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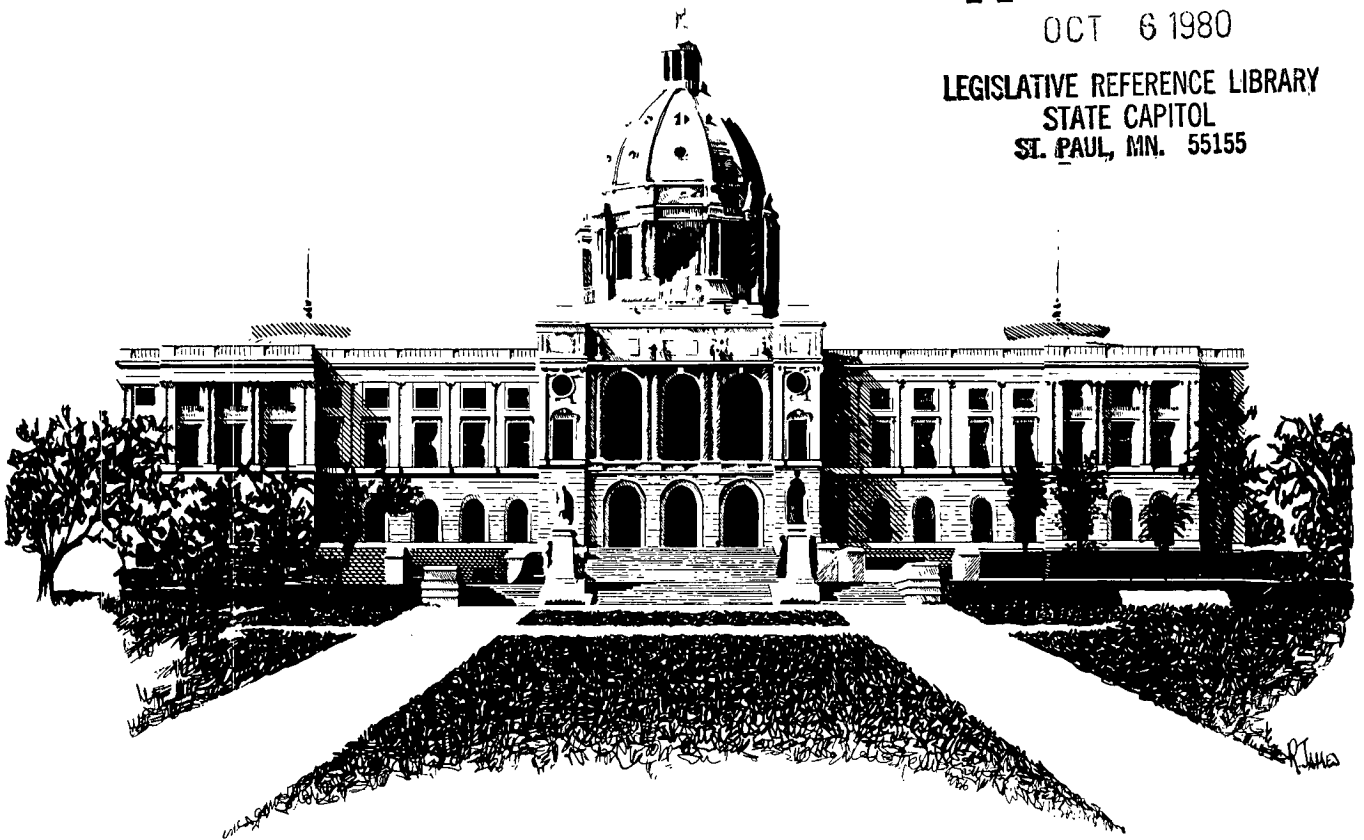
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 5, NUMBER 14

October 6, 1980

Pages 579-594



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			
15	Monday Sept 29	Monday Oct 6	Monday Oct 13
16	Monday Oct 6	Monday Oct 13	Monday Oct 20
17	Monday Oct 13	Monday Oct 20	Monday Oct 27
18	Monday Oct 20	Monday Oct 27	Monday Nov 3

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

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EXECUTIVE ORDERS

Executive Order No. 80-9

Providing for the Establishment of the Governor's Council on Rural Development; Repealing Executive Order No. 79-8

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

WHEREAS, it is vital for state government to identify important rural issues and to provide the best possible services to the people of the State of Minnesota; and

WHEREAS, to achieve this goal requires a concerted effort to improve the existing delivery systems of state, federal and local levels of government and to provide new services and new directions for addressing rural issues; and

WHEREAS, there exists a multitude of agencies and institutions involved in the delivery of services to rural Minnesota; and

WHEREAS, no single state agency presently has the function of coordinating the delivery of services to rural Minnesota for which the state is responsible; and

WHEREAS, a council with regional participation and interdepartmental cooperation can improve the coordination, quantity, and quality of services delivered.

NOW, THEREFORE, I Order:

1. The formation of a Governor's Council on Rural Development composed of the Lieutenant Governor, the Commissioner of Agriculture and a member of each Regional Development Commission and the Metropolitan Council. These members, except the

EXECUTIVE ORDERS

Lieutenant Governor and the Commissioner of Agriculture, shall be entitled to reimbursement of expenses from the Rural Rehabilitation Trust Fund on the basis outlined in Minnesota Statutes 1978, Section 15.0593.

The following shall serve as representatives to the Council, not to be eligible for expenses under Minnesota Statutes 1978, Section 15.0593: The Director of the State Planning Agency; the Director of the Office of Local and Urban Affairs; the Director of the Housing Finance Agency; the Director of the Pollution Control Agency; the Director of the Energy Agency; the Commissioner of Economic Development; the Commissioner of Economic Security; the Commissioner of Health; the Commissioner of Natural Resources; and the Commissioner of Transportation.

The University of Minnesota, the Minnesota State University System, the Private College Council, the U.S. Department of Agriculture State Rural Development Committee, the U.S. Economic Development Agency, and the U.S. Department of Housing and Urban Development shall each be asked to appoint a representative to the Council on Rural Development.

The Lieutenant Governor shall serve as Chairperson of the Council on Rural Development and the Commissioner of Agriculture shall serve as Vice Chairperson.

Appropriate public and private organizations shall be invited to participate in the deliberations of the Council and to provide assistance to all of the activities of the Council.

The Council and representatives to the Council shall meet at the call of the Chairperson and operate pursuant to bylaws adopted by the Council and distributed to all members and representatives.

2. That the bylaws shall provide that approval of any recommendation or action as to the following shall be made upon a majority vote of the combined Council and representatives to the Council:

2.1 The development of a process for identifying and analyzing important rural issues/problems in Minnesota and a strategy for addressing those issues.

2.2 The study by the Council of issues affecting the development of rural communities, and the formulation of recommendations for improving and/or implementing programs.

2.3 Recommendations to the State Executive Council for investment of the Rural Rehabilitation Trust Fund and use of interest generated from its investment.

3. The cooperation of all state departments and agencies with the operation of the Council on Rural Development.

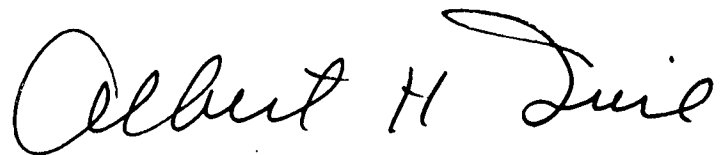
4. That state department and agency representatives to the Council shall designate necessary staff to provide assistance to the Council. Expenses incurred by such staff shall be assumed by the department or agency.

5. That the terms of Council members and representatives to the Council shall be co-extensive with the effective term of this Order.

This Order repeals Executive Order No. 79-8.

Pursuant to Minnesota Statutes 1978, Section 4.035, this Order shall be effective fifteen (15) days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this 16th day of September, 1980.



Albert H. Quie
Governor

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.

State Planning Agency Human Resources Planning Division

Adopted Rules for Provision of State Grants for Human Services Management and Planning Improvement

The rules proposed and published at *State Register*, Volume 4, Number 48, pp. 1894-1896, June 2, 1980 (4 S.R. 1894) are adopted with the following amendments:

Rules as Adopted

10 MCAR § 1.320 Authority and purpose.

A. Authority. The rules contained herein are prescribed pursuant to authority granted in Minn. Stat. §§ 4.17 and ~~402.046~~ and Laws of 1979, ch. 333, § 16, subd. 3 and subsequent applicable laws.

B. Purpose of the rules. These rules are set forth to provide the procedures for awarding human services management and planning improvement grants.

10 MCAR § 1.321 Definitions. The following terms as used in these rules have the following meanings:

A. "Human services"—shall have the meaning established in Minn. Stat. § 402.02, subd. 2(d).

B. "Division"—means the Human Resources Planning Division of the State Planning Agency.

C. "SPA"—means the State Planning Agency.

D. "Management and planning improvement"—means those activities focused at providing procedures, methods of actions and guidance for the administration of human services programs.

E. "Grant agreement"—means a signed written agreement between the state, acting by and through the SPA, and the county which specifies the terms of the funding to the county.

10 MCAR § 1.322 Application process.

A. Submission of application.

1. Eligibility. Any Minnesota county is eligible to apply for the grants described herein.

2. Notice. Annually the division shall provide notice of the time period during which applications will be accepted. The duration of the application period shall not be less than 30 days. Notices will be sent to:

a. Chairman of County Boards;

b. Directors of Human Services Boards established pursuant to Minn. Stat. § 402;

c. Directors of Community Health Services Programs established pursuant to Minn. Stat. §§ 145.911 to 145.922;

d. Directors of Community Social Services Programs established pursuant to Minn. Stat. §§ 256E.01 to 256E.12;

e. ~~Directors~~ Administrators of Community Corrections Programs established pursuant to Minn. Stat. § 401;

f. Directors of Regional Development Commissions established pursuant to Minn. Stat. §§ 462.381 to 462.396;

~~f.~~ g. Others who request notification.

3. Eligible projects. A project whose goals are to improve the management or planning capacity of a county to deliver human services programs is eligible for funding.

B. Application procedures. Applications, on forms supplied by the SPA, must be received by the division before 5 p.m. on the last day of the application period or be postmarked not later than the last day of the application period.

10 MCAR § 1.323 Distribution of grants.

A. Criteria—Priority counties. Consistent with priorities established in applicable appropriations law, priority status shall be given counties who have not previously received funding for the improvement of their management or planning capacity.

The following criteria, each carrying equal weight, shall be used by the division to evaluate projects for funding:

1. The extent to which the project is likely to be transferable to other counties.
2. The extent to which the project is likely to result in a significant improvement in management systems, organization or services integration.
3. A project which is undertaken by a group of counties or by multiple disciplines or programs within a single county.
4. The extent to which the project can demonstrate a high cost-effectiveness result.

B. Ranking of applications. The division will rank applications from highest to lowest based on the stated criteria and will award funds in order of ranking.

C. Applications from other counties. If funds remain after awards are made to counties who have priority status as specified in 10 MCAR § 1.323 A., the remaining money shall be available to other counties and will be evaluated and distributed on the basis of criteria stated in 10 MCAR § 1.323 A.1.-4. and 10 MCAR § 1.323 B.

D. Limit on grants. Total grants to any county during the biennium shall not exceed the limit set in applicable appropriations laws.

E. Grant disbursement. The SPA shall disburse the grants according to the following procedures:

1. A grant agreement shall be entered into by the SPA and the county once the grants are awarded.
2. The grant agreement shall specify:
 - a. The amount of the funding to be awarded the county for the management and planning improvement;
 - b. The manner and process for making payments to the county; and
 - c. The requirements for accounting, auditing and reporting required of the county by the SPA.

10 MCAR § 1.324 Final report. Within 60 days of completion of the project, each grantee shall submit to the division a final report. The report shall address the following:

1. Description of the project;
2. Participants in the project;
3. Staffing of the project, including consultants;
4. Results of the project;
5. An assessment of the effect of the project on future events or issues in the county;
6. Plans for continuation of the project, if any;
7. Source and amount of funds, if any, used in addition to state grant.

10 MCAR § 1.325 Availability of funding. Grants under the rule are subject to continuing availability of funds appropriated for such purposes.

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."

SUPREME COURT

Decision Filed Friday, September 26, 1980

Compiled by John McCarthy, Clerk

49541/61 State of Minnesota vs. Bobby Earl Nunn, Appellant. Hennepin County.

Underlying offense on which defendant's felony-murder conviction was based, a burglary of a dwelling accompanied by an assault on the resident, was a "felony upon or affecting the person" under Minn. Stat. § 609.195 (2) (1978) and therefore defendant's conviction was proper. Trial court properly refused to submit the lesser offense of first-degree manslaughter, Minn. Stat. § 609.20 (2) (1978) (manslaughter committed during commission of a crime).

Trial court did not err in admitting confession to prior relevant crime which defendant gave police when he was still a juvenile.

Affirmed. Sheran, C. J. Took no part, Amdahl, J. and Simonett, J.

Decisions Filed Friday, September 5, 1980

49828/271 Richard D. Wojahn, et al, Appellants, vs. Ronald W. Johnson and Donna J. Johnson, defendants and third party plaintiffs, Jerome C. Grundhofer, Defendant and Third Party Plaintiff, vs. Ruth Bergland, et al, Third Party Defendants. Washington County.

Trial court did not err in finding that corner monuments were lost and that county surveyor used proper surveying techniques in reestablishing them.

Equivocal and amorphous evidence of the existence and location of an alleged boundary fence did not, as a matter of law, establish it as marking the practical location between two parcels of land.

The existence of a close family relationship between the claimant of land and the record owner creates the inference that the original possession by the claimant of the other's land was permissive and not adverse.

Facts support trial court's ruling that plaintiffs had not adversely possessed the strip of property in dispute in this case between the survey line and an alleged fence line for 15 years as required by Minn. Stat. § 541.02 (1978).

Trial court did not err in finding that driveway had not been dedicated for public use under Minn. Stat. § 160.05 (1978) or under the doctrine of common law dedication.

Injunction to enjoin threatened future trespass over a neighbor's road may be denied where the one sought to be enjoined has relied on the use of the road for a long period of time, for access to his home; where such use does not irreparably injure the neighbor's property; where the long continued reliance by the one sought to be enjoined arose innocently; and where the cost of providing alternative access would be great compared to the inconvenience caused the neighbor by the continued use of the road.

Affirmed in part; reversed in part and remanded. Sheran, C. J. Took no part, Amdahl, J.

50128/68 State of Minnesota, Plaintiff, vs. Charles Christian Bauer. Hennepin County.

The dismissal of the murder indictment pending against defendant, who is incompetent to stand trial, mentally ill and dangerous to the public, is neither constitutionally mandated nor consistent with state policy.

Certified question answered in the negative. Yetka, J. Took no part, Scott, J., Wahl, J., and Amdahl, 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.

Office of the State Auditor

Notice of Request for Proposals

The Office of the State Auditor requires the services of private accounting firms to audit the counties for the periods indicated as follows:

<u>County</u>	<u>Estimated Receipts</u>	<u>1970 Estimated Population</u>	<u>Nursing Home Audit</u>	<u>Annual Audit Period(s) Ending</u>
Roseau	\$ 9,194,953	11,569		Dec. 31, 1980
Lake of the Woods	5,268,019	3,987	X	Dec. 31, 1980
Red Lake	4,787,329	5,388	X	Dec. 31, 1980
Koochiching	17,360,718	17,130	X	Dec. 31, 1980
Itasca	49,610,239	35,530	X	Dec. 31, 1980
Grant	6,293,004	7,462		Dec. 31, 1979 and Dec. 31, 1980
Pope	6,161,305	11,107		Dec. 31, 1980
Big Stone	6,451,715	7,941		Dec. 31, 1980
Swift	13,080,508	13,177		Dec. 31, 1980
Lac Qui Parle	12,744,944	11,164		Dec. 31, 1979 and Dec. 31, 1980
Yellow Medicine	18,889,886	14,523		Dec. 31, 1980
Pipestone	9,932,029	12,791		Dec. 31, 1980
Rock	15,854,005	11,346		Dec. 31, 1980
Watonwan	16,943,091	13,298		Dec. 31, 1980

Firms will be selected through a competitive proposal procedure. Firms will be retained for three-year cycles with audit contracts contingently renewable on a negotiated price basis annually.

The basic characteristics of the audit work include the following:

Firms will enter into a contract for services with the State Auditor.

The entire cost of audit services will be charged to the individual county.

The audit work must be performed in accordance with generally accepted auditing standards.

The average engagement required 315 man hours for the last audit.

For more information concerning audit guidelines contact Curt Sippel at (612) 296-7001. Firms desiring consideration should submit their proposals by individual county by October 24, 1980. These proposals should include resumes indicating similar experience, and an engagement budget by man hours. Send response to:

The Honorable Arne H. Carlson
 State Auditor
 State of Minnesota
 Veterans Service Building
 20 West 12th Street
 St. Paul, Minnesota 55155

**Energy Agency
 Alternative Energy Development Division
 District Heating Activity**

Notice of Request for Proposals for Engineering Services

The Minnesota Energy Agency, Alternative Energy Division, District Heating Activity, is seeking engineering firms to provide aerial photographic, photogrammetric and field survey services for the district heating project in the City of Red Wing, Minnesota. These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Ronald E. Sundberg
 Alternative Energy Division
 Minnesota Energy Agency
 980 American Center Bldg.
 150 East Kellogg Blvd.
 St. Paul, MN 55101

STATE CONTRACTS

It is anticipated that the activity to accomplish these services will not exceed a total cost to the state of \$25,000. The deadline for the submission of completed proposals will be 4:30 p.m., October 20, 1980.

Contractors with the Minnesota Energy Agency must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. All bidders must submit, along with their proposal to the Minnesota Energy Agency, a statement indicating that they have applied. Applications can be obtained by written request from the Minnesota Department of Human Rights, 240 Bremer Bldg., St. Paul, MN 55101.

Department of Natural Resources Bureau of Engineering

Notice of Request for Proposals for Architectural and Engineering Services

Notice is hereby given that the Department of Natural Resources is requesting proposals for Architectural and Engineering services for the design of a Seed Extractory Building at the Badoura Nursery near Park Rapids, Minnesota.

The consultant shall provide the state with construction drawings (architectural, mechanical and electrical) and specifications for the building. The consultant shall follow established design concepts as prepared by the sponsor and as specified below:

- a) A heated 80' x 40' building with a partial basement.
- b) A 40' x 26' cold storage room with cooling and heating equipment.
- c) Building design shall include all mechanical and electrical connections for a seed extractor oven and other mechanical equipment to be furnished and installed by sponsor.

The department has estimated that the cost of this project should not exceed \$15,000.00 for professional services and expenses.

Proposals must be submitted by 3:00 p.m., October 27, 1980, to Keith C. Englesby, Coordinator of the Bureau of Engineering, Department of Natural Resources, 4th Floor Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101. For a copy of the Request for Proposal, contact Henry F. Koegler, Senior Engineer, at (612) 296-2119.

Department of Natural Resources Forestry Division

Notice of Availability of Contracts for Incentives Programs (Forestry)

The Department of Natural Resources is seeking self-employed foresters to perform special technical forestry contractual services. These services will be directly related to both the Forestry Incentives Program and the Agricultural Conservation Program.

Technical services will include:

1. Privately owned woodland inventory and analysis.
2. Management plan preparation.
3. Incentive programs needs and compliance determinations.

The estimated amount of the 7 (seven) contracts is \$10,000 each.

Qualified self-employed foresters should contact the Minnesota Department of Natural Resources Forestry Office for a resume outline by phone at (612) 296-4484 or by writing:

Raymond Hitchcock
Department of Natural Resources
Box 44
Centennial Office Building
St. Paul, MN. 55155

All inquiries should be made no later than October 31, 1980.

Department of Transportation City of Sauk Rapids

Notice of Availability of Contract for Highway and Utility Construction Engineering

The City of Sauk Rapids in cooperation with the Office of State Aid, Minnesota Department of Transportation, requires the services of a qualified consultant to provide construction engineering for highway and utility improvements at the intersection of Trunk Highway #15 and First Street South in Sauk Rapids.

Services will include construction supervision, materials inspection, documentation according to Federal Aid requirements and construction staking for a project consisting of roadway replacement, and installation of storm and sanitary sewers, watermain and services, traffic signals, lighting, sidewalks and traffic signs.

The estimated cost for these services is in the range of \$60,000 to \$70,000.

Firms interested in this project may obtain further information and submittal guidelines by writing to the address listed below. A brief technical/personnel proposal will be submitted on the firm's letterhead and must include Federal forms SF 254 and SF 255.

All proposals must be submitted by noon, 22 October, 1980 and inquiries of interest should be directed to:

Mark A. Johnson, P.E.
City Engineer
104 No. Benton Drive
Sauk Rapids, MN 56379
Telephone (612) 253-6054

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 Commerce Banking Division

Bulletin No. 2278: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of October, 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 October, 1980, is fourteen and one-half (14.50) percentage points.

Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as amended Minn. Stat. § 47.20, the maximum lawful rate of interest for contracts for deed for the month of October, 1980, is fourteen and one-half (14.50) percentage points.

September 17, 1980

Michael J. Pint
Commissioner of Banks

Energy Agency

Notice of Public Meeting Regarding NSP's Request for Modification of Sherco 3 Certification of Need to Include SMMPA and UMMPA Participation

The Minnesota Energy Agency (agency) is seeking comment from persons outside the agency on certain questions raised by Northern States Power Company's (NSP's) request for modification of its Certificate of Need for the proposed 800-megawatt coal-fired electrical generating plant known as Sherco 3 to include other utilities as joint owners. The agency will receive that public comment in writing and at a meeting scheduled for 1:30 p.m. on October 13, 1980, in Room 83, State Office Building, 435 Park Street, St. Paul.

History. The agency's Certificate of Need program regarding large electrical generating facilities became effective on September 30, 1975. On October 14, 1975, NSP applied for certification of its proposed Sherco 3 and Sherco 4 power plants. After a public hearing process, the Sherco 3 and 4 plants were certified on April 12, 1976, to be in operation in May of 1981 and 1983, respectively. In December 1977 and early 1978 NSP notified the agency that NSP's new forecasts would indicate the Sherco 3 and 4 in-service dates should be delayed. The agency conducted a public hearing to consider the matter and, on March 23, 1978, issued an order which voided the Sherco 4 certification, voided the Sherco 3 certification regarding in-service date, held the remainder of the Sherco 3 certification in abeyance, and required NSP to initiate a rehearing on the timing of Sherco 3.

OFFICIAL NOTICES

On August 21, 1978, NSP submitted its application regarding the timing of Sherco 3, requesting an in-service date of May 1984. After an extensive public hearing process, including thirty-three days of hearings conducted in 1978 and early 1979 and extensive briefing by the parties, the agency issued an amended certificate in October 1979 for Sherco 3 as an 800-megawatt coal-fired unit to be in operation by May 1, 1985. The forecast on which that timing determination was based was neither NSP's, nor the agency staff's nor that of any other party; rather, the forecast was derived from the record as a whole.

On August 12, 1980, NSP informed the agency that the forecast NSP was preparing for submission to the agency according to Minn. Stat. § 116H.10 would indicate a lower electric peak demand growth rate and an increased energy demand growth rate. NSP expressed its conclusion that Sherco 3 should be completed by 1985 and that joint ownership of the facility should be explored. No quantification of the change in forecasts was included in the letter. On September 15, 1980, NSP and other utilities serving Minnesota jointly filed an Advance Forecast Report to the Agency. NSP forecast a lower peak demand for 1985 than it had earlier projected.

Current Issue. On September 18, NSP submitted to the agency its Request for Modification of the Sherco 3 Certificate of Need changing the ownership, but not changing the certified size, type or timing. NSP discussed its new peak demand forecasts which, for 1985, are 560 megawatts lower than NSP's 1978 forecasts and 238 megawatts lower than the alternate forecast on which the Agency's 1979 recertification was based. NSP also referred to three other energy supply concerns as support for retaining a 1985 in-service date: uncertainties regarding its oil-fired capacity, the age of its existing capacity, and the potential for premature shutdown of NSP's nuclear facilities.

NSP seeks to modify the Sherco 3 Certificate of Need to reflect the proposed sharing of that facility's capacity with the Southern Minnesota Municipal Power Agency (SMMPA) and the United Minnesota Municipal Power Agency (UMMPA). The specific proposal would permit SMMPA to own 300 megawatts and UMPPA 49 megawatts, leaving 450 megawatts of the Sherco 3 capacity for NSP. Separate letters of intent between NSP and SMMPA and between NSP and UMMPA to negotiate for joint ownership of Sherco 3 and to coordinate licensing procedures were also submitted to the Agency.

The Purpose of the Meeting. At the meeting to be held at the date, time and place set out above, the Agency will receive comment on the scope of the certification of need proceeding arising out of the Request for Modification. NSP, SMMPA, UMMPA, the Agency Staff, parties to past proceedings and any interested person are invited to participate in the meeting.

Certain issues have already been determined by the agency, and comments on those issues are not requested. The agency has decided to require SMMPA to justify its asserted need for 300 megawatts of capacity whether it be a share of Sherco 3 or another alternative. That justification must include consideration of a full range of alternative means of satisfying the asserted need. The agency also has decided to require NSP to justify the proposed 350-megawatt reduction in its share of Sherco 3. Included in that justification must be a showing of UMMPA's need for a minimum share of 49 megawatts.

Certain other specific issues have not yet been resolved by the agency. The purpose of the meeting is to receive comment on these remaining issues: the range of alternatives available to NSP which should be considered in the further proceeding in addition to the alternative proposed by NSP; the extent to which changes in NSP's forecast must be considered in the proceeding; and the extent of the need justification to be required of UMMPA.

Oral statements limited to the issues stated above will be received at the meeting. Written submissions similarly limited will be received prior to the meeting, at the meeting, and for a period of one week after the hearing, i.e., on or before October 20, 1980. Written statements should be addressed to Minnesota Energy Agency, c/o David L. Jacobson, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.

September 30, 1980

James H. Main
Deputy Director

Energy Agency Conservation Division

Notice of Intent to Solicit Outside Opinion Concerning Rules Governing the Administration and Distribution of Community Energy Planning Grants

Notice is hereby given that the Minnesota Energy Agency is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the administration and distribution of Community Energy Planning Grants.

The proposed rules are authorized by Minn. Laws of 1980, ch. 579, § 7 (Codified as Minn. Stat. § 116H.089) which reads as follows:

§ 7. (116H.089) (Community Energy Planning: Grants.) Subdivision 1. (Purpose.) In order to improve the energy planning capabilities of local governments, the energy agency shall make grants to counties and cities, however organized. The energy agency

when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community involvement. The director shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be duplicated by other local governments. The grants may be used to purchase materials, employ staff or contract with other units of government or qualified consultants.

The director shall not make grants of more than 45 percent of the amount appropriated for those purposes to cities and counties located within the seven county metropolitan area. A single grant to a city or county shall not exceed \$50,000.

Subd. 2. (Qualifying Expenditures.) Community energy planning grants may be used for the following purposes:

- (a) To gather, monitor, and analyze local energy supply, demand, and cost information;
- (b) To prepare comprehensive community energy plans;
- (c) To implement comprehensive energy plans that the unit of government is authorized to undertake for the management of problems resulting from: (1) rising energy cost; (2) lack of efficient public and private transportation; (3) lack of community conservation efforts; (4) lack of widespread renewable energy sources; and (5) lack of energy components in comprehensive plans and local ordinances;
- (d) To assist neighborhood organizations in counties and cities to do energy planning by making grants to the local unit of government; and
- (e) Any other purposes deemed appropriate by the director of the energy agency.

Subd. 3. (Administration.) The energy agency shall determine priorities pursuant to subdivisions 1 and 2, and shall promulgate rules for the submission and review of applications in accordance with the provisions of chapter 15. For this purpose the energy agency may adopt temporary rules pursuant to the provisions of section 15.0412, subdivision 5.

It should be specifically noted that a single grant shall not exceed \$50,000.

The purpose of these rules for state grants for the development of community energy plans would be to adopt procedures including, but not limited to, establishing: project priority; requirements for local matching funds; number of grant cycles; whether the grant process should be competitive; applicant eligibility; distribution of money; allowable costs; percentage of grant allowed for administration; due dates; reporting requirements; length of grant period; and grant ranking criteria.

Any interested persons may submit data or views on these subjects in writing or orally to:

Jay Brunner
Senior Grants Analyst
Conservation Division
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours (8:00 a.m. to 4:30 p.m.) over the telephone at (612) 297-3562 and in person at the above address. All statements of information and comments must be received by November 21, 1980. Any written material received by the Agency shall become part of the hearing record.

Board of Examiners for Nursing Home Administrators

Notice of Intent to Obtain Information From Nonagency Sources on Rules for Nursing Home Administrators

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (1978), that the Minnesota Board of Examiners for Nursing Home Administrators (hereinafter "board"), will propose the adoption of new rules and the amendment and revision of existing rules.

All interested parties desiring to submit data or views relating to the proposed adoption, amendment or revision of the rules related to the subject matters noted below should address their comments (either written or oral) to Mr. Phillip C. Newberg, in care of the Board, Room 340, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, telephone: (612) 296-5406. Material and comments submitted for consideration should be pertinent to the matter at hand. Any material received by the board pursuant to this notice will become part of the hearing record of any formal hearing held to promulgate rules.

OFFICIAL NOTICES

The subject matters to be addressed pursuant to this notice include: repeal of board rules relating to qualifications for licensure for applicants applying prior to July 1, 1978, and adoption of new rules establishing requirements for licensure of persons who on April 15, 1980, were employed as administrators of hospital convalescent and nursing care units and who were registered with the State of Minnesota as hospital administrators.

Any materials submitted shall be reviewed and considered by the board during the preparation of the proposed rules. In accordance with the provisions of the Administrative Procedures Act, notice of the public hearing on the proposed rules shall be published in the *State Register* and mailed to all interested parties who are registered with the board on the date that the notice is mailed. In addition, the notice will be mailed to all persons who had registered with the Secretary of State's Office prior to July 31, 1980.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1978), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The Ethical Practices Board is located at Room 401, State Office Building, St. Paul, Minnesota 55155.

September 24, 1980

Phillip C. Newberg
Executive Secretary

Department of Health Health Systems Division

Notice of Intent to Solicit Outside Opinions Concerning Request for Waiver of HMO Statutes and Rules by HMO Minnesota, MedCenter Health Plan and Nicollet-Eitel Health Plan

Notice is hereby given that the Department of Health is seeking opinions and comments pertaining to requests by HMO Minnesota, MedCenter Health Plan and Nicollet-Eitel Health Plan for waivers of HMO statutes and rules for their Medicare Supplement Programs. Such waivers are authorized for demonstration projects by Minn. Stat. § 62D.30.

The requests submitted by HMO Minnesota, MedCenter Health Plan and Nicollet-Eitel Health Plan are available for inspection during normal business hours at the following location:

HMO Unit
Room 216
Minnesota Department of Health
Minneapolis, Minnesota 55440

Comments on the applications must be received at the HMO Unit by October 27, 1980.

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Review of the Existing Rule APC 1, Ambient Air Quality Standards

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is reviewing its existing Rule PAC 1 "Ambient Air Quality Standards" as it relates to photochemical oxidants (ozone) and sulfur oxides. The state ambient standards for photochemical oxidants (ozone) and sulfur oxides are currently more restrictive than the ambient standards set by the United States Environmental Protection Agency (U.S. EPA).

The Minnesota Association of Commerce and Industry (MACI) has petitioned the agency to relax the ambient air quality standards for photochemical oxidants and sulfur oxides. The MPCA staff has initiated review of APC 1 as it relates to these two pollutants and is soliciting information and comments on possible modifications to the existing photochemical oxidant and sulfur oxide standards.

This is the second Notice of Intent to Solicit Outside Opinion Regarding Review of the Existing Rule APC 1 and it is therefore requested that opinions submitted in response to the notice published in the August 13, 1979, *State Register* (4 S.R. 149) not be resubmitted.

Written statements and comments will be accepted until November 15, 1980, and should be addressed to:

Richard J. Sandberg
Division of Air Quality
Minnesota Pollution Control Agency
1935 W. County Road B-2
Roseville, MN 55113

The agency staff will review these comments, develop additional information, and make its recommendation(s) to the MPCA Board.

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