

## CHAPTER 1405

### OFFICE OF ADMINISTRATIVE HEARINGS

#### POWER LINES; PLANT SITING

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#### HEARINGS ON SITING OF POWER LINES AND ELECTRICAL GENERATING PLANTS

##### 1405.0200 DEFINITIONS.

Subpart 1. **Board.** "Board" means the Environmental Quality Board.

Subp. 2. **Intervenor.** "Intervenor" means any person granted permission to intervene in any proceeding pursuant to these rules.

Subp. 3. **Party.** "Party" means the applicant, persons proposing routes or sites which the board orders to be considered pursuant to Minnesota Statutes, chapter 116C, and rules adopted thereunder, and persons granted permission to intervene pursuant to part 1405.0900. State agencies or participating department staff, citizen committees appointed by the board, shall intervene if they are to formally advocate one route or site in preference to another. Notice is given that, pursuant to Minnesota Statutes, section 14.61, only parties who could be adversely affected by the report of the administrative law judge can be legally assured of the opportunity to present argument to the board prior to its decision.

Subp. 4. **Person.** "Person" means an individual, partnership, joint venture, private or public corporation, association or society, firm, public service company, cooperative, political subdivision, municipal corporation, governmental unit or agency, public utility district, or any other entity, public or private, however organized.

Subp. 5. **Proceeding.** As used herein, "proceeding" or "proceedings" means all events including prehearings, hearings, orders, and reports issued necessary to the completion of this hearing process on any application by a utility for the siting of a power plant, the routing of a transmission line, or exemptions.

Subp. 6. **Service; serve.** Unless otherwise provided by law, "service" or "serve" means service by first class United States mail, postage prepaid, and addressed to the person to be served at his or her last known address. An affidavit of service shall be made by the person making such service. Service by mail is complete upon the placing of the item to be served in the mail. Service may also be made personally.

Any paper relating to hearings conducted by an administrative law judge under Minnesota Statutes, chapter 14, may be filed with or served on the office by facsimile transmission. A transmission which is commenced by 4:30 p.m. shall be deemed to have been timely filed. The person filing the document shall forward the original signed document within five days. Filings or service shall be effective at the time that the facsimile transmission is received by the office. The filing or service of a facsimile shall have the same force and effect as the filing or service of the original document.

**Statutory Authority:** *MS s 14.51; 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 15 SR 1595*

**1405.0300 SCOPE AND PURPOSE.**

The procedures contained herein shall govern the conduct of all hearings conducted for the Environmental Quality Board involving the siting of large electric power generating plants, the routing of high voltage transmission lines, and to the site and route exemption processes contained in Minnesota Statutes, section 116C.57, subdivisions 5 and 5a, provided, however, that the procedures for hearing concerning the revocation or suspension of a site certificate or construction permit shall be those contained in parts 1400.5100 to 1400.8401, as are the hearings conducted pursuant to Minnesota Statutes, section 216E.06, relating to the determination of emergencies. See part 1405.2700.

**Statutory Authority:** *MS s 14.51; 116C.66; 216E.16*

**History:** *15 SR 1595*

**1405.0400 ADMINISTRATIVE LAW JUDGES.**

**Subpart 1. Request for assignment.** When the board desires to order a hearing under parts 1405.0200 to 1405.2800, it shall first file with the chief administrative law judge a request for assignment of an administrative law judge, together with a draft of the notice of hearing proposed to be published and served.

**Subp. 2. Assignment.** Within ten days of receipt of a request pursuant to subpart 1, the chief administrative law judge shall assign an administrative law judge to hear the case, and the administrative law judge shall advise the board as to the location at which and time during which a hearing should be held so as to allow for participation by all affected persons.

**Subp. 3. Duties.** Consistent with law, the administrative law judge shall perform the following duties:

- A. grant or deny motions for discovery or for the taking of depositions;
- B. receive and act upon requests for subpoenas;
- C. hear and rule on motions;
- D. preside at the hearing;
- E. administer oaths and affirmations;
- F. grant or deny continuances;
- G. examine witnesses on deeming it necessary;
- H. prepare findings of fact, conclusions, and recommendations;
- I. make preliminary, interlocutory, or other orders on deeming it appropriate; and
- J. do all things necessary and proper to the performance of the foregoing.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

**1405.0500 NOTICE OF HEARING.**

**Subpart 1. Contents.** Proceedings under parts 1405.0200 to 1405.2800 are commenced by the board issuing a notice of hearing pursuant to the requirements of Minnesota Statutes, chapter 116C. The notice of hearing shall contain, but not be limited to, the following:

- A. the date, time, and place for each hearing;
- B. name and address and telephone number of the administrative law judge;
- C. a citation to the board's statutory authority to hold the hearing and to take the action proposed;
- D. a description of the proposed project together with a citation to the relevant statutes or rules;
- E. notification that all persons may be represented by legal counsel, but that such representation is not required;
- F. a citation to these rules and to any applicable procedural rules of the board and where they may be obtained;
- G. the name, address, phone number, and function of the public adviser designated by the board pursuant to Minnesota Statutes, section 216E.08, subdivision 3;

H. the name, address, and telephone number of the appropriate member of the power plant siting staff who will be representing the board and the name, address, and telephone number of the member of the attorney general's staff who may be contacted for advice on matters dealing with board procedures;

I. a statement advising all persons of the right to intervene, the procedures which must be complied with, and a summary description of the rights and responsibilities intervening parties have as opposed to other persons wishing to participate;

J. the date, time, and place of any prehearing conference;

K. the place where all interested persons may review all materials including all prefiled testimony, and the date when such will be available;

L. a listing of the existing parties giving the name and address of the person designated to receive all notices;

M. a statement of the commencement times and places of the public hearings where cross-examination by parties will occur, where questioning by interested persons will occur, and where direct testimony or comments from the public will occur;

N. a statement indicating that hearings may be recessed and reset by the administrative law judge pursuant to parts 1405.1400 to 1405.2300; and

O. a listing of witnesses exempted from appearing throughout the hearing process pursuant to part 1405.2000, and a listing of the dates and places such witnesses will be in attendance.

Subp. 2. **Subsequent notices.** The administrative law judge may order subsequent notices to be issued by the board as the judge deems appropriate containing corrections of earlier notices and additional information available after issuance of earlier notices. Such subsequent notices shall be disseminated in the same manner as the original notice, unless the administrative law judge, for good cause shown, orders some other method of dissemination.

Subp. 3. **Defects.** Defects in the notices shall not invalidate the proceedings, provided a bona fide attempt to comply with this part has been made.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.0600 RIGHT TO COUNSEL.**

All persons may be represented by legal counsel, or by a person of their choice, or they may represent themselves.

**Statutory Authority:** *MS s 116C.66; 216E.16*

#### **1405.0700 TIME.**

Subpart 1. **Computation of time.** In computing any period of time prescribed by these rules or the procedural rules of the board, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last calendar day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the next working day shall be deemed the last day of the period.

Subp. 2. **Extra time after service by mail.** Whenever a person has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon that person, or whenever such service is required to be made within a prescribed period before a specified event, and the notice or paper is served by mail, three days shall be added to the prescribed period.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *17 SR 1279*

#### **1405.0800 PUBLIC PARTICIPATION.**

At all hearings conducted pursuant to parts 1405.0200 to 1405.2800, all persons will be allowed and encouraged to participate without the necessity of intervening as parties. Such participation shall include, but not be limited to:

A. Offering direct testimony with or without benefit of oath or affirmation and without the necessity of prefiling as required by part 1405.1900.

B. Offering direct testimony or other material in written form at or following the hearing. However, testimony which is offered without benefit of oath or affirmation, or written testimony which is not subject to cross-examination, shall be given such weight as the administrative law judge deems appropriate.

C. Questioning all persons testifying. Any person who wishes to cross-examine a witness but who does not want to ask questions orally, may submit questions in writing to the administrative law judge, who will then ask the questions of the witness. Questions may be submitted before or during the hearings.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32*

#### 1405.0900 INTERVENTION AS PARTY.

Subpart 1. **Petition.** Any person desiring to intervene in the hearings as a party shall submit a timely petition to intervene to the administrative law judge and shall serve the petition upon all existing parties. Timeliness will be determined by the administrative law judge in each case based on circumstances at the time of filing. The petition shall show how the petitioner's legal rights, duties, or privileges may be determined or affected by the proceedings, how those rights, duties, and privileges are not otherwise represented, and shall set forth the grounds and purposes for which intervention is sought and shall indicate petitioner's statutory or legal right to intervene, if one should exist. The administrative law judge, with the consent of all parties, may waive the requirement that the petition be in writing.

Subp. 2. **Objection.** Any party may object to the petition for intervention by filing a notice of objection with the administrative law judge within seven days of service of the petition. The notice shall state the party's reasons for objecting and shall be served upon all parties and the person petitioning to intervene.

Subp. 3. **Order.** The administrative law judge shall allow intervention upon a proper showing pursuant to subpart 1 unless the administrative law judge finds that the petitioner's interest is adequately represented by one or more parties participating in the case. In the event the administrative law judge finds that one or more petitions are similar, the administrative law judge may order the petitions to be consolidated as one, allowing all such petitioners intervention but only as one party.

Subp. 4. **Responsibilities of intervenors.** Once a petition to intervene has been granted, an intervenor shall have all of the rights and responsibilities of a party.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.1000 DISQUALIFICATION OF ADMINISTRATIVE LAW JUDGE.

The administrative law judge shall withdraw from participating in the proceedings at any time upon deeming himself or herself disqualified for any reason. Upon the filing in good faith by a person of an affidavit of prejudice, the chief administrative law judge shall determine the matter as a part of the record provided the affidavit shall be filed no later than five days prior to the date set for the first hearing date.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.1100 PREHEARING CONFERENCE.

Subpart 1. **Purpose.** The purpose of the prehearing conference is to simplify the issues to be determined, to obtain stipulations to foundation for testimony or exhibits, to discuss schedules for hearings and other procedural events, and to resolve other matters that may be necessary or appropriate. Potential intervenors, and other interested persons, may attend the prehearing conference.

Subp. 2. **Procedure.** Upon the request of any party or upon the judge's own motion, the administrative law judge may, in the judge's discretion, hold a prehearing conference which shall be held at a time, date, and place to be determined by the administrative law judge to

best maximize the ability of all interested persons to attend. Notice of any prehearing conference shall be given in the notice of hearing, if possible. Otherwise, notice shall be given pursuant to part 1405.0500, subpart 2. The administrative law judge may require the parties to file a prehearing statement prior to the prehearing conference which shall contain such items as the administrative law judge deems necessary to promote a useful prehearing conference. A prehearing conference shall be an informal proceeding conducted expeditiously by the administrative law judge. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the administrative law judge.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.1200 DEPOSITIONS TO PRESERVE TESTIMONY.**

Upon the request of any person, the administrative law judge may order that the testimony of any witness be taken by deposition to preserve the testimony in the manner prescribed by law for depositions in civil actions. The request shall indicate the relevance of the testimony and shall make a showing that the witness will be unable or cannot be compelled to attend the hearing or show other good cause.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.1300 SUBPOENAS.**

Subpart 1. **Written request for subpoena.** Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the administrative law judge and shall contain a brief statement demonstrating the potential relevance of the testimony or evidence sought and shall identify any documents sought with specificity. The administrative law judge will grant the request for subpoenas only upon a finding of such relevance.

Subp. 2. **Service.** A subpoena shall be served in the manner provided by the Rules of Civil Procedure for the District Court of the state of Minnesota unless otherwise provided by law. The cost of service, fees, and expenses of any witness subpoenaed shall be paid by the person at whose request the witness appears. The person serving the subpoena shall make proof of service by filing the subpoena with the administrative law judge, together with affidavit of service.

Subp. 3. **Motion to quash.** Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance therewith, the administrative law judge may quash or modify the subpoena on finding that it is unreasonable or oppressive.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.1400 CONDUCT OF HEARING.**

The proceedings shall be conducted substantially in the following manner. After opening the hearing, the administrative law judge shall indicate the procedural rules for the hearing including, but not limited to, the following:

A. all persons may present evidence and argument with respect to the issues and cross-examine witnesses;

B. all persons may be represented by legal counsel, but such representation is not required; and

C. the rules of evidence as set forth in part 1405.1700, subparts 3 to 8.

Cross-examination shall be conducted in a sequence determined by the administrative law judge. The record of the hearing shall be closed at a date to be set by the administrative law judge. Such date will correspond to a specific number of calendar days beyond the close of the last hearing date, computed pursuant to part 1405.0700, subpart 1. Written comment will be accepted if postmarked no later than the date set by the administrative law judge.

However, the record shall remain open beyond that date for the sole purpose of receiving board responses to relevant comments received on the environmental impact assessment.

**Statutory Authority:** *MS s 14.51; 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 15 SR 1595*

#### 1405.1500 SEQUENCE OF PROCEEDINGS.

Subpart 1. **Recess.** All hearings shall recess at 11:00 p.m. unless the administrative law judge determines that the public interest will best be served in any given hearing by continuing the hearing beyond 11:00 p.m. The administrative law judge may, in the judge's discretion, order a time and place for a continuance of that hearing.

Subp. 2. **Two-stage hearing.** The hearing may be scheduled in two stages. The first stage shall be for the purpose of introducing into evidence all of the prefiled direct testimony of the parties, and the cross-examination of each witness by all other parties. The subsequent stage shall be for the purpose of allowing all other interested persons to present their direct testimony and to question witnesses that offered testimony during the first stage of the hearing process.

Nothing contained herein shall be interpreted so as to prevent the public from being present during the first stage of the proceedings or to question witnesses at an appropriate time during the first stage of the proceedings, should time allow. The administrative law judge may give priority to those members of the public desiring to ask questions which would enable them to better prepare for cross-examination during subsequent stages. It is the intended purpose of the two-stage process to establish specific hearing dates for the primary purpose of public participation in order to avoid inconveniencing the general public by requiring them to wait until late at each hearing before having opportunity to offer direct testimony and ask questions. However, at the discretion of the administrative law judge, the applicant and other parties may present a brief summary of the prefiled direct testimony at the beginning of each session.

Subp. 3. **Additional hearing dates.** Nothing contained herein shall be interpreted so as to prevent the administrative law judge from establishing additional hearing dates on motion or at the judge's discretion.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.1600 REPRESENTATION OF STATE AGENCIES.

Any state agency which participates in the proceedings as a party may only participate through its designated representative or counsel. Exceptions to this rule may be allowed at the discretion of the administrative law judge for good cause shown.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32*

#### 1405.1700 RULES OF EVIDENCE.

Subpart 1. **Right to present evidence.** All persons shall have the right to present evidence, rebuttal testimony, and argument with respect to the issues and to cross-examine witnesses.

Subp. 2. **Witnesses.** Any person may be a witness or present witnesses on the person's behalf at the hearings. Direct testimony shall be admitted as allowed by part 1405.0800.

Subp. 3. **Admissible evidence.** The administrative law judge may admit all evidence which possesses probative value, including hearsay, if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. The administrative law judge shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial, or unduly repetitious may be excluded.

Subp. 4. **Submission of evidence.** Evidence must be offered to be considered. All evidence to be considered in the case, including all records and documents (except tax returns

and tax reports) in the possession of the board or a true and accurate photocopy thereof, shall be offered and made a part of the record in the case. No other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case.

**Subp. 5. Documentary evidence.** Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the administrative law judge.

**Subp. 6. Administrative notice of facts.** The administrative law judge may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any person to rebut.

**Subp. 7. Burden of proof.** Any route or site proposer must prove the facts at issue by a preponderance of the evidence, unless the substantive law provides a different burden.

**Subp. 8. Weight of testimony.** Oral testimony received without benefit of oath or affirmation and written submissions that are not subject to cross-examination shall be given such weight as the administrative law judge deems appropriate.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.1800 HEARING RECORD.

**Subpart 1. Preparation.** Pursuant to Minnesota Statutes, sections 14.04 to 14.36, the Office of Administrative Hearings, upon certification of the official record of the case by the board to it, shall prepare and maintain the official record in each proceeding.

**Subp. 2. Contents.** The record in a hearing shall contain: all pleadings, motions, and orders; evidence received or considered; offers of proof, objections, and rulings thereon; the administrative law judge's findings of fact, conclusions, and recommendations; all memoranda or data submitted by any person and considered by the administrative law judge in connection with the case; and the transcript of each hearing, if any.

**Subp. 3. Recorder or reporter.** Unless the chief administrative law judge determines that the use of a court reporter is more appropriate, an audiomagnetic recording device shall be used to keep a record at any hearing which takes place under parts 1405.0200 to 1405.2800.

The audiomagnetic recordings shall be retained by the office for five years from the date that the record is returned to the agency. Unless an agency requests a longer retention period for a specific case, the recordings may be erased or otherwise destroyed at the end of the five-year period.

**Subp. 4. Transcript.** The verbatim record shall be transcribed if requested by a person or in the discretion of the chief administrative law judge. If a transcription is made, the chief administrative law judge may require the requesting person and other persons who request copies of the transcript to pay a reasonable charge therefor. The charge shall be set by the chief administrative law judge, and all moneys received for transcripts shall be payable to the commissioner of finance and shall be deposited in the state Office of Administrative Hearings account in the state treasury.

**Subp. 5. Environmental documents.** The environmental impact assessment prepared pursuant to parts 4400.1210 and 4400.3210 shall be entered into the record at a point during the hearing process which will allow all persons an opportunity to review and comment on the material. In addition, all comments and responses to comments which the board desires to consider shall be entered into the record promptly after they are received.

**Statutory Authority:** *MS s 14.51; 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 15 SR 1595; 17 SR 1279; L 2003 c 112 art 2 s 50*

#### 1405.1900 PREFILED TESTIMONY.

**Subpart 1. Preparing and filing.** All direct testimony to be offered by any party proposing a route or site shall be prepared in advance in question and answer form and shall be filed 14 days prior to the first hearing date in the following manner:

- A. the original and one copy with the administrative law judge;
- B. one copy with the board;
- C. one copy with each party; and

D. one copy at a place in each county where a hearing is to be held pursuant to statute at a location designated by the board for public review.

Subp. 2. **Procedure.** Prefiled testimony will be part of the record in each proceeding as if read, but all of the witnesses shall be available for cross-examination and questioning at each and every hearing subject to the provisions of part 1405.2000. Objections to such direct testimony may be made by any person, any time during the hearings conducted pursuant to parts 1405.0200 to 1405.2800. Five copies of the prefiled testimony of each witness shall be made available for the review by the public at each hearing.

At the hearing, the party presenting the testimony may, if it deems appropriate, briefly summarize the prefiled testimony prior to start of cross-examination.

Subp. 3. **Rebuttal testimony.** Nothing contained herein shall be deemed to foreclose any party from presenting rebuttal testimony or from presenting testimony in response to reasonably unforeseen areas, both without the necessity of prefiling.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32*

#### 1405.2000 AVAILABILITY OF WITNESSES.

All witnesses who offer prefiled direct testimony in compliance with part 1405.1900 shall be available for questioning by interested persons at each hearing date and place. In the event a witness cannot be available throughout the hearing process, the party on whose behalf the witness testified shall request an exemption from this rule of the administrative law judge prior to the publication of the notice of hearing. The request shall state the reasons why the witness cannot be present at each hearing, and the date, or dates, on which the witness can be available. For good cause shown, the administrative law judge shall grant the exemption and shall immediately notify the board. The board shall then include in the notice of hearing a statement indicating the name of the witness, the nature of the testimony, and the dates and places where the witness will be available for questioning by all parties and persons. The party requesting the exemption shall do so in writing and shall serve a copy of the request on all other parties. Any party may object to the exemption by filing a written objection with the administrative law judge and serving a copy on all parties within five working days of the date of the request. In the event an objection is made, the administrative law judge shall immediately notify all parties of the date, time, and place to hear arguments on the request, and subsequent to which shall issue an order granting or denying the request for exemption. The administrative law judge may also grant exemptions, at any time, upon a showing of need due to unforeseeable circumstances. The same notice and objection procedure may be followed if circumstances permit, or the administrative law judge may utilize any other procedure on deeming it more appropriate. A subsequent notice of hearing shall issue reflecting any such exemption granted by the administrative law judge.

In the event a witness has prefiled testimony and fails to appear for questioning, such prefiled testimony shall be given such weight as the administrative law judge deems appropriate.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.2100 CONTINUANCES.

During a hearing, if it appears in the interest of justice that further testimony should be received, the administrative law judge, in the judge's discretion, may continue the hearing to a future date and such oral notice on the record may be sufficient.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### 1405.2200 MOTIONS.

No motions shall be made directly to or be decided by the board subsequent to the appointment of an administrative law judge and prior to the completion and filing of the admin-



istrative law judge's report unless the motion is certified to the board by the administrative law judge. Uncertified motions shall be made to the administrative law judge and considered by the board in its consideration of the record as a whole subsequent to the filing of the administrative law judge's report.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32*

#### **1405.2300 DISRUPTION OF HEARING.**

Subpart 1. **Cameras.** Television, newsreel, motion picture, still, or other cameras shall be operated in a manner as not to disrupt the hearing. The administrative law judge may limit operation if disruption occurs.

Subp. 2. **Other conduct.** Pursuant to and in accordance with the provisions of Minnesota Statutes, section 624.72, no person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the administrative law judge shall read this part to those persons causing such interference or disruption and thereafter proceed as the judge deems appropriate.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.2400 ADMINISTRATIVE LAW JUDGE'S REPORT.**

Subpart 1. **Basis for determination.** No factual information or evidence, except tax returns and tax reports, which is not a part of the record shall be considered by the administrative law judge or the board in the determination of a hearing. The administrative law judge or the board may take administrative notice of general, technical, or scientific facts within their specialized knowledge in conformance with the requirements of Minnesota Statutes, section 14.60, subdivision 4.

Subp. 2. **Completion and filing.** Following the close of the record and the completion of the transcript, the administrative law judge shall make the report pursuant to Minnesota Statutes, section 14.50, and, upon completion, a copy of said report shall be served upon all parties by first class mail. A copy of the report shall also be filed at places designated for public review pursuant to part 1405.1900, subpart 1, item D.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

#### **1405.2500 BOARD DECISION.**

Following receipt of the administrative law judge's report, the board shall proceed to make its final decision in accordance with Minnesota Statutes, chapters 14 and 116C.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32*

#### **1405.2600 REHEARING.**

A rehearing pursuant to board order shall be commenced in the same manner as set forth for commencement of proceeding in part 1405.0500. The rehearing shall be conducted in the same manner prescribed for a hearing.

**Statutory Authority:** *MS s 116C.66; 216E.16*

#### **1405.2700 EMERGENCY PROCEDURES.**

Any hearings held pursuant to Minnesota Statutes, section 216E.06, to determine if an emergency exists shall be governed by the contested case procedures contained in parts 1400.5100 to 1400.8500. If the board finds that an emergency does exist, then any hearings on the designation of a site or route shall be governed by the rules contained in parts

1405.0200 to 1405.2800, provided, however, that the administrative law judge, in the judge's discretion, may modify any time limits contained herein on finding that such modification is needed to expedite the hearings.

**Statutory Authority:** *MS s 116C.66; 216E.16*

**History:** *L 1984 c 640 s 32; 17 SR 1279*

**1405.2800** [Repealed, 15 SR 1595]

**1405.5100** [Renumbered 1400.8510]

**1405.5200** [Renumbered 1400.8520]

**1405.5300** [Renumbered 1400.8530]

**1405.5400** [Renumbered 1400.8540]

**1405.5500** [Renumbered 1400.8550]

**1405.5600** [Renumbered 1400.8560]

**1405.5700** [Renumbered 1400.8570]

**1405.5800** [Renumbered 1400.8580]

**1405.5900** [Renumbered 1400.8590]

**1405.6000** [Renumbered 1400.8600]

**1405.6100** [Renumbered 1400.8601]

**1405.6200** [Renumbered 1400.8602]

**1405.6300** [Renumbered 1400.8603]

**1405.6400** [Renumbered 1400.8604]

**1405.6500** [Renumbered 1400.8605]

**1405.6600** [Renumbered 1400.8606]

**1405.6700** [Renumbered 1400.8607]

**1405.6800** [Renumbered 1400.8608]

**1405.6900** [Renumbered 1400.8609]

**1405.7000** [Renumbered 1400.8610]

**1405.7100** [Renumbered 1400.8611]

**1405.7200** [Renumbered 1400.8612]

**1405.7300** [Renumbered 1400.8613]