

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Rules Relating to Snowmobiles

Minn. Rule NR 57 (e) (4) (bb) is amended to read as follows:

(bb) No snowmobile manufactured on or after July 1, 1979 for sale in Minnesota except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibils on the A scale at 50 feet.

APPROVED AS TO FORM AND LEGALITY
MAY 2 1978 19
ATTORNEY GENERAL
/s/ Michael B. Miller
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 2 - 1978
Joan Anderson
Secretary of State

3:45 pm

STATE OF MINNESOTA

OFFICE OF HEARING EXAMINERS

ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6810

July 26, 1977

RECEIVED
JUL 28 1977
ATTORNEY GENERAL
Dept. of Natural Resources

Commissioner William B. Nye
Department of Natural Resources
Third Floor, Centennial Office Building
Saint Paul, Minnesota 55155

Re: In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction.
Docket No. DNR-77-006-WS

Dear Commissioner Nye:

Enclosed and served upon you by mail, please find the original Report of the Hearing Examiner in the above-entitled matter. The official record is being returned to Mr. William Clapp with his copy of this Report.

I am herewith closing our file in this matter.

Sincerely,

William Seltzer

WILLIAM SELTZER
Hearing Examiner

WS:sw
Enclosure(s)
cc: Mr. William Clapp
Special Assistant Attorney General
cc: Mr. Robert A. Schwartzbauer
Attorney at Law
cc: Mr. Alfonso E. Perez
Minnesota Pollution Control Agency

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed)
Rules Amendment Extending the) REPORT OF HEARING EXAMINER
Target Date for Snowmobile)
Noise Reduction.)

A public hearing in the above-entitled matter was convened by Hearing Examiner William Seltzer of the Minnesota Office of Hearing Examiners at approximately 9:30 a.m. on June 8, 1977, in Room 81 of the Minnesota State Office Building, Saint Paul, Minnesota. All interested persons, representatives of individuals or associations, and other interested groups present at the hearing had an opportunity to present evidence and question witnesses.

William Clapp, Special Assistant Attorney General, Centennial Office Building, Saint Paul, Minnesota, appeared for and on behalf of the Department of Natural Resources Staff in support of the within considered amendment. Robert A. Schwartzbauer, Attorney at Law, 2300 First National Bank Building, Minneapolis, Minnesota, appeared representing the International Snowmobile Industry Association.

The record of the within proceedings remained open until 4:30 p.m. of June 28, 1977.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1976), this Report shall be available for review to all affected individuals upon request for at least ten days. The Commissioner of the Department of Natural Resources shall, if he proposes to adopt the amendment as originally proposed or as amended, submit the complete hearing record, including his Findings and Order, to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. The Commissioner shall also clearly indicate any changes to the amendment as originally proposed, preferably in the format that will be submitted to the State Register

for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Commissioner of the Department of Natural Resources on the issues of substantial change in the original proposal and in compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Department of Natural Resources shall be responsible for filing the amendment with the Attorney General.

The Hearing Examiner, upon all records, files, evidence, arguments of counsel and written comments filed before the close of the record, hereby makes and issues the following Findings of Fact, Conclusions and Recommendations:

FINDINGS OF FACT

1. That the Order for Hearing issued April 25, 1977, was in all respects proper in form, content, execution and filing.

2. That due, timely and adequate Notice of Hearing as ordered by the Acting Commissioner of the Minnesota Department of Natural Resources was properly served and filed on April 25, 1977. Notice of the within subject public hearing was published in the State Register on Monday, May 9, 1977. [1 S.R. 1597] All other relevant substantive and procedural requirements of statute or rule have been complied with in order to proceed to public hearing pursuant to the law.

3. That the Hearing Examiner and the Department of Natural Resources has jursidiction over the subject matter of the within subject proceedings.

4. That the Minnesota Department of Natural Resources' authority to amend the subject Regulation is contained in Minn. Stat. § 84.86 (1976).

5. That the within subject proceeding was held for the purpose of considering an amendment to Minn. Reg. NR 57(e)(4)(bb), which currently is as follows:

> (bb) No snowmobile manufactured on or after July 1, 1977, for sale in Minnesota except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

According to the Minnesota Department of Natural Resources, the purpose of the proposed amendment is to indefinitely postpone the July 1, 1977 effective date of the 73 dB(A) limit. [Tr. at p. 10] In the interim, the Commissioner of the Minnesota Department of Natural Resources would undertake further study to determine an appropriate, firm date for beginning the 73 dB(A) requirement or such other dB(A) requirements as he deems appropriate. After the Commissioner makes such study, his recommendations shall be subject to public hearings before the Regulation is further amended. [Tr. at p. 9]

Another purpose of the proposed delay is to ascertain whether or not federal regulations will become a reality, and how the State will be effected by such federal regulation. [Tr. at p. 10]

The language of the proposed amendment is as follows:

> (bb) No snowmobile manufactured on or after ~~July 1, 1977~~ (date to be determined after public hearing) for sale in Minnesota, except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

6. The snowmobile industry has been on notice of Minnesota's 73 dB(A) maximum sound level limit since December of 1971. The first rules promulgated by the Department of Natural Resources which established a fixed decibel sound level limit for snowmobiles required that after June 30, 1970, the noise level limit would be 86 dB(A). For machines manufactured after February 1, 1972, the limit was 82 dB(A). After February 1, 1974, the maximum allowable sound level limit was to be 73 decibels.

A public hearing was held in June of 1972, to consider technical facts and medical data on noise emissions and other regulatory requirements. As a result of the public hearing held June 1, 1972, and subsequent public hearings, the 73 dB(A) maximum sound level limit was postponed on two prior occasions. First, the date was postponed to June of 1976. Subsequently, the date was further postponed to July 1 of 1977.

The regulation now in effect requires that snomobiles manufactured after April 1, 1975, emit no more than 78 dB(A), and those

manufactured after July 1, 1977, emit no more than 73 dB(A).

7. The record of proceedings held in 1976, and which concluded with the effective date of a 73 dB(A) sound level limit being postponed to July 1, 1977, has been made a part of the within proceedings and have been considered herein.

8. After reviewing the entire record, the Hearing Examiner finds there is no substantial new evidence entered into the record of the within proceedings as compared with the record of proceedings held in 1976.

9. The principle contentions of the snowmobile industry are that the 73 dB(A) sound level limit is neither technically feasible nor economically reasonable and that a sound level limit of 73 dB(A) cannot be justified from an ecological standpoint when considering the decline in complaints against snowmobile noise.

10. The Hearing Examiner finds that it is technically feasible to manufacture snowmobiles which comply with the 73 dB(A) sound level limit requirement.

11. There is insufficient evidence in the record of the within proceedings to determine whether or not it would be economically reasonable to require snowmobile manufacturers to meet the 73 dB(A) sound level limit. This Finding supports the proposed amendment insofar as it would allow the Department of Natural Resources additional time to accumulate economic data.

The snowmobile industry asserts that there would be a decrease in machine performance and a substantial cost increase in order to produce a vehicle which meets the 73 dB(A) requirement. The cost increase would be passed on to final consumers and the industry asserts that such added cost would have substantial adverse economic impact on the industry as a whole. However, the Hearing Examiner finds that such future industry projections are subject to too many variables which were not made a part of the within proceedings and which therefore, can neither be accepted or rejected with confidence.

12. The snowmobile industry's assertion that a 78 dB(A) sound level limit is compatible with our environment cannot be

accepted in total. The intrusion of a vehicle emitting 78 dB(A) in the Boundary Waters Canoe Area can be considered as substantial "noise pollution." On the other hand, the intrusion of a vehicle emitting 73 dB(A) in the same area can have a similar adverse environmental impact. If one examines a noisy urban area, the introduction of a snowmobile emitting 78 dB(A) may not be significant as a noise contributing factor; but, if there is an objective to reduce total environmental noise in such urban area, a vehicle emitting 73 dB(A) would obviously be preferable to a vehicle which emits 78 dB(A).

13. Examining the snowmobile noise problem from the view point of complaints received by governmental agencies, it is evident that there has been a substantial reduction in the filing of such complaints over the years. This fact has been previously supported by representatives of the Minnesota Department of Natural Resources.

The Minnesota Pollution Control Agency received a total of three snowmobile noise complaints in a file containing a total of 983 complaints about noise pollution. However, these figures should be placed into perspective before judging their significance. Of importance is the fact that the Noise Section of the Minnesota Pollution Control Agency does not file all complaints received particularly if during a complaint interview a quick solution resolves the problem. In the case of a snowmobile noise complaint, the complainant would be informed of the Minnesota Department of Natural Resources Regulations and referred to the Department of Natural Resources or proper enforcement authorities. In such areas, the Minnesota Pollution Control Agency will normally only file a complaint if it has unique circumstances. Perhaps of equal significance is the fact that most of the 983 complaints on file with the Minnesota Pollution Control Agency, are from the Minneapolis-St. Paul metropolitan area, where snowmobile use has been virtually banned by most communities for the last few years. Notwithstanding such reservations, the Pollution Control Agency indicates that "snowmobile noise complaints are indeed decreasing with the passing of years." Such information was received by the Hearing Examiner in a letter from Mr. Alfonso E.

Perez by letter dated June 28, 1977.

14. Minnesota is a key state for snowmobile enthusiasts. In fact, the President and Chief Executive Officer of the International Snowmobile Industry Association referred to Minnesota as "the mother land of snowmobiling in the United States." [Tr. at p. 72] The Hearing Examiner refers to the stated import of Minnesota to emphasize the importance of the decisions made in this State with respect to snowmobile noise emissions. It could well be that other states look to Minnesota for guidance.

With respect to other states, the President of International Snowmobile Industry Association testified that four other states have goals to reduce snowmobile noise below a 78 dB(A) sound level limit. Those states are (1) Oregon, which is holding a hearing this year on a 75 dB(A) regulation to be effective in 1979, (2) Rhode Island, which has a 73 dB(A) requirement as of June 1, 1978, (3) Connecticut, which has a 73 dB(A) requirement as of January 1, 1978, and (4) New York, which has a 73 dB(A) requirement effective June of 1978. This witness indicated that New York was in the process of holding hearings in the state legislature which may result in the declaration of a two-year moratorium on the effective date of New York's 73 dB(A) sound level limit. The witness also testified that all other states of the union have established sound level limits of 78 dB(A) or higher.

However, at the request of the Hearing Examiner, the Department of Natural Resources contacted other states in order to verify whether or not they had snowmobile sound level limits more stringent than 78 dB(A). The Agency of Environmental Conservation of the state of Vermont responded to the Hearing Examiner by letter dated June 17, 1977. The letter indicates that Vermont requires a manufacturer's certification of noise levels which must indicate that snowmobile noise emission levels do not exceed 73 dB(A). The writer of that letter also indicated that:

> "Presently, there are no changes to this regulation being considered."

Another letter from the State of Iowa directed to the Hearing Examiner and dated June 20, 1977, indicated that that state is

evaluating the possibility of lowering its existing snowmobile noise emission sound level limits to approximately 75 decibels, but that they have made no firm decision as of yet.

15. Both the Isaac Walton League of American and the North-star Chapter of the Sierra Club filed written submissions with the Hearing Examiner opposing the within considered amendment. Those environmental organizations urged implementation of the existing regulation and suggested even more stringent noise standards for snowmobiles.

16. The Hearing Examiner finds: That there is much conflicting evidence with regard to the economic reasonableness of requiring the snowmobile industry to meet a 73 dB(A) maximum sound level limit requirement; that Minnesota is one of the lead states in establishing snowmobile sound level limits which could become prevalent throughout the nation; that it is technically feasible to manufacture snowmobiles which meet a 73 dB(A) maximum sound level limit according to measurement techniques set forth in DNR Regulations; and, that there has been a substantial reduction in the noise emitted from snowmobiles manufactured during the last 10 to 15 years. Furthermore, snowmobile noise complaints have declined to a substantial degree. The reasons for such decline in complaints cannot be ascertained from the records of the within proceeding. The decline of complaints against snowmobile noise can be attributed to (1) the fact that machines manufactured for today's market are substantially quieter than machines manufactured in years past; (2) because of economic recession, both the purchase of new machines and the use of existing machines has either declined or failed to increase at a constant rate of growth; (3) many local ordinances prohibit the use of snowmobiles within the boundaries of a municipality, thereby reducing citizen exposure to potential snowmobile noise.

In light of the many unsettled questions referred to in this Report, the Hearing Examiner finds that additional time should be allowed for the Commissioner of the Department of Natural Resources to review the entire question of snowmobile sound level limits. However, the issues should not be shelved indefinitely. The Hearing

Examiner finds that a two-year maximum moratorium should be sufficient to examine the issues of snowmobile noise in today's society.

CONCLUSIONS

A. That the Minnesota Department of Natural Resources duly acquired and now has jurisdiction over the subject proceeding.

B. That all relevant legal and procedural requirements of statute and regulation have been properly complied with.

C. That the Minnesota Department of Natural Resources has statutory authority to promulgate and adopt the within considered amendment.

D. That environmental organizations strongly support a maximum sound level limit for snowmobiles of 73 dB(A) or more stringent maximum sound level limits.

E. That the proposed amendment would in effect create an indefinite moratorium whereby Minnesota would allow snowmobiles a maximum sound level limit of 78 dB(A) while postponing the more stringent 73 dB(A) requirement until some indefinite time in the future. However, the issues should be finally concluded as soon as possible. Therefore, the Hearing Examiner concludes that any amendment adopted should not extend final action by the Department of Natural Resources for longer than a two-year period. The Hearing Examiner urges the Department of Natural Resources to make all possible efforts toward final resolution as soon as practicable within the next two years.

The Hearing Examiner concludes that in making his final recommendations, the Commissioner of the Department of Natural Resources should consider consulting with other states in order to help promote uniformity for the benefit of snowmobile manufacturers, enthusiasts and the general public. If, after appropriate studies by the Commissioner it is determined that a maximum sound level limit of 78 dB(A) is justifiable from an ecological standpoint, the Regulation should be amended so as to remove all references to a more stringent standard.

RECOMMENDATIONS

IT IS HEREBY RESPECTFULLY RECOMMENDED: That the Minnesota

Department of Natural Resources amend its Regulations so as to allow the Commissioner an additional two years to study the snowmobile noise problem in accordance with this Report. Accordingly, it would be necessary to postpone the effective date of a 73 dB(A) maximum sound level limit until such time as further hearings are held to establish a definitive regulation.

IT IS FURTHER RECOMMENDED: That the goal of the Minnesota Department of Natural Resources should be to establish a snowmobile sound level limit regulation which will not be subject to frequent changes, amendments, and delays.

Dated: July 26, 1977.

William Seltzer

WILLIAM SELTZER
Hearing Examiner

353

A. W. Clapp, III
Special Assistant
Attorney General

May 3, 1978

- Department of Natural Resources HR 57
Relating to Snowmobile Noise Reduction

353

Attorney General

A. W. Clarr, III
Special Assistant
Attorney General

February 22, 1978

Michael B. Miller
Special Assistant
Attorney General

296-4692

Rule DOR 57(e)(4)(ab)

Bill,

As we discussed, I am returning your resubmission of the above-captioned rule. You may resubmit it as originally submitted, and it will be treated as suspension of a rule and therefore proper.

MBM:mb

Enclosure

353

Attorney General

A. W. Clapp, III
Special Assistant
Attorney General
Department of Natural Resources

January 18, 1978

Michael B. Miller
Special Assistant
Attorney General

296-4692

NR 57 (e)(4)(bb)

Bill,

Please accept my apology for the delay in responding on rejection of this rule. After I came to your office to discuss it with you and left the file with you, I must have overlooked dictating the memorandum summarizing our discussion.

The reason for rejection of this amendment was that by indefinitely postponing the effective date of the rule, the Department rendered it no rule. Having no effect, it could not be enforced and should therefore not be filed with the Secretary of State.

MBM:mb

STATE OF MINNESOTA

COUNTY OF RAMSEY

DEPARTMENT OF

NATURAL RESOURCES

In the Matter of a
Proposed Rules Amendment
Extending the Target Date
for Snowmobile Noise
Reduction

ORDER FOR HEARING

WHEREAS, the International Snowmobile Industry Association (ISIA) has asked the Commissioner of Natural Resources to eliminate from the state's snowmobile rules the requirement that snowmobiles manufactured after July 1, 1977, not be sold in this state if they exceed 73 decibels measured on the A scale (73 dBA) pursuant to the test procedure known as SAE J192; and

WHEREAS, ISIA and its members assert that current technology does not permit manufacture of a 73 dB(A) snowmobile with marketable performance and price characteristics; but

WHEREAS, the Commissioner believes that the general public has welcomed the lower snowmobile noise levels achieved in recent years under the scheduled reductions of noise levels required by rule of the Commissioner, and further, that the general public expects and would welcome further reductions in snowmobile noise levels and thus enable public bodies at all levels to increase recreational opportunities for snowmobiling; and

WHEREAS, the Commissioner needs time to gather information to assist in a determination of the earliest feasible and prudent date for achieving the 73 dB(A) or other lower noise levels;

NOW THEREFORE, the Commissioner of Natural Resources orders that a public hearing be held pursuant to the rule-making provisions of Minnesota Statutes Chapter 15 to consider the following proposed amendment to Minnesota Regulations NR 57(e)(4)(bb)

(bb) No snowmobile manufactured on or after [[July 1, 1977]] (date to be determined after public hearing) for sale in Minnesota except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

The Commissioner will immediately begin a study to determine an appropriate firm date for beginning the 73 dB(A) requirement. The conclusion he reaches will be the subject of a rules hearing within a year of this order.

The hearing shall be held Wednesday, June 8, 1977, in Room 81 of the State Office Building, beginning at 9:30 a.m.

Dated: April 25, 1977.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

MICHAEL C. O'DONNELL
Acting Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF A
PROPOSED RULES AMENDMENT
EXTENDING THE TARGET DATE
FOR SNOWMOBILE NOISE REDUCTION

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room 81 of the State Office Building, Saint Paul, Minnesota, on Wednesday, June 8, 1977, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard. The hearing will be conducted as provided by Minnesota Statutes sections 15.0411 through 15.051 and section 15.052 and as provided by the rules for rule-making of the Office of Hearing Examiners.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to:

William Seltzer
1745 University Avenue
Saint Paul, Minnesota 55105

either before the hearing or within 20 days after the close of the hearing.

The proposed amendment is as follows:

(bb) No snowmobile manufactured on or after [[July 1, 1977]] (date to be determined after public hearing) for sale in Minnesota except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

The purpose of the amendment is to allow the Commissioner time to undertake a study to determine an appropriate firm date for begining the 73 dB(A) requirement. The conclusion he reaches will be the subject of a rules hearing within a year of this amendment.

This amendment is made necessary by the continuing assertion by the International Snowmobile Industry Association and its member manufacturers that current technology does not permit manufacture of a 73 dB(A) snowmobile having marketable performance and price characteristics.

Please be advised that pursuant to Minn. Stat. § 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Dated: April 25, 1977

Michael C. O'Donnell

MICHAEL C. O'DONNELL
Acting Commissioner

DNR ex 3

SAR EXH 3
6-P-77 J.T.K.

RECEIVED
MAY 12 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In The Matter Of A
Proposed Rules Amendment
Extending The Target Date
For Snowmobile Noise Reduction.

C E R T I F I C A T E

I hereby certify that the attached 506 labels and 2 sheets constitute the complete list of those who as of 10:15 o'clock a.m. this 4th day of May, 1977, have requested pursuant to Minn. Stat., Section 15.0412, subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearings on proposed rules on subjects captioned above.

Joan Anderson Growe
SECRETARY OF STATE
JOAN GROWE

Ceil Dirlam

DNR ex 4

RECEIVED
MAY 12 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a
Proposed Rules Amendment
Extending The Target Date
For Snowmobile Noise
Reduction.

AFFIDAVIT OF MAILING

DNR EXH 4
6-8-77
E.L.K.

EARL LHOTKA, being first duly sworn, deposes and says:

That on May 6, 1977, at St. Paul, Ramsey County, Minnesota, Joline Fournelle served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped and with postage prepaid, to all persons and associations at the addresses on the attached list.

Earl R. Lhotka

Subscribed and sworn to before
me this 12th day of May, 1977.

Helen A. Alexander
Notary Public

HELEN A. ALEXANDER
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
My Comm. Expires Sept. 8, 1983

PROPOSED RULES

Department of Natural Resources

Notice of Hearing on Snowmobile Noise Reduction

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room 81 of the State Office Building, Saint Paul, Minnesota, on Wednesday, June 8, 1977, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard. The hearing will be conducted as provided by Minn. Stat. §§ 15.0411 through 15.051 and § 15.052 and as provided by the rules for rule-making of the Office of Hearing Examiners.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to:

William Seltzer
1745 University Avenue
Saint Paul, Minnesota 55105

either before the hearing or within 20 days after the close of the hearing.

The purpose of the amendment is to allow the Commissioner time to undertake a study to determine an appropriate firm date for begining the 73 dB(A) requirement. The conclusion he reaches will be the subject of a rules hearing within a year of this amendment.

This amendment is made necessary by the continuing assertion by the International Snowmobile Industry Association and its member manufacturers that current technology does not permit manufacture of a 73 dB(A) snowmobile having marketable performance and price characteristics.

Please be advised that pursuant to Minn. Stat. § 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Rules as Proposed

NR 57 E. 4.b. Required equipment. No snowmobile manufactured on or after [July 1, 1977] (date to be determined after public hearing) for sale in Minnesota except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

Michael C. O'Donnell
Acting Commissioner

State University Board

Admissions Policies, Equal Opportunity and Criteria for Resident or Non-Resident Tuition Status

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Conference Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota on Tuesday, June 7, 1977, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Peter Erickson, Room 300, Hearing Examiners Office, 1745 University Avenue, St. Paul, Minnesota 55104 (612) 296-8118 either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would update existing State University Board policy relating to purpose, admissions policies, equal opportunity, and criteria for resident and non-resident tuition status. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Office of the Chancellor, State University System, 407 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. ch. 15, as amended, and Minn. Stat. ch. 136, as amended. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony it will be intro-

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a
Proposed Rules Amendment
Extending the Target Date
For Snowmobile Noise
Reduction.

STATEMENT OF NEED

One year ago, after public hearing, the Commissioner of Natural Resources found that snowmobile manufacturers were not yet able to manufacture a 73dB(A) (per SAE J 192) snowmobile without significantly increasing the weight and the price of the machine. Therefore, the Commissioner extended the deadline for the reduction from 78 dB(A) to 73, to July 1, 1977.

Now it is one year later, and the industry reports it is no closer to being able to manufacture a 73dB(A) machine with acceptable price and performance characteristics. The Commissioner has no evidence to the contrary.

If the deadline is not again extended, Minnesota snowmobile buyers will be limited to machines made before July 1, 1977. When that supply is gone, owners of 81dB(A) and noisier pre-1975 machines will be unable to buy new 78dB(A) machines. This result would be of no advantage to either snowmobile users or the general public of the state.

It is therefore necessary to extend the deadline The extension is being made to a date uncertain, in order to make sure another hearing of this nature will not be needed.

In his order calling for this hearing, the Commissioner of Natural Resources stated:

> "The Commissioner will immediately begin a study to determine an appropriate firm date for beginning the 73dB(A) requirement. The conclusion he reaches will be the subject of a rules hearing within a year of this order."

The order is dated April 25, 1977. The result of the study and the hearings will be a realistic target date for the manufacture of 73 decibel snowmobiles which the industry will recognize as a firm commitment of the State of Minnesota.

Dated: _____, 1977.

Earl R. Lhotka

EARL LHOTKA, Director
Division of Enforcement

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed
Rules Amendment Extending the
Target Date For Snowmobile
Noise Reduction.

STATEMENT OF EVIDENCE

The agency will be represented at the public hearing on the above-entitled matter by Earl Lhotka, Director of the Division of Enforcement, and Joseph Alexander, Assistant Commissioner for Administration.

The agency will not call any witnesses, but it anticipates testimony from the International Snowmobile Industry Association and from snowmobile manufacturers that the target date for 73dB(A) needs to be further postponed.

The statutory authority for the Commissioner's snowmobile regulations is Minn. Stats. sections 84.81 - 84.88, and in particular, section 84.86. Regulations on snowmobiles are Minn. Regs. NR 51-57.

The agency will submit as evidence the transcript of the hearing on the same subject held May 18, 1976, in the State Office Building auditorium at St. Paul, Minnesota, with particular reference to the following testimony regarding the difficulties involved in making a 73 decibel snowmobile.

Pages 22-42	Patrick Doyle, Outboard Marine Corporation
Pages 83-94	John Penn, Artic Enterprises
Pages 94-95	Warren Dowse, Bombarder
Pages 96-102	Lowell Haas, Scorpion
Pages 105-107	James Klimes, Deere & Company
Pages 111-113	Robert Dieterle, Massey-Ferguson
Pages 114-115	Michael Vaughan, Kawasaki
Pages 135-136	John Dwyer, Polaris

Dated: _____, 1977

Earl R. Lhotka

EARL LHOTKA, Director
Division of Enforcement

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction

FINDINGS AND CONCLUSIONS OF THE COMMISSIONER

The Commissioner of Natural Resources adopts as his own the findings, conclusions and recommendations contained in the Report of the Hearing Examiner on the above-entitled matter, except to the extent the following remarks indicate otherwise.

The purpose of the hearing was to determine whether or not to postpone to a date uncertain the target date for the 73dB(A) noise emission requirement, or some insubstantial variant of that proposed amendment. The reason for the amendment, and the Commissioner's objective, is well expressed by the hearing examiner in his Finding #5 and in his Recommendations - to give the Commissioner time to undertake further study to determine an appropriate, firm date for beginning the 73dB(A) requirement or such other dB(A) requirements as he deems appropriate. To the extent ISIA testimony and the examiner's findings go to the technical feasibility, economic reasonability, and need for the 73dB(A) standard, the discussion is premature. These are the issues the Commissioner is going to study and which will be argued and decided at the hearing which will occur after the study is done.

The hearing examiner is quite right that it shouldn't take more than two years to complete the study, propose a definitive rule, have the hearing and reach a decision. In fact it is the Commissioner's goal to be done with the study and back at public hearing by April, 1978. But the unforeseen can happen and if it should the uncertain date assures that there will be no repeat of the 1976 and 1977 hearings.

Dated at Saint Paul, Minnesota, this 21st day of September, 1977.

WILLIAM B. NYE
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction

ORDER ADOPTING RULE

WHEREAS a hearing on the above entitled matter was held on June 8, 1977; and

WHEREAS the hearing examiner reports the hearing was properly held; and

WHEREAS the hearing examiner concludes it is reasonable and necessary to extend the target date for the 73dB(A) noise emission limit; and

WHEREAS, for reasons stated in the Findings and Conclusions of the Commissioner, the Commissioner finds it is better to extend the target date to a date uncertain, rather than to a specific date two years from now as recommended by the hearing examiner;

NOW THEREFORE IT IS ORDERED that Minnesota Regulation NR 57 (e) (4) (bb) be amended exactly as proposed at the hearing, namely as follows:

> (bb) No snowmobile manufactured on or after ~~July 1, 1977~~ (date to be determined after public hearing) for sale in Minnesota, except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

Dated at Saint Paul, Minnesota, this 21st day of September, 1977.

William B. Nye

WILLIAM B. NYE
Commissioner

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF NATURAL RESOURCES DIVISION

In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction

CERTIFICATE

OF

COMPLIANCE

I have examined the proposed amendment to Minn. Regs. NR 57 (e)(4)(bb), and the supporting documents. Based on that and my personal familiarity with the proceedings, I certify that the requirements of applicable laws and rules have been satisfied.

Dated _____

A. W. Clapp III
Special Assistant Attorney General

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction	SUPPLEMENTARY FINDINGS AND CONCLUSIONS OF THE COMMISSIONER

By Order dated September 21, 1977 the Commissioner of Natural Resources adopted an amendment to the snowmobile rules indefinitely extending the target date for the 73 decibel noise emission level, for the reasons stated in the Findings of the same date.

Having subsequently reviewed the rule amendment for form and legality, as required by law, the Attorney General has determined that the amendment is unlawful because a rule without an effective date is not a rule.

The hearing examiner recommended adopting the date of July 1, 1979. In light of the determination of the Attorney General, I accept that recommendation.

This document supplements the FINDINGS AND CONCLUSIONS OF THE COMMISSIONER in the above-entitled matter dated September 21, 1977.

Dated January 26, 1978

William B. Nye

WILLIAM B. NYE
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Rules Amendment Extending the Target Date for Snowmobile Noise Reduction

ORDER ADOPTING RULE

WHEREAS the Attorney General has determined that the rule amendment adopted by my Order dated September 21, 1977, is illegal because a rule without an effective date is no rule; and

WHEREAS therefore SUPPLEMENTARY FINDINGS AND CONCLUSIONS OF THE COMMISSIONER have been issued;

NOW THEREFORE IT IS ORDERED that Minnesota Rule NR 57 (e)(4)(bb) be amended as follows:

(bb) No snowmobile manufactured on or after July 1, ~~1977~~ 1979 for sale in Minnesota, except a snowmobile designed for competition purposes only, shall be sold or offered for sale, unless it is so equipped that overall noise emission does not exceed 73 decibels on the A scale at 50 feet.

This Order amends the ORDER ADOPTING RULE in the above-entitled matter dated September 21, 1977.

Dated January 26, 1978

William B. Nye

WILLIAM B. NYE
Commissioner