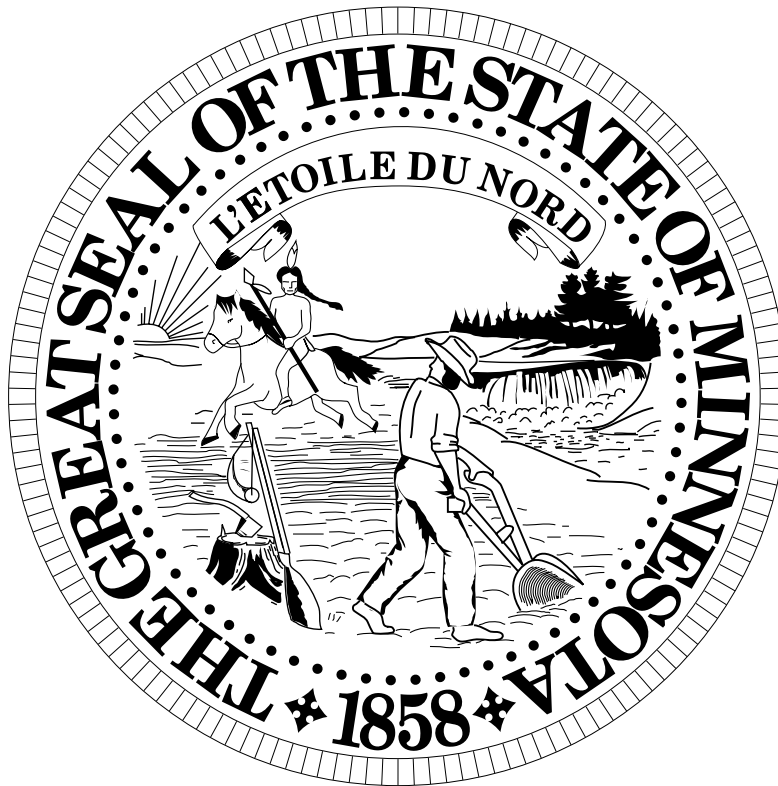


**State of Minnesota**

# **State Register**

**Rules and Official Notices Edition**



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# State Register

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The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

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- commissioners' orders
- revenue notices
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#7	Monday 12 August	Noon Tuesday 6 August	Noon Wednesday 31 July
#8	Monday 19 August	Noon Tuesday 13 August	Noon Wednesday 7 August
#9	Monday 26 August	Noon Tuesday 20 August	Noon Wednesday 14 August
#10	<b>TUESDAY 3 SEPTEMBER</b>	Noon Tuesday 27 August	Noon Wednesday 21 August

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# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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# Proposed Rules

## Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

## Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

## Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

## Department of Employee Relations

### Office of Diversity and Equal Opportunity

## Proposed Permanent Rules Relating to the Statewide Affirmative Action Program

### NOTICE OF INTENT TO REVISED RULES

#### Proposed Revised Rules Relating to Requirements and Procedures, *Minnesota Rules*, Chapters 3905.0100, 3905.0300, 3905.0400, 3905.0450, 3905.0500, 3905.0600, 3905.0700

**Introduction.** The Department of Employee Relations intends to revise the above mentioned rules following the procedures set forth in the Administrative Procedure Act. You may submit written comments on the proposed rules until 4:30 p.m. on August 26, 2002.

**Agency Contact Person.** Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Michael Watts at Department of Employee Relations, 216 Centennial Office Building, St. Paul, MN 55155-1603. **Phone:** (651) 296-8272. **Fax:** (651) 296-4446. **Email:** [michael.watts@state.mn.us](mailto:michael.watts@state.mn.us) **TTY** users may call the department through the Minnesota Relay Service at 1-800-627-3529.

**Subject of Rules and Statutory Authority.** The revised rules are about Chapter 43A of the *Minnesota Statutes*, Employee Relations, and relate to the executive branch agency affirmative action programs. The statutory authority to adopt the rules is *Minnesota Statute*, section 43A.04, subdivision 3. A copy of the proposed rules is published in the *State Register* with this notice and attached to this notice as mailed.

**Comments.** You have until 4:30 p.m. on August 26 to submit comment in support of or in opposition to the proposed rules and part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 26, 2002. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not

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



## Proposed Rules

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valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**Modifications.** The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at no charge from the agency. The statement is also available at the agency's website at: <http://www.doer.state.mn.us>

**Adoption and Review of Rules.** If no hearing is required, the agency may adopt the rules after the end of the comment period.

Dated: 31 July 2002

Michael Watts, Asst. Commissioner  
Diversity and Equal Opportunity  
Department of Employee Relations

### **3905.0100 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY.**

It is the policy of the state of Minnesota to implement and maintain an equal employment opportunity and affirmative action program designed to ensure equal consideration of all applicants for jobs, training, and promotions and to eliminate underutilization of qualified protected group members within the state civil service through a series of specific, result-oriented procedures combined with good faith effort. A good faith effort minimally includes consideration of affirmative action goals on all staffing and personnel decisions.

### **3905.0300 DUTIES OF AGENCY HEAD.**

~~The Agency head~~ heads shall ~~administer the~~ be held accountable for administering their agency's equal employment opportunity and affirmative action program in compliance with existing laws, federal regulations, and state rules. The agency head is accountable for affirmative action program compliance to the governor and to the commissioner.

### **3905.0400 REQUIREMENTS FOR AGENCY AFFIRMATIVE ACTION AND WORK FORCE MANAGEMENT PLANS.**

Subpart 1. ~~For agencies with 25 or more employees~~ Agency responsibilities. The head of each agency ~~with 25 or more employees~~ shall submit to the commissioner ~~an affirmative action~~ a work force management plan for the agency. The plan must at least:

A. ~~identify the protected group or groups underrepresented in the agency's work force and, therefore, covered by the affirmative action plan~~ address areas of underutilization identified by the affirmative action plan that can be addressed through retention, recruitment, and training;

B. designate those persons or groups responsible for directing and implementing the agency affirmative action program and the specific responsibility, accountability, and duties of each person or group;

C. state the agency head's commitment to the affirmative action program and to the implementation of the agency affirmative action and work force management plan;

D. specify a readily accessible location for the posting of the agency's affirmative action and work force management plan;

E. describe the methods by which the agency's affirmative action program is communicated internally and externally to employees and other interested persons; and

F. ~~describe internal procedures, which must comply with part 3905.0500, for processing complaints of alleged discrimination from applicants, eligibles, and employees;~~

G. ~~set goals and timetables, which must be established using the standards in part 3905.0600;~~

~~H. identify and describe methods for developing programs and program objectives designed to meet affirmative action goals;~~  
~~I. describe methods of for conducting internal auditing, evaluating, and reporting program success, including a procedure that requires a preemployment review of all hiring decisions for goal units with unmet affirmative action goals and prereview of all layoff decisions to determine their effect on agencies' affirmative action goals and timetables; and~~

~~J. include the official affirmative action transmittal form which provides for section by section verification of the plan's components.~~

At the discretion of the agency head, the affirmative action and work force management plan may contain other provisions not in conflict with this chapter.

Subp. 2. [See repealer.]

### **3905.0450 AFFIRMATIVE ACTION OFFICER.**

The affirmative action officer shall be actively involved in the agency hiring and prehire review process. The affirmative action officer shall:

A. monitor records of all personnel activity, including referrals, placements, transfers, promotions, and terminations at all levels to ensure the nondiscriminatory policy is carried out;

B. report on a scheduled basis to the agency head the degree to which equal employment opportunity and affirmative action goals are achieved;

C. review and report results with all levels of management; and

D. advise senior management of program effectiveness and submit recommendations to improve unsatisfactory performance.

### **3905.0500 REQUIREMENTS FOR COMPLAINT PROCEDURES.**

In an agency's internal procedure for processing complaints of alleged discrimination from applicants, eligibles, and employees, the initial step must provide for a determination of whether the complaint is properly a discrimination complaint and, therefore, appropriate to be addressed by the internal procedure. The affirmative action officer shall be informed whenever an allegation of discrimination is made regardless of who investigates the complaint and shall be informed of the final determination of the complaint. Time limits on these determinations must be established to permit the applicant, eligible, or employee to pursue a complaint determined to be other than a discrimination complaint through other appropriate grievance procedures in accordance with the time limits of those procedures. Complaint procedures must also provide for a final written answer within 60 days after a formal complaint is filed unless good cause is shown for exceeding that time period. ~~Disposition of complaints must be filed with the commissioner within 30 days of final determination.~~ Agencies are encouraged to develop and implement alternative dispute resolution (ADR) programs and use existing workplace mediation resources to enhance their complaint resolution procedures.

### **3905.0600 REQUIREMENTS FOR GOALS AND TIMETABLES.**

Subpart 1. **General requirement.** In establishing goals and timetables for affirmative action plans, ~~agency heads~~ the commissioner shall comply with subparts 2 to 6.

Subp. 2. **Labor force statistics.** In establishing goals for affirmative action plans, ~~agency heads~~ the commissioner shall use labor force statistics from census data when available to examine work force participation. When an agency requests ~~the authority~~ to substitute more specific data, the commissioner shall consider alternative data sources and determine their applicability based on the following criteria:

A. the objectivity of the supplying organization;

B. the reliability of statistical procedures used to generate the data; and

C. the comparability of data categories (occupational group, geographic location, ~~handicapping~~ disabling condition, for example) used.

Subp. 3. **Formula for determining underutilization.** ~~Agency heads~~ The commissioner shall determine underutilization of protected groups using statistical formulas based on the following criteria:

A. types of jobs within each agency and agency subdivision;

<p><b>KEY: PROPOSED RULES SECTION</b> — <u>Underlining</u> indicates additions to existing rule language. <del>Strike outs</del> indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." <b>ADOPTED RULES SECTION</b> — <u>Underlining</u> indicates additions to proposed rule language. <del>Strike outs</del> indicate deletions from proposed rule language.</p>
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## Proposed Rules

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- B. number of employees in those jobs, by state class title, and by protected group;
- C. availability of protected group workers having the qualifications for those jobs; and
- D. geographic locations and applicable labor market areas for each type of job in each agency and agency subdivision.

Subp. 4. **Numerical goals.** ~~Agency heads~~ The commissioner shall establish numerical goals for ~~the each agency and for each agency subdivision that has 25 or more employees and that is in a geographic location with a labor market area separate from that of the agency central office.~~ The commissioner shall work closely with MnSCU system office in establishing their numerical goals to ensure that adequate consideration is given to MnSCU's unique recruiting requirements.

Subp. 5. **Basis for goals.** ~~Agency heads~~ The commissioner shall establish goals for each ~~goal unit job group~~ by protected group. The goals must be based on a comparison of the composition of the ~~agency work force~~ or agency ~~subdivision~~ work force with the composition of the relevant civilian labor force in an identified labor market area. If the comparison shows that a ~~goal unit job group~~ underutilizes a protected group, the ~~agency head commissioner~~ shall establish a goal for that group in that job group. EEO4 categories shall be used as the basis for goal unit designators.

Subp. 6. **Timetables.** Agency heads shall establish in their work force management plans timetables for meeting goals. ~~Timetables must be based on turnover and hire rates within each goal unit in the agency or within each agency subdivision.~~

Subp. 7. **Missed opportunities.** Missed opportunities mean those instances in which an agency fails to justify nonaffirmative action hires in either competitive or noncompetitive appointments under Minnesota Statutes, sections 43A.08 and 43A.15. The number of missed opportunities will be used to evaluate compliance, accountability, and overall program integrity along with the Uniform Guidelines on Employee Selection Procedures, and the use of adverse impact analyses. These tools will provide agencies an accurate method to demonstrate their measurable results in reducing underutilization and correcting identified problems.

### 3905.0700 REPORTING REQUIREMENTS.

Subpart 1. **~~Quarterly Semiannual reports, monitoring the hiring process.~~** Agency heads ~~with 25 or more employees~~ shall submit ~~quarterly semiannually~~ to the commissioner a report of the agency's efforts to meet affirmative action goals and the progress resulting from those efforts. ~~Agency heads with fewer than 25 employees shall submit such a report to the commissioner semiannually.~~ Reports are due 30 days following the close of the reporting period.

Subp. 2. **Biennial reports.** Each agency head shall submit to the commissioner, concurrently with the agency's biennial budget request, a report on the results of the agency's affirmative action plan. The commissioner shall develop specific reporting standards and disseminate them to agencies to ensure adequate lead time for preparation. The commissioner shall submit these reports to the governor and the legislature.

Subp. 3. **Complaint disposition reports.** For all complaints of discrimination, each agency head annually shall submit to the commissioner a report of complaint disposition to be filed within 60 days of the reporting period. The report shall include: basis of complaint, where filed (internally or externally), whether mediation was considered or used, and outcome of complaint.

**REPEALER.** Minnesota Rules, part 3905.0400, subpart 2, is repealed.



## **Environmental Quality Board**

### **Proposed Permanent Rules Relating to Power Plant Siting**

#### **Notice of Proposed Amendments to *Minnesota Rules* chapter 4400**

#### **NOTICE IS HEREBY GIVEN of Proposed Amendments to Rules Governing the Siting of Large Electric Power Generating Plants and High Voltage Transmission Lines, *Minnesota Rules* chapter 4400**

**Public Hearing.** The Minnesota Environmental Quality Board (EQB) intends to adopt rule amendments after a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The agency will hold public hearings on the above-entitled rule amendments in Room 302 of the Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, starting at 10:00 a.m. on September 18, 2002, and in Alexandria, Minnesota, at the Douglas County Library, 720 Fillmore, on September 25, 2002, starting at 10:30 am, and continuing until the hearing is completed. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Written statements may be submitted without appearing at the hearing.

**Administrative Law Judge.** The hearings will be conducted by Judge Kathleen A. Sheehy, Office of Administrative Hearings, 100 Washington Square Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401-2138; **phone:** (612) 341-7602, **fax:** (612) 349-2665. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

**Subject of Rules.** *Minnesota Rules* chapter 4400 relates to the permitting of sites for Large Electric Power Generating Plants and routes for High Voltage Transmission Lines. The rules implement the requirements of the Power Plant Siting Act, *Minnesota Statutes* sections 116C.51 to 116C.69. In the 2001 legislative session, the Minnesota Legislature significantly changed the Power Plant Siting Act; these changes went into effect on August 1, 2001. The amendments to chapter 4400 that are being proposed are intended to carry out the statutory changes that were made.

*Minnesota Rules* chapter 4400 applies to all phases of the permitting of Large Electric Power Generating Plants and High Voltage Transmission Lines. A LEPGP is a power plant over 50 megawatts in size. A HVTL is a transmission line with a capacity of greater than 100 kilovolts. The rules establish the requirements for submitting permit applications to the EQB and procedures to apply in reviewing and acting upon the applications. The rules establish environmental review requirements and opportunities for public participation. Based on the statutory changes, the proposed amendments establish two processes for review of permit applications, depending on the size and type of the facility being proposed. Also, the proposed amendments recognize that project proposers may elect to seek authorization from local units of government for certain smaller projects. The proposed amendments contain a provision creating an exemption for certain existing facilities. The EQB is also proposing to repeal a number of the existing rules that are no longer applicable under the changed statutes.

A free copy of the proposed rule amendments is available upon request from the agency contact person. The proposed rule amendments are also available on the Internet at

<http://www.mnplan.state.mn.us/eqb/index.html>

**Statutory Authority.** The proposed rule amendments are authorized by *Minnesota Statutes*, section 116C.66.

**Agency Contact Person.** The agency contact person is: Andrea Dick, Minnesota Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, **phone:** (651) 297-1257

**Statement of Need and Reasonableness.** A Statement of Need and Reasonableness is now available for review at the EQB offices in St. Paul and at the Office of Administrative Hearings. This statement contains a summary of the justification for the proposed rule amendments, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule amendments. The statement may be reviewed and copies obtained at the cost of reproduction from the agency. It is also available on the Internet at the Web site given above.

**Public Comment.** All interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close

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of the hearing record. All evidence presented should relate to the proposed rule amendments. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings.

The EQB requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Alternative Format/Accommodation.** Upon request, this Notice, the proposed rule amendments, and the statement of need and reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above. If you need an accommodation to have access to any hearing room facilities, please contact the agency contact person at the address or telephone number listed above in advance of the hearings.

**Modifications.** The proposed rule amendments may be modified as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rule may not be substantially different than this proposed rule unless the procedure under part 1400.2110 has been followed. If the proposed rule amendments affect you in any way, you are encouraged to participate.

**Adoption Procedure after Hearing.** After the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule amendments. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rule amendments and the date on which the rules are filed with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings, and you can make this request at the hearing or in writing to the agency contact person stated above.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at 190 Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, **phone:** (651) 296-5148.

**Order.** I order that the rulemaking hearings be held at the dates, times, and locations listed above.

Dated: 31 July 2002

Gene Hugoson,  
Chair, EQB

### 4400.0200 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, *Minnesota Statutes*, sections 116C.51 to 116C.69.

Subp. 2a. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line.

Subp. 3. **Board.** "Board" means the Minnesota Environmental Quality Board.

Subp. 3a. **Chair.** "Chair" means the person who is the chair of the Environmental Quality Board.

Subp. 4. [See repealer.]

Subp. 4a. **Certified HVTL list.** "Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under *Minnesota Statutes*, section 216B.2425.

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 6a. **Environmental assessment.** "Environmental assessment" means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternative routes or sites and methods to mitigate such impacts.

**Subp. 6b. ~~Environmental impact assessment; EIA statement or EIS.~~** “Environmental impact ~~assessment~~” or “~~EIA statement~~ or ~~EIS~~” means a detailed written statement that describes proposed HVTLS high voltage transmission lines and LEPGPs large electric power generating plants and satisfies the requirements of *Minnesota Statutes*, section 116D.04.

Subp. 7. [See repealer.]

**Subp. 7a. EQB.** “EQB” means the entire environmental quality board, including the board and staff.

**Subp. 8. High voltage transmission line; or HVTL.** “High voltage transmission line” or “HVTL” means a conductor of electric energy and associated facilities designed for and capable of operating at a nominal voltage of ~~200~~ 100 kilovolts or more either immediately or without significant modification. Associated facilities shall include, but not be limited to, insulators, towers, substations, and terminals.

**Subp. 9. Large electric power facilities.** “Large electric power facilities” means high voltage transmission lines and large electric power generating plants.

**Subp. 10. Large electric power generating plant; or LEPPG.** “Large electric power generating plant” ~~and or~~ “LEPPG” ~~mean~~ means electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subp. 11. [See repealer.]

**Subp. 11a. Mail.** “Mail” means either the United States mail or electronic mail by e-mail, unless another law shall requires a specific form of mailing.

**Subp. 12. Person.** “Person” means any individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subp. 13. [See repealer.]

Subp. 14. [See repealer.]

**Subp. 15. Right-of-way.** “Right-of-way” means the land interest required within a route for the construction, maintenance, and operation of ~~an HVTL~~ a high voltage transmission line.

**Subp. 16. Route.** “Route” means ~~an area of land~~ the location of a high voltage transmission line between two end points. A route may have a variable width of up to 1.25 miles wide within which a right-of-way for an HVTL a high voltage transmission line can be located.

**Subp. 17. Route segment.** “Route segment” means a portion of a route.

**Subp. 18. Site.** “Site” means an area of land required for the construction, maintenance, and operation of ~~an LEPPG~~ a large electric power generating plant.

Subp. 19. [See repealer.]

**Subp. 20. Utility.** “Utility” means any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor owned utility, a cooperatively owned utility, a public or municipally owned utility, a limited liability company, or a private corporation.

#### **4400.0300 PURPOSE AND AUTHORITY.**

Parts 4400.0200 to ~~4400.4900~~ 4400.8000 are prescribed by the Minnesota Environmental Quality Board pursuant to the authority granted to the board in the Power Plant Siting Act, as amended, *Minnesota Statutes*, sections 116C.51 to 116C.69, to give effect to the purposes of the act.

It is the purpose of the act and the policy of the state to locate large electric power ~~facilities generating plants and high voltage transmission lines~~ in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the board shall choose locations that minimize adverse human and environmental impact while ensuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion. The board shall provide for broad spectrum citizen participation as a principle of operation. To ensure effective

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citizen participation, the board shall maintain a public education program on, but not limited to, the considerations identified in *Minnesota Statutes*, section 116C.57, subdivision 4.

### **4400.0400 PERMIT REQUIREMENT.**

Subpart 1. Site permit. No person may construct a large electric power generating plant without a site permit from the board. A large electric power generating plant may be constructed only on a site approved by the board.

Subp. 2. Route permit. No person may construct a high voltage transmission line without a route permit from the board. A high voltage transmission line may be constructed only within a route approved by the board.

#### Subp. 3. Expansion of existing facility.

A. No person shall increase the voltage of a high voltage transmission line without a route permit or other approval from the EQB.

B. No person shall increase the voltage of a transmission line under 100 kilovolts to over 100 kilovolts without a route permit from the EQB.

C. Except as provided in part 4400.0650 or 4400.3820, no person shall increase the output of an existing large electric power generating plant without a permit from the board.

D. No person shall increase the output of an electric power plant from under 50 megawatts to more than 50 megawatts without a site permit from the EQB.

Subp. 4. Local authority. A site permit from the board is not required for a large electric power generating plant that is permitted by local units of government under *Minnesota Statutes*, section 116C.576. A route permit from the board is not required for a high voltage transmission line that is permitted by local governmental authorities under *Minnesota Statutes*, section 116C.576.

Subp. 5. Commence construction. No person may commence construction of a large electric power generating plant or a high voltage transmission line until a permit has been issued by the board or by the appropriate local units of government if local review is sought. "Commence construction" means to begin or cause to begin as part of a continuous program the placement, assembly, or installation of facilities or equipment, or to conduct significant physical site preparation or right-of-way preparation work for installation of facilities or equipment. Conducting survey work or collecting geological data or contacting landowners to discuss possible construction of a power plant or transmission line is not commencement of construction.

### **4400.0500 SMALL PROJECTS.**

Subpart 1. No EQB permit required. A permit from the EQB is not required to construct a power plant of less than 50 megawatts or a transmission line of less than 100 kilovolts. Proposers of such projects must obtain whatever approvals may be required by local, state, or federal units of government with jurisdiction over the project.

Subp. 2. Environmental review. Proposers of power plants of less than 50 megawatts or transmission lines of less than 100 kilovolts must comply with the environmental review requirements of chapter 4410 and *Minnesota Statutes*, chapter 116D.

### **4400.0650 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN EXISTING FACILITIES.**

Subpart 1. No permit required. The following projects are not considered construction of a large electric power generating plant or high voltage transmission line and may be constructed without a permit from the board:

A. equipment additions at an existing substation that do not require expansion of the land needed for the substation and do not involve an increase in the voltage or changes in the location of existing transmission lines, except that up to the first five transmission line structures outside the substation may be moved to accommodate the equipment additions provided the structures are not moved more than 500 feet from the existing right-of-way;

#### B. high voltage transmission lines:

(1) maintenance or repair of a high voltage transmission line within an existing right-of-way;

(2) reconductoring or reconstruction of a high voltage transmission line with no change in voltage and no change in right-of-way, provided that any new structures that are installed are not designed for and capable of operation at higher voltage; or

(3) relocation of a high voltage transmission line that is required by a local or state agency as part of road, street, or highway construction; or

#### C. large electric power generating plants:

(1) maintenance or repair of a large electric power generating plant;

(2) modification of a large electric power generating plant to increase efficiency as long as the capacity of the plant is not increased more than ten percent or more than 100 megawatts, whichever is greater, and the modification does not require expansion

of the plant beyond the developed portion of the site. If a subsequent modification results in a total of more than 100 megawatts of additional capacity, this provision does not apply;

(3) refurbishment of a large electric power generating plant that does not expand the capacity of the plant or expand the plant beyond the developed portion of the site and the refurbishment does not require a certificate of need from the public utilities commission;

(4) conversion of the fuel source of a large electric power generating plant to natural gas, as long as the plant is not expanded beyond the developed portion of the site; or

(5) start-up of an existing large electric power generating plant that has been closed for any period of time at no more than its previous capacity rating and in a manner that does not involve a change in the fuel or an expansion of the developed portion of the site.

Subp. 2. **Minor alteration.** In the event a modification or other change in an existing substation, high voltage transmission line, or large electric power generating plant does not qualify for an exception under this part, the modification or change may qualify for a minor alteration under part 4400.3820.

Subp. 3. **Notice.** Any person proposing to move transmission line structures under subpart 1, item A, or to reconductor or reconstruct a high voltage transmission line under subpart 1, item B, subitem (2), or to implement changes to a large electric power generating plant under subpart 1, item C, subitem (2), (3), (4), or (5), must notify the chair in writing at least 30 days before commencing construction on the modification or change.

Subp. 4. **Local review.** Any project that does not require a permit from the EQB under this part is also exempt from any requirement to obtain site or route approval from local units of government with jurisdiction over the project pursuant to *Minnesota Statutes*, section 116C.576.

#### **4400.0710 JOINT PROCEEDING.**

The proposer of a large electric power generating plant that will also require a high voltage transmission line may elect to apply for both a site permit for the large electric power generating plant and a route permit for the high voltage transmission line in one application and in one process. The EQB on its own volition may elect to combine two pending applications if it is appropriate to consider both projects as part of one proceeding. An applicant may also combine an application for a pipeline routing permit if a natural gas or petroleum pipeline to a new large electric power generating facility will be required.

### **FULL PERMITTING PROCESS FOR LARGE ELECTRIC POWER GENERATING FACILITIES**

#### **4400.1025 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS.**

Subpart 1. **Filing of application for permit.** A person seeking a site permit or route permit for a large electric power generating facility must file three copies of the application for the permit with the EQB. Upon acceptance of the application, the chair will advise the applicant of how many copies of the application must be submitted to the EQB.

Subp. 2. **Electronic copy.** A person filing an application for a site permit or route permit shall provide the EQB with an electronic version of the application suitable for posting on the EQB's Web page.

#### **4400.1050 PERMIT FEES.**

Subpart 1. **Requirement.** An applicant for a site permit or route permit shall pay a fee in accordance with *Minnesota Statutes*, section 116C.69. The estimated fee for processing the permit application must be determined in accordance with *Minnesota Statutes*, section 116C.69.

Subp. 2. **Initial payment.** The applicant shall submit with the application 50 percent of the total estimated fee or another lesser portion that the chair deems satisfactory. The chair shall not process a permit application until the first portion of the fee is submitted. The EQB shall deposit all money received from the applicant for permit fees in a special account.

Subp. 3. **Additional payments.** The applicant shall pay an additional 25 percent of the fee within 90 days after the application has been accepted by the chair. Additional payments must be made within 30 days of notification by the chair that additional fees

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are necessary for completion of the permitting process. The board shall not make a final decision on a permit application if any assessed fees have not been paid.

Subp. 4. **Final accounting.** At the end of the permitting process, including any judicial review of the board's final decision, the EQB shall provide a final accounting to the applicant of the total cost of processing the permit application. The applicant may review all actual costs associated with processing an application and present objections to the board. The application fees paid by the applicant shall include the necessary and reasonable expenses incurred in processing the application, including, but not limited to, staff time, expenses for public notice and meetings and hearings, environmental review, administrative overhead, and legal expenses. The applicant shall make the final payment within 30 days of notification or the EQB shall refund any excess payments with 30 days of the final accounting.

### **4400.1150 CONTENTS OF APPLICATION.**

Subpart 1. **Site permit for LEPGP.** An application for a site permit for a large electric power generating plant must contain the following information:

- A. a statement of proposed ownership of the facility as of the day of filing and after commercial operation;
- B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;
- C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for preferring the site;
- D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;
- E. the environmental information required under subpart 3;
- F. the names of the owners of the property for each proposed site;
- G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;
- H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;
- I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;
- J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;
- K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and
- L. a copy of the Certificate of Need for the project from the Public Utilities Commission or documentation that an application for a Certificate of Need has been submitted or is not required.

Subp. 2. **Route permit for HVTL.** An application for a route permit for a high voltage transmission line shall contain the following information:

- A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;
- B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;
- C. at least two proposed routes for the proposed high voltage transmission line and identification of the applicant's preferred route and the reasons for the preference;
- D. a description of the proposed high voltage transmission line and all associated facilities including the size and type of the high voltage transmission line;
- E. the environmental information required under subpart 3;
- F. identification of land uses and environmental conditions along the proposed routes;
- G. the names of the owners of the property of the land to be crossed by the high voltage transmission line within the two routes proposed;
- H. United States Geological Survey topographical maps or other maps acceptable to the chair showing the entire length of the high voltage transmission line on all proposed routes;

I. identification of existing utility and public rights-of-way along or parallel to the proposed routes that have the potential to share the right-of-way with the proposed line;

J. the engineering and operational design concepts for the proposed high voltage transmission line, including information on the electric and magnetic fields of the transmission line;

K. cost analysis of each route, including the costs of constructing, operating, and maintaining the high voltage transmission line that are dependent on design and route;

L. a description of possible design options to accommodate expansion of the high voltage transmission line in the future;

M. the procedures and practices proposed for the acquisition and restoration of the right-of-way, construction, and maintenance of the high voltage transmission line;

N. a listing and brief description of federal, state, and local permits that may be required for the proposed high voltage transmission line; and

O. a copy of the Certificate of Need or the certified HVTL list containing the proposed high voltage transmission line or documentation that an application for a Certificate of Need has been submitted or is not required.

**Subp. 3. Environmental information.** An applicant for a site permit or a route permit shall include in the application the following environmental information for each proposed site or route to aid in the preparation of an environmental impact statement:

A. a description of the environmental setting for each site or route;

B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;

C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

D. a description of the effects of the facility on archaeological and historic resources;

E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;

F. a description of the effects of the facility on rare and unique natural resources;

G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and

H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.

#### **4400.1250 REVIEW OF APPLICATION.**

**Subpart 1. Review by chair.** Within ten working days of receipt of an application for a site permit or a route permit, the chair shall determine whether the application is complete and notify the applicant in writing of the acceptance or rejection of the application. If the chair rejects an application, the chair shall advise the applicant of the deficiencies in the application.

**Subp. 2. Resubmission of rejected application.** If the chair should reject an application, an applicant may decide to address the deficiencies identified by the chair and resubmit the application with additional information. In this event, the chair shall again review the application within ten days and determine whether the application is complete and advise the applicant of the chair's determination.

**Subp. 3. Reasons for rejection.** The chair shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project.

**Subp. 4. Schedule.** The date of the chair's determination that an application is complete marks the start of the schedule for the board to make a final decision on a permit application.

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### **4400.1350 NOTICE OF PROJECT.**

Subpart 1. Notification lists. The EQB shall maintain the notification lists described in items A and B.

A. The EQB shall maintain a list of persons who want to be notified of the acceptance of applications for site permits or route permits. Any person may request to have that person's name or an organization's name included on the list. The EQB may from time to time request that persons whose names are on the list advise the EQB whether they want to remain on the list, and the EQB may delete any names for which an affirmative response is not received within a reasonable time. A person whose name has been removed may request to have the name added back on the list. The EQB shall provide an applicant with the general list upon acceptance of an application.

B. The EQB shall maintain a project contact list for each project for which an application for a permit has been accepted. The project contact list must contain the names of persons who want to receive notices regarding the project. Any person may request to have that person's name or an organization's name included on a project contact list. The EQB may add a person's name to the list if the EQB believes the person would like to receive notices about the particular project. The EQB shall provide an applicant with the project contact list upon request.

Subp. 2. Notification to persons on general list. Within 15 days after submission of an application, the applicant shall send written notice of the submission and a description of the proposed project to those persons whose names are on the general list maintained by the EQB for this purpose. The notice must also advise those persons where a copy of the application may be reviewed and how a copy may be obtained, and that persons who want to continue to receive future notices regarding the matter must notify the EQB of such intent and request that their names be placed on the project contact list.

Subp. 3. Publication of notice. Within 15 days after submission of an application, the applicant shall publish notice in a legal newspaper of general circulation in each county in which a site, route, or any alternative is proposed to be located that an application has been submitted and a description of the proposed project. The notice must also state where a copy of the application may be reviewed.

Subp. 4. Notification of local officials. Within 15 days after submission of an application, the applicant shall send a copy of the application by certified mail to each regional development commission, county, incorporated municipality, and township in which any part of the site or route or any alternative is proposed to be located.

Subp. 5. Notification of property owners. Within 15 days after submission of an application, the applicant shall send written notice of the submission and a description of the proposed project to each owner whose property is adjacent to any of the proposed sites for a large electric power generating plant or within any of the proposed routes for a high voltage transmission line. The notice must also advise the owners where a copy of the application may be reviewed and how a copy may be obtained. For purposes of giving notice under this subpart, owners are those persons shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer, or any other list of owners approved by the chair.

Subp. 6. Confirmation of notice. Within 30 days after providing the requisite notice, the applicant shall submit to the EQB documentation that all notices required under this part have been given. The applicant shall document the giving of the notice by providing the EQB with affidavits of publication or mailing and copies of the notice provided.

Subp. 7. Failure to give notice. The failure of the applicant to give the requisite notice does not invalidate any ongoing permit proceedings provided the applicant has made a bona fide attempt to comply, although the chair may extend the time for the public to participate if the failure has interfered with the public's right to be informed about the project.

### **4400.1450 PUBLIC ADVISOR.**

Upon acceptance of an application for a site or route permit, the chair shall designate a staff person to act as the public advisor on the project. The public advisor must be available to answer questions from the public about the permitting process. The public advisor shall not give legal advice or other advice that may affect the legal rights of the person being advised, and the public advisor shall not act as an advocate on behalf of any person.

### **4400.1550 PUBLIC MEETING.**

Subpart 1. Scheduling public meeting. Upon acceptance of an application for a site or route permit, the chair shall schedule a public meeting to provide information to the public about the proposed project and to answer questions and to scope the environmental impact statement. The public meeting must be held no later than 60 days after acceptance of the application. The public meeting must be held in a location that is convenient for persons who live near the proposed project.

Subp. 2. Notice of public meeting. The EQB shall give at least ten days' notice of the public meeting by mailing notice to persons whose names are on the project contact list maintained pursuant to part 4400.1350, subpart 1. The EQB shall also publish notice of the public meeting in a legal newspaper of general circulation in the area where the project is proposed to be located. If

appropriate, the EQB may request the applicant to include notice of the public meeting in the notice to be provided by the applicant pursuant to part 4400.1350.

**Subp. 3. Conduct of public meeting.** The chair shall appoint a person, who may be an EQB staff person, to conduct the public meeting. The public meeting must be conducted in an informal manner designed to encourage public participation. The public must be afforded an opportunity to present comments and ask questions. The EQB shall make available at the public meeting a copy of the application and other pertinent documents in the EQB files regarding the application. The staff shall explain the permitting process to the persons in attendance. A transcript of the meeting need not be maintained, although the EQB may elect to keep an audio recording of the meeting.

**Subp. 4. Applicant role.** The applicant shall provide representatives at the public meeting who are capable of answering general questions about the proposed project.

**Subp. 5. EIS scoping.** At the public meeting, the public must be provided an opportunity to comment on the scope of the environmental impact statement in accordance with part 4400.1700.

#### **4400.1600 CITIZEN ADVISORY TASK FORCE.**

**Subpart 1. Chair authority.** The board delegates to the chair the authority to appoint a citizen advisory task force. The chair shall determine whether to appoint such a task force as early in the process as possible. The chair shall establish the size of the task force and appoint its members in accordance with *Minnesota Statutes*, section 116C.59. The chair shall advise the board of the appointment of the task force at the next monthly board meeting.

**Subp. 2. Board decision.** If the chair decides not to appoint a citizen advisory task force and a person would like such a task force appointed, the person may request that the board create a citizen advisory task force and appoint its members. Upon receipt of such a request, the chair shall place the matter on the agenda for the next regular monthly board meeting.

**Subp. 3. Task force responsibilities.** Upon appointment of a citizen advisory task force, the chair or the board, whichever creates the task force, shall specify in writing the charge to the task force. The charge shall include the identification of additional sites or routes or particular impacts to be evaluated in the environmental impact statement. The chair or the board may establish additional charges, including a request that the task force express a preference for a specific site or route if it has one.

**Subp. 4. Termination of task force.** The task force expires upon completion of its charge, designation by the chair of alternative sites or routes to be included in the environmental impact statement, or the specific date identified by the chair or board in the charge, whichever occurs first.

#### **4400.1700 PREPARATION OF EIS.**

**Subpart 1. EIS required.** The EQB shall prepare an environmental impact statement on each proposed large electric generating plant and high voltage transmission line for which a permit application has been accepted by the chair.

**Subp. 2. Scoping process.** The EQB shall provide the public with an opportunity to participate in the development of the scope of the environmental impact statement by holding a public meeting and by soliciting public comments. The public meeting required under part 4400.1550 satisfies the requirement to hold a scoping meeting. The EQB shall provide a period of at least seven days from the day of the public meeting for the public to submit comments on the scope of the EIS. The chair shall determine the scope of the environmental impact statement as soon after holding the public meeting as possible. Within five days after the decision, the EQB shall mail notice of the scoping decision to those persons whose names are on either the general list or the project contact list. Once the chair has determined the scope of the environmental impact statement, the scope must not be changed except upon decision by the chair or the board that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.

**Subp. 3. Alternative sites or routes.** During the scoping process, a person may suggest alternative sites or routes to evaluate in the environmental impact statement. A person desiring that a particular site or route be evaluated shall submit to the EQB, during the scoping process, an explanation of why the site or route should be included in the environmental impact statement and any other supporting information the person wants the chair to consider. The chair shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental impact statement.

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Subp. 4. **Scope of EIS.** The scoping process must be used to reduce the scope and bulk of an environmental impact statement by identifying the potentially significant issues and alternatives requiring analysis and establishing the detail into which the issues will be analyzed. The scoping decision by the chair shall at least address the following:

- A. the issues to be addressed in the environmental impact statement;
- B. the alternative sites and routes to be addressed in the environmental impact statement; and
- C. the schedule for completion of the environmental impact statement.

Subp. 5. **Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental impact statement shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

Subp. 6. **Draft EIS.** The draft environmental impact statement must be written in plain and objective language. The draft environmental impact statement shall follow the standard format for an environmental impact statement prescribed in part 4410.2300 to the extent the requirements of that rule are appropriate.

Subp. 7. **Public review.** Upon completion of the draft environmental impact statement, the EQB shall make the document available for public review by placing a copy of the document in a public library or other governmental office in each county where the proposed project may be located. The EQB shall send notice of the availability of the draft environmental impact statement to each person on the project contact list maintained by the board under part 4400.1350, subpart 1. The EQB shall also place a notice in the EQB Monitor of the availability of the draft environmental impact statement. The EQB shall post the environmental impact statement on the agency's Web page if possible.

Subp. 8. **Informational meeting.** The EQB shall schedule an informational meeting to provide an opportunity for the public to comment on the draft environmental impact statement. The meeting must not be held sooner than 20 days after the draft environmental impact statement becomes available. The meeting must be held in a location convenient to persons who live near the proposed project. The EQB shall send notice of the informational meeting to each person on the project contact list maintained by the EQB under part 4400.1350, subpart 1. The EQB shall also place notice in the EQB Monitor. The informational meeting may be held just prior to the holding of a contested case hearing on the permit application. The EQB shall hold the record on the environmental impact statement open for receipt of written comments for not less than ten days after the close of the informational meeting.

Subp. 9. **Final EIS.** The EQB shall respond to the timely substantive comments received on the draft environmental impact statement consistent with the scoping decision and prepare the final environmental impact statement. The EQB may attach to the draft environmental impact statement the comments received and its response to comments without preparing a separate document. The EQB shall publish notice of the availability of the final environmental impact statement in the EQB Monitor and shall supply a press release to at least one newspaper of general circulation in the areas where the proposed sites or routes are located.

Subp. 10. **Adequacy determination.** The board shall determine the adequacy of the final environmental impact statement. The board shall not decide the adequacy for at least ten days after the availability of the final environmental impact statement is announced in the EQB Monitor. The final environmental impact statement is adequate if it:

A. addresses the issues and alternatives raised in scoping to a reasonable extent considering the availability of information and the time limitations for considering the permit application;

B. provides responses to the timely substantive comments received during the draft environmental impact statement review process; and

C. was prepared in compliance with the procedures in this chapter. If the board finds that the environmental impact statement is not adequate, the board shall direct the staff to respond to the deficiencies and resubmit the revised environmental impact statement to the board as soon as possible.

Subp. 11. **Cost.** The applicant for a site permit or route permit shall pay the reasonable costs of preparing and distributing an environmental impact statement. The costs must not be assessed separately from the assessment under part 4400.1050 unless that assessment is inadequate to cover the board's reasonable costs of considering the permit application.

Subp. 12. **Environmental review requirements.** The requirements of chapter 4410 do not apply to the preparation or consideration of an environmental impact statement for a large electric generating power plant or high voltage transmission line except as provided in this chapter.

### **4400.1800 CONTESTED CASE HEARING.**

Subpart 1. **Hearing.** The EQB shall hold a contested case hearing after the draft environmental impact statement is prepared on all applications for a site permit or a route permit. The hearing must be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of *Minnesota Statutes*, chapter 14. Notice of the hearing must be



given in accordance with *Minnesota Statutes*, section 116C.57, subdivision 2d. At least a portion of the hearing must be held in a county where the proposed large electric power generating plant or high voltage transmission line would be located.

**Subp. 2. Issues.** Once the Public Utilities Commission has determined questions of need, including size, type, and timing; questions of system configuration; and questions of voltage, those issues must not be addressed in the contested case hearing.

**Subp. 3. Joint hearing.** If the board determines that a joint hearing with the Public Utilities Commission to consider both permitting and need issues is feasible, more efficient, and may further the public interest, the board may decide to hold a joint hearing with the approval of the commission. The board may also elect to hold a joint hearing with other states pursuant to *Minnesota Statutes*, section 116C.53, subdivision 3.

#### **4400.1900 FINAL DECISION.**

**Subpart 1. Timing.** The board shall make a final decision on a site permit or a route permit application within 60 days after receipt of the report of the administrative law judge. A final decision must be made within one year after the chair's determination that an application is complete. The board may extend this time limit for up to three months for just cause or upon agreement of the applicant.

**Subp. 2. EIS adequacy.** The board shall not make a final decision on a permit until the board has found the environmental impact statement to be adequate.

**Subp. 3. Certificate of need decision.** The EQB shall not make a final decision on a permit for a project that requires a Certificate of Need from the Public Utilities Commission until the applicant has obtained the necessary approval from the Public Utilities Commission.

**Subp. 4. Notice.** The EQB shall publish notice of its final permit decision in the *State Register* within 30 days of the date the board makes the decision. The EQB shall also publish notice in the EQB Monitor. The EQB shall mail notice of its final permit decision to those persons whose names are on the project contact list. The EQB shall post notice of the final decision on the agency's Web page, if possible.

### **ALTERNATIVE PERMITTING PROCESS FOR CERTAIN FACILITIES**

#### **4400.2000 QUALIFYING PROJECTS.**

**Subpart 1. Qualifying projects.** An applicant for a site permit or a route permit for one of the following projects may elect to follow the procedures of parts 4400.2000 to 4400.2950 instead of the full permitting procedures in parts 4400.1025 to 4400.1900:

A. large electric power generating plants with a capacity of less than 80 megawatts;

B. large electric power generating plants that are fueled by natural gas;

C. high voltage transmission lines of between 100 and 200 kilovolts;

D. high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;

E. high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line rights-of-way;

F. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

G. a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

**Subp. 2. Notice to EQB.** An applicant for a permit for one of the qualifying projects in subpart 1, who intends to follow the procedures of parts 4400.2000 to 4400.2750, shall notify the EQB of such intent, in writing, at least ten days before submitting an application for the project.

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### **4400.2010 PERMIT APPLICATION FOR ALTERNATIVE PERMITTING PROCESS.**

Part 4400.1025, regarding submission of a permit application, applies to projects being considered under the alternative permitting process.

### **4400.2050 PERMIT FEES.**

Part 4400.1050, regarding permit fees, applies to projects being considered under the alternative permitting process.

### **4400.2100 CONTENTS OF APPLICATION.**

The applicant shall include in the application the same information required in part 4400.1150, except the applicant need not propose any alternative sites or routes to the preferred site or route. If the applicant has rejected alternative sites or routes, the applicant shall include in the application the identity of the rejected sites or routes and an explanation of the reasons for rejecting them.

### **4400.2200 REVIEW OF APPLICATION.**

Part 4400.1250 regarding the chair's review of the application, applies to projects being considered under the alternative permitting process.

### **4400.2300 NOTICE OF PROJECT.**

Part 4400.1350, regarding obligations to give notice of the project, applies to projects being considered under the alternative permitting process.

### **4400.2400 PUBLIC ADVISOR.**

Part 4400.1450, regarding appointment of a public advisor, applies to projects being considered under the alternative permitting process.

### **4400.2500 PUBLIC MEETING.**

Subpart 1. Public meeting. Part 4400.1550, subparts 1 to 4, apply to projects being considered under the alternative permitting process.

Subp. 2. Environmental assessment. At the public meeting, the public shall be provided an opportunity to comment on the scope of the environmental assessment in accordance with part 4400.2750.

### **4400.2650 CITIZEN ADVISORY TASK FORCE.**

Part 4400.1600, regarding the appointment of a citizen advisory task force, applies to projects being considered under the alternative permitting process.

### **4400.2750 PREPARATION OF ENVIRONMENTAL ASSESSMENT.**

Subpart 1. Environmental assessment required. The EQB shall prepare an environmental assessment on each proposed large electric power generating plant and each proposed high voltage transmission line being reviewed under the alternative permitting process in parts 4400.2000 to 4400.2950. The environmental assessment must contain information on the human and environmental impacts of the proposed project and of alternative sites or routes identified by the chair and shall address mitigating measures for all sites or routes considered.

#### **Subp. 2. Scoping Process.**

A. The EQB shall provide the public with an opportunity to participate in the development of the scope of the environmental assessment by holding a public meeting and by soliciting public comments. The public meeting required under part 4400.2500 satisfies the requirement to hold a scoping meeting. The EQB shall mail notice of the meeting to those persons on either the general list or the project contact list at least ten days before the meeting. The EQB shall provide at least seven days from the day of the public meeting for the public to submit comments regarding the scope of the environmental assessment.

B. The chair shall include in the scope of the environmental assessment any alternative sites or routes proposed by the citizen advisory task force or by any member agency of the EQB prior to the close of the scoping period. During the scoping process, any person may suggest an alternative site or route to evaluate in the environmental assessment. A person desiring that a particular site or route be evaluated shall submit to the chair, during the scoping process, an explanation of why the site or route should be included in the environmental assessment and all supporting information the person wants the chair to consider. The chair shall provide the applicant with an opportunity to respond to each request that an alternative be included in the environmental assessment. The chair shall include the suggested site or route in the scope of the environmental assessment only if the person has established that evaluation of the proposed site or route will assist in the board's ultimate decision on the permit application. Any person may also suggest specific human or environmental impacts that should be included in the environmental assessment.

**Subp. 3. Scoping decision.** The chair shall determine the scope of the environmental assessment within ten days after close of the public comment period and shall mail notice of the scoping decision to those persons on the project contact list within five days after the decision. Once the chair has determined the scope of the environmental assessment, the scope shall not be changed except upon a decision by the chair or the board that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives. The chair shall also determine as part of the scoping process a reasonable schedule for completion of the environmental assessment. The scoping decision by the chair must identify:

- A. the alternatives to be addressed in the environmental assessment;
- B. any specific potential impacts to be addressed;
- C. the schedule for completion of the environmental assessment; and
- D. other matters to be included in the environmental assessment.

**Subp. 4. Content of environmental assessment.** The environmental assessment must include:

- A. a general description of the proposed facility;
- B. a list of alternatives to the proposed project to be addressed;
- C. a discussion of the potential impacts of the proposed project and each alternative on the human and natural environment;
- D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative analyzed;
- E. an analysis of the feasibility of each alternative considered;
- F. a list of permits required for the project; and
- G. a discussion of other matters identified in the scoping process.

**Subp. 5. Time frame for completion of environmental assessment.** The EQB shall complete the environmental assessment in accordance with the schedule established during the scoping process. In establishing the schedule for completion of the environmental assessment, the chair shall take into account any applicable statutory deadlines, the number and complexity of the alternatives and impacts to be addressed, the status of other proceedings affecting the project, and the interests of the public, the applicant, and the EQB.

**Subp. 6. Notification of availability environmental assessment.** Upon completion of the environmental assessment, the EQB shall publish notice in the EQB Monitor of the availability of the environmental assessment and mail notice of the availability of the document to those persons on the project contact list. The EQB shall provide a copy of the environmental assessment to any public agency with authority to permit or approve the proposed project. The EQB shall post the environmental assessment on the agency's Web page, if possible.

**Subp. 7. Matters excluded.** When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the environmental assessment shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

**Subp. 8. No additional environmental review.** An environmental assessment must be the only state environmental review document required to be prepared by the EQB on a project qualifying for review under the alternative review process. No environmental assessment worksheet or environmental impact statement shall be required. Environmental review at the certificate of need stage before the Public Utilities Commission must be performed in accordance with parts 4410.7000 to 4410.7700.

**Subp. 9. Cost.** The cost of the preparation of an environmental assessment must be assessed to the applicant as part of the application fee pursuant to part 4400.1050.

#### **4400.2850 PUBLIC HEARING.**

**Subpart 1. Public hearing.** The EQB shall hold a public hearing once the environmental assessment has been completed. Notice of the hearing shall be given in accordance with *Minnesota Statutes*, section 116C.57, subdivision 2d. At least a portion of

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the hearing shall be held in a county where the proposed large electric power generating plant or high voltage transmission line would be located.

Subp. 2. **Hearing examiner.** The chair shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the EQB. The hearing examiner shall set the date and place for the hearing and provide notice to the public. The hearing examiner may make such rulings as are required to conduct the hearing in a fair, impartial, and expeditious manner, including the authority to maintain decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount of time for oral testimony, and to continue the hearing from time to time as needed. Persons may testify at the hearing without being first sworn under oath. The hearing examiner shall ensure that the record created at the hearing is preserved and transmitted to the board. An audio recording of the hearing must be made, unless the chair determines that a court reporter is appropriate. The hearing examiner shall not prepare a report or make any recommendation to the board unless the chair or the board requests the hearing examiner to do so.

Subp. 3. **Hearing procedure.** The hearing must be conducted in the following manner, although the hearing examiner may vary the order in which the hearing proceeds:

A. the staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;

B. the applicant shall introduce its evidence by way of testimony and exhibits;

C. the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and staff;

D. the hearing examiner shall provide a period of not less than ten days for the submission of written comments into the record after the close of the hearing; and

E. the hearing examiner shall transmit the complete record created at the hearing, including all written comments, to the chair within five days of the close of the record, unless the hearing examiner has been requested by the chair or the board to prepare a report.

Subp. 4. **Issues.** Once the Public Utilities Commission has determined questions of need, including size, type, and timing; questions of system configurations; and questions of voltage, those issues must not be addressed in the public hearing.

Subp. 5. **Environmental assessment.** Interested persons may comment upon the environmental assessment at the public hearing. Comments on the environmental assessment shall become part of the record in the proceeding but the board shall not be required to revise or supplement the environmental assessment document.

### **4400.2950 FINAL DECISION.**

Subpart 1. **Timing.** The board shall make a final decision on a site permit or a route permit application within 60 days after receipt of the record from the hearing examiner. A final decision must be made within six months after the chair's determination that an application is complete. The board may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subp. 2. **Completeness of environmental assessment.** At the time the board makes a final decision on the permit application, the board shall determine whether the environmental assessment and the record created at the public hearing address the issues identified in the scoping decision.

Subp. 3. **Notice.** The EQB shall publish notice of its final permit decision in the State Register within 30 days of the day the board makes the decision. The EQB shall also publish notice in the EQB Monitor. The EQB shall mail notice of its final permit decision to those persons whose names are on the project contact list. The EQB shall post notice of the final decision on the agency's Web page, if possible.

## **GENERAL PERMIT REQUIREMENTS**

### **4400.3050 STANDARDS AND CRITERIA.**

No site permit or route permit shall be issued in violation of the site selection standards and criteria established in *Minnesota Statutes*, sections 116C.57 and 116C.575, and in rules adopted by the board. The board shall issue a permit for a proposed facility when the board finds that the facility is consistent with state goals to conserve resources, minimize environmental impacts, and minimize human settlement and other land use conflicts and ensures the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure.

**4400.3150 FACTORS CONSIDERED.**

In determining whether to issue a permit for a large electric power generating plant or a high voltage transmission line, the board shall consider the following:

A. effects on human settlement, including, but not limited to, displacement, noise, aesthetics, cultural values, recreation, and public services;

B. effects on public health and safety;

C. effects on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;

D. effects on archaeological and historic resources;

E. effects on the natural environment, including effects on air and water quality resources and flora and fauna;

F. effects on rare and unique natural resources;

G. application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity;

H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and agricultural field boundaries;

I. use of existing large electric power generating plant sites;

J. use of existing transportation, pipeline, and electrical transmission systems or rights-of-way;

K. electrical system reliability;

L. costs of constructing, operating, and maintaining the facility which are dependent on design and route;

M. adverse human and natural environmental effects which cannot be avoided; and

N. irreversible and irretrievable commitments of resources.

**4400.3250 FACTORS EXCLUDED.**

When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or a high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, questions of need, including size, type, and timing, questions of alternative system configurations, and questions of voltage shall not be factors considered by the board in deciding whether to issue a permit for a proposed facility.

**4400.3350 PROHIBITED ROUTES.**

Subpart 1. Wilderness areas. No high voltage transmission line may be routed through state or national wilderness areas.

Subp. 2. Parks and natural areas. No high voltage transmission line may be routed through state or national parks or state scientific and natural areas unless the transmission line would not materially damage or impair the purpose for which the area was designated and no feasible and prudent alternative exists. Economic considerations alone do not justify use of these areas for a high voltage transmission line.

**4400.3450 PROHIBITED SITES.**

Subpart 1. Prohibited sites. No large electric power generating plant may be located in any of the following areas:

A. national parks;

B. national historic sites and landmarks;

C. national historic districts;

D. national wildlife refuges;

E. national monuments;

F. national wild, scenic, and recreational riverways;

G. state wild, scenic, and recreational rivers and their land use districts;

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H. state parks;

I. nature conservancy preserves;

J. state scientific and natural areas; and

K. state and national wilderness areas.

Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site for a large electric power generating plant except for use for water intake or discharge facilities. If the board includes any of these areas within a site for use for water intake or discharge facilities, it may impose appropriate conditions in the permit to protect these areas for the purposes for which they were designated. The board shall also consider the adverse effects of proposed sites on these areas which are located wholly outside of the boundaries of these areas.

Subp. 3. **Site exclusions when alternative sites exist.** No large electric power generating plant may be located in any of the following areas unless there is no feasible and prudent alternative. Economic considerations alone do not justify approval of these areas. These areas are:

A. state registered historic sites;

B. state historic districts;

C. state wildlife management areas, except in cases where the plant cooling water is to be used for wildlife management purposes;

D. county parks;

E. metropolitan parks;

F. designated state and federal recreational trails;

G. designated trout streams; and

H. the rivers identified in *Minnesota Statutes*, section 85.32, subdivision 1.

Subp. 4. **Prime farmland exclusion.** No large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. "Prime farmland" means those soils that meet the specifications of *Code of Federal Regulations 1980*, title 7, section 657.5(a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under *Minnesota Statutes*, section 414.0325.

Subp. 5. **Sufficient water supply required.** No site may be designated that does not have reasonable access to a proven water supply sufficient for plant operation. No use of groundwater may be permitted where removal of groundwater results in material adverse effects on groundwater in and adjacent to the area, as determined in each case. The use of groundwater for high consumption purposes, such as cooling, must be avoided if a feasible and prudent alternative exists.

### **4400.3550 PERMIT APPLICATION REJECTION.**

The chair shall reject a permit application at the time it is submitted if the application is for a facility to be located on a prohibited site or within a prohibited route or if the applicant fails to address in the application why no feasible and prudent alternative exists for sites or routes that may be authorized in such a situation.

### **4400.3650 PERMIT CONDITIONS.**

Subpart 1. **Generally.** The board shall impose in any site permit for a large electric power generating plant or route permit for a high voltage transmission line such conditions as the board deems appropriate and are supported by the record.

Subp. 2. **HVTL permits.** When the board issues a permit for a route for a high voltage transmission line, the board shall specify the design, route, right-of-way preparation, and facility construction and operation it deems necessary. The board may impose a condition in the permit requiring the permittee to construct a high voltage transmission line that is capable of expansion in transmission capacity through multiple circuiting or design modifications.

### **4400.3750 DELAY IN ROUTE OR SITE CONSTRUCTION.**

If construction and improvement of a route or site have not commenced four years after the permit has been issued by the board, the board shall suspend the permit. If at that time, or at a time subsequent, the permittee decides to construct the proposed large electric power generating facility or high voltage transmission line, the permittee shall certify to the board that there have been no

significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. The chair shall mail notice of receipt of the certification request to those persons on the general list at least seven days before the board's consideration of the matter, and the same notice to those persons on the project contact list if such a list exists. If the board determines that there are no significant changes, it shall reinstate the permit. If the board determines that there is a significant change, it may order a new hearing and consider the matter further, or it may require the permittee to file a new application.

#### **4400.3820 MINOR ALTERATION IN LARGE ELECTRIC POWER GENERATING PLANT OR HIGH VOLTAGE TRANSMISSION LINE.**

Subpart 1. **Applicability.** No person may make a minor alteration in a large electric power generating plant or high voltage transmission line without approval from the chair, unless the action is exempt from review under part 4400.0650. A minor alteration is a change in a large electric power generating plant or high voltage transmission line that does not result in significant changes in the human or environmental impact of the facility. The requirements of this part apply to those facilities that have been permitted by the EQB and to those facilities that were not permitted by the EQB but meet the definition of a large electric power generating plant or high voltage transmission line under applicable law. For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the EQB, this part applies to minor alterations in the facility as it exists on the effective date of parts 4400.0200 to 4400.8000.

Subp. 2. **Application.** A person seeking authorization to make a minor alteration in a large electric power generating plant or high voltage transmission line shall apply to the chair. The application shall be in writing and shall describe the alteration in the large electric power generating plant or high voltage transmission line to be made and the explanation why the alteration is minor. The chair shall mail notice of receipt of the application to those persons on the general list and to those persons on the project contact list if such a list exists. The chair shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the board for consideration.

Subp. 3. **Chair decision.** The chair shall decide within ten days after close of the public comment period whether to authorize the minor alteration, bring the matter to the board for consideration, or determine that the alteration is not minor and requires a full permitting decision. The chair may authorize the minor alteration but impose reasonable conditions on the approval. The chair shall notify the applicant in writing of the chair's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

Subp. 4. **Local review.** For those large electric power generating plants or high voltage transmission lines for which no permit has been issued by the EQB, the owner or operator of such unpermitted facilities may elect to seek approval of a minor alteration from the local unit of government if the facility qualifies for local review under *Minnesota Statutes*, section 116C.476.

#### **4400.3840 AMENDMENT OF PERMIT CONDITIONS.**

Subpart 1. **Authority.** The chair may amend any of the conditions in a site permit for a large electric power generating plant or in a route permit for a high voltage transmission line issued by the EQB upon request of any person.

Subp 2. **Process.** The person requesting an amendment of a condition in a site permit or a route permit shall submit an application to the chair in writing describing the amendment sought and the reasons for the amendment. The chair shall mail notice of receipt of the application to those persons on the general list and to those persons on the project list if such a list exists. The chair shall provide at least a ten-day period for interested persons to submit comments on the application or to request that the matter be brought to the board for consideration.

Subp. 3. **Decision.** The chair shall decide within ten days after close of the public comment period whether to approve the amendment request or to bring the matter to the board for consideration. The chair shall notify the applicant in writing of the chair's decision and send a copy of the decision to any person who requested notification or filed comments on the application.

#### **4400.3850 TRANSFER OF PERMIT.**

Subpart 1. **Application.** A permittee holding a large electric power generating plant site permit or a high voltage transmission line route permit may request the EQB to transfer its permit. The permittee shall provide the name of the existing permittee, the name and description of the entity to which the permit is to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the EQB with such information as the EQB shall require to determine whether the new permittee can comply with the conditions of the

<p><b>KEY: PROPOSED RULES SECTION</b> — <u>Underlining</u> indicates additions to existing rule language. <del>Strike outs</del> indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." <b>ADOPTED RULES SECTION</b> — <u>Underlining</u> indicates additions to proposed rule language. <del>Strike outs</del> indicate deletions from proposed rule language.</p>
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## Proposed Rules

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permit. The chair shall mail notice of receipt of the application to those persons on the general list at least seven days in advance of the board's consideration of the matter. The chair shall provide the same notice to persons on the project contact list if such a list exists.

Subp. 2. **Approval of transfer.** The board shall approve the transfer if the board determines that the new permittee will comply with the conditions of the permit. The board, in approving the transfer of a permit, may impose reasonable additional conditions in the permit as part of the approval. The board may decide to hold a public meeting to provide the public with an opportunity to comment on the request for the transfer prior to making a decision.

### **4400.3950 REVOCATION OR SUSPENSION OF PERMIT.**

Subpart 1. **Initiation of action to revoke or suspend.** The board may initiate action to consider revocation or suspension of a permit on its own motion or upon the request of any person who has made a prima facie showing by affidavit and documentation that a violation of the act, this chapter, or the permit has occurred.

Subp. 2. **Hearing.** If the board initiates action to consider revocation or suspension of a permit, the board shall provide the permittee with an opportunity for a contested case hearing conducted by an administrative law judge from the Office of Administrative Hearings.

Subp. 3. **Finding of violation.** If the board finds that a violation of the act, this chapter, or the permit has occurred, it may revoke or suspend the permit, require the utility to undertake corrective or ameliorative measures as a condition to avoid revocation or suspension, or require corrective measures and suspend the permit. In determining the appropriate sanction, the board shall consider the following:

- A. whether the violation will result in any significant additional adverse environmental effects;
- B. whether the results of the violation can be corrected or ameliorated; and
- C. whether a suspension or revocation of a permit or certificate will impair the utility's electrical power system reliability.

## **EMERGENCY PERMIT**

### **4400.4050 EMERGENCY PERMIT.**

Subpart 1. **Application for emergency permit.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the board for an emergency permit. The application must contain the following information:

- A. a description of the proposed large electric power generating plant or high voltage transmission line;
- B. an explanation of the major unforeseen event causing the emergency situation;
- C. a discussion of the anticipated impacts on the electric system if the proposed facility is not approved within 195 days;
- D. a copy of the written notification to the Public Utilities Commission of the major unforeseen event and the need for immediate construction; and
- E. as much of the information required under part 4400.1150 as the utility has available.

Subp. 2. **Public hearing.** The EOB shall hold a public hearing on the application for an emergency permit. The hearing must be held within 90 days after the application is submitted. The hearing must be held in accordance with part 4400.2850.

Subp. 3. **Final decision.** The board shall make a final decision on an emergency permit within 195 days after the board's acceptance of the application. The board shall grant the emergency permit if it finds the following:

- A. a demonstrable emergency exists;
- B. the emergency requires immediate construction;
- C. adherence to the procedures and time schedules specified in *Minnesota Statutes*, section 116C.57, would jeopardize the utility's electric power system or the utility's ability to meet the electric needs of its customers in an orderly and timely manner;
- D. the utility will implement mitigating measures to minimize the human and environmental impacts of the facility; and
- E. the utility will carry out the project in an expeditious manner consistent with the emergency.

Subp. 4. **Permit conditions.** The board may impose reasonable conditions in an emergency permit.

Subp. 5. **Permit fee.** The applicant for an emergency permit shall pay the same fee as would be required for a regular permit for the same project.

**LOCAL REVIEW****4400.5000 LOCAL REVIEW OF PROPOSED FACILITIES.**

Subpart 1. Local review. An applicant who seeks a site or route permit for one of the projects identified in subpart 2 has the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the board. If the applicant files an application with the EQB, the applicant shall be deemed to have waived its right to seek local approval of the project.

Subp. 2. Qualifying facilities. An applicant may seek approval from a local unit of government to construct the following projects:

A. a large electric power generating plant with a capacity of less than 80 megawatts;

B. a large electric power generating plant of any size that burn natural gas and are intended to be a peaking plant;

C. a high voltage transmission line of between 100 and 200 kilovolts;

D. a substation with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;

E. a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and

F. a high voltage transmission line rerouting to serve the demand of a single customer when at least 80 percent of the rerouted line will be located on property owned or controlled by the customer or the owner of the transmission line.

Subp. 3. Notice to EQB. Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the chair in writing that the applicant has elected to seek local approval of the proposed project.

Subp. 4. Referral to EQB. A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the EQB to assume jurisdiction and make a decision on a site or route permit. A local unit of government shall file the request with the board within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the board to assume jurisdiction, jurisdiction over the project transfers to the board and the applicant shall file under the applicable provisions of this chapter for a permit from the board.

Subp. 5. Environmental review. A local unit of government that maintains jurisdiction over a qualifying project shall prepare an environmental assessment on the project in accordance with the requirements of part 4400.2750. If more than one local unit of government has jurisdiction over a project, and the local units of government cannot agree on which unit will prepare the environmental assessment, any local unit of government or the applicant may request the board to select the appropriate local unit of government to be the responsible governmental unit to conduct an environmental review of the project.

Subp. 6. No local authority. In the event a local unit of government that might otherwise have jurisdiction over a proposed large electric power generating plant or high voltage transmission line has no ordinances or other provisions for reviewing and authorizing the construction of such project or has no capability of preparing an environmental assessment on the project, the matter must be brought to the EQB for review.

Subp. 7. Matters Excluded. When the Public Utilities Commission has issued a Certificate of Need for a large electric power generating plant or high voltage transmission line or placed a high voltage transmission line on the certified HVTL list maintained by the commission, the local unit of government shall not address questions of need, including size, type, and timing; questions of alternative system configurations; or questions of voltage.

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## Proposed Rules

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### ANNUAL PUBLIC HEARING

#### 4400.6050 ANNUAL PUBLIC HEARING.

Subpart 1. Annual public hearing. The board shall hold an annual public hearing in November or December in St. Paul in order to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines. The meeting must be conducted by the EQB staff. At the meeting, the EQB shall advise the public of the permits issued by the EQB in the past year. The EQB shall invite representatives of other state agencies to attend the meeting and be available to answer questions by the public. An audio recording of the hearing must be maintained.

Subp. 2. Notice. The EQB shall provide at least ten days but no more than 45 days notice of the annual hearing by mailing notice to those persons who have requested notice and by publication in the EQB Monitor. The notice must be accompanied by a tentative agenda for the hearing.

Subp. 3. Report. The staff shall prepare a report of the annual hearing within 60 days after the hearing and submit it to the board. No action on the report is required.

### ANNUAL ASSESSMENT ON UTILITIES

#### 4400.7050 ANNUAL ASSESSMENT ON UTILITIES.

For purposes of determining the annual assessment on a utility pursuant to the act, each utility shall, on or before July 1 of each year, submit to the board a report of its retail kilowatt-hour sales in the state and its gross revenue from kilowatt-hour sales in the state for the preceding calendar or utility reporting year. Upon receipt of these reports, the board shall bill each utility as specified in the act.

#### 4400.8000 PROGRAM ADVISORY TASK FORCE.

The board may appoint a program advisory task force to provide advice and recommendations concerning development, revision, and enforcement of any rule or program initiated under the act or this chapter. The board shall provide guidance to the program advisory task force in the form of a charge and through specific requests. The program advisory task force must be composed of as many members as may be designated by the board and its membership must be solicited on a statewide basis. The program advisory task force and its chair must be appointed for a one-year term.

**REPEALER.** *Minnesota Rules*, parts 4400.0200, subparts 4, 5, 6, 7, 11, 13, 14, and 19; 4400.0600; 4400.0700; 4400.0710; 4400.0720; 4400.0800; 4400.0900; 4400.1000; 4400.1100; 4400.1200; 4400.1210; 4400.1310; 4400.1400; 4400.1500; 4400.2600; 4400.2710; 4400.2720; 4400.2800; 4400.2900; 4400.3000; 4400.3100; 4400.3200; 4400.3210; 4400.3310; 4400.3400; 4400.3500; 4400.3600; 4400.3710; 4400.3800; 4400.3900; 4400.3910; 4400.4000; 4400.4100; 4400.4200; 4400.4300; 4400.4400; 4400.4500; and 4400.4900, are repealed.

## Withdrawn Rules

An agency may choose to withdraw rules it has proposed, thus cancelling any time-sensitive schedule for public comment, hearing, or further movement toward the rules' adoption. These rules will be listed as withdrawn by their individual rules numbers in the *State Register's* index to rulemaking activity. **Minnesota Rules: Amendments and Additions.** An agency that chooses to withdraw proposed rules, may reintroduce those same rules at a later date.

## Minnesota Department of Children, Families and Learning

### Notice of Withdrawal of Proposed Expedited Permanent Rules Governing Rule Variance Procedures, *Minnesota Rules*, Part 3500.0400

NOTICE IS HEREBY GIVEN regarding the withdrawal of the proposed expedited permanent rules governing rule variance procedures that were published in the *State Register* on Monday, June 24, 2002, at 26 *State Register* 1754.



# Official Notices

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

## Department of Agriculture

### Agricultural Chemical Response and Reimbursement Account (ACRRA) Legislative Changes

The Agricultural Chemical Response and Reimbursement Account (ACRRA) was created by the 1989 Minnesota Ground Water Protection Act primarily to reimburse persons for costs incurred after July 1, 1989, in cleaning up agricultural chemical (pesticide and fertilizer) incidents. The account is funded by surcharges on pesticide and fertilizer manufacturers, distributors, applicators and dealers. The rate is determined by the Commissioner of Agriculture.

The Agricultural Chemical Response Compensation Board administers the ACRRA Fund. The board determines the amount of funding to eligible persons. To obtain funding, the Minnesota Department of Agriculture (MDA) must receive proper notice of an agricultural chemical incident and corrective action requirements must be met. Costs claimed for corrective actions must be reasonable and necessary as determined by the board.

ACRRA has seen a marked increase in the demand for funds over the last two years. Surcharges were raised in 2000 and 2001, but may be insufficient to meet future financial requests. Cost containment measures were a major factor in the need for legislative changes. Changes to Minnesota Statutes Chapter 18E were needed to: 1) increase the ability to project financial need; 2) offer relief to businesses who contribute to the fund through licensing surcharges; and 3) reduce the cost-share percentage and limit the amount an eligible person can collect within a single year. Changes are summarized as follows:

**Surcharge Limit** - Limits the surcharge on all licenses to fifty percent (50%) of the license fee.

**Application Deadlines** - Requires application submittal within three years of incurring eligible costs or approval of corrective action design, whichever is later. Costs incurred prior to July 1, 2001, must be submitted no later than **June 1, 2004**.

**Lower Reimbursement Rate** - Limits the maximum reimbursement to eighty percent (80%) of total eligible costs.

**Collection Limit** - Limits the amount that an eligible person can collect within the same year to \$100,000 if the balance in the ACRRA fund is below \$2,000,000.

**Disputes Procedure** - Creates a disputes procedure whereby eligible persons can request a hearing before the board when a decision adversely affects them.

**Definitions** - Definitions were added for "Emergency Incidents" and "Recontamination" to clarify language contained in statute.

**Board Reimbursement Limit** - New language was added directing the board to reimburse at a maximum rate of sixty percent (60%), if recontamination from a subsequent incident exists.

**Annual Report Date** - The date the annual report must be submitted to the Legislature was changed from September 1st to December 1st.

Changes from the 2001 Legislative Session are already in effect. The effective date for changes from the 2002 Legislative Session was July 1, 2002. The eighty percent (80%) maximum reimbursement rate will be applied to all applications received after July 1st, regardless of when the eligible costs were incurred. Reductions to surcharges on license fees will be effective for the 2003 licensing cycle.

For more information on legislation related to the ACRRA Program, contact: Victoria Cook, ACRRA Executive Director, at **phone:** (651) 296-3349 or **email:** [victoria.cook@state.mn.us](mailto:victoria.cook@state.mn.us). For general information, you may also contact Sharon Huber, ACRRA Administrator, at **phone:** (651) 297-3490 or **email:** [sharon.huber@state.mn.us](mailto:sharon.huber@state.mn.us). Additional program information is also available on the Minnesota Department of Agriculture's **Website** at: <http://www.mda.state.mn.us/appd/acrra/default.htm>

## Official Notices

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### Board of Animal Health

#### Meeting Notice

The Board of Animal Health will hold its quarterly meeting on Friday September 13th, 2002 at 9:30 a.m. at the Holiday Inn 5637 Highway 29 S, Alexandria, MN.

### Emergency Medical Services Regulatory Board

#### Notice of Request for Comments In the Matter of the License Application of the Mercy Hospital Ambulance Service, Moose Lake, Minnesota

**PLEASE TAKE NOTICE** that the Emergency Medical Services Regulatory Board (hereinafter EMSRB) has received a completed application from the **Mercy Hospital Ambulance Service, Moose Lake, Minnesota**, for a new license, advanced ambulance - part time.

**NOTICE IS HEREBY GIVEN** that, pursuant to *Minnesota Statutes* sec. 144E.11, subd. 3, each municipality, county, community health board, governing body of a regional emergency medical services system, ambulance service and other person wishing to make recommendations concerning the disposition of the application, shall make written recommendations or comments opposing the application to the EMSRB within 30 days or by September 11, 2002, 4:30 p.m.

Written recommendations or comments opposing the application should be sent to: Mary Hedges, Executive Director, EMSRB, 2829 University Avenue S.E., Suite 310, Minneapolis, Minnesota 55414-3222.

If fewer than six comments opposing the application are received during the comment period, and the EMSRB approves the application, the applicant will be exempt from a contested case hearing, pursuant to *Minnesota Statutes* sec. 144E.11, subd. 4. If six or more comments in opposition to the application are received during the comment period or the EMSRB denies the application, the applicant may immediately request a contested case hearing, or may try to resolve the objections of the public and/or the EMSRB within 30 days, pursuant to *Minnesota Statutes* sec. 144E.11, sub. 5(a), (b). If the applicant is unable to resolve the objections within 30 days, or if the applicant initially requests a contested case hearing one will be scheduled and notice of the hearing given pursuant to *Minnesota Statutes* sec. 144E.11, subd. 5(c), (e).

Dated: 29 July 2002

Mary F. Hedges  
Executive Director

### Department of Labor and Industry

#### Labor Standards

#### Notice of Correction to Highway/Heavy Prevailing Wage Rates

A correction has been made to the Highway/Heavy Prevailing Wage Rates certified 10/01/01, for **Region 09, Labor Codes 106, Blaster, and Labor Code 107, Pipelayer (Water, Sewer & Gas)**.

A copy of the certification with the correction, may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, by calling (651) 284-5091, or accessing our [website: www.doli.state.mn.us](http://www.doli.state.mn.us). Charges for the cost of copying and mailing are \$.65 per page. Make check or money order payable to the State of Minnesota.

Shirley I. Chase  
Commissioner

## **Office of the Ombudsman for Mental Health and Mental Retardation**

### **Notice of Committee Meeting**

The Ombudsman for MH/MR Advisory Committee will hold a meeting from 9:00 a.m. to 1:00 p.m. on Thursday August 15, 2002. The meeting will be held in Suite 420 of the Metro Square Building, on 7th and Robert St., St. Paul.

Please RSVP to Paula, **phone:** (651) 296-3848 or 1-800-657-3506. Thank you!

## **Metropolitan Council**

### **Adoption of the 2003-2006 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area**

The Metropolitan Council will adopt the 2003-2006 Transportation Improvement Program (TIP) for the Twin Cities Metropolitan Area at its August 28, 2002 meeting. The TIP includes both newly selected and previously identified highway, transit, bikeway and pedestrian enhancements and air quality projects that are proposed for federal funding in the seven-county metropolitan area in the next four years. The program is prepared annually in accordance with federal requirements and must contain all projects that are to be implemented with federal funding assistance. The Council's Transportation Advisory Board (TAB) has adopted the TIP and has recommended it to the Council for adoption. The TAB held a public hearing and will respond to all comments received. The meeting will be held at the Metropolitan Council offices, Mears Park Centre, 230 E. Fifth St., St. Paul on Wednesday, **August 28, 2002 at 3:00 p.m.**, in the Council Chambers.

The TIP is prepared jointly by the Metropolitan Council and the Minnesota Department of Transportation. Projects contained in the TIP reflect the region's priorities and help implement the region's transportation plan. Projects have been analyzed to determine impact on regional air quality.

Upon request, the Council will provide reasonable accommodations to persons with disabilities. Free copies of the 2003-2006 Transportation Improvement Program are available at the Council's Regional Data Center. **Phone:** (651) 602-1140 or **TTY:** (651) 291-0904, to request a copy. Other materials describing the Council's transportation efforts also are available. Questions about the hearings or transportation issues may be directed to Carl Ohrn, **phone:** (651) 602-1719 or Kevin Roggenbuck, **phone:** (651) 602-1728, Metropolitan Council, 230 E. Fifth St., St. Paul, MN 55101.

## **Metropolitan Council**

### **Notice of Availability - Metropolitan Livable Communities Act Funding Tax Base Revitalization Account**

**Purpose:** The Metropolitan Livable Communities Act (*Minnesota Statutes* Ch. 473.25) created a **Tax Base Revitalization Account** to make grants to clean up contaminated land for subsequent commercial/industrial redevelopment, job retention and job growth. Applications will be prioritized to the extent that they address the following: increase local tax base; create net gain in regional jobs; demonstrate market demand for proposed site; supplement a previously approved project; preserve and/or increase living wage jobs; improve the environment by reducing human health risk; promote compact development; provide living wage jobs; leverage private investment; and make more efficient use of current infrastructure capacity. Local community affordable and life-cycle housing performance will leverage the selection process. This program is being coordinated with complementary programs at the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Trade and Economic Development (DTED).

**Eligible Applicants:** Statutory or home rule charter cities participating in the Metropolitan Livable Communities Housing Incentive Program are eligible to apply. Metropolitan counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington) and development authorities (e.g., Housing and Redevelopment Authority, Economic Development Authority or Port Authority) may apply for projects in eligible communities.

**Submission Date:** An original and two (2) copies of each application are due at the Metropolitan Council, Attn: Wayne Nelson, 230 E. Fifth St., St. Paul, MN 55101, by **5:00 p.m., Friday, November 1, 2002.**

## Official Notices

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**Amount Available:** Approximately \$2.5 million will be available for grants awarded this cycle. Grants will be awarded on a competitive basis. If applications for grants exceed the available funds for this cycle, no more than one-half of the funds may be granted to projects in a single city, and no more than three-quarters of the funds may be granted to projects located in cities of the first class.

**Obtain Information:** For a copy of the grant application guide and format, contact: Wayne Nelson, Metropolitan Council at **phone:** (651) 602-1406 or **TTY:** 291-0904 or **email:** [wayne.nelson@metc.state.mn.us](mailto:wayne.nelson@metc.state.mn.us). The application form may be copied from the Metropolitan Council **website** at: [www.metrocouncil.org](http://www.metrocouncil.org) under the topic "Planning".

## Minnesota Comprehensive Health Association

### Notice of Meeting of the Contracts and Forms Committee

**NOTICE IS HEREBY GIVEN** that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Contracts and Forms Committee will be held at 9:00 a.m., on Wednesday, August 14, 2002. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

## Department of Natural Resources

### Division of Lands and Minerals

#### Public Hearing on Sale of State Land

**NOTICE IS HEREBY GIVEN** that pursuant to *Minnesota Statutes*, section 97A.135, subd. 2a, a public hearing will be held by the Department of Natural Resources, in the Fourth Floor Conference Room of the Department of Natural Resources Building, 500 Lafayette Road, St. Paul, Minnesota, on **August 26, 2002 at 10:00 a.m.**

The purpose of the hearing is for public input regarding the sale of state land situated in the County of Otter Tail, and described as:

That part of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter Section 16, Township 132 North, Range 38 West, lying north and east of County State Aid Highway Number 40, containing 1.71 acres.

*Minnesota Statutes*, section 97A.135, subd. 2a, requires that a public hearing be held before lands within a Wildlife Management Area can be disposed of through sale or exchange. The 1.71 acre parcel is designated as part of Lake Sixteen Wildlife Management Area.

It is proposed that this parcel of land be offered for sale by the Department of Natural Resources at public auction in the fall of 2002. The sale of this parcel will solve an inadvertent trespass and will eliminate this small, isolated parcel from the main part of the management area. If, after public hearing, the disposal of the land is in the public interest, the Commissioner of Natural Resources may vacate the 1.71 acre parcel from Wildlife Management Area designation.

Questions regarding this proposal can be directed to Vicki Hubred at **phone:** (651) 296-1068.

Dated: 1 August 2002

Allen Garber, Commissioner  
Commissioner of Natural Resources  
By William C. Brice  
Director, Division of Lands and Minerals

## State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

## Department of Children, Families and Learning

### Notice of Availability of Grants for 2002 Prevention and Intervention Funding

Applications are now available for the 2002 Prevention and Intervention funding process which makes approximately \$15 million available to communities to keep youth in school, create safe, healthy and drug free environments. Through this process, non-profit organizations, school districts and local government agencies may apply for funding for the following types of programs:

After School Enrichment  
21st Century Community Learning Centers  
Project Re-Connect to Learning: Drop-out Prevention

#### **APPLICATIONS DUE: OCTOBER 30, 2002**

Application materials will be available on line: August 6, 2002

<http://cfl.state.mn.us/prevention/>

If not web accessible, call the 24 hour Prevention and Intervention hotline at:

**Phone:** (651) 582-8447 OR 1-800-934-7113

## Pollution Control Agency

### Applications Accepted for Nonpoint Source Water Pollution Project Grants and Loans Through the State Clean Water Partnership Program and the Federal Clean Water Act Section 319 Grant Programs

The Minnesota Pollution Control Agency (MPCA) hereby announces that it will accept applications for project implementation (phase II) grants and loans through the state Clean Water Partnership (CWP) Program and for demonstration/education/implementation projects through the federal Clean Water Act Section 319 Nonpoint Source grant program (Section 319 program). This year the MPCA is again administratively combining these two funding programs and running their application periods concurrently. All applications will be considered for both funding sources whenever eligible.

In 1987, the Minnesota Legislature established the CWP Program (*Minnesota Statutes* §§ 103F.70 through 103F.761) to protect and improve surface and ground water in Minnesota through financial and technical assistance to local units of government. Section 319 provides federal grant money for nonpoint pollution abatement and water resource restoration.

#### **Changes to Application Process:**

There are several significant changes to the application process this round that should be noted:

- This funding round will have a lower level of CWP grant funding available than has been available for the last few years;
- Due to the lower level of funding available, there will be no funds offered for CWP resource investigation (phase I) diagnostic study projects this year;
- A portion of Section 319 funds available in this funding round will be dedicated to projects implementing Total Maximum Daily Loads (TMDLs) that have been approved by USEPA;
- The cap on loan requests in place for the last two rounds has been lifted, and the cap on grant funds requested is now \$300,000 per project; and
- Applications must be sent in electronic and paper form.



## State Grants & Loans

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### Eligible Applicants

Applications will be accepted from local units of government interested in leading a nonpoint source water pollution control project. Only local units of government are eligible to receive CWP funds. Applications will also be accepted from other entities besides local units of government, but such applications would only be eligible for Section 319 program funding.

Ineligible Section 319 costs include activities addressing NPDES permit requirements such as feedlot or storm water permits, any type of point source-related activities, and activities addressing enforcement actions. Any non-permitted feedlots addressed with Section 319 money must have a Comprehensive Nutrient Management Plan.

### Types of Projects

Project funding will be awarded for two types of projects this round:

- 1) *Demonstration/education projects* with statewide or regional applicability demonstrating new or innovative technology or best management practices, or for developing educational programs related to nonpoint source pollution.
- 2) *Projects implementing the activities identified during a CWP phase I investigation, projects implementing a Watershed Restoration Action Strategy* developed as part of the application, and *projects implementing approved TMDLs*.

Note that applications for diagnostic studies are not being accepted this round.

### Request Limits

This year there will be a per-project grant cap of \$300,000 (total project grant request regardless of duration, not per year). There will be no cap on loan requests this year for qualifying projects.

### Criteria for Project Selection

*Minnesota Rules* 7076.0100 through 7076.0290 and USEPA Section 319 program guidance provide the criteria and procedural conditions under which the MPCA may award assistance. In addition, there will be two criteria that will be emphasized to evaluate projects. The first is whether a watershed partnership sponsoring a project is self-sustaining or has plans in place to become self-sustaining within three years time. The MPCA is attempting to encourage watershed districts or organizations, conservation districts, or other entities to become prepared to carry on the necessary work beyond the life of the financial assistance award. This criterion is not applicable to short-term projects with a stated end date. The second criterion the evaluation teams will be using is whether the projects applying for implementation money have done a comprehensive assessment and planning process in the watershed or around the water body of concern. Such assessments might consist of a CWP phase I or equivalent, a TMDL, completed basin or watershed plan specific to the project, wellhead protection plan, or other recent comprehensive studies specific to the project.

Applicants are encouraged to request the amount of funding necessary to ensure that they have the capacity to carry out the project. MPCA staffing resources are not sufficient to provide in-depth assistance to projects, and so should not be assumed by applicants to be available. As always, costs for resources like staffing, consultants, and monitoring are eligible grant requests.

### Submission Deadline and Requirements:

All completed applications must be received both electronically and in hard copy by **4:30 p.m. on Friday, October 11, 2002**, in order to be eligible. All applications must be submitted in electronic form (preferred computer file format is Microsoft Word) to the MPCA by email: [CWP-319.grant.program@pca.state.mn.us](mailto:CWP-319.grant.program@pca.state.mn.us)

Applicants must also send two hard copies of their application, including the portions of the application that do not transfer readily electronically (signatures, maps, other attachments, etc.), to Markell Lanpher at the address below.

Incomplete applications will not be considered for funding. Faxed copies will not be accepted. Any project that is implementing a TMDL should include "TMDL" in the project title to help ensure the project is considered for funding with TMDL dedicated funds.

An information package is available for all interested parties. The package includes: 1) the CWP/319 application; 2) a copy of *Minnesota Rules* 7076.0100 through 7076.0290; 3) other guidance documents. The application, rules, and guidance documents are also available for downloading on the MPCA website at: <http://www.pca.state.mn.us/water/cwpartner.html>

Request additional information and the CWP/319 application information package from:

Markell Lanpher  
Minnesota Pollution Control Agency  
Regional Environmental Management Division  
Program Support and Training Section  
Watershed Support Unit  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194  
**Phone:** (651) 297-2810

## State Contracts

**Informal Solicitations:** Effective March 1, 2002, informal solicitations for all contracting opportunities for professional/technical (consultant) contracts with values estimated to be over \$5,000 and under \$50,000 must be posted on the Department of Administration, Materials Management Division web page ([www.mmd.admin.state.mn.us](http://www.mmd.admin.state.mn.us)) and access P/T Contracts.

**Formal Requests for Proposals:** Department of Administration procedures require that formal notice of any professional/technical (consultant service) contract which has an estimated value over \$50,000 must be printed in the *State Register*. Certain quasi-state agencies and Minnesota State Colleges and Universities institutions are by law exempt from these requirements.

## Department of Administration

### State Designer Selection Board

#### Changes to Designer Selection Board Schedule for Translational Research Facility - University of Minnesota, Minneapolis Campus (Project 02-13)

The following schedule replaces the schedule published in SR27, 5 August 2002, page 174

i. **STATE DESIGNER SELECTION BOARD SCHEDULE:**

<i>Project Information Meeting and/or Site Visit:</i>	None
<i>Project Proposals Due:</i>	Monday, August 19, 2002, by 11:00 a.m.
<i>Project Shortlist:</i>	Tuesday, September 3, 2002
<i>Project Information Meeting for Shortlisted Firms:</i>	Thursday, September 5, 2002
<i>Project Interviews and Award:</i>	Tuesday, September 10, 2002

## Department of Administration

### Office of Technology

#### Notice of Request for Proposal for Information Technology-Professional Technical Services Master Roster

**NOTICE IS HEREBY GIVEN** that Minnesota Office of Technology of the Department of Administration is seeking vendors that provide information technology consulting services. The state is interested in a wide range of vendors that can qualify to assist state agencies. This is an opportunity for vendors to be added to the State's Information Technology Professional/Technical

## State Contracts

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Services Master Roster. The State has identified four categories of service for which vendors may propose. They are technical support, application design and development, telecommunications and consulting.

For a complete copy of the Request for Proposal please contact via email:

Steve Gustafson  
Planning Director  
Office of Technology  
332 Minnesota Street, Suite E1100  
St. Paul, MN 55101-1322  
**Email:** [steve.gustafson@state.mn.us](mailto:steve.gustafson@state.mn.us)

This is the only person designated to receive RFP requests and answer questions regarding the RFP. The RFP will also be posted to the Office of Technology website under Forms and Instructions at: [www.ot.state.mn.us](http://www.ot.state.mn.us)

Responses to the RFP are **due no later than 2:00 p.m., CDT on Friday, September 13, 2002. Late responses will not be considered.**

## Public Employees Retirement Association

### Request for Proposals (RFP) for Rational Software Development Training and Mentoring Services

Public Employees Retirement Association of Minnesota (PERA) is soliciting proposals from firms certified as a Rational Unified Partner with the Rational Software Corporation to train and mentor a PERA project team through the lifecycle development of a software project using the Rational Unified Process (RUP) and Rational tools that are fairly new to PERA. The vendor will be asked to provide onsite training in the following products: Rational Unified Process; Rational Rose; Rational Requisite Pro; Rational Project Console; Rational Test Manager; and Rational SoDA. The vendor will also be asked to mentor a project team consisting of IS staff and key business users as they perform key activities and roles needed to produce essential RUP artifacts for one full system development iteration of a PERA project, expected to occur October 7, 2002 through January 31, 2003.

Details are contained in a Request for Proposal which may be obtained by calling or writing:

Diane Rognrud, Contract Coordinator  
PERA  
60 Empire Drive, Suite 200  
St. Paul, MN 55103  
**Phone:** (651) 297-3932  
**Fax:** (651) 297-2547  
**Email:** [diane.rognrud@state.mn.us](mailto:diane.rognrud@state.mn.us)

All proposals must be received by Mary Daly at PERA's office, 60 Empire Drive Suite 200 in St. Paul, MN, no later than **4:00 p.m., on Tuesday, September 3, 2002. Late proposals will not be considered.**

## Department of Transportation

### Program Support

### Requests for Proposal (RFP) for Project Management Academy Training Courses

The State of Minnesota through its Department of Transportation (Mn/DOT) requests proposals to provide training services for Mn/DOT's Project Management Academy. The selected respondent will work in conjunction with State's Project Manager prior to class start date to plan, coordinate, run and evaluate this Academy. The selected respondent will provide speakers and presenters who are experts in the topic areas of project management, along with course materials to deliver this type of training. The Academies will be a combination of consultant experts and internal Mn/DOT content experts.

Responses to this advertisement become public information under the Minnesota Government Data Practices Act. This request does not obligate the State of Minnesota Department of Transportation to complete the work contemplated in this notice, and the department reserves the right to cancel this solicitation. All expenses incurred in responding to this notice shall be borne by the responder.

The goal of this course is to provide project management training to State personnel in the specialized areas of project management that will be designated by Mn/DOT. The training will enhance the State employees knowledge in project management, thereby increasing their overall skills at managing projects more efficiently.

Mn/DOT is seeking the services of a consultant to provide training materials and to provide instruction for the Mn/DOT Project Management Academy. Three Academies will be provided by the selected respondent over the course of three years. Training will be delivered in a classroom setting for approximately 40 participants per class session

Request for Proposals (RFP) are available by mail, email or in person. **Please submit in writing, a request for the RFP for Project Management Academy Training Courses.** Request for the RFP may be mailed, emailed or faxed to:

Melissa M. McGinnis, Agreement Administrator  
Minnesota Department of Transportation, Consultant Services Section  
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680  
St. Paul, Minnesota 55155  
**Fax:** (651) 282-5127  
**Email:** [melissa.mcgininis@dot.state.mn.us](mailto:melissa.mcgininis@dot.state.mn.us)

In order to obtain the RFP in time, requests must be received on or before August 28, 2002, requests made after that date must be in person.

**PROPOSALS WILL BE DUE ON TUESDAY, SEPTEMBER 3, 2002 AT 2:00 P.M. CENTRAL TIME.**

## **Department of Transportation**

### **Program Support Group**

#### **Notice Concerning Professional/Technical Contract Opportunities**

**NOTICE TO ALL:** The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services **website** at: [www.dot.state.mn.us/consult](http://www.dot.state.mn.us/consult)

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

## Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

## County of Anoka

### Notice of Request for Proposals Automated Facility/Program Scheduling and Reservation System for the Department of Parks and Recreation

**NOTICE IS HEREBY GIVEN** for the County of Anoka to solicit sealed proposals from qualified organizations to provide the Anoka County Parks and Recreation Department with a computerized Park System Facility Reservation, Payment, and Reporting System.

Sealed proposals will be received at the office of the Anoka County Center Building in Bunker Hills Regional Park, 550 Bunker Lake Boulevard NW, Andover, Minnesota 55304, until **4:00 p.m., on September 20, 2002.**

Proposals documents may be obtained from Josef Gonko, 550 Bunker Lake Boulevard NW, Andover, Minnesota 55304. **Phone:** (763) 767-2862. **Email:** [josef.gonko@co.anoka.mn.us](mailto:josef.gonko@co.anoka.mn.us)

The right is reserved to reject or waive any irregularities of any or all proposals, or reject any or all proposals.

If you need an accommodation because of a disability such as an interpreter or printed material in an alternate format (i.e., braille or large print), please contact Josef Gonko, 550 Bunker Lake Boulevard NW, Andover, Minnesota 55304. **Phone:** (763) 767-2862. **Email:** [josef.gonko@co.anoka.mn.us](mailto:josef.gonko@co.anoka.mn.us)

Dan Klint  
Assistant Anoka County Attorney  
John "Jay" McLinden  
Anoka County Administrator

## Metropolitan Council

### Notice of Invitation for Bids (IFB) for the Uniform Rental Services Reference Number 01P095

The Metropolitan Council is requesting bids for Uniform Rental Services for it's Environmental Services Division.

**Issue Invitation for Bids**  
**Bids Due**  
**Award Contract**

**August 12, 2002**  
**August 29, 2002**  
**September 2002**

All firms interested in submitting bids for this contract and desiring to receive an IFB package are invited to make a written request either by email, fax, or mail or phone request to:

Sunny Jo Emerson  
Administrative Assistant, Contracts and Procurement Unit  
Metropolitan Council  
230 East Fifth Street  
St. Paul, MN 55101  
**Phone:** (651) 602-1499  
**Fax:** (651) 602-1083  
**Email:** [sunnyjo.emerson@metc.state.mn.us](mailto:sunnyjo.emerson@metc.state.mn.us)

*Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.



## **Metropolitan Council**

### **Notice of Invitation for Bids (IFB) for Solid Waste Removal Services for the Metro Wastewater Treatment Plant Reference Number 02P068**

The Metropolitan Council is requesting bids for Solid Waste Removal Services for the Metro Wastewater Treatment Plant.

***Issue Invitation for Bids***  
***Bids Due***  
***Award Contract***

**August 12, 2002**  
**September 10, 2002**  
**October 2002**

All firms interested in submitting bids for this contract and desiring to receive an IFB package are invited to make a written request either by email, fax or mail or phone request to:

Sunny Jo Emerson  
Administrative Assistant, Contracts and Procurement Unit  
Metropolitan Council  
230 East Fifth Street  
St. Paul, MN 55101  
**Phone:** (651) 602-1499  
**Fax:** (651) 602-1083  
**Email:** [sunnyjo.emerson@metc.state.mn.us](mailto:sunnyjo.emerson@metc.state.mn.us)

*Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

## **Metropolitan Council**

### **Notice of Request for Proposals (RFP) Septage Management Project Number 800707, Contract Number 02P086**

The Metropolitan Council is requesting engineering services proposals for investigation of septage disposal sites and likely betterment of disposal locations and systems. This project will involve a comprehensive review of the manner in which septage is handled throughout the interceptor system. The following is the proposed schedule:

***Issue Request for Proposals***  
***Receive Proposals***  
***Evaluate and Rank Proposals***  
***Metropolitan Council authorization***  
***Contract negotiated, executed, NTP***

**August 16, 2002**  
**September 20, 2002**  
**September 27, 2002**  
**October 23, 2002**  
**November 4, 2002**

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Amanda Houston, Administrative Assistant, Contracts and Procurement Unit  
Metropolitan Council Environmental Services  
230 East Fifth Street  
Mears Park Centre  
St. Paul, MN 55101  
**Phone:** (651) 602-1585  
**Fax:** (651) 602-1138  
**Email:** [amanda.houston@metc.state.mn.us](mailto:amanda.houston@metc.state.mn.us)  
**Note:** RFPs are **NOT** available in electronic form.

*Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

## Non-State Contracts & Grants

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### Metropolitan Council

#### Notice of Request for Proposals (RFP) for Legal Services Contract 02P098

The Metropolitan Council is requesting proposals for the performance of legal services related to tort and property damage claims against the Metropolitan Council that arise out of accidents or incidents involving Metropolitan Council employees or property. The legal services will involve representing the Metropolitan Council on an organization-wide basis and providing legal advice on tort and property damage claim matters. In addition to performing its historical regional planning and coordinating activities, the Metropolitan Council operates and maintains regional transit systems and the metropolitan sewer disposal system. The term of the contract will be up to three years.

A tentative schedule for the project is as follows:

**Issue Request for Proposals**  
**Receive Proposals**  
**Contract negotiated, executed, NTP**

**August 7, 2002**  
**August 28, 2002**  
**September, 2002**

All firms interested in being considered for this project and desiring to receive an RFP package are invited to submit a Letter of Interest to:

Amanda Houston  
Metropolitan Council  
Mears Park Centre  
230 E. Fifth Street  
St. Paul, MN 55101  
**Phone:** (651) 602-1585  
**Fax:** (651) 602-1138  
**Email:** [amanda.houston@metc.state.mn.us](mailto:amanda.houston@metc.state.mn.us)

*Minnesota Statutes*, Sections 473.144 and 363.073, and *Minnesota Rules*, Parts 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. If a contract for the project is awarded in excess of \$100,000, the requirements of *Minnesota Rules* 5000.3530 will be applicable.

### University of Minnesota

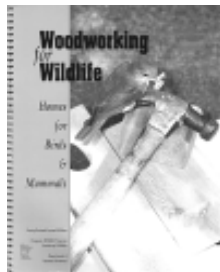
#### Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at [bidinfo.umn.edu](http://bidinfo.umn.edu) or call the BIS Coordinator at (612) 625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

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## Best-Sellers & Old Favorites



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**Stock No. 9-15 \$10.95**

### Woodworking for Wildlife

Full-color, spiral-bound book includes diagrams for building bird houses, nest boxes and platforms to attract and keep your favorite wildlife coming back to your property. Features 50 species of birds and mammals. Spiral-bound, 112pp. **Stock No. 9-14 \$9.95**

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**651.297.3000 © 800.657.3757**

### A Guide to Minnesota's Scientific & Natural Areas

This Guide presents Minnesota's landscape: Aspen Parkland, Prairie Grasslands, Deciduous Woods, and Coniferous Forests and introduces specific SNAs (scientific & natural areas) that preserve representative examples. Each site listing features a map and a description of geological formations, landscape types, and selected key plant and animal types. Includes township/range/section listing, acreage and how to access the site. Spiral-bound, 240pp.

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Learn the location and unique ecological features at 52 preserves established by the Nature Conservancy. Explore the Northern Tallgrass Prairies, Prairie Forest Borders, and the Superior Mixed Forests and Great Lakes region. Discover prairie chickens, sandhill cranes, wild iris, Peregrine falcons, lady's slippers, and more varied species of animals, birds and plant life with the aid of this guide. Spiral-bound, 121pp.

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