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RULES GOVERNING CERTIFICATES OF NEED 4260.0100

CHAPTER 4260 DEPARTMENT OF ENERGY, PLANNING AND DEVELOPMENT ENERGY DIVISION RULES GOVERNING CERTIFICATES OF NEED FOR COAL TRANSSHIPMENT FACILITIES AND LARGE COOL STORAGE FACILITIES

NOTE: Under Laws of Minnesota 1983, chapter 289, section 46, this chapter of Minnesota Rules shall be administered by the Public Utilities Commission. Thus, references to the Department of Energy, Planning and Development, or to its divisions, are to be read as intending the Public Utilities Commission.

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4260.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the following definitions shall apply.

Subp. 2. **Agency.** "Agency" means the Energy Division of the Department of Energy, Planning and Development.

Subp. 3. **Applicant.** "Applicant" means the person or persons submitting a certificate of need application.

Subp. 4. **Application.** "Application" means a document, the contents of which are described in this chapter, submitted by a person or persons to the director for the purpose of obtaining a certificate of need.

Subp. 5. **Coal supplier.** "Coal supplier" means an entity engaged in this state in the wholesale distribution of coal or transportation into this state of any coal intended for use or distribution in the state or transshipment from the state.

Subp. 6. **Coal transshipment facility.** "Coal transshipment facility" means a facility designed for or capable of transferring more than 300 tons of coal per hour or with an annual throughput of more than 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation.

Subp. 7. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a large energy facility, but not including activities incident to preliminary engineering or environmental studies.

Subp. 8. **Demand.** "Demand" means that quantity of an energy product from the applicant's facilities for which there are willing and able purchasers.

Subp. 9. **Director.** "Director" means the director of the agency.

Subp. 10. **Energy product.** "Energy product" means a product which may be used to provide energy.

Subp. 11. **Forecast.** "Forecast" means a prediction of future demand for some specified time period.

Subp. 12. **Joint application.** "Joint application" means an application submitted to the director by two or more persons.

Subp. 13. **Large coal storage facility.** "Large coal storage facility" means a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal.

Subp. 14. **Minnesota service area.** "Minnesota service area" means that portion of the service area that is within Minnesota.

Subp. 15. **Person.** "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.

Subp. 16. **Service area.** "Service area" means that geographical area in which the applicant has customers.

Subp. 17. **Substantially complete application.** "Substantially complete application" means an application that is deemed by the director to be in substantial compliance with the informational requirements of this chapter.

Subp. 18. **Ton.** "Ton" means 2,000 pounds.

Statutory Authority: *MS s 116J.10*

4260.0200 PURPOSE.

The purpose of this chapter is to specify the contents of application for certificates of need and to specify criteria for assessment of need for large coal storage facilities for coal suppliers and coal transshipment facilities. In accordance with Minnesota Statutes, section 116H.13, subdivision 4, a coal supplier shall apply for a certificate of need to construct a new large energy facility.

Statutory Authority: *MS s 116J.10*

4260.0300 SCOPE OF RULES.

Subpart 1. **When certificate is required.** Each coal supplier applying for a certificate of need for a large coal storage facility or any person applying for a certificate of need for a coal transshipment facility shall provide all information required by these rules. A certificate of need is required for each new large coal storage facility, each new coal transshipment facility, and for each expansion of either such facility, which expansion is itself of sufficient size to come within the definition in part 4260.0100, either subpart 6 or subpart 12.

Subp. 2. **Exception.** Any person who as of the effective date of this chapter has begun or has completed construction of a large coal facility shall not be subject to this chapter for that facility.

Statutory Authority: *MS s 116J.10*

CRITERIA FOR ASSESSMENT OF NEED

4260.1100 PURPOSE OF CRITERIA.

The criteria for assessment of need will be used by the director in the determination of the need for a proposed large energy facility pursuant to Minnesota Statutes, sections 116H.01 to 116H.15. The factors listed under each of the criteria in part 4260.1200 will be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to this chapter.

Statutory Authority: *MS s 116J.10*

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4260.1200 CRITERIA.

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

A. The probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states. In making this determination, the director shall consider:

(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

(3) the effects of promotional practices that may have given rise to the increase in the energy demand, particularly promotional practices that have occurred since 1974;

(4) the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and

(5) the effect of the proposed facility in making more efficient use of resources.

B. A more reasonable and prudent alternative to the proposed facility has not been demonstrated. In making this determination, the following factors shall be considered:

(1) the appropriateness of the size, type, and the timing of the proposed facility compared to those of reasonable alternatives;

(2) 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;

(3) the impact of the proposed facility upon the natural and socioeconomic environments compared to the impacts of reasonable alternatives; and

(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives.

C. The consequences of granting the certificate of need outweigh the consequences of denying the certificate, considering:

(1) the relationship of the proposed facility to overall state energy needs;

(2) the impact of the proposed facility upon the natural and socioeconomic environments compared to the impact of not building the facility;

(3) the effects of the proposed facility in inducing future development; and

(4) socially beneficial uses of the output of the proposed facility, including its uses to protect or enhance environmental quality.

D. It has not been demonstrated on the record that the design, construction, or operation of the proposed facility will fail to comply with those relevant policies, rules, and regulations of other state and federal agencies and local governments that have been considered during the hearing process.

Statutory Authority: *MS s 116J.10*

APPLICATIONS

4260.2100 APPLICATION PROCEDURES AND TIMING.

Subpart 1. **Forms.** Each applicant for a certificate of need shall apply in a form prescribed by the director.

Subp. 2. **Number of copies; contents.** A minimum of seven bound copies and one unbound copy of the application must be filed with the director. The director may require additional bound copies. All documents, forms, and schedules filed with the application must be typed on 8-1/2 inch by 11 inch

paper except for blueprints, engineering drawings, maps, and similar materials. The date of preparation and the applicant's name shall appear on each page of the application, as well as on each document filed with the application. Each application shall contain a title page and a complete table of contents that includes the applicable rule by the titles and numbers given in these rules.

Subp. 3. Late revisions. Subsequent to the filing of an application, any changes or corrections to the application shall comply with subpart 2 as to the number of copies and size of documents. In addition, each page of a change or 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.

Subp. 4. Cover letter. 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, the number of copies filed, and the rules, subparts, and items thereof to which the applicant has responded.

Subp. 5. Hearing. A hearing examiner shall be appointed and a public hearing shall be scheduled to commence no later than 80 days after the receipt of the application, in accordance with the rules of procedure governing certificate of need program, chapter 4210, and the Office of Administration Hearings' rules for contested case procedures.

Subp. 6. Decision deadline. 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 filed is substantially complete.

Subp. 7. Notice of decision. 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 substantially complete.

Subp. 8. Exemption from data requirement. 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 is unnecessary to determine the need for the proposed facility or may be satisfied by submission of another document. A request for exemption must 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 his decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

Statutory Authority: *MS s 116J.10*

4260.2200 FILING FEES AND PAYMENT SCHEDULE.

Subpart 1. Fees. The fee for processing an application shall be:

A. \$1,500 plus \$10 per thousand tons of design annual throughput for a large coal storage facility; or

B. \$10,000 plus \$200 per 100,000 tons of design annual throughput for a coal transshipment facility; plus

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

In no event shall the total fee required of any applicant exceed \$50,000.

Subp. 2. Payment schedule. Fifty percent of the fee set according to either item A or B of subpart 1 shall accompany the application and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of

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notification. The billing for such additional fees shall be accompanied by an itemized statement. No certificate of need shall be issued unless all fees are paid in full.

Statutory Authority: *MS s 116J.10*

4260.2300 CONTENTS OF APPLICATION.

Subpart 1. Information required. Each application for a certificate of need for a large coal storage facility or a coal transshipment facility shall provide the information required by parts 4260.2400 to 4260.4500.

Subp. 2. Other information. An application for a certificate of need may contain information in response to part 4260.3300, if desired by the applicant.

Subp. 3. Joint application. If the proposed application for a certificate of need is jointly submitted by two or more persons, then, when specified in these parts, each such person shall submit the information required by these parts.

Subp. 4. Multiparty ownership and use. Each application for a certificate of need for a facility that is owned and used by two or more persons shall be considered as a joint application for purposes of these parts.

Statutory Authority: *MS s 116J.10*

4260.2400 GENERAL INFORMATION SECTION.

Subpart 1. Content. Each application shall contain a general information section which shall include the following information:

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

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 services rendered;

D. a brief description of the proposed facility, its complete address (if known) or general location, a brief description of its planned use, its estimated cost, its planned in-service date, its design capacity in tons of coal and its design annual throughput in tons;

E. the total fee for the application as prescribed by part 4260.2200, and the amount of the fee submitted with the application; and

F. the signatures and titles of the applicant's officers or executives authorized to sign the application and the signature of the preparer of the application if prepared by an outside agent.

Subp. 2. Schedule of authorities. Each application shall contain a schedule in the general information section that shall list 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 agencies or authorities with which the applicant must file;

B. the title of each required permit or certificate issued by each authority named in response to item A and needed by the applicant;

C. for each permit or certificate listed in response to item B, the date an application was filed or the projected date of future applications;

D. for each permit or certificate listed in response to item 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 item B, for which an application was filed, the disposition or status of the permit or certificate.

Statutory Authority: *MS s 116J.10*

4260.2500 NEED SUMMARY.

Each application shall contain a section that summarizes the major factors that justify the need for the proposed facility. The summary shall not exceed, without the approval of the director, 15 pages in length, including text, tables, schedules, graphs, and figures.

Statutory Authority: *MS s 116J.10*

4260.2600 SUMMARY OF ADDITIONAL CONSIDERATIONS.

Each application shall contain a section that discusses the socioeconomic considerations listed below. The applicant shall explain the relationship of the proposed facility to each of the following:

- A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;
- B. promotional activities that may have given rise to the demand for the facility; and
- C. the effects of the facility in inducing future development.

Statutory Authority: *MS s 116J.10*

4260.2700 CONSERVATION PROGRAMS.

Each application shall contain a section that relates to conservation of energy. Separate responses are required from each person submitting a joint application.

- A. Does the applicant have an energy committee or an individual responsible for determination of its energy needs?
- B. Has the applicant defined energy or conservation goals or objectives?
- C. What specific energy or conservation programs has the applicant considered?
- D. Have any energy or conservation programs been implemented? If so, explain the program and the measured results achieved to date.
- E. Has the applicant measured or studied the energy efficiency of its facilities? What were the results?
- F. What major accomplishments in energy efficiency or conservation have been made by the applicant within the past five years?

Statutory Authority: *MS s 116J.10*

4260.2800 HISTORICAL ENERGY DATA FOR EXPANSION OR REPLACEMENT OF FACILITIES.

Each applicant for a large coal storage facility or a coal transshipment facility who plans to expand or replace an existing facility shall provide the following information. In a joint application separate responses shall be provided by each person. Applicants who have operated for less than five years shall provide data for each year of operation.

- A. If there is an existing coal storage facility at the site where the proposed facility will be located, list the existing facility's capacity in tons, its maximum annual throughput in tons, the types of coal normally stored, the year in which it was first placed in service, and its use in the applicant's business.
- B. For the facility listed in response to item A, describe the system for in-loading and out-loading or the transferring of coal, including a description of facilities for hopper cars, unit trains, trucks, barges, and the distribution system.
- C. For the facility listed in response to item A, describe the normal inventory cycle, including the applicant's policies, if any, of building inventories of specific types of coal during certain seasons of the year, and the ways in which the mix of product or inventory cycle has been changing over the past five years.

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D. For the facility listed in response to item A, provide the average percentage of use of its design capacity during the winter season and during the summer season for each of the five most recent calendar years.

E. For each type of coal stored in the facility, list the annual throughput in tons for the five most recent calendar years.

F. For each type of coal listed in response to item E, provide the following information for each of the five most recent calendar years: the geographical location of each source of coal purchased or transshipped; the annual tonnage from each geographical location; and the modes of transportation from each geographical location.

G. For each of the five most recent calendar years, list the percentage of the facility's annual coal throughput which has been distributed within the Minnesota service area.

Statutory Authority: *MS s 116J.10*

4260.2900 HISTORICAL ENERGY DATA FOR NEW FACILITIES.

Subpart 1. Geographic service area. Each applicant for a new coal transshipment facility or a new large coal storage facility shall provide to the best of its knowledge the following information on the historical use of coal in the geographic service area of the proposed facility.

Subp. 2. Market. For each of the five most recent calendar years, describe the historical market for coal in the geographic service area of the proposed facility, including the types of coal used and the annual tonnage supplied, and a description of the types of customers that used the coal and the annual usage in tons by type of customer. At a minimum, the types of customers shall include:

- A. electric utilities;
- B. other utilities;
- C. mining;
- D. industrial users; and
- E. other users.

Subp. 3. Distribution channels. Describe the existing distribution of transshipment channels in the geographic service area of the proposed facility, including:

A. the names of the top ten distributors or transshipment facilities and the annual tonnage by type of coal distributed or transshipped by each during the five most recent calendar years; and

B. the modes of transportation that are used to distribute the coal and the percentage of coal volume transported by each.

Subp. 4. Supply areas. Provide information regarding the general geographic location or source of the coal that was supplied to the geographic service area of the proposed facility, including:

- A. the type of coal supplied from each geographic location;
- B. the annual tonnage supplied for each year during the five most recent calendar years from each geographic location; and
- C. the modes of transportation from each geographic location.

Statutory Authority: *MS s 116J.10*

4260.3000 FORECAST DATA.

Subpart 1. Geographic service area. Each applicant for a large coal storage or a coal transshipment facility shall provide the following information on the forecast of coal usage in the geographic service area of the proposed facility. Each answer shall include a discussion of the methods, assumptions, and factors upon which the answer is based.

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Subp. 2. Market. For each of the first ten years of operation describe the forecast market for coal in the geographic service area of the proposed facility, including:

A. a list of the types of coal expected to be used and the annual tonnage for each type of coal;

B. a description of the impact of the proposed facility upon users of other energy products who are considering coal as an alternate source of energy; and

C. a list of the types of customers which will use the coal and the annual usage in tons. At a minimum, the types of customers shall include:

- (1) electric utilities;
- (2) other utilities;
- (3) mining;
- (4) industrial users; and
- (5) other users.

Subp. 3. Distribution channels. For each of the first ten years of operation describe the channels of distribution for the geographic service area of the proposed facility, including:

A. the modes of transportation used in the distribution or transshipment of coal from the proposed facility and the percentage of coal volume transported by each;

B. the expected annual percentage of coal from the proposed facility to be distributed within the state of Minnesota;

C. the impact of the proposed facility upon the throughput of existing channels of distribution; and

D. the ability of existing and planned transportation systems to accommodate the increase in usage, if any, caused by the proposed facility.

Subp. 4. Supply areas. For each of the first ten years of operation provide information regarding the general geographic locations of the sources of coal to be used by the proposed facility, including:

A. the types of coal to be supplied from each geographic location;

B. the annual tonnage by type of coal from each geographic location;

C. the modes of transportation to the proposed facility from each geographic location; and

D. the effect of the proposed facility in ensuring a reliable and stable supply of coal to its geographic service area.

Subp. 5. Operations. For the first ten years of operation provide the following information on the operations of the proposed facility:

A. a list of the expected annual tonnage of coal by types to be stored in the proposed facility;

B. a description of the expected inventory cycle, including the policies, if any, of building inventories of specific types of coal during certain seasons of the year;

C. a discussion of the impact of the proposed facility upon the applicant's ability to maintain an adequate inventory, to provide operating efficiencies or economies of scale to its users or customers, and to supply its users or customers;

D. the expected cost of handling coal per ton at the proposed facility in comparison with the costs of handling coal for existing forms of coal distribution; and

E. the expected delivered cost of coal per ton for the proposed facility in comparison with the delivered costs of existing distribution sources.

Statutory Authority: *MS s.116J.10*

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4260.3100 DESCRIPTION OF PROPOSED FACILITY.

Subpart 1. **Purpose.** Each applicant shall explain the purpose and planned use of the proposed facility.

Subp. 2. **Design.** Each applicant shall provide the following information on the design of the proposed facility:

A. the complete name and address, if known, of the engineer or firm that designed the facility;

B. the estimated cost of the proposed facility and its expected economic life; and

C. a description of the proposed facility, including:

(1) its design throughput in tons and its design storage capacity in tons;

(2) its dimensions;

(3) preliminary drawings or blueprints that show the proposed facility and its basic components in relationship to one another and to the natural terrain;

(4) a description of the facilities for the in-loading and out-loading of coal and the modes of transportation that they may service; and

(5) a description of planned roads, railroad trackage, landfill, or dredging at the proposed facility.

Subp. 3. **Safeguards.** Each applicant shall provide a description of the safeguard facilities that are planned to control emissions into the air or water during the construction and operation of the proposed coal facility, including a description of the dust control equipment, a description of the equipment for the recovery of accidental coal spills, and a description of the equipment or system for the collection and treatment of liquid contaminants.

Subp. 4. **Construction and operation.** Each applicant shall provide the following information on the construction and operation of the proposed coal facility:

A. the complete name and address, if known, of the contractor(s) or firms that would construct the coal facility;

B. the approximate planned date for starting construction and the approximate planned in-service date;

C. an appropriate schematic or drawing that shows the operations and flow of coal from its receipt through the facility and to its storage area or delivery vehicle; and

D. a description of the potential, if any, for future expansion of the proposed facility, including the maximum storage capacity and annual throughput in tons, and the estimated additional cost to expand the proposed facility to its maximum capability.

Statutory Authority: *MS s 116J.10*

4260.3200 ALTERNATIVES.

Each applicant shall provide information about possible alternatives to the proposed facility.

A. What would be the impact upon the applicant, its employees, its prospective users or customers, and the people of Minnesota and neighboring states of not building the proposed coal facility? Include:

(1) the effect upon existing coal users or prospective coal users in the Minnesota service area of the proposed facility;

(2) the effect upon the existing coal distribution system and prospective coal distribution system in the Minnesota service area and in neighboring states; and

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(3) the effect upon the coal storage and handling facilities of large coal users or prospective users in the Minnesota service area of the proposed facility?

B. Discuss alternative sizes that were considered for the proposed coal facility, including:

- (1) the storage capacity in tons;
- (2) the annual throughput in tons;
- (3) the dimensions and the amount of land and shoreline, if any, required; and
- (4) the estimated cost.

C. Discuss alternative sites that were considered for the proposed coal facility, including:

- (1) any known restrictions or limitations on the use of specific sites;
- (2) any known limitations on the distance from the proposed site to the major market areas or its proximity to waterways; and
- (3) the reasons each site considered was rejected.

Statutory Authority: *MS s 116J.10*

4260.3300 OTHER DATA FILED WITH APPLICATION.

In addition to the information required by the director, the applicant may desire to file other data. If, in the opinion of the applicant, additional relevant data should be submitted for consideration in conjunction with its application, such data should be filed in a separate section of the application.

Statutory Authority: *MS s 116J.10*

4260.4100 REQUIREMENT TO PROVIDE ENVIRONMENTAL DATA.

Each applicant shall provide environmental data for the proposed facility and for each alternative discussed in response to part 4260.3200 to the extent that such data is reasonably available. Environmental data for the proposed facility shall conform to the format given in parts 4260.4200 to 4260.4500. Information for each of the alternatives considered shall include a list of the natural and cultural resources, as given in part 4260.4200, subpart 2, items F to I that would be directly impacted, and a discussion of those applicable areas of environmental concern that are detailed in parts 4260.4300 to 4260.4500.

Statutory Authority: *MS s 116J.10*

4260.4200 LOCATION.

Subpart 1. **Land description.** If the specific location for the proposed facility is known, provide the county, township, range, and sections of that site. If a specific location has not been chosen, provide the county, township, range, and sections for each parcel of land that in the opinion of the applicant could serve as the site for the facility.

Subp. 2. **Description of environment.** For each site identified in response to subpart 1 list:

- A. the nature of the terrain at the site;
- B. the general soil type at the site;
- C. the depth to groundwater at the site;
- D. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site;
- E. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site;
- F. lakes, streams, wetlands, or drainage ditches within one mile of the site and any other lakes, streams, wetlands, drainage ditches, wells, or storm drains into which liquid contaminants could flow;

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G. 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 one mile of the site, as mapped on the inventory of significant resources by the Planning Division of the Department of Energy, Planning and Development;

H. 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 one mile of the site, as mapped on the inventory of significant resources by the Planning Division of the Department of Energy, Planning and Development; and

I. national historic sites and landmarks, national monuments, national register historic districts, registered state historic or archaeological sites, state historic districts, sites listed on the national register of historic places, and any other cultural resources within one mile of the site, as indicated by the Minnesota Historical Society.

Statutory Authority: *MS s 116J.10*

4260.4300 PROJECTED AIR EMISSIONS, WASTEWATER, SOLID WASTE, AND NOISE SOURCES.

Subpart 1. **Solid wastes.** Indicate the types and estimated quantities of solid wastes that would be produced by or because of the facility. Also, indicate the intended method of recycling or disposing of these wastes.

Subp. 2. **Point discharges to water.** Indicate the location, route, and final receiving waters for any discharge points. For each discharge point indicate the source, the amount, and the nature of the discharge. Provide quantitative data if possible.

Subp. 3. **Area runoff.** Indicate the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

Subp. 4. **Airborne emissions point sources.** Estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source and indicate the location and nature of the release point.

Subp. 5. **Airborne emissions area sources.** Indicate locations which may be sources of fugitive dust and indicate the nature of the source (including type of material, amount, and turnover rate).

Subp. 6. **Noise.** Indicate the maximum noise levels (in decibels, A scale) expected at the property boundary. Also, indicate the expected maximum increase over ambient noise levels.

Statutory Authority: *MS s 116J.10*

4260.4400 POLLUTION CONTROL AND SAFEGUARDS EQUIPMENT.

Subpart 1. **Pollution control equipment and measures.** Indicate any pollution control equipment and measures, in addition to those provided in response to part 4260.3100, subpart 3, that would be used to reduce the impact of the facility.

Subp. 2. **Environmental monitoring.** Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

Statutory Authority: *MS s 116J.10*

4260.4500 INDUCED DEVELOPMENTS.

Subpart 1. **Vehicular traffic.** Estimate the amounts and types of vehicular traffic that would be generated by the facility.

Subp. 2. **Utility use.** Indicate the extent to which the facility would create or add to the need for expanded utilities or public services.

Subp. 3. **Water use.** Indicate the amount of water which would be appropriated and the amount that would be consumed by the facility, the expected source of the water, and how the water would be used.

Subp. 4. **Agriculture.** Estimate the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed. Indicate known circumstances with regard to the facility that could lead to reduced productivity of surrounding agricultural land.

Subp. 5. **Relocation of human beings.** Estimate the number of people that would have to relocate if the facility were constructed.

Statutory Authority: *MS s 116J.10*

4260.5100 CERTIFICATE OF NEED MODIFICATIONS.

Subpart 1. **Action by director.** Issuance of a certificate may be made contingent upon modifications required by the director. When the director denies an application, he shall state the reasons for the refusal and the changes, if any, which would make the facility certifiable.

Subp. 2. **Changes not requiring recertification.** The following changes in a facility previously certified by the director shall not require recertification:

A. coal storage facility capacity or throughput additions or subtractions of less than ten percent of the capacity or throughput approved by the director;

B. coal transshipment facility capacity or throughput additions or subtractions of less than ten percent of the capacity or throughput approved by the director; and

C. changes of less than two years in the in-service date.

Subp. 3. **Procedure in case of change.** If an applicant determines that a change greater than those specified in subpart 2 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.

Statutory Authority: *MS s 116J.10*