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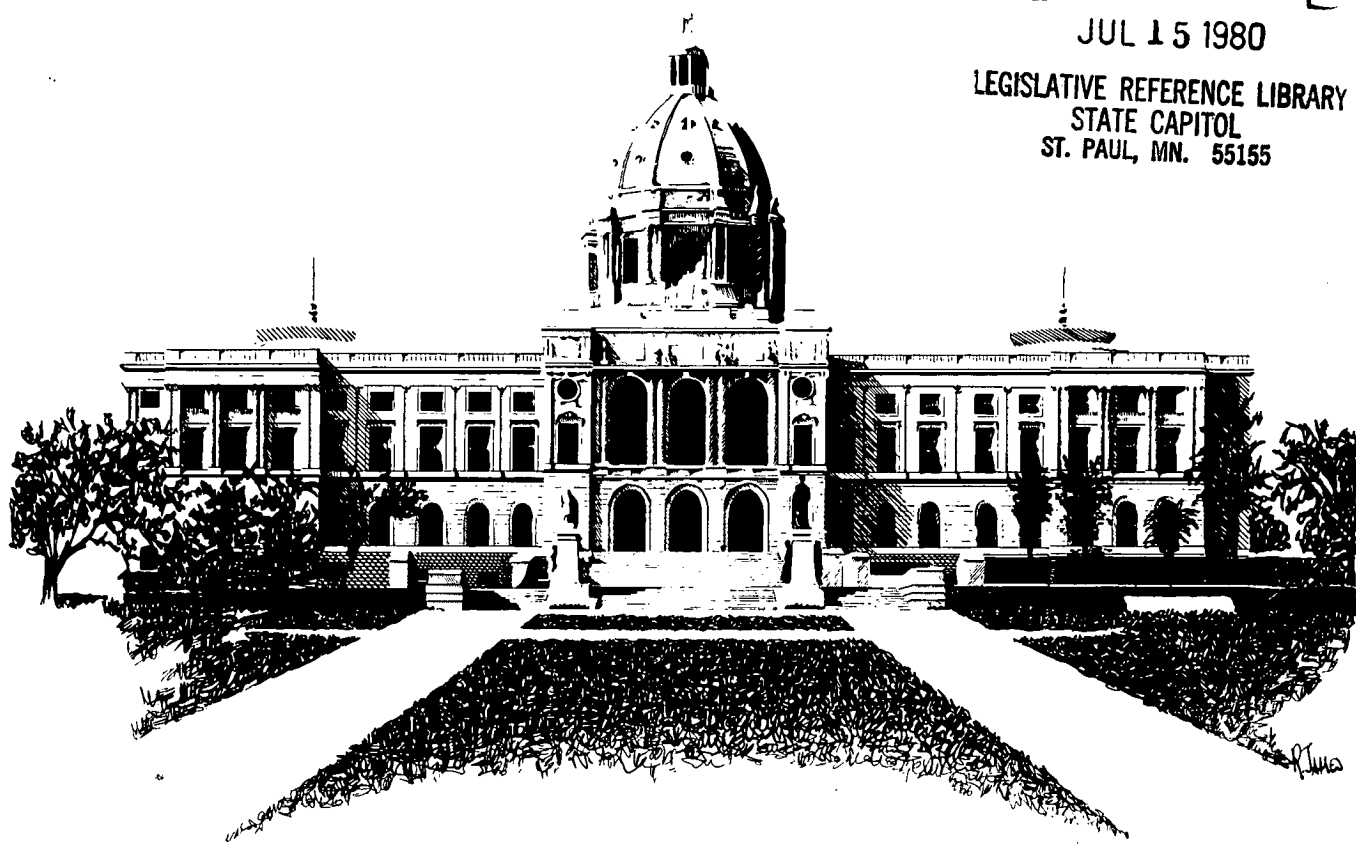
# STATE REGISTER

STATE OF MINNESOTA

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VOLUME 5, NUMBER 1

July 7, 1980

Pages 1-16



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### Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 5			
2	Monday June 30	Monday July 7	Monday July 14
3	Monday July 7	Monday July 14	Monday July 21
4	Monday July 14	Monday July 21	Monday July 28
5	Monday July 21	Monday July 28	Monday Aug 4

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$118 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota, Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

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

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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SAIL ON, linoleum print by Kathie Pearson, Central High School, Duluth, MN.

**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:**

- Proposed new rules (including Notice of 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* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

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

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

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

# MCAR AMENDMENTS AND ADDITIONS

**TITLE 8 LABOR**

**Part 1 Labor and Industry**

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**TITLE 11 PUBLIC SAFETY**

**Part 2 Corrections Department**

11 MCAR § 2.111 (adopted amendment) ..... 5

# 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 Corrections

### Notice of Amended Rule Relating to the Operation and Management of Holding Facilities, Lockups, Jails and Adult Correctional Facilities

Laws of 1980, ch. 602, § 18, provides that 11 MCAR § 2.111 G.1., which was published at *State Register*, Volume 2, Number 40, pp. 1842-1873, be amended by the publication in the *State Register* of the following change:

**11 MCAR § 2.111 G.1.** Delivery of medicine shall be conducted only by licensed medical, or nursing personnel or by facility staff members who have successfully completed a Minnesota Department of ~~Health~~ Corrections approved training program on the "Delivery of Medicine for Unlicensed Personnel."

## Department of Labor and Industry Occupational Safety and Health Division

### Adoption of Occupational Safety and Health Codes

Pursuant to Minn. Stat. § 182.655 (1978) notice was duly published at *State Register*, Volume 4, Number 45, page 1767 (4 S.R. 1767) dated May 12, 1980 specifying the modification of certain Occupational Safety and Health Codes, specifically as they relate to elevators, the National Electrical Code, and MOSHC 1 (8 MCAR § 1.7001). The public was given an opportunity to present written data and request a public hearing. No written statements or requests for a public hearing have been received.

Therefore, the Minnesota Occupational Safety and Health Codes relating to adoption of Federal Occupational Safety and Health Standards by Reference, MOSHC 1 (8 MCAR § 1.7001), are amended to incorporate changes, deletions, additions, and corrections made in Federal Occupational Safety and Health Standards adopted by reference in Minnesota prior to February 1, 1980, and published at *State Register*, Volume 4, Number 45, pages 1767-1768 are adopted with an effective date of July 7, 1980 and are identical in every respect to their proposed form.

The Minnesota Occupational Safety and Health Codes relating to the adoption of the 1978 edition of the National Electrical Code as published at *State Register*, Volume 4, Number 45, page 1768 are adopted with an effective date of July 7, 1980 and are identical in every respect to their proposed form.

The Minnesota Occupational Safety and Health Codes relating to elevators and incorporation of the 1978 edition of the American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ANSI A17.1-1978 as published at *State Register*, Volume 4, Number 45, pages 1768-1774 are adopted with an effective date of July 7, 1980 and are identical in every respect to their proposed form with the following amendments:

#### 8 MCAR § 1.7100 General provisions.

##### A. Scope.

2. The regulations given herein shall apply to the construction, installation, alteration and operation of all such installations listed in 8 MCAR § 1.7100 A.1. of this section, which are constructed, installed, or altered within the limits of the State of Minnesota after ~~July 1, 1980~~ July 7, 1980.

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

## ADOPTED RULES

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### B. Definitions.

1. An existing elevator installation or moving stairway shall mean one on which construction was begun prior to ~~July 4, 1980~~ July 7, 1980.
2. A new elevator or moving stairway installation shall mean one on which construction was begun after July 4, 1980 July 7, 1980.

Harry D. Peterson  
Commissioner

## SUPREME COURT

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### Decisions Filed Friday, June 27, 1980

#### Compiled by John McCarthy, Clerk

#### **48819/326 State of Minnesota vs. John Lewis Adams, Appellant. Hennepin County.**

A lesser included offense instruction on first degree manslaughter as defined by Minn. Stat. § 609.20 (subd. 2) (1978) is not appropriate where a jury has no rational basis to acquit defendant on the greater offense of third degree murder as defined by Minn. Stat. § 609.195 (subd. 2) (1978) and at the same time convict him of the lesser offense.

Where trial court held that witness' status as an accomplice was a question of fact and submitted question to jury, error, if any, was harmless in light of sufficient corroborating evidence independent of witness' testimony.

Admission of hearsay evidence at sentencing hearing pursuant to Minn. Stat. §§ 609.155 and 609.16 (1978) does not violate defendant's right to due process where he was afforded notice, an opportunity to be heard and the right of cross-examination.

Minn. Stat. § 609.16 (1978), the dangerous offender extended sentence statute, is not unconstitutionally vague as applied to defendant.

Trial court's findings that defendant is disposed to commission of violent crimes and that an extended term of imprisonment is necessary for the public safety pursuant to Minn. Stat. § 609.16 (1978) are not clearly erroneous.

Affirmed. Kelly, J. Dissenting, Wahl, J. and Rogosheske, J.

#### **49940/288 State of Minnesota vs. Sherman Terry Gatlin, Appellant. Hennepin County.**

Systematic use of preemptory challenges by the prosecutor to prevent blacks from serving on petit juries in cases involving black defendants may violate equal protection, but defendant in this case failed to meet his burden of showing systematic exclusion.

Trial court did not commit prejudicial error in any evidentiary rulings.

Claim of illegal sentence should be presented first to trial court.

Affirmed. Kelly, J.

#### **50360/205 Lorraine L. Coller, Appellant, vs. Guardian Angels Roman Catholic Church of Chaska, et al. Carver County.**

A trial court's action permitting a party to serve or file a pleading after expiration of a time limit is discretionary and will not be reversed unless that discretion has been abused. Here, where the defendants had a reasonable defense on the merits; had a reasonable excuse for their failure to answer; acted with due diligence after notice of such oversight; and no substantial prejudice resulted, denial of a motion for default judgment was proper.

In a private school with no tenure policy, a teacher whose contract has expired does not have an implied contract to continue teaching, and her constitutional right to due process of law has not been violated by the absence of a more "meaningful hearing" when state action is absent.

Affirmed. Scott, J.

#### **50396/264 State of Minnesota vs. Robert Martin Cavegn, Appellant. Ramsey County.**

A search warrant is not required for a "stop and frisk" where probable cause to arrest is already present even though the police, in the exercise of their discretion, did not choose to secure an arrest warrant until a stronger case was established.

Testimony concerning preliminary investigatory questions asked of the defendant by the arresting officer before the Miranda warning was given is admissible.

Under the circumstances of this case, where it was stipulated that all evidence received at the omnibus hearing would be part of the record to be considered at a court trial, the appellant waived his right to Spreigl notices concerning that testimony. In any event, such testimony of circumstances that were also statutory violations was admissible as part of the relevant evidence to support the acts of this criminal charge brought against the appellant.

Affirmed. Scott, J.

**50389/280 State of Minnesota vs. Dennis Charles Farrell, Appellant. Ramsey County.**

Evidence of defendant's guilt was sufficient.

Affirmed. Scott, J.

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## **STATE CONTRACTS**

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

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

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### **Department of Administration Intergovernmental Information Systems Advisory Council**

#### **Notice of Request for Proposals for the Development, Publication, and Distribution of Public Information**

The Intergovernmental Information Systems Advisory Council is issuing a request for proposal (RFP) which delineates the requirements for the development, publication, and distribution of articles which describe significant aspects of the state of automation within Minnesota local government.

The RFP may be obtained between July 7, 1980, and July 28, 1980 from:

Roger Sell  
Executive Director  
IISAC  
7501 Golden Valley Road  
Golden Valley, Minnesota 55427  
Telephone: (612) 341-7228

The deadline for receipt of proposals is August 4, 1980, 4:30 p.m. The maximum amount of funds available for this effort is \$11,835.00.

### **Department of Economic Development Development Resources Division**

#### **Notice of Request for Proposals for A Feasibility Study of A Co-generation/Co-location Agricultural Processing Industrial Park**

Proposals are being accepted for a feasibility study of an agricultural processing industrial park to be located within the Six East Regional Development Commission area (Kandiyohi, Meeker, McLeod and Renville County).

## STATE CONTRACTS

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The purpose of the study is to determine whether or not co-generation and co-location principles can be used in an economically viable agricultural processing industrial park. The study will focus on what types of industries would be compatible as well as raw material supply, capital investment, labor force, park location and transportation factors.

The department estimates that the cost of such a study will be between \$40,000 and \$60,000.

Proposals must be submitted no later than 4:00 p.m., July 28, 1980. Further information is available from Dana Weber Young, Director, Development Resources, by writing: Department of Economic Development, 480 Cedar St., St. Paul, Minnesota 55101; or calling (612) 296-3976.

### **Metropolitan Council**

#### **Notice of Request for Bids for Dental Insurance**

The Metropolitan Council is soliciting bids for dental insurance coverage for its employees. Bid specifications may be obtained from Carla Lechthaler, Personnel Manager, Metropolitan Council, 300 Metro Square Building, St. Paul, Minnesota 55101. Telephone (612) 291-6367. All bids must be received by 2 p.m., Thursday, July 31, 1980.

Charles Weaver  
Chairman

### **Department of Natural Resources Bureau of Engineering**

#### **Notice of Request for Proposals for an Evaluation of Alternatives and Design of the Douglas Lodge Area Sewage Disposal System in Itasca State Park**

The consultant shall propose a system for wastewater disposal of Douglas Lodge Area Sewage including an analysis of construction and annual maintenance costs for the following three alternatives:

1. An effective sewage treatment system at the location of the present Douglas Lodge Area treatment site;
2. transmission of Douglas Lodge Area wastewater to the existing stabilization pond utilizing an existing power line right of way (pump station and force main);
3. transmission of Douglas Lodge Area wastewater to the existing stabilization pond by an underwater pipeline in the East Arm of Lake Itasca connected to an existing disposal line in the Lower Campground (pump station and force main).

Following approval by the Department of Natural Resources, the consultant will prepare detailed plans and specifications and engineer's estimate of cost based upon these plans and specifications.

The department has estimated that the cost of this project should not exceed \$25,000.00 for professional services and expenses.

Proposals must be submitted by 3:00 p.m., July 28, 1980, to Keith C. Englesby, Acting Administrator of the Bureau of Engineering, Department of Natural Resources, 4th Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. Contact Ralph Rabus, Senior Engineer, at (612) 296-2119.

### **Department of Public Service**

#### **Notice of Request for Proposals for Rate of Return Expert Witness Consultant Services**

##### **Proposals Due July 18, 1980**

The department solicits proposals to provide rate of return expert witness testimony and assistance in two utility rate cases involving North Central Public Service Company and Minnegasco which have or are expected to be filed soon.

Consultants may propose on one or both cases. Consultant services required include:

1. Participate in discovery activities; assist department with preparation of cross-examination of company witnesses; prepare and present direct and rebuttal testimony as required by the department; assist in preparation of briefs and obtain pleadings, if necessary, on the following:

- a. Analyze and determine the appropriate rate of return to be applied to the company's rate base for purposes of determining its revenue requirement.



b. Analyze and discuss the capital structure, cost of senior capital, rate of return to be allowed on equity capital, interest coverage ratio and other financial issues.

The estimated cost of the services are \$10,000 for each case.

Proposals are due July 18, 1980 to:

Department of Public Service  
790 American Center Building  
St. Paul, Minnesota 55101

Attention: Betty Woodhouse

Technical questions can be addressed to Dr. Dai-sheng Hong, Supervisor of Rate Evaluation at (612) 296-7603.

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## 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.

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### Department of Commerce Banking Division

#### **Bulletin No. 2263: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of July 1980**

Notice is hereby given that pursuant to Minn. Stat. §47.20, subd. 4a, the maximum lawful rate of interest for conventional home mortgages for the month of July, 1980, is thirteen (13.00) percentage points.

Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended Minn. Stat. § 47.20, the maximum lawful rate of interest for contracts for deed for the month of July, 1980, is thirteen (13.00) percentage points.

June 25, 1980

Michael J. Pint  
Commissioner of Banks

### Department of Education School Management Services Division

#### **Notice of Intent to Solicit Outside Opinion Concerning Rules Relating to A Statewide Education Management Information System**

Notice is given that the Minnesota Department of Education, School Management Services Division, is soliciting information and opinions from sources outside of the agency for the purpose of making rules relating to a statewide education management information system. The proposed rule is authorized by Minn. Stat. § 121.931, subd. 8 (1980), which mandates the department to promulgate rules concerning at least the following issues:

1. Standards for financial, student and payroll/personnel data and any other data included in the Elementary, Secondary, Vocational Information System (ESV-IS);
2. Approval/disapproval criteria for:
  - (a) the creation of regional management information centers,

## OFFICIAL NOTICES

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- (b) the transfer by a school district of its affiliation from one regional management information center to another,
- (c) the use by a school district of an alternative management information system to ESV-IS,
- (d) the annual and biennial plans and budgets submitted by regional management information centers, and
- (e) expenditures by districts for computer activities other than fees paid to regional management information centers;

3. Criteria and the process for determining which data and data elements are included in the data element dictionary and the annual data acquisition calendar; and

4. The use of cost accounting by regional management information centers to account by school district for resources consumed at the center in support of each ESV-IS subsystem.

All persons desiring to submit information or views on the subjects may do so either orally or in writing. Written or oral comment should be addressed to:

Mr. Donald R. Thomas  
Education Data Systems Section  
Minnesota Department of Education  
807 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-2752

All statements of information and comment must be received by July 28, 1980. Any written material received by this date will become part of the record of any rules hearing held on these subjects.

June 27, 1980

Donald R. Thomas  
Director

## Energy Agency

### Notice of Intent to Prepare Minnesota Energy Agency List for Future Rulemaking Hearings

In accordance with Minnesota Laws of 1980, Chapter 615, the Minnesota Energy Agency is establishing a list of persons to receive official notice of its rulemaking proceedings. That law requires each agency or department to establish and maintain such a list to replace the existing Secretary of State's list.

If you wish to receive notice of rulemaking proceedings of the Minnesota Energy Agency, please notify the agency in writing by July 31, 1980. You will then receive notice of any rulemaking proceedings initiated after that date. Please note that this procedure will put you *only* on the list of the Minnesota Energy Agency; other agencies and departments will be establishing their own lists. Please send your written request to the following address:

Minnesota Energy Agency  
Attn: David L. Jacobson  
980 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101

June 23, 1980

Mark Mason  
Director

## Department of Health

### Notice of Application for Licensure of Life Support Transportation Service

On June 12, 1980, a complete application for a license to operate a proposed life support transportation service with bases of operation at

Fairview-Southdale Hospital, Edina, Minnesota  
(Back-up service only for Edina—Primary Service area Richfield and Bloomington)

Airport Medical Clinic  
7501-26th Ave. So.  
Minneapolis, MN. 55450  
(Primary service area Airport, Richfield and Bloomington)

submitted by Robert Lossie, Smith Ambulance Service, was received by the Department of Health. This notice is given pursuant to Minn. Stat. § 144.802 (1979), which requires that the commissioner shall publish the notice, at the applicant's expense, in the *State Register* (July 7, 1980) and in a newspaper in the municipality in which the service would be provided, or if no newspaper is published in the municipality or if the service would be provided in more than one municipality, in a newspaper published at the county-seat of the county or counties in which the service would be provided. Each municipality, county, community health service agency and any other person wishing to comment on this application to the Health Systems Agency (The Metropolitan Health Board), shall do so before the close of business on August 6, 1980.

After a public hearing has been held in one of the municipalities in which the service is to be provided, the Health Systems Agency (The Metropolitan Health Board), shall recommend that the commissioner either grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days after receiving the recommendation, the commissioner shall grant or deny the license to the applicant.

## **Metropolitan Council**

### **Public Hearing on Guidelines for Review of Proposed Amendments to Local Comprehensive Plans**

The Metropolitan Council will hold a public hearing on Thursday, July 31, 1980 at 2 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul, Minn., on guidelines the Metropolitan Council is establishing under Minn. Stat. § 473.854 for review of proposed amendments to local comprehensive plans. All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the council's hearing coordinator at 291-6482. Copies of the proposed *Guidelines for Review of Proposed Amendments to Local Comprehensive Plans* are available free of charge from the council's Public Information Office at 291-6464.

## **Metropolitan Council Metropolitan Health Board**

### **Long Range Hospital Plan Phase III Designation**

#### **Notice of Public Hearing**

The Metropolitan Health Board will hold a public hearing on Thursday, July 31, 1980, at 4 p.m. in the Metropolitan Council Chambers, 300 Metro Square Bldg., 7th and Robert Sts., St. Paul, Minnesota 55101 (use Jackson St. entrance), for the purpose of receiving public comments on a proposed report on specialized hospital services that currently meet Metropolitan Health Board guidelines. All interested persons are invited to attend and offer comments on the draft report. Copies of the draft *Report on Specialized Hospital Services* are available free of charge from the Metropolitan Council's Public Information Office at 291-6464. For further information, contact the Metropolitan Health Board at the above address or telephone 291-6352.

Coral Houle  
Chairperson

## **Errata**

At 4 S.R. 1914, under 3 MCAR § 2.018 Scabies., the language "or until cleaned and disinfected under supervision of the board" should have been underlined to show an addition to the original proposed rule.

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

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## ORDER FORM

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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.

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