

State



STATE OF
MINNESOTA

Register

HIGHLIGHTS:

Equal Employment Opportunity and School Desegregation
—Adopted Rules from the Department of Education

Snowmobile Noise Reduction
—Proposed Rules from the Department of Natural Resources

University Admissions, Equal Opportunity, and Tuition
—Proposed Rules from the State University Board

Taxation and Inspection of Petroleum Products
—Public Opinion Sought by the Department of Revenue

Hearings for Rulemaking, Contested Cases, Power Plant Sitings, and
Transmission Line Routings
—Public Opinion Sought by the Office of Hearing Examiners

Minnesota Chemical Dependency Comprehensive Plan
—Public Opinion Sought by the Department of Public Welfare

Family-Oriented Outpatient Treatment Program
—Requests for Proposals by the Department of Public Welfare

EQC Monitor:

Adopted Rules Governing Assessment of Costs for Environmental Impact
Statements

Natural Resource Permit Applications

Negative Declarations

EIS Preparation Notice

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*Proposed and adopted rules affecting the environment are found in the EQC Monitor section.

List of MCAR Rules Affected*

List of rules within the Minnesota Code of Agency Rules affected by documents published in the State Register during the current quarter beginning with Vol. 1, No. 40:

Department of Agriculture

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Department of Education

EDU 44 (proposed)	1539
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PSC 3	1477
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*New rules, both proposed and adopted, and which have never been disseminated or published, are not included in the List of MCAR Rules Affected. Rules which are listed as "uncodified" have been disseminated, but have never been published in the MCAR.

RULES

Department of Education Equal Educational Opportunity and School Desegregation

The rules published at State Register Vol. 1, No. 13, p. 525, October 4, 1976 (1 S.R. 525), are adopted and are identical in every respect to their proposed form, with the following amendments:

EDU 663 Notices.

A. The content of any notice of noncompliance shall be such as is specified in Minn. Stat. § 124.15, subd. 3.

B. Any notice to a local board which is required by this chapter shall be written and shall be sent by certified mail to the superintendent and to the clerk of the local board of the district at their respective business addresses. For the purposes of this chapter, the business address of the clerk of the local board is deemed to be the main administrative office of the district.

C. The Commissioner shall provide to each school district in the state of Minnesota the documents specified in Exhibit B, number 1, and shall update the material as needed to insure compliance.

EDU 664 [[Appearance before the state board.]] Appeal of commissioner's determination.

Any school district aggrieved by a decision required of the commissioner under this chapter may [[serve a written request on the state board of education, within 30 days of any such decision, to appear before said board.]] dispute that decision pursuant to Minn. Stat. § 124.15, subd. 4.

[[The appearance shall be made at the next regular state board meeting following receipt of such request. Following such appearance the board may, in writing, support, modify, or reject the commissioner's decision. Any such notice served by a school district shall stay any proceeding pursuant to Minn. Stat. § 124.15, to reduce state aids for noncompliance with this chapter until a determination by the board.]]

EDU 665 Duties of the commissioner.

[[A.]] Upon receipt of the school board's assurance of compliance and the supporting data, the commissioner shall: [[process the data and forward it to the commissioner of human rights, pursuant to Minn. Stat. § 124.15, subd. 2a.]]

A. In order to determine whether special state aid shall be withheld, process the data and forward it to the commissioner of human rights, pursuant to Minn. Stat. § 124.15, subd. 5a.

B. In order to determine whether a violation of federal laws prohibiting discrimination has occurred:

1. [[B.]] Within 90 days of the receipt of the data, the commissioner of education shall review it to determine whether a school district is in compliance with federal law prohibiting discrimination.

2. [[C.]] If, after review of the data, it appears to the commissioner that a violation of federal law exists, he shall make a prompt investigation.

3. [[D.]] If the investigation indicates non-compliance with federal law, the commissioner shall inform the school district.

[[E.]] If the noncompliance cannot be resolved by informal means, the commissioner may proceed to suspend or terminate federal assistance.

Exhibit B

In support of its "Assurance of Compliance with State and Federal Law Prohibiting Discrimination", each school board shall affirm annually that it has as reference all documents listed in 1 (a-1) and that it has complied with all items 2-16.

Yes No GENERAL

1. Does the district have a copy of the following documents available for reference in each school building?

_____ a. Minn. Stat. § 363.03, Minnesota Human Rights Act.

_____ b. Minn. Stat. § 126.21, relating to sex discrimination and equal opportunity in athletic programs.

_____ c. Minn. Stat. § 124.15, relating to reduction of state aid for non-compliance with state and federal law prohibiting discrimination.

_____ d. EDU 4, curriculum, relating to course offerings on the basis of sex.

_____ e. EDU 620-639, relating to equal-

ity of educational opportunity and school desegregation.

Title VI of the Civil Rights Act of 1964?

f. Regulations under Title VI of the Civil Rights Act of 1964 as amended (45 CFR Part 80).

g. May 25, 1970, Office of Civil Rights memorandum, "Identification of Discrimination and Denial of Service on the Basis of National Origin".

h. August, 1975, Office of Civil Rights memorandum, "Identification of Discrimination in the Assignment of Children to Special Education Programs".

i. Title VII of the Civil Rights Act of 1964 (P.L. 88-352), as amended by the Equal Employment Opportunity Act of 1972 (P.L. 92-261).

j. Record keeping and filing requirements for report EEO-5 (29 CFR 1602.39-1602.46).

k. Final Title IX regulations implementing education amendments of 1972, prohibiting sex discrimination in education, effective July 21, 1975 (45 CFR Part 86).

l. The Age Discrimination in Employment Act of 1967 (P.L. 90-202).

2. Has the district designed and implemented an information program to inform the district staff of its civil rights responsibilities?

Yes No

TITLE IX PROCEDURES

TITLE IX PROCEDURES

4. Policy Notification: Has a policy statement of nondiscrimination on the basis of sex been adopted, published, and disseminated to students, parents, employees, applicants for employment, sources of referral, and all unions or professional organizations?

5. Title IX Coordinator: Has the district designated an employee(s) to coordinate compliance efforts and to investigate complaints of sex discrimination; and has this person's name, office address, and phone number been given to students, parents, and employees?

6. Grievance Procedures: Has the district adopted and published grievance procedures providing for prompt and equitable resolution of student and employee complaints of possible sex discrimination under Title IX?

7. Self-Evaluation: Has the district completed and have on file a self-evaluation identifying any policies or practices which may not comply with Title IX; and have modifications and remedial steps been planned or taken to correct non-compliance?

8. Assurances: Has the district's efforts toward achieving compliance with Title IX been sufficiently well-documented to provide information necessary for assurance statements for applications for federal assistance?

EDUCATIONAL SERVICES

9. Access to courses:

TITLE VI PROCEDURES

3. Does the district have on file a signed copy of HEW No. 441, Assurance of Compliance with the Department of Health, Education, and Welfare Regulation under

Yes No

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.

RULES

—	—	<p>a. <u>Are students assigned to required courses without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability in —</u></p>	—	—	<p><u>criteria of vocal range or quality)?</u> <u>— other courses _____?</u> <u>If no, explain _____</u> _____ _____</p>
—	—	<p><u>— health courses (except portions dealing with human sexuality)?</u></p>			
—	—	<p><u>— physical education courses?</u></p>			
—	—	<p><u>— industrial, business, vocational, technical education courses?</u></p>			
—	—	<p><u>— home economics courses?</u></p>			
—	—	<p><u>— music courses (except criteria of vocal range or quality)?</u></p>	Yes	No	
—	—	<p><u>— other courses _____?</u> <u>If no, explain _____</u> _____ _____</p>	—	—	

10. Counseling:

a. Are all testing and appraisal materials the same for all students without regard to sex?

b. Do any classes have a disproportionate number (Over 80%) of any

EDUCATIONAL SERVICES

— race?

— sex?

— other _____?
If yes, explain _____

Yes No EDUCATIONAL SERVICES

—	—	<p>b. <u>Are elective courses open equally to all students and are assignment to such classes made without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability in —</u></p>	—	—	<p>c. <u>If a particular class contains over 80% of one sex or race, etc., has the district taken steps to assure that such disproportion is not the result of discrimination in procedures for assignment to classes, in counseling, or in appraisal materials?</u></p>
—	—	<p><u>— health courses (except portions dealing with human sexuality)?</u></p>			
—	—	<p><u>— physical education courses?</u></p>			
—	—	<p><u>— industrial, business, vocational, technical education courses?</u></p>			
—	—	<p><u>— home economics courses?</u></p>	—	—	<p><u>— extra-curricular activities?</u></p>
—	—	<p><u>— music courses (except</u></p>	—	—	<p><u>— insurance benefits?</u></p>

11. Treatment of students:

Are students treated equally regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability with reference to —

RULES

- — — health services?
- — — employment assistance?
- — — honors or awards?
- — — rules for behavior and dress codes?

grams for 7th grade and above, or for 12 years old and older, designated for and open to members of both sexes on an equal basis (except when separate teams are necessary to provide equal opportunity to members of both sexes?)

If no, explain _____

If no, explain _____

Yes No **EDUCATIONAL SERVICES**

12. Student marital/parental status?

— — **a. Does the district have a written policy which specifies that pregnant students shall not be excluded from any educational program or activity except when the student requests voluntarily to participate in a separate portion of the program or activity?**

c. If the district provides separate teams for each sex, are the number of sports in each season the same for boys and for girls?

If no, explain _____

— — **b. If a medical certificate is required of pregnant students, is it also required of all other students for physical and emotional conditions requiring the attention of a physician?**

d. If the district provides separate teams for each sex, are the following services equal for members of both sexes?)

— provision of equipment and supplies?

— scheduling of games and practice time?

13. Athletics:

— — **a. Are all athletic programs for the sixth grade and below, or for 11 years old and younger, designated for and open to members of both sexes on an equal basis?**

— travel and per diem allowance?

— opportunity to receive coaching of equal expertise?

If no, explain _____

Yes No **EDUCATIONAL SERVICES**

— assignment and compensation of coaches?

Yes No **EDUCATIONAL SERVICES**

b. Are all district athletic pro-

— provision of athletic facilities, including locker rooms?

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RULES

		<u>Yes</u>	<u>No</u>	<u>EMPLOYMENT PRACTICES</u>
—	<u>— publicity?</u>			
—	<u>If no, explain</u> _____ _____ _____	—	—	<u>d. Are district procedures for recruitment, selection, assignment (including extra-duty assignment), transfer, referral, promotion, retention, and dismissal applied without regard to the above categories?</u>
—	<u>e. If the district provides separate teams in the same sport for boys and girls, is the expenditure per student (exclusive of gate receipts) the same for members of each sex?</u>	—	—	<u>e. Are position descriptions and job classifications free from all references to the above categories except when based on a bona fide occupational qualification?</u>
—	<u>If no, explain</u> _____ _____ _____			<u>If no, explain</u> _____ _____ _____
<u>EMPLOYMENT PRACTICES</u>				
—	<u>14. Are all employment and personnel practices free from discrimination on the basis of age (40 to 64), race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, or disability (except when based on a bona fide occupational qualification) as follows:</u>	—	—	<u>15. a. Does the district preserve all personnel and employment records for at least two years, as required by 29 CFR 1602.40?</u>
—	<u>a. Are district employment application forms free from all reference to any of the above categories?</u>	—	—	<u>b. Has the record of applicant flow for the past two years been examined to assure that all district employment policies, criteria, and procedures are being applied in compliance with state and federal laws prohibiting discrimination?</u>
—	<u>b. Are district salary schedules free from any differential compensation on the basis of any of the above categories?</u>	—	—	<u>16. Do position descriptions, job classifications, and salary schedules:</u>
—	<u>c. Are district fringe benefits free from any differential treatment on the basis of any of the above categories?</u>	—	—	<u>— ensure job-relatedness of employment criteria?</u>
				<u>— ensure equity in compensation classification?</u>
				<u>— ensure equity in compensation for comparable jobs?</u>

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 beginning 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.

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.

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-

PROPOSED RULES

ducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. ch. 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Dr. Garry D. Hays
Chancellor

Rules as Proposed

SUB 1 Purpose. The primary mission of the State University System is to provide accessible, moderate cost, primarily baccalaureate level educational programs and such pre-baccalaureate and post-baccalaureate level programs, as are appropriate to meet the educational needs of the citizens of Minnesota.

As comprehensive institutions with a state-wide clientele, the universities offer a broad range of programs in the liberal arts, sciences, education, business, the fine arts, and selected occupational areas.

As regional institutions, the universities have the additional mission of being responsive to the specific educational, cultural, and service needs of their regions.

SUB 2 Admissions policies. As determined by the university, students may be admitted to a Minnesota State University upon graduation from an accredited high school or the equivalent.

Admission to most programs is subject to one or more of the following: program capacity, facility and resource limitations, requirements of certification or accrediting agencies, and may include high school rank, college grade average, satisfactory completion of specified prerequisites, scores on standardized tests, minimum age or learning experience, and interviews.

SUB 3 Equal opportunity. The State University System accepts its responsibility to insure equal opportunity to all qualified persons regardless of race, creed, religion, color, national origin, age, physical disability, reliance

on public assistance, sex or marital status, as set forth by state or federal anti-discrimination laws.

SUB 4 Criteria for resident and non-resident tuition status.

A. Direct evidence of resident tuition status.

1. Any individual who has graduated from a Minnesota high school within two calendar years of application for admission to a Minnesota State University shall be granted resident tuition status.

2. Any individual who has served in the Armed Forces of the United States of America for a period in excess of 190 days for purposes other than training, and who has been released from such service within ten years of date of registration, may claim resident tuition status.

3. Any individual who has been appointed to a graduate assistantship prior to the first day of classes in a quarter shall be granted resident tuition status for the duration of the appointment.

4. Any individual who has been employed, or whose spouse has been employed, on a full-time basis for twelve months in Minnesota prior to the date of entrance to a university shall be granted resident tuition status provided all income derived from such employment was subject to taxation by the State of Minnesota.

5. Any United States citizen or legal dependent or ward of a United States citizen employed by the federal government or serving in the Armed Forces of the United States and stationed outside of the continental United States, and not a legal resident of any state or of the District of Columbia, may claim resident tuition status.

6. The spouse of a Minnesota resident, as "Minnesota Resident" as used herein, may claim resident tuition status.

7. If a student's parental domicile is relocated to Minnesota, and the student has been residing in the parental domicile for at least one of the past two years, he or she may claim resident tuition status after one year of non-resident tuition.

8. No provision of this section (IV-A) shall apply to bona fide residents of other states which have enacted reciprocal tuition agreements with the State of Minnesota if such individuals are eligible for resident tuition under reciprocity; nor shall any section of this Governing Rule deny resident tuition status to anyone who has been given resident tuition status under section A.

PROPOSED RULES

B. Domiciliary evidence of resident status.

1. The sojourn in this state of a student from another state for the primary purpose of attending school is not residence, for the purpose of this Governing Rule, and it is presumed that a non-resident at the time of his or her enrollment continues in that classification throughout his or her presence as a student except where it can be proved that his or her previous residence has been abandoned and a new one established in Minnesota independently of the university and his or her attendance thereat.

2. Any minor student (i.e., any unmarried individual under age 18 at time of registration) may claim resident tuition status if the person from whom he or she derives residence is a bona fide domiciliary of this state.

3. The following facts alone or in combination shall not be conclusive in determination of residence: employment by the university in any position normally filled by students, voting or registration for voting, ownership of real property, the lease of living quarters, payment of local and state taxes, driver's license or automobile registration, evidence of intention to acquire a residence in this state, or continued presence in Minnesota during academic vacation periods.

C. Change of status. Any student having been initially classified a non-resident and having decided that he or she has become a resident, may initiate action to

effect a change by filing with the university-designated office a petition which shall include a statement of the facts on which the student bases his or her belief, together with supporting affidavits or documentary evidence. Each university shall provide for the review of these petitions.

D. Correction of erroneous classification.

1. If any student who has claimed resident tuition status and been subsequently classified as a non-resident, shall be determined to have been erroneously so classified, he or she shall be reclassified as a resident student and shall be refunded the amount of additional tuition incorrectly charged.

2. Any student determined to have erroneously claimed resident tuition status, shall be reclassified as a non-resident student, and if the cause of the incorrect classification shall be found to be due to any material concealment of facts or false statement made by the student at or before the time of classification, the student shall be required to pay all tuition fees which would have been charged under the correct classification.

E. No student who paid tuition as a resident in the most recent academic year quarter prior to adoption of this rule shall be reclassified as a non-resident without a hearing before a university-designated official or committee.

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.

OFFICIAL NOTICES

Department of Revenue

Notice of Intent to Solicit Outside Opinion on Rules Governing Taxation and Inspection of Petroleum Products

The Department of Revenue is drafting amendments to the rules relating to taxation and inspection of petroleum products. The rules are authorized by Minn. Stat. § 296.27 (1976). The rules for which amendments are being considered deal with refunds, special fuel requirements and road tax.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Mr. James F. Dagen, Director
Petroleum Division
Department of Revenue
1276 University Avenue
St. Paul, Minnesota 55104

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3511, and in person at the above address.

All statements of information and comment must be received by June 1, 1977. Any written materials received by the Agency shall become part of the hearing record.

Office of Hearing Examiners

Notice of Intent to Solicit Outside Opinion Regarding Rulemaking, Contested Case, Power Plant Siting, and Transmission Line Routing Hearings

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (1976) that the Minnesota Office of Hearing Examiners will propose to amend the existing rules of procedure governing all rulemaking and contested case hearings and will propose the adoption of new procedural rules relating to the siting of large electric generating plants and the routing of high voltage transmission lines.

All interested parties desiring to submit data or views relating to the proposed amendment and adoption of such

rules should address their comments to Duane R. Harves, Chief Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, telephone: 296-8100. All material received will be made part of the hearing record. All material must be received no later than 4:30 p.m., June 15, 1977.

Duane R. Harves
Chief Hearing Examiner

Department of Public Welfare Chemical Dependency Programs Division

Notice of Public Examination and Comment on Minnesota Chemical Dependency Comprehensive Plan

The Chemical Dependency Programs Division of the Department of Public Welfare (State Alcohol and Drug Authority), 4th Floor, Centennial Office Building, 650 Cedar Street, St. Paul, Minnesota, in compliance with P.L. 91-616 and P.L. 92-255, has available for examination and comment the proposed state plan for the provision of alcohol and drug abuse comprehensive services in Minnesota. The plan will be available for public review and comment for 30 days, from May 23rd through June 17th, 1977, at the location indicated above.

Notice of Request for Proposals

A Request For Proposals (RFP) has been issued by the Chemical Dependency Program Division, Department of Public Welfare (State Alcohol and Drug Authority) on April 29, 1977, for the purpose of providing start-up funds for family oriented outpatient treatment programs. Grants of \$10,000 will be awarded for the startup phase of a new family oriented outpatient treatment program or the development of the new component to an existing program. Proposals must be received before June 1, 1977. Persons or organizations wishing to receive the RFP should contact Christine Heath, Chemical Dependency Program Division, 4th Floor, Centennial Office Building, St. Paul, Minnesota, 55155, telephone (612) 296-4615.

EQC MONITOR

Minnesota Environmental Quality Council, 550 Cedar Street, St. Paul, MN., (612) 296-2723

Environmental Quality Council

Rule Governing Assessment of Costs for Environmental Impact Statements

The rules published at State Register Vol. 1, No. 13, p. 538, October 4, 1976 (1 S.R. 538), are adopted and are identical in every respect to their proposed form, with the following amendments:

Note: The order of paragraphs has been rearranged in the Adopted Rules as follows:

Proposed MEQC 43 is now adopted MEQC 44

Proposed MEQC 44 (a) is now adopted MEQC 45.A

Proposed MEQC 44 (a)(1)(aa)-(gg) is now adopted MEQC 43 A.1-7

Proposed MEQC 44 (a)(2)(aa)-(cc) is now adopted MEQC 43 B.1-3

Proposed MEQC 44 (b) is now adopted MEQC 45 B

Proposed MEQC 44 (b)(1)(aa)-(ee) is now adopted MEQC 43 C 1-5

Proposed MEQC 44 (c)-(g) is now adopted MEQC 45 C-G

Proposed MEQC 45 is now adopted MEQC 46

Proposed MEQC 46 is now adopted MEQC 47

MEQC 22 Definitions.

[[~~(aa)~~]]A₁ "EIS Estimated Cost" means the total of all expenditures of the Responsible Agency and the Proposer anticipated to be necessary for the preparation and distribution of the EIS.

[[~~(bb)~~]]B₁ "EIS Assessed Cost" means that portion of the EIS estimated cost paid by the Proposer [[~~either by~~]] in the form of a cash payment to the Council or to the Local Agency and/or for the collection and analysis of technical data incorporated in the EIS.

[[~~(cc)~~]]C₁ "EIS Actual Cost" means the total of all allowable expenditures incurred by the Responsible Agency and the Proposer in preparing and distributing the EIS.

[[~~(dd)~~]]D₁ "Final Determination" means the final decision made by the Responsible Agency or the Council that an EIS will be prepared on an action.

[[~~(ee)~~]]E₁ "Private Person" means a human being, unincorporated association, partnership, trust, or corporation.

[[~~(ff)~~]]F₁ "Project Estimated Cost" means the total of all allowable expenditures of the Proposer anticipated to be necessary for the implementation of an action.

MEQC 27 Selection of preparers, preparation of EAW and notice of EAW conclusions.

[[~~(a)(6)~~]] A.6. The Proposer of an action or a Public Agency may request the Council to designate a Responsible Agency before the final determination has been made that an EIS will be prepared on that action. The Council may designate a Responsible Agency for the purpose of identifying the information and data needed by the Responsible Agency for preparation of the EIS.

Delete Existing MEQC 41 Effective date.

Chapter Fifteen: Assessing the Cost of Preparing Environmental Impact Statements

MEQC 41 Actions requiring an assessment of the EIS preparation cost. When a private person proposes [[a governmental or private]] to undertake an action, and the final determination has been made that an EIS will be prepared by a public agency on that action, the Proposer shall be assessed for the reasonable costs of preparing and distributing that EIS in accord with MEQC 42 - [[45]] 46.

MEQC 42 Determining the EIS assessed cost.

[[~~(a)~~]] A. Within 30 days after the final determination has been made that an EIS will be prepared, the Responsible Agency shall submit to the Council a written agreement signed by the Proposer and the Responsible Agency. The agreement shall include the EIS estimated cost, the EIS assessed cost, and a brief description of the tasks and the cost of each task to be performed by each party in preparing and distributing the EIS. Those items identified in [[MEQC 44(a) (1) and (2)]] MEQC 43 A and B may be used as a guideline in determining the EIS estimated cost. The EIS assessed cost shall identify the Proposer's costs for the collection and analysis of technical data to be supplied to the Responsible Agency and the costs which will result in a cash payment by the Proposer to the Council if a state agency is the Responsible Agency or to a Local Agency when it is the Responsible Agency. If an agreement cannot be [[obtained]]

reached, the Responsible Agency shall so notify the Council within 30 days after the final determination has been made that an EIS will be prepared.

[[(b)]] **B.** The EIS assessed cost shall not exceed the following amounts unless the Proposer agrees to an additional amount.

[[(1)]] **1.** There shall be no assessment for the preparation and distribution of an EIS for an action which has a project estimated cost of one million dollars or less.

[[(2)]] **2.** For an action whose project estimated cost is more than one million dollars but is ten million dollars or less, the EIS assessed cost shall not exceed .3 percent of the project estimated cost except that the project estimated cost shall not include the first one million dollars of such cost.

[[(3)]] **3.** For an action whose project estimated cost is more than ten million dollars but is 50 million dollars or less, the EIS assessed cost shall not exceed .2 percent of each dollar of such cost over ten million dollars in addition to the assessment in (2) above.

[[(4)]] **4.** For an action whose project estimated cost is more than 50 million dollars, the EIS assessed cost shall not exceed .1 percent of each dollar of such cost over 50 million dollars in addition to the assessment in (2) and (3) above.

[[(c)]] **C.** The Proposer and the Responsible Agency shall include in the EIS assessed cost the Proposer's costs for the collection and analysis of technical data which the Responsible Agency incorporates into the EIS. The amount included shall not exceed one-third of the EIS assessed cost unless a greater amount is agreed to by the Responsible Agency. When practicable, the Proposer shall consult with the Responsible Agency before incurring such costs.

[[(d)]] **D. Federal/State EIS.** When a joint Federal/State EIS is prepared pursuant to MEQC 25 [[(f) (4)]] **F.4,** and the Council designates a non-federal agency as the Responsible Agency, only those costs of the state Responsible Agency may be assessed to the Proposer. The Responsible Agency and the Proposer shall determine the appropriate EIS assessed cost and shall forward that determination to the Council in accord with these Rules.

[[(e)]] **E. Related actions EIS.** When specific actions are included in a Related Actions EIS, only the portion of the EIS estimated cost that is attributable to each specific action may be used in determining the EIS assessed cost for its Proposer. The Responsible Agency

and each Proposer shall determine the appropriate EIS assessed cost and shall forward that determination to the Council in accord with these Rules.

MEQC 43 Determining the EIS estimated cost, the EIS actual cost and the project estimated cost.

[[(1)]] **A.** In determining the EIS estimated cost or the EIS actual cost, the following items shall be included:

[[(aa)]] **1.** The costs of the Responsible Agency's staff time including direct salary and fringe benefit costs.

[[(bb)]] **2.** The cost of consultants hired by the Responsible Agency.

[[(cc)]] **3.** The Proposer's costs for the collection and analysis of technical data expended for the purpose of preparing the EIS.

[[(dd)]] **4.** Other direct costs of the Responsible Agency for the collection and analysis of information or data necessary for the preparation of the EIS. These costs shall be specifically identified.

[[(ee)]] **5.** Indirect costs of the Responsible Agency not to exceed the Responsible Agency's normal operating overhead rate.

[[(ff)]] **6.** The cost of printing and distributing the Draft EIS and the Final EIS.

[[(gg)]] **7.** The costs of any public hearings or public meetings held in conjunction with the preparation of the Final EIS.

[[(2)]] **B.** The following items shall not be included in determining the EIS estimated cost or the EIS actual cost:

[[(aa)]] **1.** The costs of collecting and analyzing information and data incurred before the final determination has been made that an EIS will be prepared unless the information and data [[was]] were obtained for the purpose of being included in the EIS.

[[(bb)]] **2.** Costs incurred by a private person other than the Proposer or a public agency other than the Responsible Agency, unless the costs are incurred at the direction of the Responsible Agency for the preparation of material to be included in the EIS.

[[(cc)]] **3.** The capital costs of equipment purchased by the Responsible Agency or its consultants for

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the purpose of establishing a data collection program, unless the Proposer agrees to including such costs.

[(1)] C. The following items shall be included in determining the project estimated cost:

[(aa)] 1. The current market value of all the land interests, owned or to be owned by the Proposer, which are included in the boundaries of the action. The boundaries shall be those defined by the action which is the subject of the EIS Preparation Notice.

[(bb)] 2. Costs of architectural and engineering studies for the design or construction of the action.

[(cc)] 3. Expenditures necessary to begin the physical construction or operation of the action.

[(dd)] 4. Construction costs required to implement the action including the costs of essential public service facilities where such costs are directly attributable to the proposed action.

[(ee)] 5. The cost of permanent fixtures.

MEQC 44 Revising the EIS assessed cost.

[(a)] A. If the Proposer substantially alters the scope of the action after the final determination has been made that an EIS will be prepared and the EIS assessed cost has been determined, the Proposer shall immediately notify the Responsible Agency and the Council.

[(1)] 1. If the change will likely result in a net change of greater than 5% in the EIS assessed cost, the Proposer and the Responsible Agency shall make a new determination of the EIS assessed cost. The determination shall give consideration to costs previously expended or irrevocably obligated, additional information needed to complete the EIS and the adaptation of existing information to the revised action. The Responsible Agency shall submit either a revised agreement or a notice that an agreement cannot be reached following the procedures of MEQC 42[(a)] A except that such agreement or notice shall be provided to the Council within 20 days after the Proposer notifies the Responsible Agency and the EQC of the change of the action. If the changed action results in a revised project estimated cost of one million dollars or less, the Proposer shall not be liable for further cash payments to the Council or to the Local Agency beyond what has been expended or irrevocably obligated by the Responsible Agency at the time it was notified by the Proposer of the change in the action.

[(2)] 2. If the Proposer decides not to proceed with

the proposed action, the Proposer shall immediately notify the Responsible Agency and the Council. The Responsible Agency shall immediately cease expending and obligating the Proposer's funds for the preparation of the EIS.

[(aa)] a. If cash payments previously made by the Proposer exceed the Responsible Agency's expenditures or irrevocable obligations at the time of notification, the Proposer may apply to the Council or to the Local Agency for a refund of the overpayment. The refund shall be paid as expeditiously as possible.

[(bb)] b. [[If costs have been incurred or irrevocably obligated by the Responsible Agency at the time of notification exceeding the amount previously paid by the Proposer.]] If cash payments previously made by the Proposer are less than the Responsible Agency's expenditures or irrevocable obligations at the time of notification, the Responsible Agency shall notify the Proposer and the Council within 10 days after it was notified of the project's withdrawal. Such costs shall be paid by the Proposer within 30 days after the Responsible Agency notifies the Proposer and the Council.

[(b)] B. If, after the EIS assessed cost has been determined, the Responsible Agency or the Proposer uncovers a significant environmental problem that could not have been reasonably foreseen when determining the EIS assessed cost, the party making the discovery shall immediately notify the other party and the Council. If the discovery will likely result in a net change of greater than 5% in the IS assessed cost, the Proposer and the Responsible Agency shall make a new determination of the EIS assessed cost. The Responsible Agency shall submit either a revised agreement or a notice that an agreement cannot be obtained following the procedures of MEQC 42 [(a)] A except that such agreement or notice shall be provided to the Council within 20 days after both parties and the Council were notified.

MEQC 45 Disagreements regarding the EIS assessed cost.

[(a)] A. If the Proposer and the Responsible Agency disagree about the information to be included in the EIS or the EIS assessed cost, the Proposer and the Responsible Agency shall each submit a written statement to the Council identifying the information each recommends be included in the EIS, the EIS estimated cost, and the project estimated cost within 10 days after the Responsible Agency notifies the Council that an agreement could not be reached. The statements shall include a discussion of the need to include the information in the EIS, the identification of the information and data to be provided by each party, the EIS preparation costs identified in MEQC 43 A

and B as they pertain to the information to be included in the EIS, a brief explanation of the costs, and a discussion of alternative methods of preparing the EIS and the costs of those alternatives.

[[(b)]] **B.** If the Proposer and the Responsible Agency disagree about the project estimated cost, the Proposer shall submit in writing a detailed project estimated cost in addition to the requirements of section [[(a)]] **A** above. The Responsible Agency may submit a written detailed project estimated cost in addition to the requirements of section [[(a)]] **A** above. The statements shall be submitted to the Council within 10 days after the Responsible Agency notifies the Council that an agreement could not be [[(obtained)]] reached. The project estimated cost shall include the costs as identified [[(below)]] in **MEQC 43C** and a brief explanation of the costs. The estimates shall be prepared according to the categories in [[(section (1) below)]] **MEQC 43** so as to allow a reasonable examination as to their completeness.

[[(c)]] **C.** If the Proposer and the Responsible Agency disagree about a revision of the EIS assessed cost prepared following the procedures in **MEQC [[(43)]] 44**, the Proposer and the Responsible Agency shall use the applicable procedures described in **MEQC [[(44 (a) or (b))]] 45 A or B** in resolving their disagreement except that all written statements shall be provided to the Council within 10 days after the Responsible Agency notifies the Council that an agreement cannot be [[(obtained)]] reached.

[[(d)]] **D.** If the Proposer and the Responsible Agency disagree about the EIS actual cost as determined by **MEQC [[(45(b))]] 46B**, the Proposer and the Responsible Agency shall prepare a written statement of their EIS actual cost and an estimate of the other party's EIS actual cost. The items included in **MEQC [[(44(a) (1) and (2))]] 43 A and B** shall be used in preparing the EIS actual cost statements. These statements shall be submitted to the Council and the other party within 20 days after the Council has accepted the Final EIS.

[[(e)]] **E.** The Council at its first meeting held more than 15 days after being notified of a disagreement shall make any determination required by sections [[(a)]] **A** through [[(d)]] **D** above. The Council shall consider the information provided by the Proposer and the Responsible Agency and may consider other reasonable information in making its determination. This time limit shall be waived if a hearing is held pursuant to **MEQC [[(44 (f))]] 45 F**.

[[(f)]] **F.** If either the Proposer or the Responsible Agency so requests, the Council shall hold a hearing to facilitate it in making its determination. The hearing

shall follow the procedures outlined in **MEQC 28 [[(a) (3)]] A.3**.

[[(g)]] **G.** Nothing in sections [[(a)]] **A** through [[(f)]] **F** above shall prevent the Proposer from making one half of the cash payment as recommended by the Responsible Agency's proposed EIS assessed cost for the purpose of commencing the EIS process. If the Proposer makes the above cash payment, preparation of the EIS shall immediately begin. If the required cash payment is altered by the Council's determination, the remaining cash payments shall be adjusted accordingly.

MEQC 46 Payment of the EIS assessed cost.

[[(a)]] **A.** The Proposer shall make all cash payments to the Council or to the Local Agency according to the following schedule:

[[(1)]] **1.** At least one-half of the Proposer's cash payment shall be paid within [[(10)]] **30** days after the EIS assessed cost has been submitted to the Council pursuant to **MEQC 42 [[(a)]] A** or has been determined by the Council pursuant to **MEQC [[(44(e) or (f))]] 45 E or F**.

[[(2)]] **2.** At least three-fourths of the Proposer's cash payment shall be paid within [[(10)]] **30** days after the Draft EIS has been submitted to the Council.

[[(3)]] **3.** The final cash payment shall be paid within [[(10)]] **30** days after the Council has accepted the final EIS.

[[(aa)]] **a.** The Proposer may withhold final cash payment of the EIS assessed cost until the Responsible Agency has submitted a detailed accounting of its EIS actual cost to the Proposer and the Council. If the Proposer chooses to wait, the remaining portion of the EIS assessed cost shall be paid within [[(10)]] **30** days after the EIS actual cost statement has been submitted to the Proposer and the Council.

[[(bb)]] **b.** If the Proposer has withheld the final cash payment of the EIS assessed cost pending resolution of a disagreement over the EIS actual cost, such payment shall be made within [[(10)]] **30** days after the Council has determined the EIS actual cost.

[[(b)]] **B.** The Proposer and the Responsible Agency shall submit to each other and to the Council a detailed accounting of the actual costs incurred by them in preparing and distributing the EIS within 10 days after the Council has accepted the Final EIS. If the cash payments made by the Proposer exceed the Responsible Agency's EIS actual cost, the Proposer may apply to the Council or to the Local Agency for a refund of the over-

payment. The refund shall be paid as expeditiously as possible.

[[c)]] C. If the Responsible Agency is a state agency, the Proposer shall make all cash payments of the EIS assessed cost to the Council, which shall deposit such payments in the state's general fund.

[[d)]] D. If the Responsible Agency is a Local Agency, the Proposer shall make all cash payments of the EIS assessed cost directly to the Local Agency.

[[1)]] 1. The Local Agency shall notify the Council in writing of receipt of each payment within 10 days following its receipt.

[[e)]] E. No Responsible Agency shall commence with the preparation of an EIS until at least one-half of the Proposer's required cash payment of the EIS assessed cost has been paid. Notwithstanding other sections of these Rules, the Responsible Agency shall prepare and file the Draft EIS within 120 days of the date of this payment. This time limitation may be extended by the Council only for good cause upon written request by the Responsible Agency.

[[f)]] F. Upon receipt or notice of receipt of the final payment by the Proposer, the Council shall notify each state agency having a possible governmental permit interest in the action that the final payment has been received.

[[1)]] 1. Other laws notwithstanding, a state agency shall not issue any governmental permits for the construction or operation of an action for which an EIS is prepared until the required cash payments of the EIS assessed cost for that action or that portion of a Related Actions EIS have been paid in full.

[[g)]] G. Except as provided in MEQC 46 E [[All]] all time periods included in MEQC 42 - [[45]] 46 may be extended by the Council Chairman only for good cause upon written request by the Proposer or the Responsible Agency.

MEQC 47 Effective date. [[The amendments to these Rules (MEQC 21-46) shall become effective upon filing with the Secretary of State with the exception that Rules MEQC 41-45 shall apply only to projects for which an EIS Preparation Notice has been issued after February 15, 1977.]] All petitions received, environmental assessments ordered or received, and EISs ordered before the effective date of the amendments shall [[at the request of the preparer of the document]] be processed and reviewed [[as if amended Rules MEQC 21-40 were not in effect.]] under the existing Rules, MEQC 21-40, unless the project proposer requests that the amended rules be

followed. Projects previously reviewed or exempted by the MEQC are not subject to these Rules except for those actions included in MEQC 25 [[f) (1)]] F.1.

Natural Resource Permit Applications

Pollution Control Agency

Dakota County

Name of Permit: Construction and Operation of Liquid Storage Facility

Applicant: Koch Refining Company

Project Location: Rosemount, Dakota County, E ½ NW ¼ and NE ¼ SW ¼ Sec. 13, R19W, Twp. 115N.

Project Description: Construct two 10,500,000 gallon fuel oil tanks and two 14,700,000 gallon asphalt tanks and diking around these tanks.

An Environmental Assessment Worksheet (EAW) on this project has been submitted to the EQC.

Comments and requests for additional information on this project should be submitted by June 8, 1977 to:

Curtis J. Sparks
Minnesota Pollution Control Agency
1935 West County Rd. B-2
Roseville, MN 55113
(612) 296-7215

Dakota County

Name of Permit: Construction and Operation of Liquid Storage Facility

Applicant: Farm Service Association of Farmington

Project Location: Farmington, Dakota County; Main and Second Streets.

Project Description: Move five petroleum product storage tanks, the largest being 21,000 gallons, with total storage capacity of 99,000 gallons; and construct a dike around the tanks to retain any spills.

No Environmental Assessment Worksheet (EAW) preparation is anticipated.

Comments and requests for additional information on this project should be submitted by June 8, 1977 to:

Abner M. Fisch
Minnesota Pollution Control Agency
1935 West County Rd. B-2
Roseville, MN 55113
(612) 296-7389

Rock County

Name of Permit: Construction and Operation of Liquid Storage Facility.

Applicant: Fritz, Milton, Farmers Cooper Elevator

Project Location: Rose Dell, Rock County, NW ¼ Sec. 6, R46W, Twp. 104N

Project Description: Liquid storage site consisting of five petroleum product storage tanks totaling 80,000 gallons, the largest of which being 17,000 gallons. The site is completely diked.

No Environmental Assessment Worksheet (EAW) preparation is anticipated.

Comments and requests for additional information on this project should be submitted by June 8, 1977 to:

Donald K. Perwein
Minnesota Pollution Control Agency
1935 West County Rd. B-2
Roseville, MN 55113
(612) 296-7329

Negative Declarations (No EIS)

The Environmental Assessment Worksheets (EAWs) listed below have been filed with the EQC. These EAWs determined that EISs are not needed on these projects because they are not major actions and do not have the potential for significant environmental effects. **No EIS's will be required on these projects unless objections are filed with the EQC by June 8, 1977.** MEQC Rule 29B indicates the procedures for filing objections to a Negative Declaration.

Lake Success Estates Hennepin County

Proposer: Kenneth L. Bergstrom & Schmidt Investment Co.

Responsible Agency: City of Brooklyn Park

Project Description: Residential subdivision with 162 lots with a density of 2.8.

Project Location: Brooklyn Park, Hennepin County, Sec. 22, R21W, Twp 119N.

Copies of the EAW and supporting documentation are on file for public review from 8:00 a.m. to 5:00 p.m. at:

City Hall
5800 85th Ave., North
Brooklyn Park, MN 55443
(612) 425-4502

For further information on this EAW contact Scott M. Clark, City of Brooklyn Park, address and telephone number above.

Storage Tanks Dakota County

Proposer: Koch Refining Company

Responsible Agency: Pollution Control Agency (PCA)

Project Description: Construction of two 250,000 barrel (10,500,000 gallon) light oil storage tanks and two 350,000 barrel (14,700,000 gallon) asphalt storage tanks.

Project Location: Rosemount, Dakota County, E ½ NW ¼ and NE ¼ SW ¼ Sec. 13 R19W, T115N.

Copies of the EAW and supporting documentation are on file for public review from 8:00 a.m. to 4:30 p.m., Monday-Friday at:

Minnesota Pollution Control Agency
1935 West County Rd. B-2
Roseville, MN 55113
(612) 296-7286

For further information on this EAW contact Curtis J. Sparks, telephone (612) 296-7215, PCA, address above.

Propane Storage Tank Dakota County

Proposer: Suburban Gas, Incorporated

Responsible Agency: Pollution Control Agency (PCA)

Project Description: Construction and operation of a 12,000,000 gallon refrigerated propane storage tank.

Project Location: Inver Grove Heights, Dakota County, Twp 27N, R22W at 10825 Courthouse Boulevard East.

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Copies of the EAW and supporting documentation are on file for public review from 8:00 a.m. to 4:30 p.m., Monday-Friday at:

Minnesota Pollution Control Agency
1935 West County Rd. B-2
(612) 296-7286

For further information on this EAW contact Curtis J. Sparks, telephone (612) 296-7215 PCA, address as above.

EIS Preparation Notice **Minnesota Department of Transportation**

I-494

The Minnesota Department of Transportation, District 9, intends to issue a Draft Environmental Impact Statement

(EIS) on the proposed Interstate 494 from 24th Avenue in Bloomington to the Mississippi River in South St. Paul, Dakota and Hennepin Counties.

The proposed action involves construction of a section of I-494, including a bridge over the Minnesota River, the relocation of a section of T.H. 55 and the reconstruction of sections of T.H.'s 55, 49, 5 and a section of in-place I-494. Proposed I-494, a 6-lane highway, constitutes the major portion of the proposed activity.

Completion of the Draft EIS is anticipated for June, 1977. For further information contact:

C. E. Burrill
Minnesota Department of Transportation
District 9
Box 250
3485 Hadley Ave., N.
North St. Paul, MN 55109
(612) 770-2311

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House of Representatives
Attn: Edward Burdick, Chief Clerk
Room 211 Capitol
St. Paul, Minnesota 55155

I
