify the county treasurer when access is permitted, but does not have to wait for an inventory.

It is important to note that the general rule still applies--an inventory is required in all cases which is not covered by clauses B and C. In those instances not involving a surviving spouse, the audit potential of the inventory is greater. It is necessary and reasonable to continue the inventory requirements. The volume of inventories will be reduced significantly (how significantly it is impossible to pinpoint) and the remaining requirements will be less of a strain on county personnel.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULES RELATING TO INHERITANCE AND ESTATE TAX (13 MCAR § 1.2220)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, LUCI A. MITCHELL, Legal Research Attorney, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Hearings, and the rules of the Attorney General have been followed. There are no exceptions.

Luci A. Mitchell

LUCI A. MITCHELL

Dated: March 14, 1983

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULES RELATING TO INHERITANCE AND ESTATE TAX (13 MCAR § 1.2220)

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 21st day of March, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Donna L Walbridge
Donna L. Walbridge

Subscribed and sworn to before me
this 21st day of March, 1983.

Patricia Zentzis

PATRICIA ZENTZIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES APRIL 19, 1989

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PETROLEUM TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF AMENDMENTS TO AND REPEAL OF THE RULES RELATING TO INHERITANCE AND ESTATE TAX (13 MCAR § 1.2220)

NOTICE OF SUBMISSION TO ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, Section 15.0412:

PlEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, March 21, 1983, for review as to form and legality. Pursuant to 1 MCAR § 1.206B., the Attorney General will not approve the rules for at least eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Luci Mitchell, Department of Revenue, Second Floor Centennial Office Building, St. Paul, Minnesota 55145.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Luci A. Mitchell

LUCI A. MITCHELL, Attorney
Commissioner's Staff