

State

Pages 1791-1834



STATE OF
MINNESOTA

Register

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VOLUME 2, NUMBER 39

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State Register

Notice of *State Register* Format Changes

Beginning with *State Register* Vol. 2, issue No. 37, dated March 20, 1978, the Office of the State Register is making the following enhancements in the *State Register* format:

- An "Executive Orders List" is added as a new finding aid. This list will appear following the MCAR Amendments and Additions, and will serve as a means of finding Executive Orders which have appeared in the current volume of the *State Register*.

Materials published in the *State Register* are public records under Minn. Stat. § 15.17. The State of Minnesota has reserved a copyright to cross reference tables, tables of contents, indices, numerical lists and codification guides, as provided in RGSTR 7 of the rules of the Office of the State Register.

The *State Register* is the official publication of the State of Minnesota. It contains all executive orders, rules and notices filed with the Office of the State Register as of noon of the second Wednesday preceding the Monday of publication. The text of documents published in the *State Register* is to be accorded the following presumptions:

- (1) The rule or order was duly adopted, issued or promulgated;
- (2) The rule or order was duly filed with the Secretary of State and available for public inspection; and
- (3) The copy of the rule or order published in the *State Register* is a true copy of the original.

Judicial notice shall be taken of material published in the *State Register*.

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RULES

Pursuant to the provisions of Minn. Stat. § 15.0411 to § 15.052, all rules, amendments to rules, or suspensions or repeals of rules become effective after all requirements described in Minn. Stat. § 15.0412, subd. 4 have been met and five working days after publication in the *State Register*, unless a later date is required or specified.

If the rule as adopted does not differ from the proposed rule as previously published in the *State Register*, a notice of adoption as proposed and a citation to the previous publication is considered sufficient as publication of the adopted rule, suspension or repeal.

If the rule as adopted differs from the proposed rule, the adopted rules or subdivisions thereof which differ from the proposed rule are published along with a citation to the *State Register* publication of the proposed rule.

Pursuant to Minn. Stat. § 15.0412, subd. 5, temporary rules take effect upon approval of the Attorney General. As soon as practicable, notice of the Attorney General's decision and the adopted temporary rule are published in the *State Register*, as provided for adopted rules. Temporary rules are effective for only 90 days and may be reissued for 90 days.

Office of the Hearing Examiners

Adopted Rules Relating to Procedures for Hearings Relating to Power Plant Siting or High Voltage Transmission Line Routing

The rules published at *State Register*, volume 2, number 9, page 382, September 6, 1977 (2 S.R. 382) and published previously as adopted temporary rules at *State Register*, volume 2, number 2, page 85, July 18, 1977 (2 S.R. 85) are adopted and are printed here in their full text without indications of additions or deletions from their proposed language:

HE 401 Scope and purpose. The procedures contained herein shall govern the conduct of all hearings conducted for the Environmental Quality Board involving the siting of large electric power generating plants, the routing of high voltage transmission lines and to the route exemption process contained in Minn. Stat. § 116C.57, subd. 5, provided, however, that the procedures for hearing concerning

the revocation or suspension of a site certificate or construction permit shall be those contained in Minn. Rule HE Chapter Two, as are the hearings conducted pursuant to Minn. Stat. § 116C.57, subd. 3, relating to the determination of emergencies (see HE 416).

HE 402 Definitions.

A. Board. Board means the Environmental Quality Board.

B. Intervenor. Intervenor means any person granted permission to intervene in any proceeding pursuant to these rules.

C. Party. Party means the applicant, persons proposing routes or sites which the Board orders to be considered pursuant to Minn. Stat. ch. 116C and rules adopted thereunder, and persons granted permission to intervene pursuant to HE 408. State agencies or participating department staff, citizen committees appointed by the Board, shall intervene if they are to formally advocate one route or site in preference to another. Notice is given that, pursuant to Minn. Stat. § 15.0421, only parties who could be adversely affected by the Report of the Hearing Examiner can be legally assured of the opportunity to present argument to the Board prior to its decision.

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

E. Proceeding/Proceedings. As used herein, these terms mean all events including prehearings, hearings, orders and reports issued necessary to the completion of this hearing process on any application by a utility for the siting of a power plant, the routing of a transmission line, or exemptions.

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

HE 403 Hearing examiners.

A. Request for assignment. When the Board desires to order a hearing under this Chapter, it shall first file with the Chief Hearing Examiner a request for assignment of a Hearing Examiner, together with a draft of the notice of hearing proposed to be published and served.

RULES

HE 404

B. Assignment. Within ten days of receipt of a request pursuant to HE 403 A., the Chief Hearing Examiner shall assign a Hearing Examiner to hear the case, and the Hearing Examiner shall advise the Board as to the location at which and time during which a hearing should be held so as to allow for participation by all affected persons.

C. Duties. Consistent with law, the Hearing Examiner shall perform the following duties:

1. Grant or deny motions for discovery or for the taking of depositions.
2. Receive and act upon requests for subpoenas.
3. Hear and rule on motions.
4. Preside at the hearing.
5. Administer oaths and affirmations.
6. Grant or deny continuances.
7. Examine witnesses where he deems it necessary.
8. Prepare findings of fact, conclusions and recommendations.
9. Make preliminary, interlocutory or other orders as he deems appropriate.
10. Do all things necessary and proper to the performance of the foregoing.

HE 404 Commencement.

A. Notice of Hearing. Proceedings under this chapter are commenced by the Board issuing a Notice of Hearing pursuant to the requirements of Minn. Stat. ch. 116C. The Notice of Hearing shall contain, but not be limited to, the following:

1. The date, time and place for each hearing.
2. Name and address and telephone number of the Hearing Examiner.
3. A citation to the Board's statutory authority to hold the hearing and to take the action proposed.
4. A description of the proposed project together with a citation to the relevant statutes or rules.

5. Notification that all persons may be represented by legal counsel, but that such representation is not required.

6. A citation to these rules and to any applicable procedural rules of the Board and where they may be obtained.

7. The name, address, phone number and function of the Public Advisor designated by the Board pursuant to Minn. Stat. § 116C.59, subd. 3.

8. The name, address and telephone number of the appropriate member of the Power Plant Siting Staff who will be representing the Board and the name, address and telephone number of the member of the Attorney General's staff who may be contacted for advice on matters dealing with Board procedures.

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

10. The date, time and place of any prehearing conference.

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

12. A listing of the existing parties giving the name and address of the person designated to receive all notices.

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

14. A statement indicating that hearings may be recessed and reset by the Hearing Examiner pursuant to HE 413.

15. A listing of witnesses exempted from appearing throughout the hearing process pursuant to HE 413 B, and a listing of the dates and places such witnesses will be in attendance.

B. Subsequent notices. The Hearing Examiner may order subsequent notices to be issued by the Board as he

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deems appropriate containing corrections of earlier notices and additional information available after issuance of earlier notices. Such subsequent notices shall be disseminated in the same manner as the original notice, unless the Hearing Examiner, for good cause shown, orders some other method of dissemination.

C. Defects in the notices shall not invalidate the proceedings, provided a bona fide attempt to comply with this rule has been made.

HE 405 Right to counsel. All persons may be represented by legal counsel, or by a person of their choice, or they may represent themselves.

HE 406. Time.

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

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

HE 407 Public participation. At all hearings conducted pursuant to this chapter, all persons will be allowed and encouraged to participate without the necessity of intervening as parties. Such participation shall include, but not be limited to:

A. Offering direct testimony with or without benefit of oath or affirmation and without the necessity of pre-filing as required by 413 I.

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

C. Questioning all persons testifying. Any person who wishes to cross-examine a witness but who does not want to ask questions orally, may submit questions in writing to the Hearing Examiner, who will then ask the questions of the

witness. Questions may be submitted before or during the hearings.

HE 408 Intervention.

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

B. Objection. Any party may object to the petition for intervention by filing a Notice of Objection with the Hearing Examiner within seven days of service of the petition. The Notice shall state the party's reasons for objecting and shall be served upon all parties and the person petitioning to intervene.

C. Order. The Hearing Examiner shall allow intervention upon a proper showing pursuant to HE 408 A. unless the Hearing Examiner finds that the petitioner's interest is adequately represented by one or more parties participating in the case. In the event the Hearing Examiner finds that one or more petitions are similar, he may order the petitions to be consolidated as one, allowing all such petitioners intervention but only as one party.

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

HE 409 Disqualification. The Hearing Examiner shall withdraw from participating in the proceedings at any time if he deems himself disqualified for any reason. Upon the filing in good faith by a person of an affidavit of prejudice, the Chief Hearing Examiner shall determine the matter as a part of the record provided the affidavit shall be filed no later date.

HE 410 Prehearing conference.

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

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B. Procedure. Upon the request of any party or upon his own motion, the Hearing Examiner may, in his discretion, hold a prehearing conference which shall be held at a time, date and place to be determined by the Hearing Examiner to best maximize the ability of all interested persons to attend. Notice of any prehearing conference shall be given in the Notice of Hearing, if possible. Otherwise, notice shall be given pursuant to HE 404 B. The Hearing Examiner may require the parties to file a prehearing statement prior to the prehearing conference which shall contain such items as the Hearing Examiner deems necessary to promote a useful prehearing conference. A prehearing conference shall be an informal proceeding conducted expeditiously by the Hearing Examiner. Agreements on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the Hearing Examiner.

HE 411 Depositions to preserve testimony. Upon the request of any person, the Hearing Examiner may order that the testimony of any witness be taken by deposition to preserve his testimony in the manner prescribed by law for depositions in civil actions. The request shall indicate the relevance of the testimony and shall make a showing that the witnessess will be unable or cannot be compelled to attend the hearing or show other good cause.

HE 412 Subpoenas. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Hearing examiner and shall contain a brief statement demonstrating the potential relevance of the testimony or evidence sought and shall identify any documents sought with specificity. The Hearing Examiner will grant the request for subpoenas only upon a finding of such relevance.

A. Service of subpoenas.

1. A subpoena shall be served in the manner provided by the Rules of Civil Procedure for the District Courts of the State of Minnesota unless otherwise provided by law.

2. The cost of service, fees, and expenses of any witness subpoenaed shall be paid by the person at whose request the witness appears.

3. The person serving the subpoena shall make proof of service by filing the subpoena with the Hearing Examiner, together with his affidavit of service.

B. Motion to quash. Upon motion made promptly, and in any event at or before the time specified in the subpoena

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for compliance therewith, the Hearing Examiner may quash or modify the subpoena if he finds that it is unreasonable or oppressive.

HE 413 Hearings.

A. Hearing procedures.

1. Conduct of the proceedings. The proceedings shall be conducted substantially in the following manner:

a. After opening the hearing, the Hearing Examiner shall indicate the procedural rules for the hearing including, but not limited to, the following:

(1) All persons may present evidence and argument with respect to the issues and cross-examine witnesses.

(2) All persons may be represented by legal counsel, but such representation is not required.

(3) The rules of evidence as set forth in HE 413 E.

b. Cross-examination shall be conducted in a sequence determined by the Hearing Examiner.

c. The record of the hearing shall be closed at a date to be set by the Hearing Examiner. Such date will correspond to a specific number of calendar days beyond the close of the last hearing date, computed pursuant to HE 406 A. Written comment will be accepted if postmarked no later than the date set by the Hearing Examiner. However, the record shall remain open beyond that date for the sole purpose of receiving the final Environmental Impact Statement.

2. Sequence of the proceedings.

a. All hearings shall recess at 11:00 p.m. unless the Hearing Examiner determines that the public interest will best be served in any given hearing by continuing the hearing beyond 11:00 p.m. The Hearing Examiner may, in his discretion, order a time and place for a continuance of that hearing.

b. The hearing may be scheduled in two stages. The first stage shall be for the purpose of introducing into evidence all of the prefiled direct testimony of the parties, and

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the cross-examination of each witness by all other parties. The subsequent stage shall be for the purpose of allowing all other interested persons to present their direct testimony and to question witnesses that offered testimony during the first stage of the hearing process.

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

d. Nothing contained herein shall be interpreted so as to prevent the Hearing Examiner from establishing additional hearing dates on Motion or at his discretion.

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

B. Availability of witnesses. All witnesses who offer prefiled direct testimony in compliance with HE 413 I., shall be available for questioning by interested persons at each hearing date and place. In the event a witness cannot be available throughout the hearing process, the party on whose behalf the witness testified shall request an exemption from this rule of the Hearing Examiner prior to the publication of the Notice of Hearing. The request shall state the reasons why the witness cannot be present at each hearing, and the date, or dates, on which the witness can be available. For good cause shown, the Hearing Examiner shall grant the exemption and shall immediately notify the Board. The Board shall then include in the Notice of Hearing a statement indicating the name of the witness, the nature of his testimony, and the dates and places where the witness will be available for questioning by all parties and persons. The party requesting the exemption shall do so in writing and shall serve a copy of the request on all other parties. Any part may object to the exemption by filing his written objection with the Hearing Examiner and serving a copy on all parties within five working days of the date of

the request. In the event an objection is made, the Hearing Examiner shall immediately notify all parties of the date, time and place where he will hear arguments on the request, subsequent to which he shall issue an order granting or denying the request for exemption. The Hearing Examiner may also grant exemptions, at any time, upon a showing of need due to unforeseeable circumstances. The same notice and objection procedure may be followed if circumstances permit, or the Hearing Examiner may utilize any other procedure if he deems it more appropriate. A subsequent Notice of Hearing shall issue reflecting any such exemption granted by the Hearing Examiner.

In the event a witness has prefiled testimony and fails to present himself for questioning, such prefiled testimony shall be given such weight as the Hearing Examiner deems appropriate.

C. Rights of persons. All persons shall have the right to present evidence, rebuttal testimony and argument with respect to the issues and to cross-examine witnesses.

D. Witnesses. Any person may be a witness or present witnesses on his behalf at the hearings. Direct testimony shall be admitted as allowed by HE 407.

E. Rules of evidence.

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

2. Evidence must be offered to be considered. All evidence to be considered in the case, including all records and documents (except tax returns and tax reports) in the possession of the Board or a true and accurate photocopy thereof, shall be offered and made a part of the record in the case. No other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case.

3. Documentary evidence. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the Hearing Examiner.

4. Notice of facts. The Hearing Examiner may take notice of judicially cognizable facts but shall do so on the record and with the opportunity for any person to rebut.

5. The burden of proof. Any route or site proposer must prove the facts at issue by a preponderance of the

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evidence, unless the substantive law provides a different burden.

6. Weight of testimony. Oral testimony received without benefit of oath or affirmation and written submissions that are not subject to cross-examination shall be given such weight as the Hearing Examiner deems appropriate.

F. The record.

1. Preparation of record. Pursuant to Minn. Stat. § 15.0418, the Office of Hearing Examiners, upon certification of the official record of the case by the Board to it, shall prepare and maintain the official record in each proceeding.

2. Contents of the record. The record in a hearing shall contain:

- a. All pleadings, motions and orders;
- b. Evidence received or considered;
- c. Offers of proof, objections and rulings thereon;
- d. The Hearing examiner's findings of fact, conclusions and recommendations;
- e. All memoranda or data submitted by any person and considered by the Hearing Examiner in connection with the case.

f. The transcript of each hearing, if any.

3. The transcript.

a. Reporter. Unless the Chief Hearing Examiner determines that the use of a court reporter is more appropriate, an audio-magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter.

b. Transcription. The verbatim record shall be transcribed if requested by a person or in the discretion of the Chief Hearing Examiner. If a transcription is made, the Chief Hearing Examiner may require the requesting person and other persons who request copies of the transcript from him to pay a reasonable charge therefor. The charge shall be set by the Chief Hearing Examiner, and all monies received for transcripts shall be payable to the State Treasurer and shall be deposited in the State Office of Hearing Examiners account in the State Treasury.

4. Environmental documents. Any draft Environmen-

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tal Impact Statement (in the case of routes) or any draft Environmental Report (in the case of sites) required to be prepared by rules of the Board shall be entered into the record at a point during the hearing process which will allow all persons as opportunity to review and comment on the material. In addition, all comments and responses to comments which the Board desires to consider shall be entered into the record promptly after they are received.

G. Continuances. During a hearing, if it appears in the interest of justice that further testimony should be received, the Hearing Examiner, in his discretion, may continue the hearing to a future date and such oral notice on the record may be sufficient.

H. Motions. No motions shall be made directly to or be decided by the Board subsequent to the appointment of a Hearing Examiner and prior to the completion and filing of the Hearing Examiner's report unless the motion is certified to the Board by the Hearing Examiner. Uncertified motions shall be made to the Hearing Examiner and considered by the Board in its consideration of the record as a whole subsequent to the filing of the Hearing Examiner's report.

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

1. The original and one copy with the Hearing Examiner;

2. One copy with the Board;

3. One copy with each party; and

4. One copy at a place in each county where a hearing is to be held pursuant to statute at a location designated by the Board for public review.

Said testimony will be part of the record in each proceeding as if read, but all of the witnesses shall be available for cross-examination and questioning at each and every hearing subject to the provisions of HE 413 B. Objections to such direct testimony may be made by any person, any time during the hearings conducted pursuant to this chapter. Five copies of the prefiled testimony of each witness shall be made available for the review by the public at each hearing.

At the hearing, the party presenting the testimony may,

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if it deems appropriate, briefly summarize the prefiled testimony prior to start of cross-examination.

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

J. Disruption of hearing.

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

2. Other conduct. Pursuant to and in accordance with the provisions of Minn. Stat. § 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the Hearing Examiner shall read this rule to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

HE 414 The decision.

A. Basis for determination.

1. The record. No factual information or evidence, except tax returns and tax reports, which is not a part of the record shall be considered by the Hearing Examiner or the Board in the determination of a hearing.

2. Administrative notice. The Hearing Examiner or the Board may take administrative notice of general, ntechnical or scientific facts within their specialized knowledge in conformance with the requirements of Minn. Stat. § 15.0419, subd. 4.

B. Hearing Examiner's report. Following the close of the record and the completion of the transcript, the Hearing Examiner shall make his report pursuant to Minn. Stat. § 15.052, subd. 3, and, upon completion, a copy of said

report shall be served upon all parties by First Class mail. A copy of the report shall also be filed at places designated for public review pursuant to HE 413 I.4.

C. Board decision. Following receipt of the Hearing Examiner's report, the Board shall proceed to make its final decision in accordance with Minn. Stat. ch. 15 and ch. 116C.

HE 415 Rehearing. A rehearing pursuant to Board order shall be commenced in the same manner as set forth for commencement of proceeding in HE 404. The rehearing shall be conducted in the same manner prescribed for a hearing.

HE 416 Emergency procedures. Any hearings held pursuant to section 116C.57, subd. 3, to determine if an emergency exists shall be governed by the contested case procedures contained in Chapter Two of the Rules of the Office of Hearing Examiners. If the Board finds that an emergency does exist, then any hearings on the designation of a site or route shall be governed by the rules contained in this chapter (Chapter 4), provided, however, that the Hearing Examiner, in his discretion, may modify any time limits contained herein if he finds that such modification is needed to expedite the hearings.

HE 417 Severability. If any provision of these rules is held invalid, such invalidity shall not affect any other provisions of the rules which can be given effect without the invalid provision, and to this end, the provisions of these rules are declared to be severable.

Livestock Sanitary Board Importation of Dogs into Minnesota

This rule as published at *State Register* Volume 2, Number 5, page 194, August 8, 1977 (2 S.R. 194), and at *State Register* Volume 2, Number 17, page 930, October 31, 1977 (2 S.R. 930) is adopted and is identical in every respect to its proposed form:

3 MCAR § 2.002 Importation of dogs.

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Pursuant to the provisions of Minn. Stat. § 15.0411 to 15.052, the *State Register* publishes notices of hearing on proposed new or amended rules, including the full text of the new or amended rules, including the full text of the new or amended rule proposed for adoption, at least 30 days before the date set for the hearing.

Pursuant to Minn. Stat. § 15.0412, subd. 4, an agency may, with approval of the chief hearing examiner, incorporate by reference into the text of a rule, provisions of federal law, or rule, or other material which are 3000 words or more in length or would require five or more pages of print in the *State Register* and which are conveniently available to interested persons.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend, or repeal a rule does not allow for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

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, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8105, either before the hearing or for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

All persons have the right to be notified of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. All persons also have the right to be informed of the date on which the hearing record has been submitted to the Attorney General by the Agency. If you desire to be notified, you may so indicate at the hearing or by written request sent to the Hearing Examiner prior to the close of the record.

The proposed rules, if adopted, would establish the contents of applications for certificates and criteria for assessment of need for fuel conversion facilities, coal slurry or coal liquids pipelines, nuclear fuel processing facilities, and nuclear waste storage or disposal facilities. The rules would also specify the criteria for assessment of need for all large energy facilities not covered by these proposed rules or by any other certificate of need rules promulgated by the Agency. After the assessment of need criteria have been promulgated, no large energy facility covered by these rules shall be sited or constructed in Minnesota without the issuance of a Certificate of Need by the Director of the Minnesota Energy Agency.

Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, 720 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101. Copies will also 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. §§ 116H.08(a) and 116H.13 (1976).

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Energy Agency Proposed Rules Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Fuel Conversion Facilities, Coal Slurry or Coal Liquids Pipelines, Nuclear Fuel Processing Facilities, and Nuclear Waste Storage or Disposal Facilities

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held in Room D of the Veterans Service Building, Saint Paul, Minnesota 55155 on May 4, 1978, commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

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6 MCAR § 2.1101

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 rulemaking 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, Saint Paul, Minnesota 55155, telephone 612/296-5615.

John P. Millhone
Director

Rules as Proposed

Chapter Eleven: 6 MCAR §§ 2.1101-2.1191

6 MCAR § 2.1101 Purpose of rules. The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need pursuant to Minn. Stat. § 116H.13 for fuel conversion facilities, coal slurry or coal liquids pipelines, nuclear fuel processing facilities, nuclear waste storage or disposal facilities, and all other large energy facilities not specifically covered by 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091.

§ 2.1102 Applicability of rules.

A. Each person applying for a certificate of need to construct one of the following types of large energy facilities pursuant to these rules shall provide all information required by these rules:

1. a new fuel conversion facility;
2. any project which, within a period of two years, would expand the design capacity of an existing fuel conversion facility by at least 25 tons per hour of input material;
3. a new coal slurry or coal liquids pipeline;
4. any project which, within a period of two years, would expand the design throughput of an existing coal slurry pipeline by at least 1000 tons of coal or coal derivatives per day;
5. any project which, within a period of two years, would expand the design throughput of an existing coal liquids pipeline by at least 15,000 barrels per day;
6. a new nuclear fuel processing facility;

7. any project which, within a period of two years, would expand the design output of an existing nuclear fuel processing facility by at least 20 percent;

8. a new nuclear waste storage or disposal facility;

9. any project which, within a period of two years, would expand the design capacity of an existing nuclear waste storage or disposal facility by at least 20 percent; and

10. any large energy facility or equivalent expansion other than those given by 6 MCAR § 2.1102 A.1. through 9. or specifically covered by 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091.

B. Exception. The following types of facilities shall not be subject to these rules:

1. any large energy facility on which construction has begun or has been completed by the effective date of these rules;

2. any nuclear waste storage or disposal facility to be constructed in conjunction with a large generating facility which itself requires a certificate of need, unless the total capacity of that storage facility is not covered by the certificate of need issued for the large electric generating facility and associated facilities; and

3. any facility covered by Minn. Stat. § 116C.71-.74 (Supp. 1977), unless expressly authorized by the legislature.

§ 2.1103 Application procedures and timing.

A. Each application for a certificate of need pursuant to these rules shall be submitted in the form and manner prescribed by these rules.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application shall be filed with the director. The director may require additional copies, not to exceed one hundred (100) copies total. All documents, forms, and schedules filed with the application shall be typed on 8½" × 11" paper except for drawings, maps, and similar materials. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these rules. The date of preparation and the applicant's name shall appear on the title page, as well as on each document filed with the application.

C. Subsequent to the filing of an application, any changes or corrections to the application shall comply with rule 6 MCAR § 2.1103 B. as to the number of copies and size of documents. In addition, each page of a change or

PROPOSED RULES

6 MCAR § 2.1104

correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

D. Each application for a certificate of need shall be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested and the number of copies of the application filed.

E. A hearing examiner shall be assigned, and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules Governing Certificate of Need Program, 6 MCAR § 2.0500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, 9 MCAR § 2.201 et seq.

F. A decision on an application for a certificate of need shall be made by the director no later than six months from the receipt of the application, provided that the application as received is substantially complete.

G. The director shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct any deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is then substantially complete.

H. Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in the request that the data requirement (1) is unnecessary to determine the need for the proposed facility or (2) may be satisfied by submission of another document. A request for exemption shall be filed at least 20 days prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt, including reasons for the decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearings.

I. When an application for a certificate of need is denied, the director shall state the reason(s) for the denial.

§ 2.1104 **Definitions.** For purposes of these rules, the following definitions shall apply:

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- A. "Agency" means the Minnesota Energy Agency;
- B. "Applicant" means the person or persons submitting a certificate of need application;
- C. "Application" means a document, the contents of which are described in these rules, submitted to the director for the purpose of obtaining a certificate of need;
- D. "Barrel" means that quantity of liquid equaling 42 gallons (159.0 litres);
- E. "Btu" means British thermal unit, a common unit of energy measurement which is used in these rules for comparative purposes;
- F. "Coal liquids pipeline" means any pipeline greater than six inches (15.2 centimetres) in diameter and having more than 50 miles (80.4 kilometres) of its length in Minnesota used for the transportation of liquids derived from coal;
- G. "Coal slurry pipeline" means any pipeline greater than six inches (15.2 centimetres) in diameter and having more than 50 miles (80.4 kilometres) of its length in Minnesota used for the transportation of coal or any solid derivative thereof;
- H. "Demand" means that quantity of products or services from the applicant's facilities for which there are willing and able purchasers;
- I. "Director" means the director of the Agency;
- J. "Energy product" means any fuel or other natural resource that may be used to provide energy;
- K. "Expansion" means an increase in the capacity of an existing large energy facility, accomplished by one or more methods, including, but not limited to, increasing the size of the facility, using new or different technology, or adding pumping stations;
- L. "Firm contract customers" means customers served under schedules or contracts which neither anticipate nor permit interruption unless a state of emergency exists;
- M. "Forecast" means a projection of future demand for some specified time period;

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N. "Forecast years" means the sixteen-year period consisting of the year of application plus the next fifteen years;

O. "Fuel conversion facility" means any facility intended to convert coal, peat, wood, or any other material, excepting fissile, fertile, or fissionable nuclear material, into another combustible fuel and having the capacity to process 25 tons (22.7 metric tons) of the material per hour at its peak capacity. A fuel conversion facility shall include any storage facility on the site needed for operation of the facility at the design capacity;

P. "Interruptible contract customers" means customers served under schedules or contracts which anticipate or permit interruption of service during the term of the contract;

Q. "Joint application" means an application submitted to the director by two or more persons;

R. "Mbpd-mile" means a descriptive unit used as a measure of the size of a coal liquids pipeline, the quantity of which is determined by multiplying (1) either the length in miles of the new (section of) pipeline in Minnesota, or 50 if the capacity expansion is achieved by adding power, and (2) the new or additional design capacity in thousand barrels per day (Mbpd). If the pipeline capacity would be expanded by a combination of looping and adding power, the Mbpd-miles corresponding to each method of expansion shall be calculated and the sum of the two shall be the size of the pipeline;

S. "Mcf" means thousand cubic feet, a common unit of volume measurement for natural gas;

T. "Minnesota service area" means that part of an applicant's service area which is in Minnesota;

U. "Mton-mile" means a descriptive unit used as a measure of the size of a coal slurry pipeline, the quantity of which is determined by multiplying (1) either the length in miles of the new (section of) pipeline in Minnesota, or 50 if the capacity expansion is achieved by adding power, and (2) the new or additional design capacity in thousands of tons per day (Mton). If the pipeline capacity would be expanded by a combination of looping and adding power, the Mton-miles corresponding to each expansion shall be calculated and the sum of the two shall be the size of the pipeline;

V. "Nuclear fuel processing facility" means any facility designed for or capable of processing or reprocessing any material for use as a fuel in a nuclear reactor. A nuclear fuel processing facility shall include any radioactive or non-radioactive waste storage or disposal facility on the site needed for operation of the facility at the design capacity;

W. "Nuclear waste storage or disposal facility" means any facility designed for or capable of serving as a temporary or permanent depository for radioactive or nonradioactive wastes produced by a nuclear reactor or a nuclear fuel processing facility;

X. "Peak day" means that day during a calendar year when demand is the greatest;

Y. "Peak demand" means the highest demand placed upon a facility within a designated period of time;

Z. "Person" means an individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or a government or governmental subdivision, unit or agency, other than a court of law;

AA. "Promotional practices" means any actions or policies by an applicant, an applicant's customers, or other persons which directly or indirectly give rise to the demand for the facility, including, but not limited to, advertising, billing practices, and other marketing activities;

BB. "Service area" means that geographical area in which the applicant has customers;

CC. "Substantially complete application" means an application which is deemed by the director to be in substantial compliance with the information requirements of these rules; and

DD. "Ton" means 2000 pounds (907.2 kilograms).

§ 2.1105 Filing fees and payment schedule.

A. The fee for processing an application shall be:

1. \$5,000 plus \$50 per ton of hourly design input for a new or expanded fuel conversion facility;
2. \$5,000 plus \$10 per Mton-mile for a new or expanded coal slurry pipeline;
3. \$5,000 plus \$1 per Mbpd-mile for a new or expanded coal liquids pipeline;
4. \$20,000 plus \$50 per ton of yearly design input for a nuclear fuel processing facility; or
5. \$20,000 for a nuclear waste storage or disposal facility;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility.

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B. Fifty percent of the fee set according to 6 MCAR § 2.1105 A. 1., 2., 3. or 4. shall accompany the application, and the balance shall be paid 90 days after submission of the application. The applicant shall be notified prior to the time the application is acted upon by the director of any additional fees, which fees shall be paid within 30 days of notification. The billing of such additional fees shall be accompanied by an itemized document showing the necessity for the additional assessment.

C. No certificate shall be issued until all fees are paid in full.

§ 2.1111 Criteria for assessment of need.

A. Purpose of the criteria. The criteria for assessment of need shall be used by the director in the determination of need for each proposed large energy facility which is subject to these rules. The factors listed under each of the criteria set forth herein at 6 MCAR § 2.1111 C. shall be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules. The director shall make a specific written finding with respect to each of the criteria.

B. Consideration of alternatives. The director shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in 6 MCAR § 2.1111 C.

C. Criteria. A certificate of need shall be granted to the applicant if it is determined that:

1. the probable direct or indirect result of denial would be an adverse effect upon the future adequacy, reliability, safety, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:

a. the accuracy of the applicant's forecast of demand for the energy or service that would be supplied by the proposed facility;

b. the effects of existing or expected conservation programs of the applicant, the state government, or the federal government;

c. the effects of promotional practices in creating a need for the proposed facility, particularly promotional practices which have occurred since 1974;

d. the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and

e. the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;

2. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant, considering:

a. the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

b. the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

c. the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

d. the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

3. it has been demonstrated by a preponderance of the evidence on the record that the consequences of granting the certificate of need for the proposed facility, or a suitable modification thereof, are more favorable to society than the consequences of denying the certificate, considering:

a. the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;

b. the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;

c. the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and

d. the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality; and that

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4. it has not been demonstrated on the record that the design, construction, operation or retirement of the proposed facility will fail to comply with those relevant policies, rules and regulations of other state and federal agencies and local governments.

§ 2.1121 Contents of application.

A. An application for a certificate of need shall provide all information required by 6 MCAR §§ 2.1131 through 2.1135 and, optionally, 2.1186. An application shall also provide information for specific types of facilities as indicated below.

1. An applicant for a fuel conversion facility shall refer to 6 MCAR §§ 2.1141 through 2.1144 for the additional information required.

2. An applicant for a coal slurry or coal liquids pipeline shall refer to 6 MCAR §§ 2.1145 through 2.1149 for the additional information required.

3. An applicant for a nuclear fuel processing facility shall refer to 6 MCAR §§ 2.1151 through 2.1154 for the additional information required.

4. An applicant for a nuclear waste storage or disposal facility shall refer to 6 MCAR §§ 2.1155 through 2.1159 for the additional information required.

5. An applicant for any facility other than those listed in 6 MCAR § 2.1121 A.1. through 4. or specifically covered by 6 MCAR §§ 2.0601-2.641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091 shall refer to 6 MCAR § 2.1181 for the additional information required.

B. Joint application. If an application for a certificate of need is jointly submitted by two or more persons, then each such person shall submit separate information in response to the general information section (6 MCAR § 2.1131), the conservation programs section (6 MCAR § 2.1135), and the appropriate historical data and forecast section (6 MCAR § 2.1143, 2.1148, 2.1153, or 2.1158).

C. Multi-party ownership and use. An application for a certificate of need for a facility which would be owned and used by two or more persons shall be considered as a joint application for purposes of these rules.

§ 2.1131 General information. Each application shall include the following general information:

A. the applicant's complete name and address, telephone number, and standard industrial classification code(s);

B. the complete name, title, address and telephone number of the official or agent to be contacted concerning the applicant's filing;

C. a brief description of the nature of the applicant's business and of the products which are manufactured, produced, or processed, or of the services rendered;

D. a brief description of the proposed facility and its planned use;

E. the total fee for the application as prescribed by 6 MCAR § 2.1105 and the amount of the fee submitted with the application; and

F. the signature(s) and title(s) of the applicant's officer(s) or executive(s) authorized to sign the application and the signature of the preparer of the application if prepared by an outside agent.

§ 2.1132 Schedule of other filings. Each application shall contain a schedule listing all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

A. the names of all known federal, state, or local authorities with which the applicant must file;

B. the title of each required permit or certificate issued by the authorities named in response to 6 MCAR § 2.1132 A. and needed by the applicant;

C. for each permit or certificate listed in response to 6 MCAR § 2.1132 B., the date an application was filed or the projected date of future application;

D. for each permit or certificate listed in response to 6 MCAR § 2.1132 B., the actual date a decision was made on the application, or the anticipated decision date; and

E. for each permit or certificate listed in response to 6 MCAR § 2.1132 B., for which an application was filed, the disposition or status of the permit or certificate.

§ 2.1133 Need summary. Each application shall contain a summary of the major factors which justify the need for the proposed facility. Except upon prior approval of the director, this summary shall not exceed 15 pages, including text, tables, graphs and figures.

§ 2.1134 Additional considerations. Each application shall contain an explanation of the relationship of the proposed facility to each of the following socioeconomic considerations:

A. socially beneficial uses of the output of the facility,

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including its uses to protect or enhance environmental quality;

B. promotional activities which may have given rise to the demand for the facility; and

C. the effects of the facility in inducing future development.

§ 2.1135 **Conservation programs.** Each application shall include the following information:

A. the name of the committee, department or individual responsible for the applicant's energy conservation and efficiency programs;

B. a list of the applicant's energy conservation and efficiency goals and objectives;

C. a description of the specific energy conservation and efficiency programs the applicant has considered, a list of those which have been implemented, and the reasons why the other programs have not been implemented;

D. a description of the major accomplishments which have been made with respect to energy conservation and efficiency;

E. a description of the applicant's future plans through the forecast years with respect to energy conservation and efficiency; and

F. a quantification of the manner by which these programs affect or help determine the applicant's forecast of demand, a list of the total costs by program, and a discussion of the expected effects in reducing the need for new large energy facilities.

§ 2.1141 **Description of proposed fuel conversion facility.** Each application for a fuel conversion facility shall contain the following information:

A. a physical description of the facility, including:

1. its location, to the fullest extent known;

2. an estimate of the required land area and the height of the tallest structures;

3. its design capacity in tons per hour of input material;

4. a schematic drawing showing major components of the facility; and

5. a map showing the planned location of the facility and its interconnections with energy transportation systems;

B. data regarding design and construction of the facility, including:

1. if known, the complete name and business address of the engineer and firm that would be responsible for the design of the facility;

2. if known, the complete name and business address of the company which would construct the facility;

3. the proposed date for commencing construction and the proposed in-service date;

4. the estimated installed cost of the facility in current dollars; and

5. the estimated economic life of the facility; and

C. data regarding operation of the facility, including:

1. a narrative description of the steps of the process;

2. the types and sources of input materials that would be processed by the facility and the energy content of each in Btu per appropriate unit of measure;

3. the types of output products, the amount of each, and the energy content of each in Btu per appropriate unit of measure;

4. the projected annual operating and maintenance costs in current dollars for each of the first five calendar years of operation;

5. a description of the methods that would be used to transport input and output materials to and from the facility;

6. the estimated amounts and types of energy products that would be consumed during operation at the design capacity;

7. the expected average percentage of use of the full design capacity for each of the first five calendar years of operation; and

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8. a discussion of the maintenance requirements of the facility, including the estimated impact on production.

§ 2.1142 Alternatives. Each application for a fuel conversion facility shall contain a description of alternatives available to the applicant which differ significantly from the proposed facility with respect to location, size, timing, or design. The description of each alternative shall include the following information, if applicable:

A. the location of the facility, to the fullest extent known;

B. the design capacity of the facility;

C. a schematic drawing showing major components of the facility;

D. a map showing the planned location of the facility and its interconnections with energy transportation systems;

E. the probable date for commencing construction and the probable in-service date;

F. the estimated installed cost of the alternative in current dollars;

G. the estimated economic life of the facility;

H. the input materials that would be processed by the facility and the products that would be produced;

I. the projected annual operating and maintenance costs in current dollars for each of the first five calendar years of operation;

J. a description of the methods that would be used to transport input and output materials to and from the facility;

K. the estimated amounts and types of energy products that would be consumed during operation of the facility at the design capacity;

L. the expected average percentage of use of the full design capacity for each of the first five calendar years of operation;

M. a discussion of the maintenance requirements of the facility, including the estimated impact on production; and

N. the reason(s) why the alternative was rejected.

§ 2.1143 Historical and forecast data. Each applicant for a fuel conversion facility shall provide five years of histori-

cal energy data, as well as a forecast of demand through the forecast years. If the fuel conversion facility is designed primarily to provide energy for the applicant's own use, data shall be submitted in response to 6 MCAR § 2.1143 A. If the facility is designed to produce pipeline quality gas for sale by either a utility or a pipeline company, data shall be submitted in response to 6 MCAR § 2.1143 B. In all other cases, data shall be submitted in response to 6 MCAR § 2.1143 C.

A. The applicant shall submit the following information about its historical and projected use of energy products:

1. for each of the energy products which would be produced by the proposed facility, the amount of that product consumed by the applicant during each of the five preceding calendar years;

2. the amounts of any other energy products consumed by the applicant during each of the five preceding calendar years;

3. the amounts of those energy products listed in response to 6 MCAR § 2.1143 A.1. and 2. which were consumed at the applicant's Minnesota location(s);

4. for the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year, the projected demand by the applicant for each of the energy products named in response to 6 MCAR § 2.1143 A.1. and 2. and the projected demand for each at the applicant's Minnesota location(s);

5. a discussion of the methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1143 A.4;

6. any major assumptions made in providing the forecast data required by 6 MCAR § 2.1143 A.4, and a discussion of the sensitivity of the projections to changes in the assumptions; and

7. any other known large energy facilities which may be constructed during the forecast years for use by the applicant.

B. A gas utility or pipeline company shall submit the following information:

1. for each of the ten preceding calendar years, the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year, annual gas consumption by ultimate consumers and the number of such customers within the applicant's system in each of the following categories:

a. residential firm (when gas is supplied through a

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single meter for both residential and commercial uses, it should be reported according to its principal use, and apartment buildings shall be reported as residential even if not metered separately);

b. commercial firm who use less than 200 Mcf on peak day;

c. commercial firm with a peak day requirement equal to or greater than 200 Mcf;

d. industrial firm who use less than 200 Mcf on peak day;

e. industrial firm with a peak day requirement equal to or greater than 200 Mcf;

f. commercial and industrial interruptible;

g. other (this category shall include storage gas and other sales or deliveries not covered in categories a through f);

h. unaccounted for, and

i. the sum of categories a through h;

2. if the applicant's service area includes consumers outside of Minnesota, annual gas consumption by ultimate consumers within the applicant's Minnesota service area for each of the years given in 6 MCAR § 2.1143 B.1:

3. for each of the years given in 6 MCAR § 2.1143 B.1 and for each of the categories listed in 6 MCAR § 2.1143 B.1.a. through i, an estimate of the daily demand for gas by ultimate consumers in the applicant's system at the time of system peak demand;

4. for each of the years given in 6 MCAR § 2.1143 B.1, the applicant's system peak demand by month;

5. a discussion of methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1143 B.1. through 4;

6. a discussion of the assumptions made by the applicant with respect to the availability of alternate sources of energy, the expected conversion from other fuels to gas or vice versa, the future prices of gas for customers in the applicant's system and the effect that such prices will likely have on the applicant's system demand, the effect of existing energy conservation programs under federal or state

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legislation on long-term gas demand, and any other factor considered important by the applicant;

7. a discussion of the sensitivity of the forecast to changes in the assumptions;

8. for a gas utility only, for the last calendar year, the current calendar year, the first full calendar year before the proposed facility is expected to be in operation, and the first full calendar year of operation of the proposed facility, an annual supply curve consisting of a single graph for each year and showing the contributions from:

a. pipeline contract demand;

b. gas from storage;

c. synthetic gas other than propane;

d. liquefied natural gas;

e. propane peak-shaving gas; and

f. the proposed facility;

9. for a gas pipeline company only, for the last calendar year, the current calendar year, the first full calendar year before the proposed facility is expected to be in operation, and the first full calendar year of operation of the proposed facility, an annual supply curve consisting of a single graph for each year and showing the contributions from:

a. own production;

b. committed purchases from other gas producers;

c. gas from storage;

d. emergency purchases (historical year only);

e. other sources; and

f. the proposed facility; and

10. any other known large energy facilities which may be constructed during the forecast years for use by the applicant.

C. The applicant shall submit the following information about its consumption and sales of energy products:

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1. for each of the energy products which would be produced by the proposed facility, the amount sold or transported by the applicant during each of the five preceding calendar years;

2. the amounts of those energy products listed in response to 6 MCAR § 2.1143 C.1. that were sold or transported by the applicant in its Minnesota service area;

3. for each of the energy products consumed by the applicant and for each of the five preceding calendar years, the total amount consumed and the amount consumed at the applicant's Minnesota locations;

4. for the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year, the projected total demand for products produced by the proposed facility within the applicant's service area and the projected demand within its Minnesota service area;

5. a discussion of the methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1143 C.4;

6. any assumptions made in supplying the projections made in response to 6 MCAR § 2.1143 C.4, and a discussion of the sensitivity of the projections to changes in the assumptions; and

7. any other known large energy facilities which may be constructed during the forecast years for use by the applicant.

§ 2.1144 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1142. The following information relating to construction and operation of each of these facilities shall be provided, to the extent that such information is reasonably available to the applicant and applicable to the particular alternative:

A. a description of each alternative site, including:

1. the nature of the terrain at the site;
2. the general soil and bedrock type(s) at the site;
3. the depth to groundwater at the site;

4. the types of vegetation (forest, brush, marsh, pasture, and cropland) on the site, and the approximate percentage of each;

5. the predominant types of land use (such as residen-

tial, forest, agricultural, commercial, and industrial) within five miles of the site, and the approximate percentage of each;

6. lakes, streams, wetlands or drainage ditches within five miles of the site and any other lakes, streams, wetlands, drainage ditches, wells or storm drains into which liquid contaminants could flow;

7. trunk highways and airports within five miles of the site;

8. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas within five miles of the site, as mapped on the Inventory of the Significant Resources by the State Planning Agency;

9. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes within five miles of the site, as mapped on the inventory of Significant Resources by the State Planning Agency;

10. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other Cultural Resources within five miles of the site, as indicated by the Minnesota Historical Society; and

11. areas designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government;

B. data on wastes and emissions associated with construction or operation of the facility, including:

1. the types and estimated amounts of solid and liquid wastes, including aromatic compounds, that would be produced by the facility;

2. the types and estimated amounts of gaseous and particulate emissions into the air that would occur during full operation from each emission source, and the location and nature of the release point;

3. locations which may be sources of fugitive dust and the nature of each source;

4. the locations, routes and final receiving waters for

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any discharge points, and for each discharge point the source, the amount and the nature of the discharge;

5. any area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff;

6. the sources and estimated amounts of heat rejected from the facility; and

7. the maximum noise levels (in decibels, A scale) expected at the property boundary and the expected maximum increase over ambient noise levels;

C. data regarding pollution control and safeguards equipment, including:

1. the methods that would be used to recycle or dispose of solid or liquid wastes;

2. the types of emission control devices and dust control measures that would be used;

3. the types of water pollution control equipment and runoff control measures that would be used;

4. the measures that would be taken to prevent spills of pollutants or to minimize the environmental effect of a spill on surface waters and groundwaters;

5. the methods that would be used to reduce the effects of heat rejected by the facility;

6. any other equipment or measures, including noise control or erosion control, that would be used to reduce the impact of the facility; and

7. the types of environmental monitoring that are planned for the facility, if any, and a description of any relevant environmental monitoring data already collected; and

D. estimates of induced developments, including:

1. the types and amounts of vehicular traffic that would be generated by the facility due to construction activity and, later, to operational needs;

2. the work forces required for construction and for operation of the facility;

3. the extent to which the facility would create or add

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to the need for expanded utility or public services, including high voltage transmission lines, access roads, and the like;

4. the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and the uses for the water;

5. the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed, and known circumstances associated with the facility that could lead to reduced productivity of surrounding agricultural land; and

6. the number of people that would have to relocate if the facility were constructed.

§ 2.1146 **Description of proposed coal slurry or coal liquids pipeline.** Each application for a coal slurry or coal liquids pipeline shall contain the following information:

A. a physical description of the facility, including:

1. a pipeline system map showing the planned route, mileages, and locations of pumping stations, mainline valves, dump basins or storage facilities, and interconnections with other energy transportation systems;

2. the diameter and the expected length within Minnesota;

3. the design throughput in tons per day of coal (coal slurry pipeline) or in barrels per day (coal liquids pipeline);

4. to the extent known, specifications for the pipe (diameter, length, wall thickness, and grade) and the valves (diameter and American National Standards Institute rating) with the maximum allowable operating pressure for each;

5. to the extent known, specifications for the pumps (diameter, maximum allowable operating pressures, and maximum capabilities); and

6. to the extent known, specifications for the prime movers (type, maximum power capacity in horsepower, efficiency, allowable maximum and minimum operating temperatures, and energy requirement in Btu per ton of coal or barrel of coal liquids pumped);

B. data regarding design and construction of the facility, including:

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1. if known, the complete name and business address of the engineer and firm that would be responsible for the design;

2. if known, the complete name and business address of the company which would construct the facility;

3. the proposed date for commencing construction and the proposed in-service date;

4. the estimated installed cost of the facility in current dollars; and

5. the estimated economic life of the facility; and

C. data regarding operation of the facility, including:

1. a list of expected sources of supply for transportation during the first five calendar years of operation, designated as in-state or as out-of-state, the expected dates and durations of the contracts with the suppliers, and the quantities expected to be involved;

2. a list of expected recipients of the transported slurry or coal liquids during the first five calendar years of operation, designated either as in-state or as out-of-state, the expected dates and durations of the contracts with the 25 largest recipients, and the quantities expected to be involved;

3. the expected maximum operating pressure and capacity of the facility at the time of peak demand;

4. the expected power requirement from the prime movers at each station at the time of peak demand (in kilowatts, thousands of cubic feet per hour, or gallons per hour);

5. the expected average percentage of use of the full design capacity for each of the first five calendar years of operation;

6. the estimated tariffs or transportation costs for the pipeline for each of the first five calendar years of operation; and

7. for a coal slurry pipeline, a description of what would be done with the slurry water or other carrier after it had been used to transport coal.

§ 2.1147 Alternatives. Each application for a coal slurry or coal liquids pipeline shall contain a description of alternatives available to the applicant which differ significantly from the proposed facility with respect to location, size, timing, or design.

A. If the alternative is another pipeline, all of the information required by 6 MCAR § 2.1146 A. through C. shall be submitted for the alternative. The applicant shall also indicate the reason(s) for rejecting the alternative.

B. If the alternative is not a pipeline, the description of the alternative shall include the following information, if applicable:

1. the location of the alternative, to the fullest extent known;

2. the dimensions and design capacity of the alternative;

3. a schematic drawing showing major components of the alternative;

4. a map showing the planned location of the facility and its interconnections with energy transportation systems;

5. the probable date for commencing construction and the probable in-service date;

6. the estimated installed cost of the alternative in current dollars;

7. the estimated maintenance requirements of the alternative;

8. the estimated economic life of the alternative; and

9. the reason(s) why the alternative was rejected.

§ 2.1148 Historical and forecast data. Each applicant for a coal slurry or coal liquids pipeline shall provide five years of historical energy data, as well as a forecast of demand through the forecast years. If the proposed pipeline is designed primarily to provide energy for the applicant's own use, data shall be submitted in response to 6 MCAR § 2.1148 A. If the proposed pipeline is designed primarily to transport or distribute energy to be used by others, data shall be submitted in response to 6 MCAR § 2.1148 B.

A. The applicant shall submit the following information about its historical and projected use of energy products:

1. for each of the energy products which would be transported by the proposed facility, the amount of that product consumed by the applicant during each of the five preceding calendar years;

2. the amounts of any other energy products consumed by the applicant during each of the five preceding calendar years;

3. the amounts of those energy products named in re-

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sponse to 6 MCAR § 2.1148 A.1. and 2. which were consumed at the applicant's Minnesota locations;

4. for the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year, the projected demand by the applicant for each of the energy products named in response to 6 MCAR § 2.1148 A.1. and 2. and the projected demand for each at the applicant's Minnesota locations;

5. a discussion of the methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1148 A.4;

6. any major assumptions made in providing the forecast data required by 6 MCAR § 2.1148 A.4, and a discussion of the sensitivity of the projections to changes in the assumptions; and

7. any other known large energy facilities which may be constructed during the forecast years for use by the applicant.

B. The applicant shall submit the following information about its transportation and distribution of energy products;

1. a list of the energy products transported or distributed in its service area during each of the five preceding calendar years;

2. for each energy product listed in response to 6 MCAR § 2.1148 B.1, the annual and peak-day quantities transported or distributed for each of the five preceding calendar years in the appropriate units of measure;

3. a list of sources of supply of energy products for transportation or distribution during the five preceding calendar years, designated as either in-state or out-of-state, the dates and durations of the contracts with the suppliers or shippers, and the quantities of each energy product involved;

4. for each of the five preceding calendar years and for each energy product, the percentage of in-state delivery of the annual amounts given in response to 6 MCAR § 2.1148 B.2;

5. a list of each storage facility, pipeline, or other major facility owned or operated by the applicant and associated with the transportation and distribution of the energy products given in response to 6 MCAR § 2.1148 B.1,

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and the average percentage of use of each such facility during the summer season and during the winter season;

6. a list of the energy products the applicant expects to transport or distribute in its service area during the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year, and the annual and peak-day quantities expected in the appropriate units of measure;

7. a discussion of the methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1148 B.6;

8. a discussion of the methods, assumptions and factors employed for purposes of estimation in response to 6 MCAR § 2.1148 B.6;

9. a discussion of the sensitivity of the forecast to changes in the assumptions; and

10. any other known large energy facilities which may be constructed during the forecast years for use by the applicant.

§ 2.1149 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1147. Environmental data for each pipeline considered shall conform to the format given in subdivision A. through D. of 6 MCAR § 2.1149. Environmental data for any other alternative shall include a list of the natural and cultural resources, as given in items 7. through 12. of 6 MCAR § 2.1149 A, that would be directly affected, and a discussion of those applicable areas of environmental concern that are detailed in subdivisions B. through D. of 6 MCAR § 2.1149. The applicant shall provide:

A. a description of each alternative route, including:

1. the names of cities or population centers through which the route passes;

2. the number of miles of the route which passes through, respectively, federal lands, state lands, county or tax-forfeit lands, incorporated areas, and private land outside corporate areas;

3. the general soil types along the route and the approximate percentage of each;

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4. the general bedrock types along the route and the approximate percentage of each;

5. the general terrain along the route;

6. the types of vegetation along the route (forest, brush, marsh, pasture, and cropland) and the approximate percentage of each;

7. the predominant types of land use along the route (such as residential, forest, agricultural, commercial, and industrial) and the approximate percentage of each;

8. the names of major lakes or streams and the number of wetlands of five acres or more through which the route passes, as well as any others into which liquid contaminant from the pipeline could flow;

9. trunk highways, airports, or railroad lines under which the route passes;

10. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas through which the route passes, as mapped on the Inventory of Significant Resources by the State Planning Agency;

11. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes through which the route passes, as mapped on the Inventory of Significant Resources by the State Planning Agency; and

12. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other Cultural Resources through which the route passes, as indicated by the Minnesota Historical Society;

B. data on wastes and emissions associated with construction or operation of the facility, including:

1. the types and estimated amounts of solid and liquid wastes that would be produced;

2. the types and estimated amounts of gaseous and particulate emissions into the air that would occur during full operation of the pipeline from each emission source, and the location and nature of the release point;

3. locations which may be sources of fugitive dust and the nature of each source;

4. the locations, routes and final receiving waters for any discharge points, and for each discharge point the source, the amount and the nature of the discharge;

5. any area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff; and

6. the maximum noise levels (in decibels, A scale) expected along the route and the expected maximum increase over ambient noise levels;

C. data regarding pollution control and safeguards equipment, including:

1. the types of emission control devices and dust control measures that would be used, including provisions for controlling coal dust left in evaporated dump basins;

2. the types of water pollution control equipment and runoff control measures that would be used, including methods to treat any residual slurry water that may enter freshwater bodies;

3. the measures that would be taken to prevent slurry or coal liquids spills or to minimize the environmental effect of a spill on surface waters and groundwaters;

4. any other equipment or measures, including noise control or erosion control, that would be used to reduce the impact of the facility; and

5. the types of environmental monitoring that are planned for the facility, if any, and a description of any relevant environmental monitoring data already collected; and

D. estimates of induced developments, including:

1. the extent to which the facility would create or add to the need for expanded utility or public services;

2. the work forces required for construction and for operation of the facility;

3. the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and the use(s) for the water;

4. a discussion of the effects on agricultural operations, including the number of farms and the number of acres of cropland and pasture land that would be affected by construction of the pipeline, the number of drainage ditches

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that would be affected, and the efforts that would be used to mitigate effects on production (e.g., segregating topsoil, avoiding soil compaction, providing adequate depth of cover); and

5. the number of people who would have to relocate if the facility were constructed.

§ 2.1151 Description of proposed nuclear fuel processing facility. Each application for a nuclear fuel processing facility shall contain the following information:

A. a physical description of the facility, including:

1. its location, to the fullest extent known;

2. the required land area, the height of the tallest structures, and, if applicable, the depth and size of any underground caverns;

3. its design capacity in tons per year of input material; and

4. a schematic drawing showing major components of the facility;

B. data regarding design and construction of the facility, including:

1. if known, the complete name and business address of the engineer and firm that would be responsible for the design of the facility;

2. if known, the complete name and business address of the company which would construct the facility;

3. the proposed date for commencing construction and the proposed in-service date;

4. the estimated installed cost of the facility in current dollars; and

5. the estimated economic life of the facility;

C. data regarding operation of the facility, including:

1. a narrative description of the steps of the process;

2. the types, amounts, and sources of input materials that would be processed by the facility during operation at the design capacity and the method(s) of transporting these materials to the facility;

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3. the types and amounts of output materials from the processing facility during operation at the design capacity and the method(s) of transporting or disposing of these materials;

4. the projected annual operating and maintenance costs in current dollars for each of the first five calendar years of operation;

5. the projected types and amounts of energy products that would be consumed during operation at the design capacity;

6. the expected average percentage of use of the full design capacity for each of the first five calendar years of operation; and

7. a discussion of the maintenance requirements of the facility, including the estimated impact on production.

§ 2.1152 Alternatives. Each application for a nuclear fuel processing facility shall contain a description of alternatives available to the applicant which differ significantly from the proposed facility with respect to location, size, timing, or design. The description of each alternative shall include the following information, if applicable:

A. the location of the facility, to the fullest extent known;

B. the required land area, the height of the tallest structures and, if possible, the depth and size of any underground caverns;

C. its design capacity in the appropriate units of measure;

D. a schematic drawing showing major components of the facility;

E. the probable date for commencing construction and the probable in-service date;

F. the estimated installed cost of the alternative in current dollars;

G. the estimated economic life of the facility;

H. the input materials that would be processed by the facility and the products that would be produced;

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I. the projected annual operating and maintenance costs in current dollars for each of the first five calendar years of operation;

J. the methods that would be used to transport materials to and from the facility;

K. the projected types and amounts of energy products that would be consumed during operation at the design capacity;

L. the estimated average percentage of use of the full design capacity for each of the first five years of operation;

M. a discussion of the maintenance requirements of the facility, including the estimated impact on production; and

N. the reason(s) why the alternative was rejected.

§ 2.1153 Historical and forecast data. Each applicant for a nuclear fuel processing facility shall provide five years of historical data, as well as a forecast of demand through the forecast years. The following information shall be included:

A. the amount of each input material, in tons per year, produced nationally and the amount produced within Minnesota during each of the last five calendar years preceding the year of application;

B. for each of the last five calendar years preceding the year of application, the year-end capacity within Minnesota and within the United States, in tons of input material per year, to process the materials listed in response to 6 MCAR § 2.1153 A;

C. an estimate of the amount of each input material expected to be produced nationally (including, if applicable, spent fuel from foreign reactors which use uranium supplied by the United States) and within Minnesota during the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year;

D. a discussion of the methodology, statistical techniques, and data bases used in providing the forecast data required by 6 MCAR § 2.1153 C;

E. a list of known facilities to be added in the United States during the forecast years, including locations, in-service dates, and design capacities, for processing the same types of materials that would be processed by the proposed facility; and

F. any major assumptions made in supplying the information required by 6 MCAR § 2.1153 A through D, and a

discussion of the sensitivity of the information to changes in the assumptions.

§ 2.1154 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1152. The following information relating to construction and operation of each of these facilities shall be provided, to the extent that such information is reasonably available to the applicant and applicable to the particular alternative:

A. a description of each alternative site, including:

1. the nature of the terrain at the site;
2. the general soil type(s) at the site;
3. the type(s) and depth(s) of bedrock underlying the site;
4. the depth to groundwater at the site;
5. the types of vegetation (forest, brush, marsh, pasture, and cropland) on the site, and the approximate percentage of each;
6. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within five miles of the site, and the approximate percentage of each;
7. lakes, streams, wetlands or drainage ditches within five miles of the site and any other lakes, streams, wetlands, drainage ditches, wells or storm drains into which liquid contaminants from the site could flow;
8. trunk highways, airports, and air traffic corridors within five miles of the site;
9. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas within five miles of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency;
10. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes within five miles of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency;
11. national historic sites and landmarks, national

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monuments, National Register Historic Districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other Cultural Resources within five miles of the site, as indicated by the Minnesota Historical Society; and

12. areas designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government;

B. data on wastes and emissions associated with construction or operation of the facility, including:

1. the types and estimated amounts of solid, liquid, and gaseous radioactive wastes that would be produced by the facility, and the level of radioactivity of each in curies per year;

2. an analysis of human exposure to ionizing radiation attributable to operation of the facility, taking account of the pathways of radioactive releases to man;

3. the types and estimated amounts of nonradioactive solid and liquid wastes that would be produced;

4. the types and estimated amounts of nonradioactive gaseous and particulate emissions into the air that would occur during full operation from each emission source, and the location and nature of the release point;

5. locations which may be sources of fugitive dust and the nature of each source;

6. the nature and estimated amount of nonradioactive discharges to water, and the locations, routes and final receiving waters for any discharge points;

7. any area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff;

8. the sources and estimated amounts of heat rejected by the facility; and

9. the maximum noise levels (in decibels, A scale) expected at the property boundary and the expected maximum increase over ambient noise levels;

C. data regarding pollution control and safeguards equipment, including:

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1. the provisions that would be made for management of radioactive materials;

2. a description of contingency plans to reduce the effects of an accidental release of radioactive materials;

3. the methods that would be used to recycle or dispose of solid or liquid wastes;

4. the types of emission control devices and dust control measures that would be used;

5. the types of water pollution control equipment and runoff control measures that would be used;

6. the measures that would be taken to prevent spills or leaks of pollutants, or to minimize the effects of spills or leaks on the environment;

7. the methods that would be used to reduce the effects of heat rejected by the facility;

8. any other equipment or measures, including noise control or erosion control, that would be used to reduce the effects of the facility on the environment; and

9. the types of environmental monitoring, if any, that are planned for the facility and a description of any relevant environmental monitoring data already collected; and

D. estimates of induced developments, including:

1. the types and amounts of vehicular traffic that would be generated by the facility due to construction activity and, later, to operational needs;

2. the work forces required for construction and for operation of the facility;

3. the extent to which the facility would create or add to the need for expanded utility or public services, including high voltage transmission lines, access roads, and the like;

4. the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water and the use(s) for the water;

5. the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed, and known circumstances as-

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sociated with the facility that could lead to reduced productivity of surrounding agricultural land; and

6. the number of people that would have to relocate if the facility were constructed.

§ 2.1156 Description of proposed nuclear waste or disposal facility. Each application for a nuclear waste storage or disposal facility shall contain the following information:

A. a physical description of the facility, including:

1. its location, to the fullest extent known;

2. the required land area, the height of the tallest structures and, if applicable, the depth and size of any underground caverns;

3. its design capacity in cubic metres; and

4. a schematic drawing showing major components of the facility;

B. data regarding design and construction of the facility, including:

1. if known, the complete name and business address of the engineer and firm that would be responsible for the design of the facility;

2. if known, the complete name and business address of the company which would construct the facility;

3. the proposed date for commencing construction and the proposed in-service date;

4. a description of the construction techniques;

5. the estimated installed cost of the facility in current dollars; and

6. the estimated economic life of the facility; and

C. data regarding operation of the facility, including:

1. a narrative description of the steps of the storage or disposal process, starting at the point the nuclear wastes are produced;

2. the sources, types, and amounts of nuclear waste products that would be stored, the method(s) of transporting these materials to the facility, and the level of radioactivity of each in curies per year;

3. if the facility is only for temporary storage, the

length of time material would be stored there and the method of transporting the material to its disposal site; and

4. the expected maintenance requirements of the facility, if any.

§ 2.1157 Alternatives. Each application for a nuclear waste storage or disposal facility shall contain a description of alternatives available to the applicant which differ significantly from the proposed facility with respect to location, size, timing or design. The description of each alternative shall include the following information, if applicable:

A. the location of the facility, to the fullest extent known;

B. the required land area, the height of the tallest structures and, if applicable, the depth and size of any underground caverns;

C. its design capacity in the appropriate units of measure;

D. a schematic drawing showing major components of the facility;

E. the probable date for commencing construction and the probable in-service date;

F. the estimated installed cost of the alternative in current dollars;

G. the sources, types, and amounts of nuclear waste products that would be involved in the alternative, the method(s) of transporting these materials, and the level of radioactivity of each in curies per year;

H. the estimated maintenance requirements of the alternative;

I. the estimated economic lives of the facilities involved in the alternative; and

J. the reason(s) why the alternative was rejected.

§ 2.1158 Historical and forecast data. Each applicant for a nuclear waste storage or disposal facility shall provide five years of historical data, as well as a forecast of demand through the forecast years. The following information shall be included:

A. for each material that would be stored in the proposed facility, the amount (in cubic metres) produced nationally and within Minnesota during each of the last five calendar years preceding the year of application;

B. for each of the last five calendar years preceding the year of application, the year-end capacity (in cubic metres)

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within Minnesota and within the United States to store the materials listed in response to 6 MCAR § 2.1158 A;

C. an estimate of the amount (in cubic metres) of each material listed in response to 6 MCAR § 2.1158 A. expected to be produced nationally and within Minnesota during the first six forecast years, the eleventh forecast year (the tenth year after the year of application), and the sixteenth forecast year;

D. a list of known facilities to be added in the United States during the forecast years, including locations, design capacities (in cubic metres), and in-service dates, for storing the same types of materials that would be stored in the proposed facility;

E. the expected years during which the material stored in the proposed facility would reach 10 percent, 25 percent, 50 percent, and 100 percent of the capacity of the facility;

F. a discussion of the methodology, statistical techniques, a data bases used in providing the forecast data required by 6 MCAR § 2.1158 C. and E.; and

G. any major assumptions made in supplying the information required by 6 MCAR § 2.1158 A. through E., and a discussion of the sensitivity of the information to changes in the assumptions.

§ 2.1159 Environmental data. Each applicant shall provide environmental data for the proposed facility and for each alternative facility described in response to 6 MCAR § 2.1157. The following information relating to construction and operation of each of these facilities shall be provided to the extent that such information is reasonably available to the applicant and applicable to the particular alternative:

A. a description of each alternative site, including:

1. the nature of the terrain at the site;
2. the general soil type(s) at the site;
3. the type(s) and depth(s) of bedrock underlying the site;
4. the depth to groundwater at the site;
5. the types of vegetation (forest, brush, marsh, pasture, and cropland) on the site, and the approximate percentage of each;

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6. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within five miles of the site, and the approximate percentage of each;

7. lakes, streams, wetlands or drainage ditches within five miles of the site and any other lakes, streams, wetlands, drainage ditches, wells or storm drains into which liquid contaminants from the site could flow;

8. trunk highways, airports, and air traffic corridors within five miles of the site;

9. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas within five miles of the site, as mapped out the Inventory of Significant Resources by the State Planning Agency;

10. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes within five miles of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency;

11. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other cultural resources within five miles of the site, as indicated by the Minnesota Historical Society; and

12. areas designated by regional or local authorities as having recreational, cultural, historical, or scientific significance, as indicated by local units of government;

B. data on wastes and emissions associated with construction or operation of the facility, including:

1. the types and estimated amounts of solid, liquid, and gaseous radioactive wastes that would be produced by the facility, and the level of radioactivity of each in curies per year;

2. an analysis of human exposure to ionizing radiation

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attributable to operation of the facility, taking account of the pathways of radioactive releases to man;

3. the types and estimated amounts of nonradioactive solid and liquid wastes that would be produced;

4. the types and estimated amounts of nonradioactive gaseous and particulate emissions into the air that would occur during full operation from each emission source, and the location and nature of the release point;

5. locations which may be sources of fugitive dust and the nature of each source;

6. the nature and estimated amount of nonradioactive discharges to water, and the locations, routes and final receiving waters for any discharge points;

7. any area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff;

8. the sources and estimated amounts of heat rejected by the facility; and

9. the maximum noise levels (in decibels, A scale) expected at the property boundary and the expected maximum increase over ambient noise levels;

C. data regarding pollution control and safeguards equipment, including:

1. the provisions that would be made for management of radioactive materials;

2. a description of contingency plans to reduce the effects of an accidental release of radioactive materials;

3. the methods that would be used to recycle or dispose of solid or liquid wastes;

4. the types of emission control devices and dust control measures that would be used;

5. the types of water pollution control equipment and runoff control measures that would be used;

6. the measures that would be taken to prevent spills or leaks of pollutants, or to minimize the effects of spills or leaks on the environment;

7. the methods that would be used to reduce the effects of heat rejected by the facility;

8. any other equipment or measures, including noise

control or erosion control, that would be used to reduce the effects of the facility on the environment; and

9. the types of environmental monitoring, if any, that are planned for the facility and a description of any relevant environmental monitoring data already collected; and

D. estimates of induced developments, including:

1. the types and amounts of vehicular traffic that would be generated by the facility due to construction activity and, later, to operational needs;

2. the work forces required for construction and for operation of the facility;

3. the extent to which the facility would create or add to the need for expanded utility or public services, including high voltage transmission lines, access roads, and the like;

4. the amount of water which would be appropriated and the amount which would be consumed by the facility, the expected source of the water and the use(s) for the water;

5. the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed, and known circumstances associated with the facility that could lead to reduced productivity of surrounding agricultural land; and

6. the number of people that would have to relocate if the facility were constructed.

§ 2.1181 Other facilities.

A. Any applicant for certification of a large energy facility other than those specifically covered by the foregoing rules or by other Agency rules (that is, 6 MCAR §§ 2.0601-2.0641, 2.0701-2.0791, 2.0801-2.0881, 2.0901-2.0981, or 2.1001-2.1091) shall comply with this rule as to substantive content of the application. The need for that facility will be assessed by the criteria stated in 6 MCAR § 2.1111.

B. An application submitted pursuant to this rule shall contain at least four data sections in addition to the information required by 6 MCAR § 2.1121 A. Those sections shall be, respectively, a description of the proposed facility, a description of alternatives to the proposed facility, historical and forecast data, and environmental data. The specific data requirements shall be requested of the director by the prospective applicant in a written request which shall contain a general description of the proposed facility. The director shall respond to the request within 30 days of receipt by supplying to the prospective applicant an express listing of

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the specific data requirement for the four sections. Following receipt of that listing, the prospective applicant may elect to follow the provisions of 6 MCAR § 2.1103 H.

§2.1186 Other data filed with the application. In addition to the information required by these rules, an applicant may file additional data if it believes that such data is relevant to the director's decision.

§ 2.1191 Certificate of need modifications.

A. Issuance of a certificate of need may be made contingent upon modifications specified by the director.

B. The following changes in a facility previously certified by the director shall not require recertification:

1. capacity additions or subtractions of less than ten (10) percent of the capacity approved by the director; and
2. changes of less than two years in the in-service date.

C. If an applicant determines that a change greater or other than those specified by 6 MCAR § 2.1191 B is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said statement notify the applicant whether the proposed change is acceptable without recertification.

Department of Public Welfare

Proposed Temporary Rule Governing Regulations for Determining Welfare Per-Diem for Nursing Home Providers Under Title XIX Medical Assistance Program

Request for Public Comment

Notice is hereby given that the following amendment to Rule DPW 49, Rule DPW 49B, governing administration of

Regulations for Determining Welfare Per-Diem Rates for Nursing Home Providers Under Title XIX Medical Assistance Program, is proposed for adoption as a temporary rule as authorized by Minn. Stat. § 15.0412, subd. 5 (1977), pending completion of a full hearing and adoption of a permanent rule. Comments from interested and affected persons are requested. Comments must be received at the address given below within 20 days of the date of this publication to be considered. The temporary rule may be revised on the basis of comments received.

Comments on the proposed rule should be sent to:

Edward J. Dirkswager, Jr.
Commissioner
Minnesota Department of Public Welfare
Fourth Floor
Centennial Office Building
St. Paul, Minnesota 55155

Temporary Rule as Proposed

DPW 49 Regulations for Determining Welfare Per-Diem Rates for Nursing-Home Providers under the Title XIX Medical Assistance Program.

B.1.b.(2) Per-diem rates for non-proprietary facilities may include an efficiency allowance. If the facility's allowable historical cost per patient per day for the most recently completed fiscal year is less than the allowable welfare rate exclusive of Sections B.4.a. & b. and as adjusted for the lack of implementation of known cost changes, an efficiency allowance will be granted equal to the difference between the allowable historical cost and the allowable welfare rate subject to a maximum efficiency allowance of 60 cents per patient per day. For each year after the year in which the non-proprietary facility was originally purchased and there is no transfer of ownership of the facility, the efficiency allowance maximum will be increased one cent per patient per day subject to a maximum of an additional 25 cents per patient per day after 25 years.

This provision of the rule will be effective for rates paid non-proprietary facilities on January 1, 1978 and subsequent provided this provision of the rule is approved by HEW.

KEY: PROPOSED RULES SECTION: Underlining indicates additions to pre-existing rule language. ~~Strike outs~~ indicate deletions from pre-existing rule language. If all proposed rules in a set are totally new (i.e. non-amendatory) the entire set is printed in standard type face. **RULES SECTION:** Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, when, in preparing to propose rules, an agency seeks to obtain information or opinion from sources outside of the agency, a notice of intent to solicit such information or opinion is published in the *State Register* and interested persons are afforded an opportunity to submit data and views on the subject.

The *State Register* also contains any other official notice requested to be published by an agency, pursuant to Laws of 1977, ch. 305 § 3.

Cable Communications Board

Notice of Intent to Solicit Outside Opinion in Regard to Revision of Rules on Cable Service Territories and Adoption of Initial Rules on Obligatory Line Extension

Notice is hereby given that the Minnesota Cable Communications Board is seeking information or opinions from outside the agency pertaining to revision of the existing rules governing the establishment and expansion of cable service territory boundaries (4 MCAR § 4.221-4.236). The Board seeks to simplify, shorten and clarify the procedures which are set forth in these rules.

Notice is also hereby given that the Board is continuing to seek outside information or opinions in preparing to propose the adoption of rules governing procedures and criteria to be used in determining when cable communications systems may be obliged to extend service to locations which are within the boundaries of established cable service territories. (See 2 S.R. 339.)

The Board will be considering these subjects at its regularly scheduled monthly meetings. Parties wishing to submit information or opinions relating to revision of the cable service territory rules are advised to do so at or prior to, the time of the Board's May meeting, tentatively scheduled to be held on May 12, 1978.

It is expected that the Board will be discussing the subject of obligatory line extension within established cable service territories at least until August 12, 1978, the tentative date of the Board's August meeting. Interested parties are advised to watch agendas of the Board's monthly meetings for indications of specific actions.

Any interested parties may inquire about these matters or

submit information and opinions, in writing or orally, by contacting:

Robert J. McDonald, Executive Director
State of Minnesota
Cable Communications Board
500 Rice Street
St. Paul, Minnesota 55103
Telephone (612) 296-2545

Department of Commerce Insurance Division

Revision of Worker's Compensation Insurance Rates

Order

The above entitled matter came on for public hearing before Myron Greenberg, Hearing Examiner appointed by the Insurance Commissioner of the State of Minnesota, commencing on December 13, 1977 and ending on January 5, 1978 in the State Office Building, in the City of St. Paul, State of Minnesota.

This proceeding was a hearing held pursuant to Minn. Stat. ch. 79 to consider the proposal of the Minnesota Compensation Rating Bureau for a revision of the Worker's Compensation insurance rates and any other matters that pertain to Worker's Compensation ratemaking in Minnesota. This proposal is on file in the Office of the State Insurance Division, Metro Square Building, St. Paul, Minnesota.

The Bureau's proposal was presented by representatives of the Minnesota Compensation Rating Bureau in accordance with Minn. Stat. § 79.11. The Hearing Examiner received testimony from those requesting to be heard and their statements were recorded by a reporter. The Hearing Examiner also received all exhibits offered relative to the proposal.

The Hearing Examiner has forwarded to the Commissioner of Insurance the transcript of the Hearing. The Commissioner has considered the evidence therein, the proposal, and the exhibits offered. He has made use of all experience, records, and reports available to him and makes the following:

Findings of Fact

1. On October 31, 1977, a Notice stating the time and place of said hearing, and that said proposal would be avail-

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able for inspection in the Office of the Insurance Division was published in the *State Register*.

2. The Insurance Division mailed the Notice of Hearing to all persons whose names are on file with the Secretary of State's office, to all members of the Legislature, and to all parties known to be interested in Worker's Compensation rates.

3. The Insurance Division also mailed the Notice of Hearing and a three page letter dated August 29, 1977 summarizing the effect of the proposed rates to members of the Worker's Compensation Study Commission and staff.

4. On November 28, 1977 a pre-hearing conference was held where the Minnesota Transport Services Association, through its counsel, petitioned to intervene as a party to the hearing and moved for a continuance. Said petition and motion were duly denied by the Hearing Examiner. Legal argument relative to the petition to intervene and motion for a continuance was received by the Hearing Examiner and has been included in the record.

5. The record remained open through January 25, 1978 for the receipt of written comments and statements.

Proposed 1977 Worker's Compensation Insurance Rates

6. The Bureau's proposal for Worker's Compensation insurance rates was filed on August 29, 1977 and was subsequently revised and refiled on November 23, 1977 and again on December 12, 1977. The first revision was due to a reduction in the Special Compensation Fund Assessment rate ordered by the Commissioner of the Department of Labor and Industry. The second change in the Bureau's proposal was caused by several errors discovered in the data base that was used in the calculation of the overall manual premium rate level changes.

7. The revisions noted above resulted in a change in the proposed overall manual premium levels from a 71.8% increase to 67.5% increase. The 67.5% increase is broken down by industry group as follows: manufacturing, 79.6%; contracting, 67.0%; and all others, 60.3%.

8. The Bureau's final proposal (hereinafter referred to as "Bureau's proposal") contained in Exhibits A-D, summarized briefly is as follows:

a. The Bureau proposed a 21.1% increase in manual premium rate levels due to experience. The Medical and Indemnity rate levels as shown in Exhibit A are determined by the examination and sampling of past statistics of insurance carriers presently writing Worker's Compensation insurance in Minnesota. These statistics are filed as a result of

a special call made by the Insurance Division. This call records the premiums and losses for each carrier by policy year writings. Each successive annual reporting records the changes in premiums and losses, paid and incurred, as previously reported. From these policy year reportings calendar year retrogression premiums and loss development factors are determined. The development factors are used to mature the policy years of January 1, 1974 through December 31, 1974 and January 1, 1975 through December 31, 1975 evaluated as of December 31, 1976. Policy year data has been adjusted to current premium and law levels. The modified average loss ratio of the policy years 1974 and 1975 is .753 which, when divided by the proposed permissible loss ratio of .622 produces an indicated rate level of 1.211.

b. The Bureau proposal requests the application of a trend factor of 1.209 which produces an additional 20.9% increase in the manual premium rate level. The Bureau advocates the use of trending to reflect the effect of dynamic changes, such as inflation and unemployment in the period of time beyond that period from which the experience modification was calculated.

c. The Bureau proposes further change in the indicated manual premium rate level as a result of legislation increasing benefits effective October 1, 1976, January 1, 1977 and October 1, 1977. As part of the proposed modification the Bureau has introduced a factor of 1.012 which is designated "benefit utilization factor". The total increase proposed for legislative amendments is 24.7%.

d. The Bureau in its first proposal assumed an 18% assessment on Indemnity losses for the Special Compensation fund. Subsequent to the initial filing by an order of the Worker's Compensation Division of the Department of Labor and Industry dated October 25, 1977, the assessment on Indemnity losses was reduced to 13% to be effective January 1, 1978. The result of this change is a modification of the manual premium level by a factor of .973.

e. The Bureau proposal also reflects a change in the Special Compensation Fund Assessment multiplier. The proposed multiplier is 1.079. This is again due to the change in the Special Compensation Fund assessment. The Bureau proposal contains a Basic Tax Multiplier of 1.028. The combined effect of these multipliers is 1.109.

f. The Bureau proposal provides for a method of correcting the credit off-balance of the experience rating plan by using the ratio of earned to manual premiums which is .900. This produces a credit off-balance factor of 1.111. The off-balance is converted to industry group differentials and so applied.

g. The Bureau proposed the following expense allowance:

OFFICIAL NOTICES

Acquisition	17.5%
Taxes	2.7%
Profit and Contingencies	2.5%
Loss Adjustment Expenses	7.1%
General Expenses	<u>8.0%</u>
Total	37.8%

The total proposed expense allowance of 37.8% is a reduction from the 38.8% of last year's rates. This change is the result of a reduction in General Expenses from 8.4% to 8.0% and a reduction in Loss Adjustment Expenses from 7.7% to 7.1%. The total proposed reduction of the expense load brings about a corresponding increase in the permissible loss ratio from 61.2% to 62.2% of premiums.

h. The Bureau also proposed a limitation of company controlled expenses. The limitation of expense factor is derived from averaging the movement of the Consumer Price Index for the latest two years. The actual limitation factor so computed is 7.5%. The impact of this proposed limitation on the manual premium is a factor of .943.

i. The Bureau's proposal requests an effective date of October 1, 1977 for all changes set forth therein.

9. The Insurance Division in its presentation offered data derived from industry-wide Worker's Compensation insurance expense allocations for those companies writing Worker's Compensation insurance in Minnesota. These figures listed in exhibit 11 reveal that the industry-wide five year averaging expense allocations for Worker's Compensation insurance for companies writing Worker's Compensation insurance in Minnesota totaled 28.35%. The addition of a Profit and Contingency factor of 2.5% develops a total expense and profit allowance of 30.85%.

10. The Insurance Division also introduced independent actuarial testimony and exhibits analyzing the methodologies and assumptions employed by the Bureau.

CONCLUSIONS

1. The Insurance Division provided all interested persons and groups proper notice and opportunity to present comments, data and recommendations in regard to the proposed 1977 Worker's Compensation insurance rate revisions.

2. Adjusting Worker's Compensation as set forth below would result in minimum, adequate, fair, and reasonable rates within the purview of Minn. Stat. § 79.07.

3. Except as otherwise hereinafter indicated the Commissioner of Insurance finds that the record adequately supports the methods and calculations employed by the

Bureau in the computation and distribution of the proposed changes of the manual premium rate level.

4. The expense allowance as proposed by the Insurance Division would result in a more reasonable approximation of actual expenses expected to be incurred by insurers in Minnesota than the expense allowance proposed by the Bureau. Therefore the expense allowance contained in the Bureau's proposal is hereby rejected. Application of the new expense and profit allowance of 30.85% results in a modification of the permissible loss ratio to 69.15% of the premium.

5. With respect to the indicated manual premium rate level change due to experience the twenty-four (24) months policy period from January 1, 1974 through December 31, 1975 reveals earned premiums on a modified basis in the amount \$395,458,970, incurred losses in the amount of \$297,669,241 and a modified loss ratio of .753. When this .753 loss ratio is compared to the permissible loss ratio of .6915 ($.753 \div .6915$) the result is an indicated premium level increase due to experience of 8.9%.

6. The Bureau proposal included a factor of 1.209 for trending. The Bureau has not adequately established the need for trending or that the methodology employed to arrive at the proposed figure is reliable. Therefore, trending, as proposed by the Bureau, is hereby rejected.

7. That portion of the Bureau's Law amendment proposal which reflects "benefit utilization factor" is hereby rejected. It is speculative and the theory is not sufficiently established to permit it to be used in the calculations by which the rates are developed. The elimination of this factor from the proposal results in an overall increase of 23.2% in manual premium rate level due to Law Amendment.

8. A single effective date for the proposed changes was requested. This request is rejected. It is reasonable to grant a modification of rates as follows:

a. Effective October 1, 1977 on new, renewal, and outstanding business except for those policies expiring during the month of October, 1977, rates shall be increased 23.2% as a result of Law Amendment.

b. Effective January 1, 1978 on new and renewal business only, rates shall be reduced by 2.7% as a result of changes in the Special Compensation Fund assessment.

c. Effective April 1, 1978 on new and renewal business only, rates shall be increased by 8.9% as a result of experience.

Order

It is hereby ordered that current Worker's Compensation Manual Rates be modified as follows:

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October 1, 1977 — 23.2% increase on new, renewal and outstanding business except for those policies expiring during the month of October, 1977.

January 1, 1978 — 2.7% decrease on new and renewal business.

April 1, 1978 — 8.9% increase on new and renewal business. Said modifications to be distributed to industry categories in the manner indicated in Exhibit A of the Bureau's filing.

It is further ordered that the Expense and Profit Allowance shall be 30.85%.

Such changes as are herein ordered shall be recorded in the Basic Manual of Rules, Classifications, and Rates for Worker's Compensation and Employers' Liability Insurance filed with the Insurance Division of the Department of Commerce of the State of Minnesota.

Berton W. Heaton
Commissioner of Insurance

Dated at St. Paul, Minnesota
this 13th day of March, 1978

Ethical Practices Board

Notice of Solicitation of Opinion Regarding Request for Opinion

The State Ethical Practices Board solicits opinions of any individual or association regarding the following request for an advisory opinion prior to review for approval of an advisory opinion on April 13, 1978.

Attention: B. Allen Clutter

Minnesota State Ethics Commission
41 State Office Building
St. Paul, Minnesota 55155

Gentlemen:

Dear Mr. Clutter:

I am volunteer counsel for the "People for Ann O'Loughlin Committee." We are in the process of initiating fundraising efforts on behalf of Ann O'Loughlin who is a candidate for State Representative in District 58B.

The purpose of this letter is to request an advisory opinion from your Commission with regard to certain expenses that will be incurred by Ann during the campaign. The question

we have relates to child care expenditures which Ann will be caused to expend in order to campaign for election.

The salient facts which we would like you to consider are these:

1. Ann's husband, Michael, is fully employed as an attorney.

2. Ann has acted as a full-time homemaker for the children (Brian, age 4, and Kevin, age 2) without outside employment since January, 1977. She was employed only part-time from 1973 to 1977. She has been engaged in volunteer activities on occasion, but not to the extent that required regular child care payments on the O'Loughlin's behalf.

3. In order to campaign, both for the endorsement and for election, Ann will be caused to incur child care expenses. The expenditures will be made to a licensed day care facility. The persons paid for child care will have no involvement in the campaign whatsoever.

While we believe that child care expenses which Ann will be caused to make in order to be a candidate are not campaign expenditures within the meaning of M.S.A. 10A.01, subd. 10, it is not at all clear that such is the case. Consequently, we seek your advice as to whether or not such expenses incurred by Ann in order to be a candidate fall within the concept of "expenditure," so as to be counted within the limits available for State Representative race, in the event public monies are accepted by Ann. We also ask your advice as to whether funds contributed to her campaign, but earmarked for child care, are to be reported or otherwise accounted for.

I understand that the Commission meets on March 24. At that time, I would hope that the questions posed can be referred to appropriate persons for advice. We are available at your convenience if you desire further details as to the facts of our situation.

Thank you for your attention to our request.

Very truly yours,

John A. Cairns

Department of Health

Notice of Public Forum Regarding Physicians' Assistants

The first public forum concerning the credentialing of Physicians' Assistants will be held April 15, 1978, at 1:00

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p.m. in Room 51 of the State Office Building, Wabasha Street (between Aurora and Fuller), St. Paul, Minnesota. Information regarding the application for credentialing is on file at your local Health Systems Agencies, Marshall Community-based Health Education Consortium office, District Health Department offices and in the Minnesota Department of Health, Division of Manpower, Room 345, 717 Delaware Street S.E., Minneapolis, Minnesota. For further information please call (612) 296-5393/5532.

Notice of Public Forum Regarding Chemical Dependency Generalists Rules

A public forum concerning Department of Health Proposed Rules for the Registration of Chemical Dependency Generalists will be held April 12, 1978, at 7:00 p.m. in Conference Room C, Ordean Building, 424 West Superior Street, Duluth, Minnesota. The public forum is an informational meeting to obtain response to the proposed rules. After revision, the Department of Health will hold a public hearing on the rules. For further information, please call the Department of Health Manpower (612) 296-5393.

Department of Public Service Public Service Commission Notice of Intent to Solicit Outside Opinion Concerning Proposed Customer Service Rules

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (1976), that the Minnesota Public Service Commission will propose to adopt new Customer Service Rules regarding late payment service charges imposed by gas and electric utilities. All interested parties desiring to submit data or views relating to the proposed rules should address their written comments to:

Mr. Leo J. Ambrose, Secretary
Minnesota Public Service Commission
790 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

All material received will be made part of the hearing record. All material must be received no later than 4:30 p.m., May 1, 1978.

Leo J. Ambrose
Secretary

Department of Public Welfare

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendment of Work Equity Project Rule

Notice is hereby given that the Minnesota Department of Public Welfare is considering promulgation of DPW 63, Work Equity Project.

This proposed rule governs the administration and operation of the Work Equity Project, a demonstration employment and training project sponsored through the Department of Public Welfare and the Department of Economic Security, by funding from the United States Department of Labor to the Department of Economic Security.

The project will encompass non-exempt employable recipients of Aid to Families with Dependent Children, General Assistance, and Food Stamps in counties to be selected by the Commissioner of Public Welfare.

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

Commissioner of Public Welfare
c/o Work Equity Supervisor
4th Floor, Centennial Office Bldg.
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1834, Work Equity Supervisor.

All statements of information and comment must be received by April 24, 1978. Any written material received by the Department shall become part of the hearing record.

Department of Public Welfare Chemical Dependency Program Division

Notice of Request for Proposal

A Request For Proposals (RFP) was issued by the Chemical Dependency Programs Division, Department of Public Wel-

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fare, (State Alcohol and Drug Authority) on March 16, 1978 for the purpose of developing a basic awareness primer on the treatment of clients from underserved population groups for distribution to treatment program staff. A grant not to exceed \$15,000 will be awarded for the preparation of this primer. Proposals must be received prior to 4:20 P.M. May 1, 1978. Persons or organizations wishing to receive this RFP should contact Ken Steger, Research Coordinator, Chemical Dependency Programs Division, 4th Floor, Centennial Office Bldg., St. Paul, MN 55155. Telephone (612) 296-4612.

Department of Transportation

Notice of Application and of Opportunity for Hearing on the Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove Track No. 4 and the Turnout of Track No. 8 Located at Lake Crystal, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove the five hundred foot portion of Track No. 4 and the turnout of Track No. 8 located at Lake Crystal, Minnesota. The petition recites among other matters that: "The subject tracks are no longer needed for railroad transportation service, and constitute a continuing and burdensome maintenance expense. There is no prospect that the subject tracks will be needed in the future. The only parties who might have any interest in the retention of the subject tracks are Spencer Elevator Company and Millrich Construction Company."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before April 24, 1978. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner

will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely petition to intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington
Commissioner of Transportation

Notice of Application and of Opportunity for Hearing on the Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove ICC track No. 271 Located at Eyota, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove ICC Track No. 271 located at Eyota, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for railroad transportation service, and constitutes a continuing and burdensome maintenance expense. The track has not been used for the past five years and there is no present prospect that the subject track will be needed in the future. The only party who might have any interest in the retention of the subject track is Brobst Feed Service."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before April 24, 1978. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

OFFICIAL NOTICES

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely petition to intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington
Commissioner of Transportation

Notice of Application and of Opportunity for Hearing on the Petition of Chicago and North Western Transportation Company for Authority to Retire and Remove Track No. 38, Including Turnout, Located at Chaska, Minnesota

Notice is hereby given that the Chicago and North Western Transportation Company, with offices at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 (1977 Supp.) and § 218.041, subd. 3 (10) (1977 Supp.) to retire and remove Track No. 38, one thousand fifteen feet long, including one turnout, located at Chaska, Minnesota. The petition recites among other matters that: "The subject track is no longer needed for railroad transportation service, and constitutes a

continuing and burdensome maintenance expense. This track has not been used for several years and there is no present prospect that the subject track will be needed in the future. The only party who might have any interest in the retention of the subject track is the M.A. Gedney Company."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before April 24, 1978. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a party to this matter must submit a timely petition to intervene to the Hearing Examiner pursuant to Minn. Reg. HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

Jim Harrington
Commissioner of Transportation

Errata

1. 2 S.R. 1670: At OPT 3 A., second sentence: Change "may" to "shall".

2. 2 S.R. 1787: Change "Wednesday" to "Friday" at Notice of Hearing of Meeting of Water Planning Board.

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