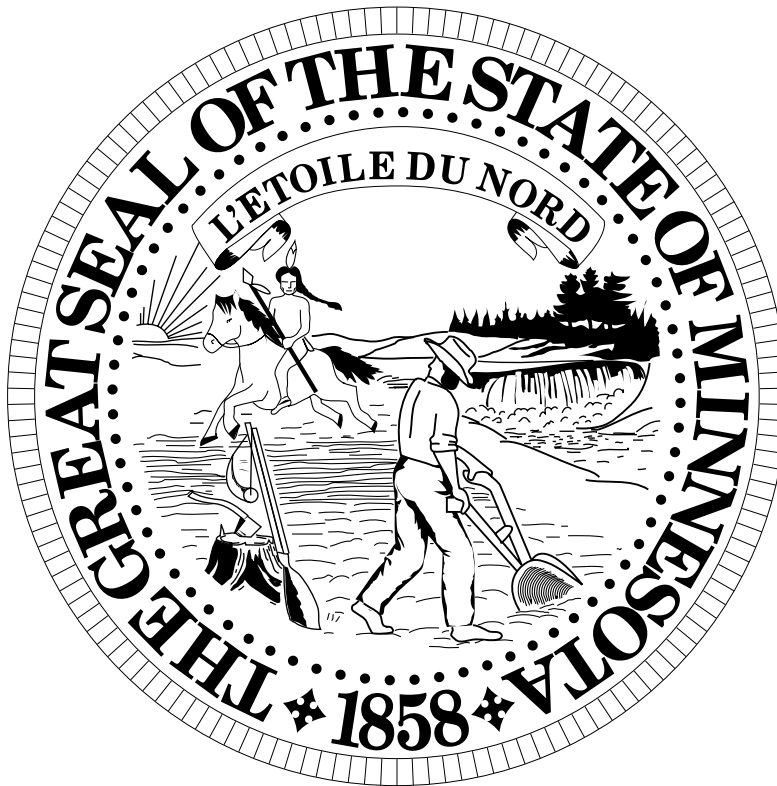


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State Register

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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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- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
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Vol. 26 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
#35	TUESDAY 19 FEBRUARY	Noon Wednesday 6 February	Noon Tuesday 12 February
#36	Monday 25 February	Noon Wednesday 13 February	Noon Tuesday 19 February
#37	Monday 4 March	Noon Wednesday 20 February	Noon Tuesday 26 February
#38	Monday 11 March	Noon Wednesday 27 February	Noon Tuesday 5 March

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Mae Schunk, Lt. Governor (651) 296-3391

Department of Administration:

David F. Fisher, Commissioner (651) 296-1424

Kent Allin, Asst. Commissioner (651) 297-4261

Mike Hatch, Attorney General (651) 297-4272

Judi Dutcher, State Auditor (651) 297-3670

Communications Media Division:

Mary Mikes, Director (651) 297-3979

Chris Schanus, Manager (651) 282-2974

Mary Kiffmeyer, Secretary of State (651) 296-2079

Carol Johnson, State Treasurer (651) 296-7091

Robin PanLener, Editor (651) 297-7963

Jane Schmidley, Assistant Editor (651) 296-4273

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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*.

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employment; Allowing Service by Facsimile; Repealing Independent Review Rehearing Rules; Renumbering and Modifying Provisions on Independent Review for Public Employee Grievances

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendment to Rules Relating to Public Employment; Allowing Service by Facsimile, *Minnesota Rules* 5510.0310; Renumbering and Modifying Provisions on Independent Review for Public Employee Grievances, *Minnesota Rules* 7315.0400 - 7315.2200; and Repealing Independent Review Rehearing Rules; *Minnesota Rules* 7315.2300, 7315.2400, 7315.2500; 7315.2600; 7315.2700; 7315.2800; and 7315.2900

Introduction. The Bureau of Mediation Services intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. Interested persons have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

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: Carol Clifford at the Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, MN 55108, **phone:** (651) 649-5423; **fax:** (651) 643-3013, **email:** carol.clifford@state.mn.us. **TTY** users may call the Minnesota Relay Service at 1-800-627-3529.

Subject of Rules and Statutory Authority. The proposed rules pertain to service of documents by facsimile and to independent review for public employee grievances (179A.25). The statutory authority to adopt the rules is *Minnesota Statutes*, section 179A.04, subd. 3 (6). A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. Persons have until 4:30 p.m. on Friday, March 22, 2002, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Comments are encouraged and must be in writing and received by the agency contact person by the due date. Comments should identify the portion of the proposed rules addressed and include the reason for the comment. If changes are suggested, please propose specific language. Comments on the legality of the proposed rules must also be made during this 30-day period.

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

Request for a Hearing. In addition to submitting comments, parties may also request that a hearing be held on the rules. Requests for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on March 22, 2002. A written request for a public hearing must include the requestor's name and address, and identify the portion of the proposed rules at issue. Parties are also encouraged to state the reason for the request and any changes sought in to the proposed rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held.

Withdrawal of Requests. If 25 or more persons submit a 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 total number requesting a hearing 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 costs, if any, of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you wish to be so notified, or to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 19 February 2002

Lance Teachworth
Commissioner

5510.0310 DEFINITIONS.

[For text of subps 1 to 18, see M.R.]

Subp. 19. **Service or serve.** "Service" or "serve" means service delivery of a document required by parts 5510.0110 to 5510.2310, in person, by facsimile, or by the United States Postal Service, postage prepaid and addressed to the bureau or a party at its last known address, unless some other manner of service is required by law. Unless otherwise provided by these parts, service upon the commissioner or a party is effective upon receipt.

[For text of subps 20 to 24, see M.R.]

7315.0400 DEFINITIONS.

Subpart 1. ~~Other words, terms, and phrases~~ **Scope.** ~~Except as otherwise provided in this chapter, the words, terms, and phrases in this chapter shall have the same meaning and definition as defined in part 7300.0100. The terms used in this chapter have the meanings given them.~~

Subp. 2. **Party.** "Party" means any public employee, public employer, or exclusive representative of public employees, ~~public employee organization, or public employer organization~~ whose legal rights, duties, or privileges will be directly determined in an independent review.

7315.0500 PETITION.

Subpart 1. **Authority to petition.** An employee may petition the ~~board~~ bureau in writing for independent review of a grievance arising out of the interpretation of or adherence to terms and conditions of employment when no other such procedure exists to hear that grievance. The petitioner must provide all parties a copy of the petition at the time of filing with the ~~board~~ bureau.

Subp. 2. **Petition contents.** The petition must contain:

- A. the name, address, and telephone number of the petitioner;
- B. the name, address, and telephone number of the other parties; and

C. a concise statement specifying:

- (1) the terms and conditions of employment claimed to be violated;
- (2) whether the terms and conditions of employment claimed to be violated are established by law, rule, contract, or ~~practice~~ written policy;
- (3) the law, rule, contract provision, or ~~practice~~ written policy claimed to be violated;
- (4) the conduct which is claimed to violate the law, rule, contract, or ~~practice~~ written policy;
- (5) the relief requested; and
- (6) why independent review of the grievance is not available under any other procedure.

7315.0650 ANSWER.

~~Subpart 1. Contents. Within 15 calendar days after~~ Following receipt of a petition, ~~all other parties shall~~ the commissioner shall notify the respondent in writing that the respondent has 15 calendar days to file with the board bureau and provide to the other parties an answer to the petition. The answer must contain a concise statement specifying whether:

A. the terms and conditions of employment claimed to be violated are established by law, rule, contract, or ~~practice~~ written policy;

B. the respondent has violated the law, rule, contract provision, or ~~practice has been violated by the respondent~~ written policy as alleged by the petitioner;

C. if a violation is found, the relief requested is appropriate; and

D. independent review of the grievance by a disinterested party or agency is or is not available under any other procedure.

Subp. 2. Failure to answer. If, following proper notice, the respondent fails to file a timely answer, the commissioner shall make a jurisdictional determination based upon available information and may dismiss the petition or proceed to a hearing.

7315.0750 JURISDICTION.

The ~~board bureau~~, on its own motion or on motion of any party, may dismiss a petition if the ~~board bureau~~ lacks jurisdiction. Such dismissal may be summary or following a due process hearing. The ~~board bureau~~ may conduct a hearing on the question of jurisdiction.

7315.0900 PRESIDING OFFICER; ~~BOARD OR PANEL~~ COMMISSIONER.

The ~~board commissioner of the bureau, as a full body or as a panel of three of its members, or a designated representative~~ may hear and decide an independent review. ~~Whenever possible, a panel must consist of an equal number of representatives of public employees and public employers, and the member who represents the public at large.~~

7315.1000 PRESIDING OFFICER; ~~ADMINISTRATIVE LAW JUDGE~~ INDEPENDENT ARBITRATOR.

~~The board may appoint an administrative law judge to hear the grievance. The administrative law judge shall have authority as the board deems necessary and appropriate to hear the grievance. The administrative law judge must submit to the board recommended findings, conclusions, and order as requested by the board. The final decision on the grievance shall in all cases be made by the board. The commissioner may provide the parties a list of seven arbitrators from the bureau arbitration roster. From this list the parties shall select an arbitrator who shall serve as the presiding officer and hear and decide the grievance. The presiding officer shall have full authority delegated by the commissioner to hear the grievance. The presiding officer shall issue findings of fact, conclusions of law, and orders as appropriate. The orders of the presiding officer shall be limited to the violation of terms and conditions of employment alleged in the grievance, must be based upon the record of the hearing, and shall be consistent with applicable rule and law. Fees and expenses of the presiding officer shall be borne equally by the parties.~~

7315.1100 BRIEFS.

The ~~board presiding officer~~ may request the parties to submit a ~~brief if the~~ written brief if it will assist the ~~board presiding officer~~ in making ~~its~~ the determination. If briefs are necessary, the ~~board presiding officer~~ must establish a briefing schedule and notify the parties of the dates for submission of the briefs.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

7315.1200 NOTICE OF HEARING.

At least 15 calendar days before the hearing date, the ~~board~~ presiding officer must provide to all parties ~~by certified mail~~ a notice of hearing providing:

[For text of items A to D, see M.R.]

7315.1300 POSTPONEMENT OR CONTINUANCE OF HEARING.

~~A request for~~ The presiding officer has discretion to grant a postponement or continuance of hearing, ~~if mutually consented to by all of the parties, must be granted by the board's executive director. If there is no mutual consent, the board must consider the request for continuance at its next meeting and may grant the request upon good cause shown. If a board meeting is not scheduled that provides the opportunity for the board to consider the request and provide a timely response, the board chair has the authority to consider and decide the request.~~

7315.1400 RIGHT TO REPRESENTATION.

Any party may be represented by a designated agent in an independent review proceeding before the ~~board~~ presiding officer.

7315.1500 INFORMAL DISPOSITION.

Informal disposition may be made of any grievance or any issue by stipulation, settlement, or agreement at any point in the proceedings so long as the stipulation, settlement, or agreement does not violate any law ~~and is approved by the board or rule having the force and effect of law.~~

7315.1600 DEFAULT.

The ~~board~~ presiding officer may decide a grievance adversely to a party who fails to appear at a scheduled hearing after receiving due notice ~~and an opportunity for hearing.~~

7315.1700 INTERVENTION.

The ~~board bureau~~ may, grant party status upon timely application, ~~allow a person to intervene~~ in an independent review proceeding if the applicant establishes that its legal rights, duties, or privileges will be directly determined in the matter.

7315.1800 SUBSTITUTION OF PARTY'S REPRESENTATIVE.

Substitution of a party's representative may be allowed only if notice of the substitution is served on all other parties and the ~~board~~ presiding officer at least seven calendar days before the hearing date.

7315.1900 CONSOLIDATION.

Subpart 1. **Basis.** The ~~board~~ commissioner or presiding officer may consolidate cases either on ~~its~~ the commissioner's or presiding officer's own motion or on motion of any party if ~~it~~ the commissioner or presiding officer determines that:

- A. separate grievances present substantially the same issues;
- B. a decision in one case would affect the rights of a party in another case; and
- C. consolidation would not substantially prejudice any party.

Subp. 2. **Stipulation.** Notwithstanding the requirements of subpart 1, the parties may stipulate and agree to consolidation subject to ~~board~~ approval by the commissioner or presiding officer.

Subp. 3. **Order.** The ~~board~~ presiding officer must serve on all parties the order of consolidation.

Subp. 4. **Severance from consolidation.** Within seven calendar days of receipt of the order of consolidation, a party may file with the ~~board~~ presiding officer a petition for severance from consolidation which must include the reasons why the requirements of subpart 1 are not met.

7315.2100 THE HEARING.

[For text of subpart 1, see M.R.]

Subp. 2. **Transcript of board hearing.** Upon the request of any party or parties, a verbatim record must be taken by a hearing reporter or recording equipment of ~~any~~ a hearing conducted pursuant to subpart 1. Arrangements for and cost of the verbatim record shall be the responsibility of the party or parties making the request.

[For text of subp 3, see M.R.]

7315.2200 ~~BOARD~~ DECISIONS AND ORDERS.

All decisions and orders issued by the ~~board commissioner~~, the commissioner's designee, or presiding officer must be in writing and must be accompanied by a statement of the reasons ~~therefor supporting the decision or order~~. All decisions and orders shall be binding on all parties and served on all parties to the case.

RENUMBERING. *Minnesota Rules*, chapter 7315, is renumbered as chapter 5540. The revisor of statutes shall correct any cross-references to chapter 7315 accordingly.

REPEALER. *Minnesota Rules*, parts 7315.2300; 7315.2400; 7315.2500; 7315.2600; 7315.2700; 7315.2800; and 7315.2900, are repealed.

Pollution Control Agency

Regional Environmental Management Division

Proposed Permanent Rules Relating to Prohibited Products

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing If 25 or More Requests for Hearing are Received

Proposed Amendment of Rules Governing the Prohibition of Distribution for Sale or Use of Twenty Two Specified or New Products in Minnesota, *Minnesota Rules* 7039.0130

Introduction. The Minnesota Pollution Control Agency (MPCA or Agency) intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes* §§ 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules* 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on March 21, 2002, a public hearing will be held in the MPCA Lower Level Board Room at 520 Lafayette Road, St. Paul, Minnesota, 55155-4194 starting at 9:00 a.m. on April 10, 2002. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the Agency contact person after March 21, 2002, and before April 10, 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: Carol Nankivel at the Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota, 55155-4194, **phone:** (651) 297-8371, **fax:** (651) 297-8676 and **email:** carol.nankivel@pca.state.mn.us. **TTY** users may call (651) 282-5332 or (800) 657-3864.

Subject of Rules and Statutory Authority. The proposed rules will prohibit the sale or use of 22 specified or new products in Minnesota that contain listed metals. The products affected by this rulemaking were the subject of proceedings before the Listed Metals Advisory Council and a list of the products that will be affected by this rule was published in the March 19, 2001, *State Register*. The statutory authority to adopt the rules is *Minnesota Statutes* § 115A.9651. The proposed rules are published below and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Thursday, March 21, 2002, to submit written comment in support of or in opposition to the proposed rules or any 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 comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. 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 Thursday, March 21, 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 require-

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> 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 — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

ments is not 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* §§ 14.131 to 14.20.

Alternative Format/Accommodation. 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 or if you need an accommodation to make this hearing accessible, please contact the Agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the Agency or presented at the hearing 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.

Cancellation of Hearing. The hearing scheduled for April 10, 2002, will be canceled if the Agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the Agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the Agency contact person at (651) 297-8371 after March 21, 2002, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes* §§ 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Beverly Jones Heydinger is assigned to conduct the hearing. Judge Heydinger can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota, 55401-2138, **phone:** (612) 341-7606, and **fax:** (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or 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 of the hearing record. All evidence presented should relate to the proposed rules. 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 response 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. This rule hearing procedure is governed by *Minnesota Rules* 1400.2000 to 1400.2240, and *Minnesota Statutes* §§ 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The Agency 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.

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.

Lobbyist Registration. *Minnesota Statutes* ch. 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota, 55155, **phone:** (651) 296-5148 or 1 (800) 657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the Agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the Agency to receive notice of future rule proceedings, submit your request to the Agency contact person listed above.

Adoption Procedure after a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law 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 rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the Agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Karen A. Studders
Commissioner

7039.0130 PROHIBITED SPECIFIED PRODUCTS.

No person may distribute the following specified products for sale or use in Minnesota after the effective date of this part or the time indicated, whichever is later:

A. traffic marking paints:

- (1) Diamond Vogel 5055, lead drier traffic paint, November 16, 2004;
- (2) Diamond Vogel 5054, lead chromate traffic paint, November 16, 2004;
- (3) Valspar 5035, yellow traffic paint, November 16, 2004;
- (4) Valspar 5041, plasti-kote traffic striper, November 16, 2004;
- (5) Sherwin-Williams 5179, traffic and zone marking-latex, May 9, 2005; and
- (6) Sherwin-Williams 5180, traffic and zone marking-alkyd, May 9, 2005;

B. auto finish paints:

- (1) PPG 1104, automotive anticorrosion primer;
- (2) PPG 5015, American finishes supertint;
- (3) PPG 5016, American series amerfleet;
- (4) Valspar 5042, auto refinish basecoat;
- (5) Valspar 5043, refinish striping and lettering enamels; and
- (6) Valspar 5045, auto refinish pearl;

C. inks:

- (1) 3M 5028, scotchlite process series 700, October 19, 2002;
- (2) 3M 5029, scotchlite screen printing ink series 900, October 19, 2002;
- (3) 3M 5030, scotchlite process color series 990, October 19, 2002; and
- (4) Nazdar 5033, 79000 series corogloss, October 19, 2002;

D. other paints:

- (1) Dexter 5074, 100 percent solids topcoat resin, November 16, 2005;
- (2) Dexter 5162, high solids topcoat resin, November 16, 2005;
- (3) Dexter 5163, 100 percent solids basecoat resin, November 16, 2005;
- (4) Dexter 5164, high solids basecoat/sealer/stain resin, November 16, 2005; and
- (5) Dexter 5165, basecoat/topcoat blend resin, November 16, 2005; and

E. sign paints, Akzo Nobel 5170a, lead and lead chromate primers.

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Expedited Emergency Rules

Provisions exist for the Commissioners of some state agencies to adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months. Specific *Minnesota Statutes* citations accompanying these emergency expedited rules detail the agency's rulemaking authority.

Department of Natural Resources

Adopted Expedited Emergency Game and Fish Rules; Spring Wild Turkey Hunting

NOTICE IS HEREBY GIVEN that the above entitled rules have been adopted through the process prescribed by *Minnesota Statutes*, section 84.027, subdivision 13 (b). The statutory authority for the contents of these rules is *Minnesota Statutes*, sections 97A.435, 97B.711, and 97B.723.

Dated: 7 February 2002

Allen Garber
Commissioner of Natural Resources

6236.0300 TURKEY HUNT DRAWING.

[For text of subpart 1, see M.R.]

[For text of subp 2, see 26 SR 82]

[For text of subps 3 and 4, see M.R.]

[For text of subp 5, see 25 SR 183]

Subp. 6. **Undersubscribed wild turkey permit areas.** ~~A second preference drawing may be held for undersubscribed time periods. All unsuccessful applicants for the wild turkey permit area that includes the undersubscribed time period will be eligible for the second drawing.~~ In permit areas and time periods with fewer applicants than available licenses, the remaining available licenses may be issued to unsuccessful applicants for other permit areas or time periods on a first-come, first-served basis. Individuals who purchase the remaining available licenses retain their accumulated preference. An eligible customer must apply individually and in person at an ELS-POS (point of sale) agent location or individually through the ELS-Internet or ELS-Telephone Systems.

6236.0600 SPRING TURKEY SEASON.

Subpart 1. **Open dates.** The spring turkey season opens the Wednesday nearest April 15 and consists of ~~seven~~ eight consecutive five-day periods.

Subp. 2. **Shooting hours.** Shooting hours for turkeys during the spring season are from one-half hour before sunrise to ~~12 noon~~ 5:00 p.m.

Subp. 3. **Bag limit.** The bag limit for the spring season is one bearded turkey.

Subp. 4. **Open areas.**

A. Wild turkey permit areas are open for the spring turkey season as prescribed by the commissioner.

B. Wild turkey permit areas 223; 225; 227; 228; 235; 236; 244; 337; 338; 339; 341; 342; 343; 344; 345; 346; 347; 348; 349; 410; 411; 412; 415; 416; 417; 418; 419; 422; 425; 426; 427; 428; 429; 431; 433; 440; 442; 443; 448-449-451; 450; 454-455-456-458; 457; 459; 461; 462; 463; 464; 465; 466; and 467 are open during the 2002 spring turkey season.

Subp. 5. **Registration.** Turkeys must be registered ~~no later than 2:00 p.m. of the day taken during the spring turkey season~~ within 24 hours after being taken.

6236.0810 WILD TURKEY PERMIT AREA DESCRIPTIONS.

Wild turkey permit areas are comprised of partial, single, or grouped deer and bear registration blocks, as established in part 6232.4700, and are described as follows:

[For text of items A and B, see M.R.]

C. Wild turkey permit areas in Zone 3:

(1) wild turkey permit area ~~337-338~~ 337 consists of registration ~~blocks~~ block ~~337 and 338;~~

- (2) wild turkey permit area 338 consists of registration block 338;
- (3) wild turkey permit area 339 consists of registration block 339;
- (4) wild turkey permit area ~~341-342~~ 341 consists of registration ~~blocks~~ block 341 ~~and 342~~;
- (5) wild turkey permit area 342 consists of registration block 342;
- (~~3~~) (6) wild turkey permit area ~~343-347~~ 343 consists of registration ~~blocks~~ block 343 ~~and 347~~;
- (~~4~~) (7) wild turkey permit area 344 ~~consist~~ consists of registration block 344;
- (~~5~~) (8) wild turkey permit area ~~345-348~~ 345 consists of registration ~~blocks~~ block 345 ~~and 348~~;
- (~~6~~) (9) wild turkey permit area 346 consists of registration block 346; ~~and~~
- (10) wild turkey permit area 347 consists of registration block 347;
- (11) wild turkey permit area 348 consists of registration block 348; and
- (~~7~~) (12) wild turkey permit area 349 consists of registration block 349;

D. Wild turkey permit areas in Zone 4:

[For text of subitems (1) to (7), see M.R.]

- (8) wild turkey permit area 411 consists of those portions of registration block 411 described as follows:

Beginning at the intersection of United States Highway (U.S. Hwy) 10 and State Trunk Highway (STH) 78 ~~and STH 240~~; thence along ~~STH 240~~ U.S. Hwy 10 in an easterly direction to STH ~~29~~ 106; thence along STH ~~29~~ 106 in a southerly direction to the intersection of STH ~~235~~ 106 and STH 29; thence along STH 29 in a southerly direction to STH 235; thence along STH 235 in a westerly direction to County State Aid Highway (CSAH) 38; thence along CSAH 38 to the intersection of ~~CSAH 38 and~~ STH 78; thence along STH 78 in a northerly direction to the point of beginning;

[For text of subitems (9) to (11), see M.R.]

- (12) wild turkey permit area 415 consists of ~~those portions of registration block 415 described as follows:~~

Beginning at the intersection of Interstate Highway 94 (I 94) and State Trunk Highway (STH) 28; thence along STH 28 in a northeasterly direction to County State Aid Highway (CSAH) 2; thence along CSAH 2 in an easterly direction to STH 238; thence along STH 238 to CSAH 26; thence along ~~CSAH 26 to the Mississippi river; thence along the Mississippi river in a southerly direction to STH 23; thence along STH 23 to the intersection of CSAH 75; thence along CSAH 75 to the intersection of I 94; thence along I 94 in a westerly direction to the point of beginning~~ registration block 415;

- (13) wild turkey permit area 416 consists of registration block 416;

- (14) wild turkey permit area 417 consists of ~~those portions of registration block 417 described as follows:~~

Beginning at the intersection of State Trunk Highway (STH) 55 and STH 4; thence along STH 4 in a southerly direction to U.S. Highway 12; thence along U.S. Highway 12 to County State Aid Highway (CSAH) 104, Swift county; thence northerly on CSAH 104 to STH 55, Douglas county; thence along STH 55 in a southeasterly direction to the point of beginning registration block 417;

- (15) wild turkey permit area 418 consists of ~~those portions of registration block 418 described as follows:~~

Beginning at the intersection of Interstate Highway 94 and County State Aid Highway (CSAH) 10; thence along CSAH 10 in a southerly direction to State Trunk Highway (STH) 23; thence along STH 23 to STH 55, Stearns County; thence along STH 55 to STH 15; thence along STH 15 to Interstate Highway 94; thence along Interstate Highway 94 to the point of beginning registration block 418;

[For text of subitems (16) to (21), see M.R.]

- (22) wild turkey permit area 425 consists of registration block 435 and those portions of registration block 425; described as follows:

Beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 23; thence along CSAH 23 in a northerly direction to the Renville county line; thence in an easterly direction along the Renville county line to the intersection of township road 10; thence in a southerly direction along township road 10 to the intersection of U.S. Highway 212; thence in a westerly direction along U.S. Highway 212 to the point of beginning;

[For text of subitems (23) to (27), see M.R.]

Expedited Emergency Rules

(28) wild turkey permit area ~~433-446-447~~ 433 consists of registration blocks ~~433~~, 446; and 447; and those portions of registration block 433 described as follows:

Beginning at the intersection of the west boundary of the state and U.S. Highway 12; thence along U.S. Highway 12 to State Trunk Highway (STH) 7; thence along STH 7 to U.S. Highway 212; thence along U.S. Highway 212 to County State Aid Highway (CSAH) 31, Lac qui Parle county; thence along CSAH 31 to CSAH 20, Lac qui Parle county; thence along CSAH 20 to STH 40; thence along STH 40 to STH 119; thence along STH 119 to CSAH 28, Lac qui Parle county; thence along CSAH 28 to U. S. Highway 75; thence along U.S. Highway 75 to CSAH 24, Lac qui Parle county; thence along CSAH 24 to the west boundary of the state; thence along the west boundary of the state to the point of beginning;

[For text of subitems (29) to (36), see M.R.]

(37) wild turkey permit area 454-455-456-458 consists of registration blocks ~~454~~, 455, 456, ~~and 458~~; and those portions of registration block 454 described as follows:

Beginning at the intersection of U.S. Highway 71 and U.S. Highway 14; thence along U.S. Highway 71 in a southerly direction to State Trunk Highway (STH) 62; thence along STH 62 to County State Aid Highway (CSAH) 5; thence northerly along CSAH 5 to CSAH 13; thence westerly along CSAH 13 to CSAH 7; thence northerly along CSAH 7 to CSAH 45; thence westerly along CSAH 45 to CSAH 5 in Redwood county; thence northerly along CSAH 5 to U.S. Highway 14; thence easterly along U.S. Highway 14 to the point of beginning;

[For text of subitems (38) to (40), see M.R.]

(41) wild turkey permit area 462 consists of registration block 462;

(42) wild turkey permit area 463 consists of registration block 463;

~~(42)~~ (43) wild turkey permit area ~~464-465~~ 464 consists of registration ~~blocks~~ block 464 and 465; and

~~(43)~~ (44) wild turkey area 465 consists of registration block 465;

(45) wild turkey permit area ~~466-467~~ 466 consists of registration ~~blocks~~ block 466 and 467; and

(46) wild turkey permit area 467 consists of registration block 467; and

E. Wild turkey permit area 339-462 consists of registration blocks 339 and 462 in Zones 3 and 4.

6236.1060 TURKEY HUNT QUOTAS.

Quotas on hunter numbers are established annually by the commissioner for each wild turkey permit area and time period. Information on the quotas may be obtained in the application and annual hunting regulations and as follows:

2002 SPRING WILD TURKEY PERMIT AREA QUOTAS

Subpart 1. Quotas by time period.

Wild Turkey

<u>Permit Area Number</u>	<u>A April 17-21</u>	<u>B April 22-26</u>	<u>C April 27 May 1</u>	<u>D May 2-6</u>	<u>E May 7-11</u>	<u>F May 12-16</u>	<u>G May 17-21</u>	<u>H May 22-26</u>
<u>223</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>
<u>225</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>
<u>227</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>45</u>
<u>228</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>
<u>235</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>
<u>236</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>
<u>244</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
<u>337</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>40</u>
<u>338</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>
<u>339</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>	<u>65</u>
<u>341</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>
<u>342</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>	<u>175</u>
<u>343</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>

Expedited Emergency Rules

344	100	100	100	100	100	100	100	100
345	175	175	175	175	175	175	175	175
346	275	275	275	275	275	275	275	275
347	150	150	150	150	150	150	150	150
348	175	175	175	175	175	175	175	175
349	350	350	350	350	350	350	350	350
410	15	15	15	15	15	15	15	15
411	15	15	15	15	15	15	15	15
412	25	25	25	25	25	25	25	25
415	30	30	30	30	30	30	30	30
416	10	10	10	10	10	10	10	10
417	25	25	25	25	25	25	25	25
418	40	40	40	40	40	40	40	40
419	20	20	20	20	20	20	20	20
422	5	5	5	5	5	5	5	5
425	50	50	50	50	50	50	50	50
426	5	5	5	5	5	5	5	5
427	5	5	5	5	5	5	5	5
428	5	5	5	5	5	5	5	5
429	15	15	15	15	15	15	15	15
431	5	5	5	5	5	5	5	5
433	5	5	5	5	5	5	5	5
440	50	50	50	50	50	50	50	50
442	155	155	155	155	155	155	155	155
443	65	65	65	65	65	65	65	65
448-449-								
451	7	7	7	7	7	7	7	7
450	5	5	5	5	5	5	5	5
454-455-								
456-458	5	5	5	5	5	5	5	5
457	5	5	5	5	5	5	5	5
459	15	15	15	15	15	15	15	15
461	75	75	75	75	75	75	75	75
462	65	65	65	65	65	65	65	65
463	20	20	20	20	20	20	20	20
464	20	20	20	20	20	20	20	20
465	25	25	25	25	25	25	25	25
466	25	25	25	25	25	25	25	25
467	25	25	25	25	25	25	25	25
TOTAL	3,017	3,017	3,017	3,017	3,017	3,017	3,017	3,017

Grand total = 24,136

Subp. 2. Hunters with disabilities; additional permits. For wild turkey permit area 337, two additional permits per time period are available for individuals with disabilities participating in a special hunt on the Minnesota Valley National Wildlife Refuge. Capable Partners is the sponsoring nonprofit organization.

EFFECTIVE PERIOD. The emergency amendments to *Minnesota Rules*, part 6236.0600, subpart 4, expire December 31, 2002. The emergency amendments to *Minnesota Rules*, parts 6236.0300; 6236.0600, subparts 1, 2, and 5; and 6236.0810, expire 18 months after adoption. After the emergency amendments expire, the permanent rules as they read prior to those amendments again take effect, except as they may be amended by permanent rule. *Minnesota Rules*, part 6236.1060, expires December 31, 2002.

Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners' orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Minnesota Public Utilities Commission

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for Certificates of Need for Four Large High Voltage Transmission Line Projects in Southwestern Minnesota

ORDER ACCEPTING APPLICATION AS SUBSTANTIALLY COMPLETE AND NOTICE AND ORDER FOR HEARING

ISSUE DATE: February 11, 2002

DOCKET NO. E-002/CN-01-1958

PROCEDURAL HISTORY

On Friday, December 28, 2001, Northern States Power Company d/b/a Xcel Energy (Xcel or the Company) filed an application under *Minnesota Statutes* § 216B.243 and *Minnesota Rules*, Chapter 7849, for certificates of need to construct four high voltage transmission line projects in southwestern Minnesota. On Monday, December 31, 2001, the Commission issued a notice seeking comments on whether the application was substantially complete.

The following persons filed comments in response to the notice: the Minnesota Department of Commerce, the staff of the Minnesota Environmental Quality Board, the Minnesota Department of Agriculture, the Institute for Local Self-Reliance, the Izaak Walton League of America, the North American Water Office, Laura and John Reinhardt, and Carol Overland¹.

On January 24, 2002, the completeness issue came before the Commission. The following persons appeared: the Company, the Department of Commerce, the staff of the Minnesota Environmental Quality Board, the Izaak Walton League of America, and Laura and John Reinhardt.

On the same date, the Company made a supplementary filing providing additional information that the Department of Commerce and the staff of the Environmental Quality Board considered essential to a complete application.

FINDINGS AND CONCLUSIONS

I. The Completeness Issue

A. Positions of the Parties

1. Filed Comments

The Department of Agriculture stated that it believed that the proposed transmission projects carried no potential for significant environmental impacts pertaining to agriculture. The other commenters stated that the application was not substantially complete, arguing a need for more analysis on environmental issues, feasible alternatives, and the likelihood that the transmission projects would fulfill their stated purpose of supporting renewable generation.

The Department of Commerce and the staff of the Environmental Quality Board also raised three technical compliance issues. Laura and John Reinhardt urged the Commission to reconsider their earlier petition seeking a rulemaking proceeding to change the notice requirements of the Commission's certificate of need and practice and procedure rules. The Reinhardts also asked the Commission to combine this certificate of need proceeding

¹ While Ms. Overland's filing did not comply with the Commission's Rules of Practice and Procedure (which require a paper filing or specific authorization of an alternative medium), it was served on other commenters and cited by them.

with the siting proceeding(s) that the Environmental Quality Board would conduct if the Commission found that one or more of the proposed transmission projects were needed.

2. Comments at Hearing

Between the date of the Company's filing and the date of the hearing, the Company, the Department of Commerce, the staff of the Environmental Quality Board, and the staff of the Minnesota Pollution Control Agency met to discuss how best to ensure that the environmental issues in the case, especially those arising from alternatives proposed by parties and participants, would be adequately and efficiently developed. They were especially concerned that alternatives to the proposed projects not surface late in the case, when they would either cause significant delay or be under-developed.

They proposed that the Commission establish comment periods for potentially interested persons to identify environmental issues they intended to raise, both to ensure that these issues were adequately developed and to ensure that any disputes about their inclusion in the record were promptly resolved. They stated that the application would be substantially complete with the addition of this comment procedure. The Izaak Walton League concurred in this judgment.

B. Commission Action

1. Filing Accepted as Substantially Complete

The Commission is required by statute to act on certificate of need applications within six months of filing,² making it impractical to rely on evidentiary proceedings to remedy significant defects or ambiguities in an application. The Commission's rules on the contents of certificate of need applications are therefore detailed and strictly enforced. Under these rules, applications are not accepted until they are substantially complete.³

The Commission concurs with the Department of Commerce and the staff of the Environmental Quality Board that the initial application was incomplete due to its failure to provide information in three areas the rules required it to address – forecast assumptions, cost considerations of the forecast method, and the strength and distribution of electric fields attributable to proposed transmission facilities. The Commission also agrees that the Company's supplementary filing on the day of hearing adequately addressed these issues.

The Commission will also adopt the agencies' proposal to establish a comment period to promptly identify the environmental issues in the case, especially those arising from alternatives that parties and participants may propose in place of the Company's proposal. For these issues to receive the careful analysis they deserve, they must be raised early in the process. If they surface late in the case, they will either be under-developed or delay the completion of a process that the Legislature has directed the Commission to complete within six months.⁴

The Commission has therefore asked its staff to issue a notice initiating the comment process.⁵ That process should ensure that relevant issues, and any disputes as to whether particular issues are relevant, are identified early enough to be fully and effectively addressed.

Finally, the Commission agrees with the state agencies and the Izaak Walton League that, with the submission of the Company's supplementary filing and the establishment of the comment process described above, the application is substantially complete. While commenters have raised significant issues in regard to need, feasibility, and the likelihood that the proposed projects will fulfill their intended purpose of sustaining renewable generation, these issues are more closely related to the merits of the application than to its completeness. They can be addressed more efficiently through discovery, introduction of evidence, cross examination, and argument, than by requiring the Company to make further filings.

The Commission will therefore accept the application as substantially complete as of January 24, 2002, the date of the Company's supplementary filing.

² *Minnesota Statutes* § 216B.243, subd. 5.

³ *Minnesota Rules* 7849.0200, subp. 5.

⁴ *Minnesota Statutes* § 216B.243, subd. 5.

⁵ That notice was issued on January 25 and is attached.

2. Notice Issues Deferred

Laura and John Reinhardt reminded the Commission that they believe that the notice provisions of the Commission's certificate of need and practice and procedure rules are defective for failure to require, at the initial filing stage, actual notice to all landowners whose property might be affected by granting a certificate of need. The Reinhardts had previously filed a petition asking the Commission to amend its rules to require such notice; the Commission had referred the issue to an inter-agency work group examining how best to implement new legislation designed to streamline regulatory review of applications to upgrade Minnesota's transmission infrastructure.⁶

The Commission will take no action on notice issues in this docket. In this case notice has already been given under the existing rules, which are duly promulgated and legally valid. The Company has also gone beyond rule requirements, not only publishing display advertisements in the local newspapers of southwestern Minnesota, but notifying all county and municipal governments in the area that it has filed this application. Notice will continue to be given, as public hearings in the case are publicized by the Company and this Order is published in *The State Register*.

The Commission continues to believe that the work group docket is the most effective vehicle for examining the practical and policy implications of making changes in existing notice requirements.

3. Joint Hearings Declined

Under Minnesota law, the Commission determines whether proposed large energy facilities are needed, and the Environmental Quality Board (EQB) determines where any needed facilities will be sited. Last session the Legislature authorized the Commission and the Environmental Quality Board to hold joint hearings on need and siting when the two agencies find that joint hearings would be feasible, would be more efficient than separate hearings, and would further the public interest.⁷ The Reinhardts have urged the Commission to combine this proceeding with an EQB siting proceeding.

While there may be cases in which efficiencies would result from holding joint hearings on need and siting, this case is not among them. First, the Commission is unwilling to pre-judge need issues by assuming that need will be found and siting required. Second, the need issues themselves are so complex and sharply contested that it will be difficult to develop, analyze, and resolve them within the six-month statutory time frame. Adding siting issues would not only ensure missing the statutory deadline, but would needlessly complicate efforts to address need issues systematically and efficiently.

Finally, the Company has not yet filed a siting application with the EQB, and that agency has not supported joint hearings. For all these reasons the Commission will refer the existing application for contested case proceedings, declining to require an immediate siting application for joint consideration with this application for a certificate of need

II. Referral for Contested Case Proceedings

The Commission has jurisdiction over applications for certificates of need for large energy facilities, including the high voltage transmission line projects at issue, under *Minnesota Statutes* §§ 216B.2421 and 216B.243. The statute requires the Commission to hold at least one public hearing under the Administrative Procedure Act before acting on this or any other application for a certificate of need. *Minnesota Statutes* § 216B.243, subd. 4.

The Commission finds that it cannot determine, on the basis of the record before it, whether the Company should be granted the certificates of need it seeks. That determination turns on specific facts that are best developed in formal evidentiary proceedings. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

III. Issues to be Addressed

Minnesota Statutes § 216B.243, subd. 3 and *Minnesota Rules* 7849.0100-7849.0120 set forth criteria that must be met to establish need for proposed large energy facilities, including the transmission projects at issue. *Minnesota Rules* 7849.0100 requires specific written findings on each of these criteria. The parties to this proceeding should address whether the proposed transmission projects meet these criteria.

⁶ In the Matter of Transmission Projects Reports and Development of Certified List of Transmission Line Projects, Docket No. E-999/TL-01-961, ORDER DENYING PETITION AND EXPANDING THE SCOPE OF RECOMMENDATIONS OF THE WORKING GROUP (December 24, 2001).

⁷ *Minnesota Statutes* § 216B.243, subd. 4.

IV. Public Participation

Minnesota Statutes § 216B.243, subd. 4 encourages public participation in certificate of need proceedings. The statute requires at least one hearing to obtain public opinion on the application and requires the Commission to designate an employee to facilitate citizen participation in the hearing process.

The Commission has designated statistical analyst David L. Jacobson to facilitate and coordinate public participation in this proceeding. He may be reached by **phone** at: (651) 297-4562 and by **fax**: (651) 297-7073. His address is Suite 350, 121 7th Place East, St. Paul, Minnesota 55101-2147.

Members of the public need not become formal parties to participate in the hearing process. They are encouraged to attend the public hearing(s) and to submit testimony and exhibits. Persons who cannot attend the public hearing(s) and wish to comment may submit written comments to the Administrative Law Judge. The Commission will require the Company to publish notice of the public and evidentiary hearings in newspapers throughout the state, to encourage public participation.

V. Procedural Outline**A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is Beverly Jones Heydinger. Her address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 341-7606.

B. Hearing Procedure

- ***Controlling Statutes and Rules***

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, *Minnesota Statutes* §§14.57-14.62; the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.5010 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, *Minnesota Rules*, parts 7829.0100 to 7829.3200.

Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155; **phone**: (651) 297-3000. These rules and statutes also appear on the State of Minnesota's **website** at: www.revisor.leg.state.mn.us

The Office of Administrative Hearings conducts contested case proceedings in accordance with the *Minnesota Rules* of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota State Bar Association.

- ***Right to Counsel and to Present Evidence***

In these proceedings, parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under *Minnesota Rules*, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions.

- ***Discovery and Informal Disposition***

Any questions regarding discovery under *Minnesota Rules*, parts 1400.6700 to 1400.6800 or informal disposition under *Minnesota Rules*, part 1400.5900 should be directed to David L. Jacobson, Statistical Analyst, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147, **phone**: (651) 297-4562; or James Alexander, Assistant Attorney General, 1100 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 282-9965.

- ***Protecting Not-Public Data***

State agencies are required by law to keep some data not public. Parties must advise the Administrative Law Judge if not-public data is offered into the record. They should take note that any not-public data admitted into evidence may become public unless a party objects and requests relief under *Minnesota Statutes* § 14.60, subd. 2.

- ***Accommodations for Disabilities; Interpreter Services***

At the request of any individual, this agency will make accommodations to ensure that the hearing in this case is accessible. The agency will appoint a qualified interpreter if necessary. Persons must promptly notify the Administrative Law Judge if an interpreter is needed.

Commissioner's Orders

- **Scheduling Issues**

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with Commission staff and intervening parties.

- **Notice of Appearance**

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing.

- **Sanctions for Non-compliance**

Failure to appear at a prehearing conference, a settlement conference, or the hearing, or failure to comply with any order of the Administrative Law Judge, may result in facts or issues being resolved against the party who fails to appear or comply.

C. Parties and Intervention

The current parties to this case are the Company and the Minnesota Department of Commerce. Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. *Minnesota Rules*, part 1400.6200.

D. Prehearing Conference

A prehearing conference will be held in this case on Friday, March 1, 2002 at 1:30 p.m. in the Large Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101. Persons participating in the prehearing conference should be prepared to discuss time frames, scheduling, discovery procedures, and similar issues. Potential parties are invited to attend the pre-hearing conference and to file their petitions to intervene as soon as possible.

E. Time Constraints

Under *Minnesota Statutes* § 216B.243, subd. 5, the Commission is required to act on this application within six months of the date it was substantially complete. That date was January 24, 2002. The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints. Parties should note the six-month statutory time frame at the outset and be prepared for the expedited hearing schedule that time frame requires.

VI. Application of Ethics in Government Act

The lobbying provisions of the Ethics in Government Act, *Minnesota Statutes* §§ 10A.01 *et seq.*, apply to certificate of need cases. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Campaign Finance and Public Disclosure Board, **phone:** (651) 296-5148, with any questions.

VII. Ex Parte Communications

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at *Minnesota Rules*, parts 7845.7300-7845.7400, which all parties are urged to consult.

ORDER

1. A contested case proceeding shall be held on the Company's certificate of need application.
2. The contested case proceeding shall begin with a prehearing conference on Friday, March 1, 2002 at 1:30 p.m., in the Large Hearing Room, Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, Minnesota 55101-2147.
3. At least one public hearing shall be held in this matter at a time and place determined by the Administrative Law Judge after consultation with Commission staff.
4. The Commission asks the Department of Commerce to continue its examination of the merits of the application and to provide testimony on the reasonableness of granting the requested certificates of need
5. The Company shall cooperate with the Department and other parties in developing the facts and issues of this case.
6. The Company shall publish notice of the public and evidentiary hearings at least 10 days in advance in visible display ads in newspapers of general circulation throughout the state. The Company shall work with Commission staff to develop a plan to meet this requirement, including a proposed text, a list of the newspapers it proposes to use, and proposed publication dates. The Company shall obtain proofs of publication of the ads required above.

Commissioner's Orders

7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by **phone:** (651) 297-4596, **TTY:** (651) 297-1200, or **TTY** relay service 1-800-627-3529.

ATTACHMENT A

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, Minnesota 55101-2147

In the Matter of the Application of Northern
States Power Company d/b/a Xcel Energy for
Certificates of Need for Four Large High
Voltage Transmission Line Projects in
Southwestern Minnesota

MPUC Docket No. E-002/CN-01-1958

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address and Telephone Number of Administrative Law Judge:

Beverly Jones Heydinger, Office of Administrative Hearings, Suite, 1700, 100 Washington Square, Minneapolis, Minnesota 55401; (612) 341-7606

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

Commissioner's Orders

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: _____

DATE: _____

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

Agronomy and Plant Protection Division

Notice of Determination of Common Detection for Atrazine, Metolachlor and Metribuzin in Groundwater of Minnesota

NOTICE IS HERBY GIVEN that:

1. The Minnesota Department of Agriculture has reviewed groundwater monitoring data for the occurrences of pesticides and pesticide degradates in Minnesota.
2. The Commissioner of the Department of Agriculture (Commissioner) has authority under *Minnesota Statute* § 18B.04 to "...determine the impact of pesticides on the environment, including the impacts on ... groundwater" and to "...protect public health and the environment from harmful exposure to pesticides." The Commissioner also has authority under *Minnesota Statute* § 18B.10 to "...take action necessary to prevent the contamination of groundwater resulting from leaching of pesticides through the soil."
3. The Commissioner is directed under *Minnesota Statute* § 103H.251 to evaluate the detection of agricultural chemical pollutants and their breakdown products in groundwater of the state and determine if they are a "common detection." Common detection "...means detection of a pollutant that is not due to misuse or unusual circumstances, but is likely to be the result of normal use of a product or practice."
4. The Commissioner has determined that the pesticides atrazine, metolachlor and metribuzin are a common detection in groundwater of the state.
5. Determinations of common detection will initiate the development of pesticide-specific voluntary Best Management Practices (BMPs). BMP development is guided by steps outlined in the Pesticide Management Plan.

6. Atrazine, metolachlor and metribuzin are subject to chemical, physical or microbial degradation in the environment that may result in degradation products in groundwater. In accordance with *Minnesota Statute* § 103H.251, the Commissioner recognizes that detection of pesticide degradates is linked to the common detection of the pesticides, and that voluntary BMPs developed for the pesticides will account for and apply to pesticide degradates.
7. Determinations of groundwater common detection for these pesticides will be reviewed annually and remain in effect until such time as the Commissioner determines otherwise.

Interested parties or groups may direct inquiries about atrazine, metolachlor and metribuzin in common detection to the State Department of Agriculture at the following address:

Joe Zachmann
Minnesota Department of Agriculture
90 West Plato Boulevard, St. Paul, MN 55107-2094
Phone: (651) 205-4788
Fax: (651) 297-2271
Email: joseph.zachmann@state.mn.us

Dated: 12 February 2002

Gene Hugoson
Commissioner, Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C in Caledonia Township, Houston County

NOTICE IS HEREBY GIVEN that a public hearing will be held on March 8, 2002, at 9:00 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of Approximately 204 acres of farmland with buildings located one mile north of Caledonia, MN on Highway 76, one mile west on County 10, then 1/2 mile north on Prairie Ridge Road, Sections 2 & 3, Caledonia Township, Houston County, Minnesota on behalf of Curt Wiebke, (the Borrower/s). The maximum aggregate face amount of the proposed bond issues is \$250,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 February 2002

Jim Boerboom
RFA Director

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C in Township 107, Range 09, Winona County

NOTICE IS HEREBY GIVEN that a public hearing will be held on March 8, 2002, at 9:00 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase a used JD 8110 Tractor; located approximately 3 miles south of Altura on County 27, first farm on left on Twp. 10; Section 28, Township 107, Range 09, Winona County, Minnesota on behalf of Rory Richard Beyer, (the Borrower/s). The maximum aggregate face amount of the pro-

Official Notices

posed bond issues is \$62,500.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 February 2002

Jim Boerboom
RFA Director

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C in Grass Lake Township, Kanabec County

NOTICE IS HEREBY GIVEN that a public hearing will be held on March 8, 2002, at 9:00 a.m., in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, St. Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase Approximately 80 acres of farmland with buildings located 3-1/4 miles north of Braham, MN on County Road 41, Section 15, Grass Lake Township, Kanabec County, Minnesota on behalf of Nicholas A. Alderink, (the Borrower/s). The maximum aggregate face amount of the proposed bond issues is \$133,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 6 February 2002

Jim Boerboom
RFA Director

Minnesota Comprehensive Health Association

Notice of Meeting of the Actuarial Committee

NOTICE IS HEREBY GIVEN that two meetings of the Minnesota Comprehensive Health Association's (MCHA), **Actuarial Committee** will be held on the following dates at Blue Cross Blue Shield of MN, Main Building, 6th floor meeting room, 3535 Blue Cross Road, Eagan, MN:

Monday, February 25, 2002, 9:00 a.m.

Wednesday, March 6, 2002, 9:00 a.m.

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

Minnesota State Rehabilitation Council

Meeting Dates 2002

The State Rehabilitation Council will meet on the following dates at the designated location. For more information on locations not listed please contact the Minnesota Department of Economic Security at: **phone:** (800) 328-9095; (651) 296-5616. **TTY:** (800) 657-3973; (651) 296-3900.

January 23, 2002 – Four Points by Sheraton - St. Paul
February 27 2002 – MDES Annex, Room 204C
March 27, 2002 – Four Points by Sheraton
April 24, 2002 – Four Points by Sheraton
May 22, 2002 – Four Points by Sheraton
June 26, 2002 – White Earth Reservation, Naytahwaush, Minnesota
August 28, 2002 – Location TBA
September 25, 2002 – Location TBA
October 23, 2002 – Location TBA
December 4, 2002 – Location TBA

Department of Labor and Industry

Labor Standards

Notice of Additional Rates to Commercial Prevailing Wage Rates

Additional rates have been added to the Commercial Prevailing Wage Rates certified 12/17/01, for **Aitkin County, Labor Code 109, Underground & Open Ditch Labor (8'), 402, Boilermakers, 408, Elevator Constructors, and 410, Lathers.**

A copy of the certification with additions, may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091. 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

Department of Labor and Industry

Labor Standards Unit

Notice of Correction to Commercial Prevailing Wage

A **correction** has been made to the Commercial Prevailing Wage Rates certified 12/17/01, for **Labor Code 406, Cement Masons in Polk, county.**

Copies of the corrected certification may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091. 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

Minnesota Bureau of Mediation Services

REQUEST FOR COMMENTS on Possible Amendment to Rules Relating to Mediation Services; Arbitration Roster, *Minnesota Rules*, 5530.0600, Subpart 5

Subject of Rules. The Minnesota Bureau of Mediation Services requests comments on its possible amendment to rules relating to Mediation Services; Arbitration Roster. The Department is considering the following rule amendment that would allow the commissioner to waive the residency requirements to be empanelled on the Bureau's arbitration roster for individuals who have served at least three years on the current or immediately preceding bureau roster (new proposed language is underlined):

5530.0600 ARBITRATOR QUALIFICATIONS

Subp. 5. **Domicile.** To be eligible for appointment or continuation on the roster, individuals must maintain a principal place of residence in Minnesota or one of its contiguous states. The maintenance of a mail box or mail delivery point is not sufficient to satisfy the requirement of this subpart. The residency requirement may be waived on an appointment-by-appointment basis by the commissioner for individuals who have served at least three years on the current or immediately preceding bureau roster.

Persons Affected. The amendment to the rules would likely affect public employers, public employees, labor organizations, arbitrators on the current BMS roster, prospective applicants for placement on the roster, attorneys representing clients before the Bureau, consultants representing clients before the Bureau, and private employers.

Statutory Authority. *Minnesota Statutes*, section 179A.04, subd. 3 (6), authorizes the Bureau to adopt rules relating to the administration of this chapter and the conduct of hearings and elections.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on April 22, 2002. The Department has consulted with our Arbitration Advisory Committee consisting of representatives from employers, labor organizations and arbitrators serving on the Bureau's arbitration roster.

Rules Drafts. A draft of the possible rules amendments is included.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rules should be directed to: Carol Clifford at the Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, MN 55108, **phone:** (651) 649-5423; **fax:** (651) 643-3013, **email:** *carol.clifford@state.mn.us*. **TTY** users may call the Minnesota Relay Service at 1-800-627-3529.

Alternative Format. Upon request, this Request for Comments 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.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 19 February 2002

Lance Teachworth, Commissioner
Bureau of Mediation Services

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.

Minnesota Board on Aging

Request for Proposals to Expand Supportive Services for Older Kinship Caregivers (Grandparents Raising Grandchildren)

The Minnesota Board on Aging seeks proposals from qualified applicants to expand statewide supportive services for older adults 60s years of age and older who are relative caregivers for children 18 years of age and younger. The Older Americans Act of 1965, as amended in 2000, provides funding under Title III-E, National Family Caregiver Support Program (NFCSP). (Resources and information about Title III-E, NFCSP, can be found at www.aoa.gov/oa/status/default.htm.)

Eligible applicants are non-profit agencies, for profit entities and units of government who are experts in the area of kinship caregiving. Applicants should represent a statewide collaboration of organizations and agencies that can lead this effort in all 87 Minnesota counties.

Funding available is up to \$225,000 May 1 through December 31, 2003 and up to \$225,000 January 1 through December 31, 2003. Up to \$150,000 is available for each of the calendar years 2004, 2005 and 2006. All funding is contingent on the approval of continuing appropriations by Congress. Funding is available for the purchase or development of the following supportive services:

- Public information and education to caregivers about services;
- Assistance to caregivers in gaining access to services;
- Individual counseling, organization of support groups, and caregiver training to caregivers to assist them in making decisions and solving problems related to their caregiver roles;
- Respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
- Supplemental services, limited to 20% of available funding, to complement the care provided by caregivers.

Send requests for a copy of the RFP to Maren Hayes via **email** at: maren.hayes@state.mn.us or via mail at 444 Lafayette Road, St. Paul, Minnesota 55155-3843. The RFP is also available online at www.dhs.state.mn.us

Department of Public Safety

Bureau of Criminal Apprehension

CriMNet (Criminal Justice Information System)

Notice of Addendum to the Request for Proposals (RFP) for Planning and Integration Grants

This serves as notification that an Addendum has been issued for the (Request for Proposals (RFP) for planning and integration grants originally issued August 20, 2001.

Coordinating Agencies: Department of Public Safety Office of Drug Policy and Violence Prevention and the Criminal and Juvenile Justice Information Policy Group.

Eligible Applicants: Minnesota county and municipal agencies with criminal justice information systems in need of assistance with their system integration planning and/or implementation efforts.

Duration of Funding: All funds awarded under this appropriation must be used by June 30, 2004.

Matching Funds Required: 50% Match, all cash or a combination cash and in-kind (see specific restrictions/guidelines in addendum).

Application Due Date: On-going (for this biennium, proposals will not be accepted after May 31, 2003).

State Grants & Loans

Review Process: Applications will be reviewed and funding decisions made by the Criminal and Juvenile Justice Information Policy Group.

To request information on this addendum please contact:

Jocelyn Van Knight
Office of Drug Policy and Violence Prevention
444 Cedar Street
Suite 100 Town Square
St. Paul, Minnesota 55101-5100
Phone: (651) 284-3325
Email: jocelyn.vanknight@state.mn.us

Copies of the RFP and Addendum available at: www.crimnet.state.mn.us

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) 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.

Colleges and Universities, Minnesota State Dakota County Technical College

Bids Sought for a 5-Axis CNC Vertical Machine Center

NOTICE IS HEREBY GIVEN that Dakota County Technical College will receive bids for a 5-Axis CNC Vertical Machine Center. Bid specifications will be available February 19, 2002 from the Dakota County Technical College Purchasing Department, 1300 145th St., East, Rosemount, MN 55068, **phone:** (651) 423-8236.

Sealed bids must be received by Pat Adams at Dakota County Technical College, 1300 145th St., East., Rosemount, MN 55068 by **2:00 p.m., Monday March 4, 2002.**

Dakota County Technical College reserves the right to reject any or all bids or portions thereof, or to waive any irregularities or informalities in bids received.

Community Colleges and Universities, Minnesota State

North Hennepin Community College

Request for Proposal (RFP) for Food Service at North Hennepin Community College

Introduction

North Hennepin Community College, Brooklyn Park, is soliciting bids for the management of its Food Service, beginning July 1, 2002.

Proposal Due Date

Vendor proposals are due **no later than Monday, March 18, 2002**. Proposals must be submitted to Kitty Hennemann, Director of Student Life, North Hennepin Community College, 7411 85th Avenue North, Brooklyn Park, MN 55445. Specifications can be obtained by **phone** at: (763) 424-0803.

Site Inspection and Briefing

North Hennepin Community College will host a briefing session and site inspection Tuesday, March 4, 2002 from 4:00 - 7:00 p.m., for interested bidders. Call Kitty Hennemann at **phone**: (763) 424-0803 to schedule an appointment.

Department of Commerce

Request for Proposals to Perform Market Conduct and Other Examinations

The Minnesota Department of Commerce' Enforcement Division is soliciting proposals from individuals or organizations qualified to perform market conduct and other examinations for the Department pursuant to *Minnesota Statute*, section 60A.031, subdivision 3. The individuals or organizations will conduct examinations of insurance companies and other entities conducting insurance business in Minnesota. For a copy of the complete RFP please contact Paul Hanson, Chief Examiner, Enforcement Division, 85 7th Place East, Suite 500, St. Paul, MN 55101, **phone**: (651) 297-5281. Proposals are due no later than **3:00 p.m., March 1, 2002**.

Department of Natural Resources

Division of Forestry

Minnesota Forest Resources Council

Notice of Request for Proposals for Monitoring Implementation of Timber Harvesting and Forest Management Guidelines on Public and Private Forest Land in Minnesota

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources in consultation with the Minnesota Forest Resources Council is requesting proposals to perform specified steps necessary to undertake and complete implementation monitoring of timber harvesting and forest management guidelines on public and private forest lands in Minnesota.

In compliance with *Minnesota Statutes* § 16C.08, the availability of this contracting opportunity is being offered to state employees. We will evaluate the responses of any state employee, along with other responses to this Request for Proposal.

The purpose of this project is to evaluate the application of the timber harvesting and forest management guidelines on randomly selected timber harvesting sites on public and private forest land in Minnesota. For purposes of this project, forest land ownership categories in Minnesota are state, county, USDA Forest Service, forest industry, nonindustrial private forest, and American Indian land. The selected harvest sites will be located throughout the forested regions of the state.

State Contracts

To request the full RFP, please contact:

Sharon Schmitz
DNR/Division of Forestry
500 Lafayette Road
St. Paul, MN 55155-4044
Phone: (651) 296-7298
Fax: (651) 296-5954
Email: sharon.schmitz@dnr.state.mn.us

Proposals are due no later than **4:00 p.m., Monday, April 8, 2002.**

Department of Natural Resources

Request for Proposals from Consulting Engineering Firm for Preparation of Construction Plans and Specifications and Provide Construction Inspection and Contract Administration Services for Two Trail Bridges

Project

Bluffland State Trail-Fillmore County
Preston to Forestville
Bridges over Root River in City of Preston
File No.: TRA 00708.02.00.07/TO-01-13

Project Overview

The Minnesota Department of Natural Resources Bureau of Facilities and Operations Support and the Division of Trails and Waterways request proposals from interested consulting engineering firms for professional services to prepare construction plans and specifications and provide construction inspection and contract administration services for two (2) trail bridges over the Root River in the City of Preston, Fillmore County, MN.

The Fillmore Street Bridge will be approximately 260 feet long and will either be attached to the existing CSAH 12 Bridge No. 23546 or a separate bridge adjacent to the existing bridge. It is the intent that this bridge will match the appearance and alignment of the existing road bridge. Retaining walls and trail construction immediately adjacent to the bridge are also included in this project.

The West River Road Bridge will be approximately 160 feet long and will be a widening of the existing Bridge No. 23537. It is the intent that the bridge will be widened on the north side and that the vehicular traffic will be shifted to the north allowing for the trail to be placed on an elevated walkway on the south side of the bridge. Retaining walls, trail construction and minor road construction immediately adjacent to the bridge are also included in this project.

To obtain a "Request for Proposal", contact:

Deb Guither
DNR Region 5/6 Engineering
1200 Warner Road
St. Paul, MN 55106
Phone: (651) 772-7904
Fax: (651) 772-7977
Email: deb.guither@dnr.state.mn.us

All proposals must be received not later than **4:00 p.m., Central Time, March 7, 2002**, as indicated by a notation made by the Receptionist. **Late proposals will not be considered.**

Minnesota Pollution Control Agency

Regional Environmental Management Division Operations and Environmental Review Section

Notice of Availability of Request for Proposal for Preparation of an Environmental Impact Statement (EIS) for the United States Steel – Minntac (Minntac) Water Inventory Reduction Project in Mountain Iron, Minnesota

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency, a state agency, seeks the services of a professional consultant to assist in preparing an EIS for the United States Steel – Minntac Water Inventory Reduction Project at Mountain Iron in St. Louis County, Minnesota. U.S. Steel-Minntac is proposing to release excess water from its tailings basin, which is gained from precipitation. If permitted, this project will increase the time that Minntac can safely use the tailings basin for permitted disposal of fine tailings. The proposed discharges would be to the Dark River watershed on the west side of the basin, and to the Sandy River Watershed on the east side of the basin. The proposed discharges would be located near current seepage points that flow into the Dark and Sandy Rivers.

The EIS will analyze impacts associated with construction and operation of the proposed siphon and associated discharges. The purpose of the EIS is the evaluation and disclosure of information about the significant environmental effects of a proposed action. The EIS is not intended to justify either a positive or negative decision on a project, but may be utilized by governmental units as a guide in issuing or denying permits or approvals for the project and in identifying measures necessary to avoid or mitigate adverse environmental effects.

The proposed discharges would be located near current seepage points that flow into the Dark and Sandy Rivers. An engineered siphon system would actively move water from the interior of the basin and over the dike. Siphon discharge would be to the Dark and/or Sandy River watersheds at a rate of approximately 5,000 gallons per minute; approximately 2.6 billion gallons per year.

The MPCA seeks the services of a consultant with expertise in preparing environmental review documents, [metal mining, metallurgical and mineral processing, tailings basin, geotechnical dam safety, industrial wastewater treatment] engineering, [aquatic] ecology, hydrology, water quality and analysis, wildlife biology, state and federal regulatory processes, and socioeconomics. The consultant must conduct necessary data collection and analysis, and prepare draft and final EISs that fulfill the requirements of *Minnesota Rules* pt. 4410.0200 - 4410.6500.

The product of this contract is a Final EIS that satisfies the requirements of *Minnesota Rules* pt. 4410.0200 - 4410.6500, fully addresses all the issues identified in the Final Scoping Decision document (attached), and is determined to be adequate by the MPCA within the time and budget allocated for the review.

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

In accordance with *Minnesota Rules* pt. 1230.1810, subpart B and *Minnesota Rules* pt. 1230.1830, certified Targeted Group Businesses and individuals submitting proposals as prime contractors will receive up to six (6) percent preference in the evaluation of their proposal, and certified Economically Disadvantaged Businesses and individuals submitting proposals as prime contractors will receive up to six (6) percent preference in the evaluation of their proposals.

For information regarding certification, contact:

Department of Administration
Materials Management Helpline
Phone: (651) 296-2600
TTY: (651) 282-5799

The full Request for Proposal contains detailed information about the proposed mining project and proposal content requirements. Call or write for the full request, which will be sent free of charge to interested vendors. Contact:

John Elling, Environmental Planner
Operations and Environmental Review Section
Regional Environmental Management Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194
Phone: (651) 296-8011
Email: John.Elling@pca.state.mn.us

State Contracts

MPCA staff will hold a pre-proposal information meeting on Thursday, February 14, 2002, at 9:00 - 10:00 a.m., at MPCA offices in St. Paul.

Other personnel are not allowed to discuss the Request for Proposal with anyone, including responders, before the proposal submission deadline. Proposals from interested parties must be submitted to the MPCA **by 4:00 p.m., on Friday, March 1, 2002.**

Department of Public Safety Driver and Vehicle Services

Notice of Request for Proposals for Driver License Exam Station Internet Connectivity

The Minnesota Department of Public Safety, Driver and Vehicle Services Division is requesting proposals for the purpose of seeking qualified contractors to provide a static Internet Protocol (IP) address connection to Driver License Exam Station offices through a T1 or 56K frame relay, or toll free dial up point of presence (POP) connection. The internet provider service is to be installed and supported by the selected contractor throughout the term of the contract.

Details are contained in the complete Request for Proposals which may be obtained by calling or writing:

Paul Mathe
Department of Public Safety
Division of Driver and Vehicle Services
445 Minnesota Street, Suite 196, Town Square
St. Paul, Minnesota 55101-5196
Phone: (651) 215-6252
Fax: (651) 282-2462
Email: paul.mathe@state.mn.us

Respondents who have questions regarding this Request for Proposals may write Paul Mathe by regular mail, fax, or e-mail. A compiled list of respondents' questions will be answered and sent to all respondents. Questions pertaining to this RFP should be received by **3:00 p.m. CST on Thursday, February 28, 2002.** Questions received after that time may not receive responses. Estimated total cost of the contract is \$190,000.00. Final date for submitting proposals is Tuesday, March 12, 2002 by 3:00 p.m. CST. **Late proposals will not be considered.**

This Request for Proposals does not obligate the State to complete the proposed project and the State reserves the right to cancel the solicitation if it is considered to be in the State's best interest. All expenses incurred in responding to this RFPs shall be borne by the responder.

Anticipated start date for resulting contract is March 18, 2002.

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.

Metropolitan Airports Commission

Notice of Call for Bids for Seasonal Rental of Twenty-Two (22) Rubber Tired Wheel Loaders

Sealed bids will be received by the Metropolitan Airports Commission at its office at 6040 28th Avenue South, Minneapolis, MN 55450-2799, until 10:00 a.m., Local Time, Tuesday, March 12, 2002, for the procurement of **TWENTY-TWO (22) RUBBER TIRED WHEEL LOADERS**.

At that time and place, the bids will be publicly opened and read. If mailed, the Commission's mailing address is 6040 28th Avenue South, Minneapolis, MN 55450-2799, and **bids to be considered must be received by the Commission by the date and hour set for opening of bids.**

Bids shall be according to the specifications. The Commission reserves the right to reject any or all bids or portions thereof, and to waive any minor irregularities or informalities therein. Copies of the specifications may be obtained at the office of the Commission, 6040 28th Avenue South, Minneapolis, Minnesota 55450, **phone:** (612) 726-8146.

Dated: 12 February 2002

Metropolitan Airports Commission
JoAnn Brown/Buyer-Administrator

Metropolitan Council

Notice of Invitation for Bids (IFB) for MCES Procurement of Liquid Sulfur Dioxide

Reference Number 0200914

The Metropolitan Council is requesting bids for furnishing and delivery of Liquid Sulfur Dioxide.

<i>Issue Invitation for Bids</i>	February 11, 2002
<i>Bids Due</i>	February 28, 2002
<i>Award Contract</i>	March 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, mail or phone requests 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

Minnesota Statutes, Section 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

Metropolitan Council

Notice of Two-Step Rolling Stock Solicitation 40' Low-Floor Transit Buses

Solicitation No. 02P016

NOTICE IS HEREBY GIVEN that the Metropolitan Council is soliciting proposals from manufacturers to provide forty-five (45) 40-foot low-floor model transit buses with an option for forty-five (45) additional buses over a period of five years (through 2009).

The solicitation will be conducted in a two-phase process. In the pre-qualification phase, all prospective offerors must submit a technical proposal and a separate, sealed price proposal. Upon evaluation, a competitive range will be established and sealed bids will be requested in the form of Best and Final Offers (BAFOs). All proposals must be submitted in accordance with the solicitation Package. The tentative schedule for this procurement process is:

<i>Solicitation Package Release Date</i>	End of February, 2002
<i>Teleconference Pre-Proposal Date</i>	Mid-March, 2002
<i>RSVP for Teleconference Due</i>	One-week prior to Teleconference
<i>Proposal Due Date</i>	End of March, 2002

All firms interested in this project should request a copy of the solicitation through:

Amanda Petersen, Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, MN 55101
Phone: (651) 602-1585
Fax: (651) 602-1138
Email: amanda.petersen@metc.state.mn.us

Please provide **one** contact point; complete company name; address/city/state/zip along with phone/fax/mobile/cell phone and pager numbers as well as email information if you wish to be placed on the Solicitation List. **All inquiries** regarding this procurement shall be directed by **email** to: Mary DeMers at: mary.demers@metc.state.mn.us

The Metropolitan Council provides mass transit bus services to the Twin Cities of Minneapolis/St. Paul Metro and outlying areas. The buses will be supplied to contract providers for use on contract routes outside of the Metro Transit system through its Transportation and Transit Development Division.

This project may be funded in part by local funds, transit revenues generated by the motor vehicle tax per *Minnesota State Statute* of FTA grant funds, to which federal rules apply. *Minnesota Statutes*, Sections 473.144 and 363.073 and *Minnesota Rules*, Part 5000.3400 to 5000.3600 will be incorporated into any contract based upon the Proposal or any modifications to it. The Minnesota Data Practices Act governs data submitted in response to this RFP. It provides that all information submitted by a Proposer in response to an RFP, with the exception of trade secret data as defined in *Minnesota Statutes*, Section 13.37, becomes public at the times specified in the Act and is then available to any person upon request. Any information in its response for which Proposer claims trade secret protection must be limited and set apart in the proposal on separate pages, with a heading that identifies the information as trade secret information. Blanket-type identification on whole pages or sections containing trade secret information will not assure protection. A statement that submitted information is copyrighted or otherwise protected does not prevent public access.

Metropolitan Wastewater Treatment Plant

Standby Power System and Switchgear Components Procurement Phase I

Document 00150

NOTICE IS HEREBY GIVEN that on March 15, 2002 at 2:00 p.m., the Metropolitan Council Environmental Services will receive and publicly open sealed bids for MCES Project Number 970325, Standby Power System at their office at 230 East 5th Street, St. Paul, MN 55101. Sealed bids should be delivered to the 2nd Floor Receptionist.

The Work of this Project includes furnish and deliver two (2) 1825 kW 12.8 kV prime-rate diesel engine generators with integral mounted radiators, critical grade silencers and interconnecting exhaust ductwork, fuel oil day tank, neutral resistors, 13.8 kV switchgear, system controls.

Bidding Documents may be obtained from the office of the Metropolitan Council Environmental Services, by calling Bea Villegas at **phone:** (651) 602-1032 or by **fax:** (651) 602-1083.

The Metropolitan Council shall consider all bids received and intends to award a contract to the responsive and responsible bidder submitting the lowest total cost per bid to the Council. However the Metropolitan Council reserves the right to reject all bids, to investigate the qualifications and experience of any bidder, to reject any provisions of any bid, to obtain new bids, or to proceed to do the work otherwise.

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 Bidding Documents or any modifications to them. If a contract for the Project is awarded in excess of \$100,000, the requirements of *Minnesota Rules*, Part 5000.3530 will be applicable. Additional pertinent information is contained in the Bidding Documents.

Dated this 11th day of February, 2002

By Order of the Metropolitan Council
William G. Moore, General Manager
Environmental Services

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 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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