

State



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Register

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Rudy Perpich
Governor

Richard L. Brubacher,
Commissioner,
Department of Administration

George T. Morrow, II,
Director,
Office of the State Register

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EXECUTIVE ORDERS

Executive Order No. 134

Writ of Special Election to Fill Vacancy in the Office of the State Senator of District 21 Within the Counties of Kandiyohi, Redwood, Renville and Yellow Medicine, State of Minnesota, and of Special Primary Election to Nominate Candidates for Said Office.

To the People of the State of Minnesota and particularly of the Legislative District 21 within the Counties of Kandiyohi, Redwood, Renville and Yellow Medicine; to the Secretary of the State of Minnesota; to the County Auditors of the above-named counties; to all Election Officials of said District 21; and to all others who may be concerned — Greetings:

WHEREAS, a vacancy now exists in the office of State Senator from District 21 of the State of Minnesota, caused by the succession of the Senator, the Honorable Alec G. Olson, to the office of Lieutenant Governor, and

WHEREAS, a special election to fill said vacancy is necessary,

NOW, THEREFORE, I, RUDY PERPICH, AS GOVERNOR OF THE STATE OF MINNESOTA, acting under the authority and direction of Minnesota Constitution Art. IV, Sec. 4 and Minn. Stat. §§ 202A.61 to 202A.72 (Supp. 1975), as amended, and other relevant statutes do hereby direct:

- (1) that a special election to fill the vacancy be held in Legislative District 21 on Saturday, the 5th day of February 1977;
- (2) that a special primary election for the nomination of candidates for the office be there held on Saturday, the 22nd day of January 1977;
- (3) that affidavits of candidacy must be duly filed on or before Saturday, the 15th day of January 1977;
- (4) that the notices of this special election and special primary election be given, that the nomination and election of candidates and the conduct of these elections be had and all things pertaining thereto be done as provided by Minn. Stat. §§ 202A.61 to 202A.72 (Supp. 1975), as amended, and other applicable provisions of law.

IN WITNESS WHEREOF, I have hereunto set my hand at the Capitol, in the City of St. Paul, Minnesota this 8th day of January 1977.



RULES

Environmental Quality Council

Environmental Impact Statements

(New MEQC 21-41 repeal and supersede previous MEQC 21-41.)

Chapter Eleven: Authority, Purpose, Definitions, General Provisions

MEQC 21 Authority and purpose.

A. Authority. The rules contained herein are prescribed by the Minnesota Environmental Quality Council to implement the Environmental Impact Statement provisions pursuant to authority granted in Minn. Stat. § 116D.04, subd. 2 (1974), and shall be followed by all persons in implementation of the Minnesota Environmental Policy Act of 1973. The procedures specified in these Rules are in addition to the other procedures and substantive responsibilities of public agencies and private persons contained in the Act, and do not limit the authority of the Council to review, study, or resolve any matter of environmental concern authorized by law.

B. Purpose of environmental impact statement. The purpose of an Environmental Impact Statement is to provide information for agencies and private persons to evaluate proposed actions which have the potential for significant environmental effects, to consider alternatives to the proposed actions, and to institute methods for reducing adverse environmental effects. An Environmental Impact Statement is not a document to justify an action, nor shall indications of adverse environmental effects necessarily require that an action be disapproved. It is to be utilized as a guide in issuing, amending, and denying permits and carrying out the other responsibilities of public agencies to avoid or minimize adverse environmental effects and to restore or enhance environmental quality consistent with the Act.

MEQC 22 Definitions: The following terms have the meanings ascribed to them in these Rules.

A. "Act" means the Minnesota Environmental Policy Act of 1973, as amended, Minn. Stat. § 116D.01 et seq. (1974).

B. "Action" means the whole of a project which will cause physical manipulation of the environment, di-

rectly or indirectly. The determination of whether an action requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the activity. "Action" does not include the following:

1. Proposals and enactments of the Legislature.
2. The rules, orders, or recommendations of public agencies.
3. Executive Orders of the Governor, or their implementation by public agencies.
4. Judicial orders, except orders establishing judicial ditches pursuant to Minn. Stat. ch. 106 (1974).
5. Submissions of proposals to a vote of the people of the State.

C. "Approval" means the issuance of a governmental permit, or any review of a proposed action required by state or federal law or regulations.

D. "Council" means the Minnesota Environmental Quality Council (MEQC).

E. "Days." In computing any period of time prescribed or allowed in these Rules, the day of the act or the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is 15 days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

F. "Environmental Impact Statement (EIS)" is defined by Minn. Stat. § 116D.04, subd. 1 (1974) and these Rules.

G. "EIS Preparation Notice" means a written statement by the Responsible Agency or Responsible Person which requires an EIS to be prepared.

H. "Environment" means the physical conditions existing in the area which will be affected by the proposed action, including land, air, water, minerals, flora, fauna, ambient noise, energy resources available to the area, and man-made objects or natural features of historic, geologic or aesthetic significance.

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

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I. "Environmental Assessment Worksheet (EAW)" means a worksheet provided by the Council to determine whether an EIS is required.

J. "Environmental Documents" means EAWs, Draft EISs, Final EISs, Negative Declaration Notices, and EIS Preparation Notices.

K. "EQC Monitor" means an early notice bulletin containing all notices of impending actions that may have significant environmental effects.

L. "Governmental Action" means an action proposed to be undertaken by a public agency directly or an action supported or licensed, in whole or in part, by a governmental permit issued by a public agency.

M. "Governmental Permit" means a lease, permit, license, certificate, variance, or other entitlement of use, or the commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, by a public agency to another public agency or to a private person.

N. "Inadequate EIS" means an EIS that fails sufficiently to examine potential environmental effects, alternatives, or desirable modifications, or an EIS not prepared in compliance with the Act and these Rules.

O. "Local Agency" means any general or special purpose unit of government of the state with less than state-wide jurisdiction, including but not limited to regional development commissions, counties, municipalities, townships, port authorities, housing authorities, and all agencies, committees, and boards thereof.

P. "Negative Declaration Notice" means a written statement by the Responsible Agency or Responsible Person that a proposed action does not require the preparation of an EIS.

Q. "Other Approving Agencies" means all public agencies other than the Responsible Agency that must approve a project for which environmental documents are prepared.

R. "Person" means a human being, unincorporated association, partnership, trust, corporation, or public agency.

S. "Petition" means a document that contains at least 500 signatures and requests the preparation of an EIS.

T. "Private Action" means an action proposed to be undertaken by a private person that does not require a governmental permit.

U. "Proposer" means the private person or public agency that will undertake an action or that will direct or authorize others to undertake the action.

V. "Public Agency" means a federal, state, regional or local agency, board, commission, or other special purpose unit of government. "Public Agency" includes all public educational institutions but does not include the courts of this State.

W. "Regional Development Commission" means any regional development commission created pursuant to Minn. Stat. §§ 462.381-396 (1974) inclusive and the Metropolitan Council established by Minn. Stat. ch. 473 (Supp. 1975).

X. "Responsible Agency" means that public agency which has the principal responsibility for preparing the environmental documents required by the Act and these Rules.

Y. "Responsible Person" means the person who proposes to undertake an action and who is responsible for the preparation of the environmental documents required by the Act and these Rules.

Z. "Reviewing Agencies" means all public agencies which have either jurisdiction by law or special expertise with regard to the environmental effects of an action for which an EIS is prepared. All agencies that are members of the Council shall be considered reviewing agencies.

MEQC 23 General responsibilities.

A. Environmental Quality Council.

1. The Council's duties and responsibilities include the following:

a. Coordinate the EIS program as set forth in these Rules.

b. Coordinate among public agencies, when appropriate, review of EISs prepared pursuant to the National Environmental Policy Act. The coordination may include requests to the preparer or to a public agency to undertake additional environmental analysis, to hold informational meetings, or to conduct any other review consistent with the Act and these Rules.

c. Provide a manual of procedure to guide public agencies, Responsible Agencies, and Responsible Persons in the implementation of this Act and these Rules; and assist on request in determining whether the specific action requires an EIS.

2. In addition, the Council may, where it deems necessary:

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a. Require revision of any EIS that it finds inadequate.

b. Require preparation of alternative or additional environmental review before allowing commencement of any action or approval of any action by a public agency.

c. Provide technical assistance on request of a public agency, Responsible Agency or Responsible Person.

d. Review any rules, guidelines, procedures, or local ordinances adopted to implement the Act and these Rules.

e. Hold hearings or informational meetings to facilitate implementation of the Act and these Rules.

B. Public agencies.

1. All public agencies are responsible for complying with the requirements of the Act and these Rules. Public agencies shall inform a proposer, and a representative of the petitioners when a petition is involved, of the operating procedures that they will follow in implementing the Act and these Rules for each EAW they prepare. Such operating procedures shall also be available to the public at the offices of the Responsible Agency. Whether a public agency prepares environmental documents itself or contracts with private experts for the preparation, the public agency is solely responsible for the adequacy and objectivity of the environmental documents. Nothing in these Rules shall limit existing authority of public agencies to charge proposers reasonable fees for document preparation.

2. All public agencies shall retain their existing statutory authority subject to the policies of the Act and the authority of the Council to reverse or modify decisions or proposals or to require preparation of environmental documents.

3. Under the Act, these Rules shall not affect the specific statutory obligations of any public agency to perform the following:

a. To comply with criteria or standards of environmental quality regardless of whether an EIS is required for an action.

b. To coordinate or consult with any federal or state agency.

c. To act or refrain from acting contingent upon the recommendations or certification of any public agency or federal agency.

4. A public agency, at the request of a Responsible Agency, shall provide any unprivileged data or information to which it has reasonable access concerning a particular action and shall assist in the preparation of environmental documents on any action for which it has special expertise or access to information.

5. A public agency shall prepare the environmental documents on an action which is the subject of a petition upon the direction of the Council.

6. When environmental documents are prepared on an action by a Responsible Agency, every public agency which has jurisdiction to approve the action shall consider the environmental documents prepared on that action before approving the action.

7. Public agencies shall provide one free reproducible copy of all environmental documents to each location on the official MEQC distribution list, except as otherwise provided herein. These will be available for internal agency distribution and for public copying.

C. Private persons. When environmental documents are required on an action that is subject to a governmental permit, the proposer shall supply in the prescribed manner any unprivileged data or information reasonably requested by the Responsible Agency that that person has in his possession or to which he has reasonable access.

Chapter Twelve: Substantive requirements.

MEQC 24 Actions requiring environmental assessment worksheets.

A. General. The purpose of an EAW is to assess rapidly, in a worksheet format, whether a proposed action is a major action with the potential for significant environmental effects and additionally in the case of a private action, whether it is of more than local significance.

B. EAW required.

1. An EAW shall be prepared on any action which is not exempted by MEQC 26 and which falls within one of the following categories. The Responsible Agency is

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shown in parentheses for each category except that when a proposer of an action is a public agency that agency shall be the Responsible Agency. The Council may specify a different Responsible Agency for good cause.

a. Construction of a new industrial park of over 320 acres in size — (Local);

b. Construction of a facility or integral group of facilities with at least 250,000 square feet of commercial or retail floor space or at least 175,000 square feet of industrial floor space, or a mixture of commercial, industrial and retail floor space totaling at least 250,000 square feet, unless located in an industrial park for which an EIS has already been prepared — (Local);

c. Any industrial, commercial or residential development of 40 or more acres, any part of which is within a floodplain area, as defined by the "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota" — (Local);

d. Construction of a commercial or industrial development, any part of which is within a shoreland area (as defined by Minn. Stat. § 105.485 (1974)), covering 20,000 or more square feet of ground space, not including access roads or parking areas, and located on a parcel of land having 1,500 feet or more of shoreline frontage — (Local);

e. Construction of a facility that generates more than a maximum of 2,500 vehicle trips per hour or a maximum of 12,500 vehicle trips per eight-hour period — (Local);

f. Construction of a new oil refinery, or an expansion of an existing refinery that shall increase capacity by 10,000 barrels per day or more — (PCA);

g. Construction of a pipeline greater than six inches in diameter and 50 miles in length — (DNR);

h. Construction of facilities on a single site that are designed for, or capable of, storing a total of one million or more gallons of liquid natural gas, liquid petroleum gas, or other liquid fuels — (PCA);

i. Construction of an underground storage facility for gases and liquids that requires a permit, pursuant to Minn. Stat. § 84.57 (1974) — (DNR);

j. Construction of a new mineral or fuel processing or refining facility, including, but not limited to, smelting and hydrometallurgical operations — (PCA or DNR);

k. Construction of a facility if the cumulative emissions of particulate matter and sulfur oxides exceed 50 tons per day — (PCA);

l. Main roadway grading construction of a four-or-more lane, divided highway with at least partial control of access of ten route miles or more in length and carrying 10,000 vehicles ADT (Average Daily Traffic) — (Hwys);

m. Construction of a new airport that is within the key system, pursuant to Minn. Stat. § 360.305, subd. 3 (1974) — (Aeronautics);

n. Construction or opening of a new facility for mining metallic minerals — (DNR);

o. Construction or opening of a facility for mining gravel, other non-metallic minerals, and fuels involving more than 320 acres — (Local, except DNR with respect to peat fuels).

p. A new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30 million gallons per month, or exceeding 2 million gallons in any day during the period of use; or a new appropriation of either ground water or surface water for irrigation of 640 acres or more in one continuous parcel from one source of water — (DNR);

q. Any new or additional impoundment of water creating a water surface in excess of 200 acres — (DNR);

r. An action that will eliminate or significantly alter a wetland of Type 3, 4, or 5 (as defined in U.S. Department of Interior, Fish and Wildlife Service, Circular 39, "Wetlands of the U.S., 1956") of five or more acres in the seven-county metropolitan area, or of 50 or more acres outside the seven-county metropolitan area, either singly or in a complex of two or more wetlands — (Local);

s. Any marina and harbor project of more than 20,000 square feet of water surface area — (Local);

t. Construction of a new or additional residential development that includes 100 or more units in an unsewered area or 500 or more units in a sewerred area — (Local);

u. Construction of a residential development consisting of 50 or more residential units, any part of which is within a shoreland area (as defined by Minn. Stat. § 105.485 (1974)) — (Local);

v. Construction of a development consisting of "condominium-type" campgrounds, mobile home

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parks, or other semi-permanent residential and/or recreational facilities, any part of which is within a shoreland area (as defined by Minn. Stat. § 105.485 (1974)) or floodplain (as defined by the "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota") exceeding a total of 50 units or, if located in areas other than the above, exceeding a total of 100 units — (Local);

w. Construction of a sanitary landfill for an excess of 100,000 cubic yards per year of waste fill, or any sanitary landfill located in an area characterized by soluble bedrock, where leachates may significantly change groundwater quality — (PCA);

x. Construction of a new paper and pulp processing mill — (PCA);

y. The application of restricted use pesticides over more than 1,500 contiguous acres — (Agriculture);

z. Harvesting of timber within the Boundary Waters Canoe Area Portal Zone or in a State Park or Historical Area, that is not included in an annual timber management plan filed with the Council — (DNR);

a₁ Permanent removal of 640 or more contiguous acres of forest cover — (DNR);

b₁ Conversion of 40 or more contiguous acres of forest cover to a different land use — (Local);

c₁ Construction of electric generating plants at a single site designed for, or capable of, operation at a capacity of 200 or more megawatts (electrical) — (PCA);

d₁ Construction of electric transmission lines and associated facilities designed for, or capable of, operation at a nominal voltage of 200 kilovolts AC or more, or operation at a nominal voltage of \pm 200 kilovolts DC or more, and are 50 miles or more in length — (EQC);

e₁ Construction of nuclear material processing plants and facilities — (PCA).

2. An EAW may be prepared on any proposed action to determine if the action is a major action with the potential for significant environmental effects and for a private action if the action is of more than local significance.

C. Waiver of EAW. In cases where the magnitude and environmental impact of a project allow a Respon-

sible Agency or Responsible Person to determine that an EIS is necessary without preparation of an EAW, or if a federal agency is preparing a state EIS pursuant to MEQC 25 F.4., an EAW need not be prepared. Publication of the EIS Preparation Notice shall be required. In cases where the Responsible Agency is not the proposer, if the project proposer does not concur in the determination of need for an EIS without the preparation of an EAW, the agency shall prepare an EAW.

MEQC 25 Actions requiring environmental impact statements.

A. General criteria. An EIS shall be required whenever it is determined that an action is major and has the potential for significant environmental effects. In making this determination, material effects on the environmental variables specified in MEQC 30 A.3., will indicate that an EIS should be prepared. In the case of a private action, it must also be determined that the action is of more than local significance.

B. Major action. In determining whether an action is major, the following factors shall be considered:

1. Type of action;
2. Scope of action, including size and cost;
3. Location and nature of surrounding area;
4. The totality of cumulative related actions, as defined by MEQC 25 E.;
5. Relation of the action to anticipated growth and development; and
6. Permit(s) and approval(s) required in addition to those of one primary, local agency.

C. Local significance. In determining whether a major private action is of more than local significance, the following factors shall be considered:

1. Location of the action; and
2. Area affected by the action.

D. Potential for significant environmental effects. In determining whether an action has the potential for significant environmental effects, the following factors shall be considered:

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1. Type, extent, and reversibility of environmental effects;

2. Cumulative potential effects of related or anticipated future actions, as defined by MEQC 25 E.;

3. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and

4. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar actions.

E. Related actions.

1. When two or more actions are related, they shall be considered as a single action and their cumulative potential effects on the environment shall be considered in determining whether an EIS is required. Actions are related if:

a. They are of a similar type, and are planned or will occur at the same time, and will affect

b. They are interdependent and not independently viable stages or segments of development of the same project and would not be undertaken if subsequent stages or segments would not also occur; or

c. It can be determined, based on a comprehensive plan or on the precedent that would be established by a public agency's undertaking or approving an action, that one of the actions will induce other actions of the same type or affecting the same geographic area.

2. A comprehensive plan for a geographic area or other public agency overall program or plan document may be considered as a Related Actions EIS.

a. The geographic area must contain possible actions each with the potential for significant environmental effects or actions whose cumulative potential environmental effect is significant.

b. For an individual action in the geographic area, the need for an individual action EIS or a modification of the Related Actions EIS shall be judged by the guidelines for a Subsequent EIS.

3. A Related Actions EIS shall meet the content requirement of MEQC 30 D.; however, the data may be more generalized and not as exhaustive as an individual action EIS. Additionally, the alternatives may be more in the nature of prototypes or alternate scenarios.

F. Miscellaneous.

1. Subsequent EIS. When an EIS has been prepared on an action, no additional EIS need be prepared on the action unless changes in the action are proposed which will involve new and potentially significant environmental effects not considered in the previous EIS.

2. Single EIS. When an action is to be carried out or approved by more than one public agency, only one EIS shall be prepared pursuant to the Act.

3. Expansions or modifications. The expansion or modification of an ongoing action which requires new or modified governmental permits shall be subject to the same requirements in the Act and these Rules for the preparation of environmental documents as a new action.

4. Federal EIS. When these Rules require the preparation of a state EIS on an action, and a federal EIS is required for the same action, pursuant to the requirements of the National Environmental Policy Act (NEPA) and the implementing regulations thereto, all or any part of the federal EIS may be submitted in lieu of all or any part of a state EIS. However, when the federal EIS is used, the elements of the EIS that are required by the Act and these Rules, but are not required by NEPA, shall be added to the federal EIS, including alternatives and modifications which can be implemented by state and local agencies. When a federal EIS is prepared in lieu of a state EIS, the state Responsible Agency shall independently review the federal EIS and ascertain that the conclusions and recommendations are those that the state agency would reach. Insofar as practicable, the Responsible Agency shall consult with the federal agency and coordinate all environmental reviews to the end that the requirements of state law are met by a single Draft EIS, single Final EIS, and a single hearing process, in which the state agency actively participates and adds supplementary material as necessary. In such circumstances, an EAW shall not be required; however, an EIS Preparation Notice shall be published in the *EQC Monitor*.

G. Environmental review of proposed large electric power generating plants and high voltage transmission lines.

1. Other provisions of these Rules to the contrary notwithstanding, this subsection provides for the environmental review of large electric power generating plants (LEPGP) and high voltage transmission lines (HVTL) under the Minnesota Environmental Policy Act. Certificates of Need (Minn. Stat. § 116H.07), and Certificates of Corridor Compatibility and Site Com-

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patibility (Minn. Stat. § 116C.57, subd. 1) may be issued before preparation and filing of an EIS. One purpose of this process is to insure that the environmental review of LEPGP and HVTL is consistent with the sequential permitting for energy facilities as provided in Minnesota Power Plant Siting Act, Minn. Stat. §§ 116C.51 to 116C.69 and the Minnesota Energy Agency Act, Minn. Stat. §§ 116H.01 to 116H.15. The environmental review of LEPGP and HVTL shall be separated into the following five phases:

- a. Environmental Report on Certificates of Need
- b. Environmental Report on Sites for LEPGP
- c. Environmental Report on Corridors for HVTL
- d. HVTL Route EIS
- e. LEPGP EIS

2. This environmental review process provides for the consideration of the potential environmental effects of a proposed action early in the decision making process at the phase where they are most appropriately considered. The intent of the process set out in this subsection is to eliminate duplication by reducing repeated consideration of identical issues in the various phases of this sequential process. The limitation on the environmental issues considered at each phase of the environmental review process is based on the preemption of the need, siting, corridor, and routing decisions as provided in Minn. Stat. §§ 116H.06 and 116C.61.

- a. Environmental report on certificates of need

(1) Preparation. The Minnesota Energy Agency shall prepare an Environmental Report when it receives an application for a Certificate of Need for a proposed LEPGP or HVTL.

(2) Content. The Environmental Report on the Certificate of Need shall include; but not be limited to:

(a) A summary of the information provided in the application;

(b) A brief analysis of alternatives to the proposed facility, which analysis shall include: a discussion of the economic and environmental feasibility of each alternative including the alternative of a different sized facility, an estimate of the time it would take to

implement each alternative, the projected availability of each alternative, and the estimated reliability of each alternative;

(c) An evaluation of the environmental and economic impact of the proposed facility, each reasonable alternative thereto, and the alternative of no facility;

(d) An evaluation of:

(i) the environmental impact of the proposed action, including any pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state;

(ii) any direct or indirect adverse environmental, economic, and employment effects that cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity, including the environmental impact of predictable increased future development of an area because of the existence of a proposal, if approved;

(v) any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented;

(vi) the impact on state government of any federal controls associated with proposed actions; and

(vii) the multi-state responsibilities associated with proposed actions.

(3) The report shall not be as exhaustive or detailed as an EIS, since an exhaustive and lengthy discussion of site-differentiating factors and detailed design information would be inappropriate and is not available at the Certificate of Need stage.

(4) Review and comment. The Environmental Report on the Certificate of Need shall be distributed in accord with the MEQC distribution list at least 20 days before the commencement of the Energy Agency's Certificate of Need hearing on the Application. The availability of the report and notice of the hearing shall

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be published in the *EQC Monitor* as specified in MEQC 35. Comments on the Environmental Report shall be submitted at the Certificate of Need public hearing. The preparation and review of the Environmental Report shall be completed within the statutory time limit provided for the Energy Agency's final decision on an application for a Certificate of Need.

(5) Council review. The Energy Agency shall submit its findings of fact and decision to the Council. Failure by the Council to request review of the Energy Agency's final decision within 10 days of the decision shall constitute Council acceptance of that decision and the issues determined by the Energy Agency in issuing or denying the Certificate of Need. Such issues shall not be considered in the Environmental Reports and environmental documents prepared at the subsequent siting, corridor, routing or licensing phases.

b. Environmental report on sites for large electric power generating plants.

(1) Preparation. The Council shall prepare a Site Environmental Report when it receives a site application for a LEPGP.

(2) Content. In the Site Environmental Report the Council shall include an evaluation of the exclusion criteria, avoidance areas and site selection criteria as required by the regulations adopted under the Power Plant Siting Act for the designation of a site and also MEQC 30 D. of these Rules. The Report shall provide an evaluation of each site that is considered for designation at the siting public hearings. The Site Environmental Report shall not consider the need for the LEPGP or information not related to site differentiating impacts. It shall not be as exhaustive or detailed as an EIS.

(3) Review and comment. The Site Environmental Report shall be distributed in accord with the MEQC distribution list and made available for review and public comment at least 30 days prior to the conclusion of the public hearing held on the site application. The Council shall respond to substantive comments received on the Environmental Report. The preparation and review of the Site Environmental Report shall be completed within the statutory time limits for the issuance of a Certificate of Site Compatibility.

(4) Final decision on Certificate of Site Compatibility. The Council shall consider the Site Environmental Report before its final decision on the issuance of a Certificate of Site Compatibility for a LEPGP. Such issuance by the Council shall constitute a final determination of the issues that were considered in the designation of the site.

c. EIS on large electric power generating plant

(1) Preparation. After designating a site, the Council shall determine whether an EIS shall be required on the LEPGP. If the Council or Responsible Agency determines that an EIS is required, the Minnesota Pollution Control Agency shall be the Responsible Agency, unless MEQC 27 A.3 applies.

(2) Content and procedures. The content of the EIS shall contain the information required by MEQC 30 D. of these Rules. Alternative sites, the need for the facility, and any other issues previously determined by the Minnesota Energy Agency or the Council shall not be considered in the EIS. The Environmental Reports prepared at the siting and need phases and the issues previously determined shall be referenced and summarized in the EIS.

d. Environmental report on corridors for high voltage transmission line

(1) Preparation and content. The Council shall prepare a Corridor Environmental Report upon the receipt of an application for a corridor for a HVTL. The Corridor Environmental Report shall include the evaluation of exclusion criteria, avoidance areas and selection criteria as required in accordance with the regulations adopted under the Power Plant Siting Act and also MEQC 30 D. of these Rules, for each alternative corridor considered for designation by the Council. The Report shall not be as exhaustive or detailed as an EIS.

(2) Review and comment on environmental report. The Corridor Environmental Report shall be distributed in accord with the MEQC distribution list and made available for review and public comment at least 20 days prior to the conclusion of the public hearing held on the corridor application. The Council shall respond to the substantive comments received on the Environmental Report.

(3) Final decision on certificate of corridor compatibility. The Council shall consider the Corridor Environmental Report before issuing a Certificate of Corridor Compatibility. Such issuance by the Council shall constitute a final determination of the issues that were considered in the designation of the corridor. The preparation and review of the Corridor Environmental Report shall be completed within the statutory time limits for the issuance of a Certificate of Corridor Compatibility.

e. High voltage transmission line route EIS

(1) Preparation. After designating a corridor, the Council shall determine whether an EIS shall be

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required on the route for the HVTL in accord with these Rules. If it determines that an EIS is required, it shall prepare the EIS.

(2) **Content.** The Route EIS shall include the information required by the Power Plant Siting Act and the Rules adopted thereunder for High Voltage Transmission Lines (HVTL) and also MEQC 30 D. of these Rules. All alternative routes designated for study by the Council shall be discussed in the EIS. The Environmental Reports prepared at the need and corridor phases and the issues previously determined shall be referenced and summarized in the EIS. The EIS shall not consider the need for the facility, routes outside the designated corridor or any routes not designated for study by the Council.

(3) **Procedures.** The Draft EIS shall be made available to all MEQC distribution points and to the extent practical to interested persons and shall be submitted at the public hearing on the route application. The Final EIS shall be submitted to the Council before it designates a specific route.

(4) **Final decision on designation of route.** The Council shall consider the Final EIS in designating a route for the HVTL. The preparation and review of the Route EIS shall be completed within the statutory time limits for the Council's designation of a route.

MEQC 26 Actions not requiring environmental documents.

A. General exemptions. The preparation of environmental documents shall not be required:

1. When a substantial portion of the action has been completed or implemented and an EIS on the action would not be able to influence remaining implementation or construction of the action to minimize adverse environmental consequences.

2. When there has been adequate environmental review of an action within the jurisdiction of the Council pursuant to Minn. Stat. § 116G.01 et seq. (1974) (the Critical Areas Act of 1973), or Minn. Stat. § 116C.04(2)(b) (1974) (the Environmental Quality Council Act of 1973).

3. When, and so long as, a public agency denies a governmental approval required for the action.

4. When an imminent and substantial danger to the public health, safety or welfare makes it necessary to undertake a major action that has the potential for significant environmental effects and application of these Rules would be impracticable. In such cases, the proposer shall consult with the Chairman of the Council to arrange an alternative means of environmental review before taking the action.

B. State agencies developing procedural guidelines may develop EAW and EIS exemption categories. Such categories shall be submitted for Council review and approval and shall be subject to Minn. Stat. ch. 15 (1974) Rule making procedures.

C. EAW exemptions. Unless an action is included under MEQC 24 B.1., the following items are categories for which an EAW shall not be required. This listing may be used as a guideline for developing other state agency exemption categories under MEQC 26 B. The following listing is not intended to imply the EAWs must be prepared on actions not included in this listing. In cases where EAWs are neither exempt nor mandatory, the public agency should prepare EAWs only where it is probable that the actions will cause significant environmental effects and an EAW is needed to guide the decision on whether an EIS is required.

1. Operation, maintenance, or repair work involving no substantial change in existing structures, land uses, or water quality.

2. Construction or alteration of a single or multiple residence with four dwelling units or less and accessory appurtenant structures and utilities, when not in conjunction with the construction or alteration of two or more such residences.

3. Construction or alteration of a store, office, or restaurant designed for an occupancy of 20 persons or less, if not in conjunction with the construction or alteration of two or more stores, offices, or restaurants accumulating an occupancy load of more than 30 persons, unless designated to be an historical structure.

4. Restoration or reconstruction of a structure in whole or in part being increased or expanded by less than 25 percent of its original size, square footage, or capacity, and aggregating less than 5,000 square feet, provided that such structure has not been designated to be of historical, cultural, archeological, or recreational value by a public agency.

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5. Repaving or reconstruction of existing highways not involving the addition of new travel lanes or acquisition of additional right-of-way.

6. Installation of traffic control devices on existing streets, roads, and highways other than installation of multiple fixtures on extended stretches of highway.

7. Licensing or permitting decisions relating to individual persons or activities directly connected with an individual's household, livelihood, transportation, recreation, health, safety, and welfare, such as motor vehicle licensing, hunting licenses, professional licenses, and individual park entrance permits.

8. Purchase of operating equipment, maintenance equipment, or operating supplies.

9. Sales or lease of surplus governmental property other than land, radioactive material, pesticides, or buildings.

10. Loan, mortgage, guarantee, or insurance transactions in connection with new or existing structures or uses as defined in subparagraphs MEQC 26 C.2., 3. or 4.

11. Borrowing for purposes other than capital construction or land purchase.

12. Maintenance of existing landscaping, native growth, and water supply reservoirs, excluding the use of pesticides.

13. Utility extensions as follows: water service mains of 500 feet or less and one and a half inches diameter or less; sewer lines of 500 feet or less and eight inch diameter or less; electrical service lines of 500 feet or less and 240 volts or less; gas service mains of 500 feet or less and one inch diameter or less; and telephone service lines of 500 feet or less.

14. Construction of accessory appurtenant structures including garages, carports, patios, swimming pools, fences, barns, or other similar agricultural structures, excluding feedlots; or other similar buildings not changing land use or density.

15. Grading or filling of 750 cubic yards or less.

16. Local bus stops and bus shelters or transit signs, which do not require accessory parking facilities.

17. Minor temporary uses of land having negligible or no permanent effect on the environment, including such things as carnivals and sales of Christmas trees.

18. Filling of earth into previously excavated land with materials compatible with the natural material on the site.

19. Individual land use variances including minor lot line adjustments and side yard and setback variances, not resulting in the creation of a new subdivided parcel of land or any change in land use character or density.

20. Basic data collection, training programs, research, experimental management, and resource evaluation projects which do not result in an extensive or permanent disturbance to an environmental resource, and do not constitute a substantial commitment to a further course of action having potential for significant environmental effects.

21. Accessory signs appurtenant to any commercial, industrial, or institutional facility not regulated by an agency of the State.

Chapter Thirteen: Procedural Requirements

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

A. Selection of preparers. The following procedures will be followed to determine the Responsible Agency or Responsible Person for the preparation of an EAW.

1. When a private person proposes to carry out an action which does not require any governmental permits, that person shall be the Responsible Person.

2. For any action in MEQC 24 B.1. the agency designated in parentheses shall be the Responsible Agency.

3. For any action not included in MEQC 24 B.1. or which falls into more than one category of MEQC 24 B.1., the Responsible Agency shall be determined as follows:

a. When a single public agency proposes to carry out or has jurisdiction to approve an action, it shall be the Responsible Agency.

b. When two or more public agencies propose to carry out or approve an action, the Responsible Agency shall be the public agency with the greatest responsibility for supervising or approving the action as a whole. Where two or more public agencies have an equal claim to be Responsible Agency, the public agencies shall either:

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(1) By agreement, designate which agency shall be the Responsible Agency; or

(2) Submit the question to the Council, which shall designate the Responsible Agency based on consideration of the above principles.

c. To assist local governmental units in determining which public agency is the Responsible Agency, proposers of actions which are included in MEQC 24 B.1. shall provide a list of the other state and local permits known at the time to be required on the action.

4. When a private person proposes to carry out an action which in whole or in part requires a governmental permit, that person may prepare an EAW to be submitted to the appropriate Responsible Agency for its consideration and conclusion.

a. For any action in MEQC 24 B.1., a private person may voluntarily submit an EAW to the Responsible Agency. The agency will then have 30 days to add supplementary material if necessary and to prepare an EIS Preparation Notice or issue a Negative Declaration Notice and to submit the document to the Council with appropriate notices for publication in the *EQC Monitor*.

b. For any action which is not included in MEQC 24 B.1., a private person may voluntarily submit an EAW to the agency which appears to have the most approval authority on the project. If the agency and the proposer cannot agree on an appropriate Responsible Agency, the question shall be submitted to the Council for resolution. The agency will then have 30 days to add supplementary material if necessary and to prepare an EIS Preparation Notice or issue a Negative Declaration Notice and to submit the document to the Council with appropriate notices for publication in the *EQC Monitor*.

c. If an EAW determines an EIS is needed, the agency filing the EIS Preparation Notice shall be the Responsible Agency for preparation of the EIS.

5. Notwithstanding subparagraphs 1-4 above, for any action the Council may designate a Responsible Agency or Responsible Person for preparation of environmental documents.

B. Preparation of EAW.

1. The EAW shall be prepared as early as practicable in the development of the action. Early in the preparation of the EAW, the Responsible Agency shall

consult with all other public agencies which have the jurisdiction to approve the action or a part of the action. When a local agency is the Responsible Agency, it shall consult with local agencies which so request and local agencies likely to be directly impacted by the proposed action. The Responsible Agency or Responsible Person may consult with appropriate reviewing agencies and other interested persons.

2. The format of an EAW shall be a worksheet and checklist in a form to be provided by the MEQC. The EAW shall include, as a minimum, the information outlined in MEQC 30 A.

C. Notice of EAW conclusions.

1. After an EAW is prepared, the Responsible Agency or Responsible Person shall file with the Council either an EIS Preparation Notice or a Negative Declaration Notice, with a copy of the EAW attached. A Negative Declaration Notice shall not be filed before official public review of the proposed action commences.

2. The Notices shall contain the information listed in MEQC 30 B. and C.

3. The Notices filed shall not be published until the Council has determined that a copy of the EAW has been mailed to all points on the official MEQC distribution list and to the city and county directly impacted by the proposed action.

4. When an EAW has been waived pursuant to MEQC 24 C., an EIS Preparation Notice shall still be required.

MEQC 28 Review of EIS preparation notices and negative declaration notices

A. Review of EIS preparation notices.

1. When an EIS Preparation Notice is published, an EIS shall be required on an action unless within 30 days of *EQC Monitor* publication of the Notice, a member agency of the MEQC, a public agency with the jurisdiction to approve the action, or the proposer files objections with the Responsible Agency, the proposer of the action, and the Council.

2. The Council, at its first meeting held more than 30 days after the filing of an objection, shall determine whether an EIS shall be prepared. This time limit shall

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be waived if a hearing is ordered pursuant to MEQC 28 A.3.

3. The Council may hold a public hearing or informational meeting to assist it in its determination. When a hearing is held, it shall follow the following procedures:

a. The hearing shall be held as expeditiously as practicable in a county to be affected by the proposed action. Notice of the hearing shall be given at least 30 days in advance of the hearing to the proposer of the action, to all public agencies with jurisdiction over the action, and to the representative of the petitioners, if any. The hearing shall be conducted by a hearing officer, shall be transcribed, and shall continue until all persons have had an opportunity to be heard.

b. At the first monthly meeting at least 20 days after receipt by the Council and by requesting persons of the hearing officer's findings and recommendation (which receipt shall occur within 20 days of the hearing's conclusion), the Council shall consider the recommendation and any written briefs or argument filed by interested parties to the hearing, and shall decide whether to accept, reject, or modify the recommendation. Failure of the Council to act at this meeting shall be deemed acceptance of the recommendation of the hearing officer.

B. Review of negative declaration notices.

1. When a Negative Declaration Notice is published, an EIS shall not be required on an action unless within 30 days of *EQC Monitor* publication of the Notice, a member agency of the EQC, a public agency with the jurisdiction to approve the action, a representative of 500 original petitioners pursuant to MEQC 32 E.1., or a representative of 500 new petitioners pursuant to MEQC 32 E.2., files objections with the Responsible Agency or the Responsible Person, the proposer of the action, and the Council.

2. The Council, at its first meeting held more than 30 days after the filing of an objection, shall determine whether an EIS shall be prepared. This time limit shall be waived if a hearing is ordered pursuant to MEQC 28 B.3.

3. The Council may hold a public hearing or informational meeting to assist in its determination. When a hearing is held, it shall follow the procedures outlined in MEQC 28 A.3.

MEQC 29 Preparation and review of EISs.

A. Preparation and Review of Draft EIS.

1. The Responsible Agency or Responsible Person shall prepare and file the Draft EIS within 120 days of the EIS Preparation Notice publication date. This time limitation may be extended by the Council only for good cause upon written request by the Responsible Agency or Responsible Person.

2. The Responsible Agency may require the proposer to submit any relevant data or information that the proposer has in its possession or to which it has reasonable access.

3. The Responsible Agency or Responsible Person may consult with and request comments of public agencies with jurisdiction by law or special expertise and the public regarding the environmental effects of an action, including the appropriate regional development commission.

4. Reviewing agencies may comment in writing to the Responsible Agency or the Responsible Person within 30 days of receiving the EIS.

5. The Draft EIS is filed when it is delivered to the Council in a form and manner acceptable to it together with evidence that copies were mailed to all appropriate Council-designated distribution points, all approving agencies, reviewing agencies, the proposer, and, to the extent practicable, requesting persons.

6. Between 30 and 45 days after the Draft EIS is filed, an informational meeting shall be held by the Responsible Agency, or by the MEQC if there is no Responsible Agency, in a county affected by the proposed action as part of the Draft EIS review process. Notice shall be given at least 20 days in advance of the meeting and shall be mailed to recipients of the Draft EIS and published in a newspaper of general circulation in the counties affected by the action. The Draft EIS meeting may be consolidated with any hearing required by law to be held before approval of the action. A typewritten or audio-recorded transcription of the meeting shall be made, and the public record shall remain open for 20 days after the last day of the hearing to allow any person to submit additional information or opinions. All written and oral statements received into the record, or summaries thereof, shall be included in the Final EIS.

B. Preparation and review of final EIS.

1. The Responsible Agency or Responsible Person shall have 30 days from the close of the Drafts EIS record to prepare and file the Final EIS. The Council may extend this time limitation upon written request showing good cause by the Responsible Agency or Responsible Person.

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2. The Final EIS is filed when it is delivered to the Council in a form and manner acceptable to it together with evidence that copies were mailed by the preparer to all appropriate Council-designated distribution points, the proposer, all approving and reviewing agencies, and, to the extent practicable, requesting persons.

3. Council review.

a. The Council may review any Final EIS to determine whether the procedures and policies of the Act and these Rules have been adequately complied with. Failure to review a Final EIS in the time specified in b constitutes its acceptance.

b. If the Council decides to review a Final EIS, it shall commence the review at or before its first meeting held more than 30 days following filing of the Final EIS. The Council shall determine EIS adequacy at or before its first meeting held more than 45 days after commencing review. All persons receiving the Final EIS shall be notified of the Council's decision and of the time and place of any information meetings which it may hold to aid its review.

4. If the Council determines that a Final EIS is inadequate, it shall so notify the Responsible Agency or Responsible Person and shall identify in writing within 15 days the improvements or additions necessary for Council acceptance of the Final EIS. The Responsible Agency or Responsible Person shall file a revised EIS in the manner provided in subparagraph MEQC 29 A.5. within 30 days of receipt of the Council's written comments. Reviewing agencies and other persons shall comment in writing on the revised EIS within 15 days of receipt of the revised EIS. The Final EIS shall be submitted to the Council within 15 days after the close of the comment period in the form and manner provided in subparagraph MEQC 29 B.2. The Council may extend these time limitations upon written request and a showing of good cause by the Responsible Agency or Responsible Person.

5. The Council shall make a final decision on the adequacy of the Final EIS prior to any governmental approval of the action.

MEQC 30 Content requirements.

A. Content of an EAW. The EAW shall address at least the following major categories in the concise form provided on the worksheet:

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1. Summary

a. Finding of Negative Declaration or Positive Declaration (EIS Required);

b. Activity Identification (name, sponsors, Responsible Agency, EAW contact person, reason for preparation, any federal jurisdiction, governmental permits);

c. Activity Description Summary (location, proposal, construction schedule, estimated costs).

2. Activity description.

a. U.S.G.S. Map 1:24,000 Scale, Diagrams;

b. Land Use Categories Affected;

c. Size and Dimensions of Project.

3. Assessment of potential environmental impact.

a. Ecological Effects (topography, wetlands, water systems, wildlife, vegetation);

b. Environmental Hazards (toxic materials, floodplains, steep slopes, geologic hazards);

c. Water Quality and Quantity (surface and ground water impacts);

d. Resource Conservation, Energy, and Usage (agricultural or forest lands, minerals, energy sources and use);

e. Planning, Land Use, Community Services (compatibility with plans, regional impacts, population, employment, housing, utilities, transportation);

f. Open Space and Recreation (parks, federal, state, local);

g. Historic Resources [landmarks (federal or state), historic sites, archaeologic sites, paleontologic sites];

h. Air Quality (pollutants);

i. Noise (vibration and sound);

j. Other Environmental Concerns.

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4. Mitigation of adverse environmental effects.

5. Findings and certification (private or governmental action, time for EIS preparation, EQC distribution certification).

B. Content of negative declaration notice. Each Negative Declaration Notice shall include:

1. A brief description of the proposed action.

2. A statement that no EIS is required because the action is not a major action with the potential for significant environmental effects, and in the case of private actions is not of more than local significance, supported by reasons.

3. Where the EAW and supporting documentation is available for public inspection and copying.

C. Content of EIS preparation notice. Each EIS Preparation Notice shall include:

1. A brief description of the action requiring the EIS.

2. The Responsible Agency or Responsible Person for EIS preparation.

3. The recommended time requirements for preparation.

4. Recommendations, if applicable, as to the extent to which the action may proceed during the EIS process.

5. Where the EAW and supporting documentation is available for public inspection and copying.

D. Content of draft EIS. A Draft EIS shall contain the following information:

1. Summary. A summary sheet which describes the action, major environmental impacts (adverse and beneficial), reasonable alternatives, and the federal, state, and local permits outstanding shall be included. Also, federal, state, or local agencies, other organizations, and private individuals consulted in the preparation of the EIS shall be identified.

2. Description. A description of the action, including type, size and location, and the environmental setting of the action. A regional and site-specific map should be included to assist in identification of the project.

3. Environmental impact of the proposed action.

All phases of an action shall be considered when evaluating an action: planning, acquisition, construction, implementation, development, operation, and conclusion of operation. Special consideration shall be given to pollution, impairment, or destruction of the air, water, land, or other natural resources located within the State resulting from the proposed action, without limitation by the definitions of "action" and "environment" in these Rules. This discussion shall also include a description of all resources in the area and how they will be affected by the action, with emphasis placed on resources that are rare or unique to the region or that possess important historical, cultural, natural, ecological, or aesthetic values, without limitation by the definitions of "action" and "environment" in these Rules.

4. Any direct or indirect environmental, economic, energy, and employment effects that cannot be avoided if the proposed action is implemented. This discussion shall describe the adverse and beneficial environmental, economic, energy, and employment effects that will result directly from the action, as well as the effects that may be reasonably expected to result from the action. Mitigation measures that have been or may be incorporated into the action to reduce or minimize significant adverse environmental, economic, energy, and employment effects shall be discussed.

5. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented. This discussion shall include the proposed use of non-renewable resources, long term or irreversible commitments of resources to a particular use and any irreversible and irretrievable damage that may result from the action.

6. The relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity, including the environmental impact of predictable increased future development of an area if the action is implemented. This discussion shall include the extent that the proposed action involves trade-offs between short term environmental gains or losses versus long term gains or losses, including potential risks to health and safety, and the extent that the proposed action forecloses future options. The impact of predictable increased future development in the area that may be stimulated, directly or indirectly, by the proposed action shall be discussed.

7. Alternatives to the Proposed Action. An objective evaluation of all reasonable alternatives to the action and the environmental impact of each and the reasons for their rejection in favor of the recommended choice shall be made. Reasonable modifications of the proposed action that may avoid or reduce adverse environmental effects shall be discussed, including the expected bene-

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fits, costs, and effects on the objective of the proposed action.

8. The impact on state government of any federal controls associated with the proposed action. Federal actions pending which may affect the final outcome of the project should be discussed, including those actions which may result in the expenditure of additional state funds.

9. The multi-state responsibilities associated with the proposed action. Impacts of the proposed action upon multistate responsibilities shall be discussed, including the environmental effects of the action upon adjacent states.

D. Content of final EIs. The Final EIS shall consist of the Draft EIS, the comments or summaries thereof received through consultation and public comment, including public meetings or hearings held on the EIS, and the response of the Responsible Agency or Responsible Person to the significant environmental issues raised in the consultation, comment, and review process. The response of the Responsible Agency or Responsible Person to constructive comments received may take the form of a revision of the Draft EIS or may be an attachment to the Draft EIS.

MEQC 31 Final decisions and actions.

A. No decisions granting or denying a permit application for which notice is required to be published in MEQC 35 shall be effective until 30 days following publication of the notice.

B. No public agency proposing an action for which notice is required to be published in MEQC 35 shall begin to implement that action until 30 days following publication of the notice.

C. When an EAW is prepared on any action, no final decision to approve or commence the action shall be made until 30 days following publication of a Negative Declaration Notice.

D. On any action for which an EIS Preparation Notice has been published, no final decision to approve or commence the action shall be made until the Council has completed its review of the Final EIS. Where public hearings are required by law to precede issuance of a governmental permit or other implementation of a governmental action, public hearings shall not be held until

after filing of a Draft EIS, except for projects reviewed under MEQC 25G.

E. When an EIS is required on an action, any physical construction on the action or operation of the action shall be halted from the time the EIS Preparation Notice is published until the Final EIS is accepted by the Council, unless the Council determines that construction or operation may begin or continue. In that case, the Council shall specify the extent to which construction or operation shall be allowed, and the specific reasons for that determination. This Rule shall in no way limit the Council's statutory authority to halt actions or impose other temporary relief.

MEQC 32 Petition for an EIS.

A. Petition. Any person or group of persons may file with the Council a petition that contains the signatures and addresses of 500 or more individuals and requests the Council to require an EIS on an action.

B. Content. In addition to the signatures, the petition shall include the following written information:

1. Description of the action;
2. Proposer of the action;
3. The anticipated environmental effects of the action;
4. The name and address of a representative of the petitioner for the purpose of this section;
5. Any additional information that may be used in the EAW to determine whether the proposed action is a major action with the potential for significant environmental effects, and in the case of private actions whether the action is of more than local significance.

C. Council action.

1. The petition shall qualify for the remedies provided by these Rules and Minn. Stat. § 116D.04, subd. 3 (1974), unless the Council determines that:

- a. The petition lacks 500 signatures; or
- b. The action is one to which these Rules do not apply, pursuant to MEQC 26; or
- c. An EIS Negative Declaration Notice has been

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filed in accord with these Rules and the time for objections or appeal has passed; or

d. The petition is frivolous or clearly outside the scope of these Rules and the Council disqualifies the petition by order.

2. In all other cases, the Council shall refer the petition to a Responsible Agency for preparation of an EAW or, where appropriate, arrange for a Council review pursuant to MEQC 28 A.3.

D. Responsible agency duties. The Responsible Agency shall have 45 days in which to prepare the EAW referred to it by the Council pursuant to MEQC 32 C.2. and shall thereupon publish an EIS Preparation Notice or Negative Declaration Notice.

E. Challenge of Negative Declaration Notice by petitioners.

1. If a Negative Declaration Notice is published, a representative of the original petitioners for an EIS may, within 30 days, request Council review of the decision pursuant to MEQC 28 B.

2. Any person or group of persons may request Council review of a Negative Declaration Notice on any action by submitting a new petition signed by 500 or more individuals.

a. Content: The petition shall state on each page, "NEGATIVE DECLARATION CHALLENGE-PETITION FOR A STATE EIS". The petition shall also include the items described in MEQC 32 B above.

3. Review: On all petitions received within 30 days of publication of a Negative Declaration Notice as provided in MEQC 35, the Council shall conduct a public hearing to facilitate the Council's review of whether an EIS must be prepared. The hearing shall be held as expeditiously as practicable in a county to be affected by the proposed action. The review procedure is specified in MEQC 28 B.

Chapter Fourteen: Early Notice Rules

MEQC 33 Authority and purpose.

A. To provide early notice of impending actions which may have significant environmental effects, the Council shall, pursuant to Minn. Stat. § 116D.04, subd. 8 (1974), publish a bulletin with the name of "EQC Monitor" containing all notices as specified in MEQC 35. The Council may prescribe the form and manner in which the agencies submit any material for publication in the *EQC Monitor*, and the Chairman of the Council

may withhold publication of any material not submitted according to the form or procedures the Council has prescribed.

B. These Rules are intended to provide a procedure for notice to the MEQC and to the public of natural resource management and development permit applications, and impending governmental and private actions that may have significant environmental effects. The notice given through the early notice procedures is in addition to public notices otherwise required by law or regulations.

MEQC 34 Exemptions.

A. All National Pollutant Discharge Elimination System Permits granted by the Minnesota Pollution Control Agency, under the authority given it by the Environmental Protection Agency, of the United States of America, shall be exempt from these Rules unless otherwise provided by resolution of the Council.

B. Where, in the opinion of any public agency, strict observance of MEQC 33-35 would jeopardize the public health, safety, or welfare, or would otherwise generally compromise the public interest, the agency shall comply with these Rules as far as practicable. In such cases, the agency shall carry out alternative means of public notification and shall communicate the same to the Council Chairman.

C. Any federal permits for which review authority has been delegated to a non-federal public agency by the federal government may be exempted by resolution of the Council.

MEQC 35 EQC Monitor publication requirements.

A. Public agencies are required to publish the following in the *EQC Monitor* except that this section constitutes a request and not a requirement with respect to federal agencies.

1. Notice of receipt of applications or government proposals for the natural resources management and development permits listed below. When an action has been noticed pursuant to MEQC 35 A.3. separate notice of individual permits required by that action need not be made unless changes in the action are proposed which will involve new and potentially significant environmental effects not considered previously.

a. Navigational obstructions within designated state or federal Wild and Scenic River land use districts.

b. Commercial and industrial wharves used for cargo transfer.

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c. Channelization of one or more miles of designated Class I or II public water courses.

d. Any marina and harbor project of more than 20,000 square feet of water surface area.

e. Any new or additional impoundment of water creating a water surface in excess of 200 acres.

f. Filling of ten or more acres of public waters.

g. Dredging of ten or more acres of public waters.

h. All public hearings conducted pursuant to water resources permit applications (Minn. Stat. ch. 105 (1974)).

i. A new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30 million gallons per month, or exceeding two million gallons in any day during the period of use; or a new appropriation of either ground water or surface water for irrigation of 640 acres or more in one continuous parcel from one source of water.

j. Application for the underground storage of gas or liquids.

k. County, state or federal auctions for sale of publicly owned timber on any tract adjacent to a public highway.

l. County, state or federal auctions for sale of publicly owned timber on any tract adjacent to public waters of the State.

m. County, state or federal auctions for sale of publicly owned timber on any tract, any part of which is within one quarter (¼) mile of an organized public, private or non-profit recreation area or camp.

n. Notice of all public permit and lease sales for state permits and leases to prospect for and mine iron ore, copper nickel, or other minerals as required by Minn. Stat. §§ 93.16, 93.335, and 93.351 (1974) and Copper-Nickel Rules and Regulations.

o. Permits and leases for iron ore in non-merchantable deposit areas (Minn. Stat. 93.283).

p. New leases and permits for use of state forest

lands for summer cabins, commercial recreational facilities and gravel pits.

q. Roads through state forest lands exceeding five miles in length.

r. Facility plans for new or expansion of industrial treatment works not covered by NPDES permits (Minn. Stat. § 115.07 subd. 1 (1974)).

s. Facility plans for new or expansion of liquid storage facilities equal to or exceeding 50,000 gallons (Minn. Stat. § 115.43, subd. 3(2) (1974)).

t. New or expansion of solid waste disposal systems handling 100 cubic yards or more of solid waste per day (Minn. Stat. § 116.07, subd. 4A (1974)).

u. Installation permit application for new or expansion of incinerators with capacity equal to or in excess of one ton per hour of solid waste (Minn. Stat. § 116.07, subd. 4A (1974)).

v. Installation permit application for new or expansion of an emission facility emitting 100 tons or more per year of any restricted air contaminant. (Minn. Stat. § 116.07, subd. 4A (1974)).

w. New or expansion of a feedlot designed for 1,000 cattle or more equivalent animal units (Minn. Stat. § 116.07, subd. 7 (1974)).

x. Construction of a public use airport (Minn. Stat. § 360.018, subd. 6 (1974)).

2. Impending actions proposed by state agencies when the proposed action may have the potential for significant environmental effects.

3. EIS Preparation Notices and Negative Declaration Notices.

4. Notice of Draft EIS informational meetings or hearings to be held pursuant to MEQC 29 A.6.

5. Notice of other actions that the Council may specify by resolution.

6. Notice of the application for a Certificate of Need for a large energy facility, pursuant to Minn. Stat. § 116H.03 (1974).

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B. Public agencies may publish notices of general interest or information in the *EQC Monitor*, including notices of consolidated state permit applications, the latter to be commenced at the discretion of the Council.

C. The MEQC is required to publish the following in the *EQC Monitor*:

1. Receipt of valid petitions, pursuant to MEQC 32, and assignment of a Responsible Agency therefore.

2. Receipt of Draft or Final EIS.

3. Notice of any public hearing held pursuant to Minn. Stat. § 116D.04, subd. 9 (1974).

4. Receipt by the Council of notice of objections to a negative declaration by petitioners or a public agency, and the time and place at which the Council will review the matter, including notice of public hearings, if any.

5. The Council's decision to hold public hearings on a recommended Critical Area pursuant to Minn. Stat. § 116G.06, subd. 1(c) (1974) (Critical Areas Act, 1973).

6. Notice of application for a Certificate of Corridor Compatibility or Site Compatibility, or a High-Voltage Transmission Line Construction Permit pursuant to Minn. Stat. § 116C.51 et seq. (Power Plant Siting Act of 1973).

MEQC 36 Content of notice.

A. The information to be included in the notice for natural resources management and development permit applications and other items in MEQC 35 A.1. and 2. shall be submitted by the public agency on a form approved by the Council. This information shall include but not be limited to:

1. Identification of applicant, by name and mailing address.

2. The location of the proposed project, or description of the area affected by the action by county, minor civil division, public land survey township number, range number, and section number.

3. The name of the permit applied for, or a description of the proposed project or other action to be undertaken in sufficient detail to enable other state agencies to determine whether they have jurisdiction over the proposed action.

4. A statement of whether the agency intends to hold public hearings on the proposed action, along with

the time and place of the hearings if they are to be held in less than 30 days from the date of this notice.

5. The identification of the agency publishing the notice, including the manner and place at which comments on the action can be submitted and additional information can be obtained.

MEQC 37 Statement of compliance. Each governmental permit or agency authorizing order subject to the requirements of these Rules issued or granted by a public agency shall contain a statement by the agency concerning whether these Rules have been complied with, and publication dates of the Notices, if any, concerning that permit or authorization.

MEQC 38 Publication.

A. The Council shall publish the *EQC Monitor* whenever it is necessary, except that material properly submitted to the Council shall not remain unpublished for more than ten working days.

B. The *EQC Monitor* shall have a distinct and permanent masthead with the title "EQC Monitor" and the words "State of Minnesota" prominently displayed. All issues of the *EQC Monitor* shall be numbered and dated.

MEQC 39 Cost and distribution.

A. When an agency properly submits material to the Council for publication, the Council shall then be accountable for the publication of the same in the *EQC Monitor*. The Council shall require each agency which is required to publish material or requests the publication of material in the *EQC Monitor*, including the Council itself, to pay its proportionate cost of the *EQC Monitor* unless other funds are provided and are sufficient to cover the cost of the *EQC Monitor*.

B. The Council may organize and distribute contents of the *EQC Monitor* according to such categories as will provide economic publication and distribution and will offer easy access to information by any interested party.

C. The Council may further provide at least one copy to the Documents Division for the mailing of the *EQC Monitor* to any person, agency, or organization if so requested, provided that reasonable costs are borne by the requesting party. Ten copies of each issue of the *EQC Monitor*, however, shall be provided without cost to the legislative reference library and ten copies to the state law library, and at least one copy to designated MEQC depositories.

D. The MEQC shall provide adequate office space, personnel, and supply necessary equipment for the operation of the *EQC Monitor* without cost to the agencies.

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MEQC 40 General.

A. Publication duties of the *EQC Monitor* may be transferred to the State Register upon resolution of the Council.

MEQC 41 Effective date. The amendments to these Rules (MEQC 21-41) shall become effective upon filing with the Secretary of State. All petitions received, environmental assessments ordered or received, and EISs ordered before the effective date of the amendments shall at the request of the preparer of the document be processed and reviewed as if these amendments were not in effect. Projects previously reviewed or exempted by the MEQC are not subject to these Rules except for those actions included in MEQC 25 F.1.

Pollution Control Agency Air Quality Division Performance Standards for Heating Equipment and Restrictions on Visible Air Contaminant Emissions

(New APC 4 and 11 repeal and supersede previous APC 4 and 11.)

APC 4 Standards of performance for fossil fuel burning indirect heating equipment.

A. Definitions. As used in this regulation, the following words shall have the meanings defined herein:

1. "Actual heat input" means the number of BTU per hour (cal/hr) determined by multiplying the gross heating value of the fuel by the rate of fuel burned.

2. "Coal refuse" means waste-products of coal mining, cleaning, and coal preparation operations (e.g. culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material.

3. "Direct heating equipment" means a furnace, kiln, dryer, or other combustion equipment used in the burning of a fossil fuel for the purpose of processing a material where the products of combustion have direct contact with the heated material.

4. "Distillate oil" means grades of oils known as No. 1 & No. 2, as defined in the A.S.T.M. D 396 (1973).

5. "Fossil fuel" means natural gas, petroleum, coal, wood, peat, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

6. "Gross heating value" means the gross calorific value (cal/g or BTU/lb) of the fuel combusted as determined by A.S.T.M. test methods D 2015-66(72) for solid fuels; D 1826-64(70) for gaseous fuels, and D 240-64(73) for liquid fuels.

7. "Indirect heating equipment" means a furnace, a boiler or other unit of combustion equipment used in the process of burning fossil fuel for the purpose of producing steam, hot water, hot air, or other hot liquid, gas, or solid, where the products of combustion do not have direct contact with the heated medium.

8. "Rated heat input" means the number of BTU per hour (cal/hr) which the manufacturer has determined to be the continuous rated capability of the indirect heating equipment, or, where the rated heat input is not specified by the manufacturer, the number of BTU per hour (cal/hr) determined by dividing the rated heat output by the overall thermal efficiency.

9. "Residual oil" means grades of oils known as No. 4, No. 5 (Light), No. 5 (Heavy), and No. 6, as listed in A.S.T.M. D 396 (1973).

10 "Steam generating unit" means indirect heating equipment used to produce steam.

B. Determination of applicable standards of performance.

1. This regulation shall apply to indirect heating equipment for which a standard of performance has not been promulgated in a specific regulation.

2. The applicable standards of performance in Table I or Table II shall be determined by using the rated heat input of the specific indirect heating equipment and the total rated heat inputs of all indirect heating equipment and all direct heating equipment of one owner or operator at that particular location.

3. When different fossil fuels are burned simultaneously in any combination, the applicable sulfur

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dioxide standard shall be determined by proration using the following formula:

$$w = \frac{y(a) + z(b)}{x + y + z}$$

where:

w is the maximum allowable emissions of sulfur dioxide gases in lbs. per million BTU (g/million cal), and

x is the percentage of total heat input derived from gaseous fossil fuel, and

y is the percentage of total heat input derived from liquid fossil fuel,

z is the percentage of total heat input derived from solid fossil fuel, and

a is the allowable SO₂ standard for liquid fossil fuels expressed in lbs per million BTU (g/million cal), and

b is the allowable SO₂ standard for solid fossil fuels expressed in lbs per million BTU (g/million cal).

4. When different fossil fuels are burned simultaneously in any combination, the application nitrogen oxides standard shall be determined by proration using the following formula:

$$w = \frac{x(c) + y(a) + z(b)}{x + y + z}$$

where:

w, x, y and z mean the same as in the formula in paragraph 3. for determining the applicable sulfur dioxide standard; and

a is the allowable NO_x standard for liquid fossil fuels expressed in lbs per million BTU (g/million cal); and

b is the allowable NO_x standard for solid fossil fuels expressed in lbs per million BTU (g/million cal); and

c is the allowable NO_x standard for gaseous fossil fuels expressed in lbs per million BTU (g/million cal).

5. When lignite or a solid fossil fuel containing 25 percent by weight, or more, of coal refuse is burned in combination with gaseous, liquid, or other solid fossil fuel, the standard of performance for nitrogen oxides shall not apply.

C. Standards of performance for existing indirect heating equipment.

1. No owner or operator of indirect heating equipment shall cause to be discharged into the atmosphere from said equipment any gases which contain particulate matter or sulfur dioxide in excess of the standards of performance shown in Table I.

2. No owner or operator of indirect heating equipment shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20% opacity; except that a maximum of 60% opacity shall be permissible for four (4) minutes in any 60 minute period and that a maximum of 40% opacity shall be permissible for four (4) additional minutes in any 60 minute period.

D. Standards of performance for new indirect heating equipment.

1. No owner or operator of new indirect heating equipment shall cause to be discharged into the atmosphere from said equipment any gases which contain particulate matter, sulfur dioxide or nitrogen oxides in excess of the standards of performance shown in Table II.

2. No owner or operator of new indirect heating equipment or greater than 250 million BTU per hour rated heat input shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20% opacity; except that a maximum of 40% opacity shall be permissible for not more than two (2) minutes in any 60 minute period.

3. No owner or operator of new indirect heating equipment of 250 million BTU per hour or less rated heat input shall cause to be discharged into the atmosphere from said equipment any gases which exhibit greater than 20% opacity; except that a maximum of 60% opacity shall be permissible for four (4) minutes in any 60 minute period and that a maximum of 40% opacity shall be permissible for four (4) additional minutes in any 60 minute period.

E. Allowance for stack height for indirect heating equipment.

1. The owner or operator of any indirect heating equipment shall determine and install a stack of such height that will not cause pollutant concentrations at ground levels to exceed any applicable ambient air quality standard or regulation.

2. The determination of the ground level concentrations shall be based upon applicable dispersion calculations approved by the Agency.

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F. High heating value. The High Heating Value of a fossil fuel shall mean the same as the Gross Heating Value.

G. Performance test methods. Unless another method is approved by the Director, any person required to submit performance tests for indirect heating equipment shall utilize the following test methods:

1. Method 1 for selection of sampling site and sample traverses.
2. Method 3 for gas analysis.
3. Method 5 for concentration of particulate matter and the associated moisture content.
4. Method 6 for concentration of SO₂.
5. Method 7 for concentration of NO_x.
6. Method 9 for visual determination of opacity.

H. Performance test procedures.

1. The sampling site, as selected by Method 1, shall be the same for each pollutant during a performance test.

2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Agency. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature between 120°C and 160°C (250°F and 320°F).

3. For Methods 6 and 7, the sampling point in the duct shall be at the center of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). For Method 6 the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

5. For Method 7, each run shall consist of at least four grab samples taken at approximately 15-minute

intervals. The arithmetic mean of the samples shall constitute the run value.

6. For each performance test, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following procedure if the actual heat input is used:

$$E = CF \left(\frac{20.90}{20.9 - \%O_2} \right)$$

where:

a. E = pollutant emission, g/million cal (lb/million BTU).

b. C = pollutant concentration, g/dscm (lb/dscf), determined by Methods 5, 6 or 7.

c. %O₂ = oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated sampling procedures of Method 3 and by analyzing the sample with a continuous monitoring system, or with the Orsat analyzer. The sample shall be obtained as follows:

(1) For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained at approximately the same point in the duct as used to obtain the samples for Methods 6 and 7 determinations, respectively.

(2) For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Method 5, in accordance with Method 1, except that 12 sample points shall be used in all cases.

d. F = factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted. Values of F are given as follows:

(1) For anthracitic coal according to A.S.T.M. D388-66, $F = 0.01139 \text{ dscm}/10^4 \text{ cal}$ (101.4 dscf/10⁴ BTU).

(2) For subbituminous and bituminous coal according to A.S.T.M. D388-66, $F = 0.01103 \text{ dscm}/10^4 \text{ cal}$ (98.2 dscf/10⁴ BTU).

(3) For liquid fossil fuels including crude, residual, and distillate oils, $F = 0.01036 \text{ dscm}/10^4 \text{ cal}$ (92.2 dscf/10⁴ BTU).

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(4) For gaseous fossil fuels including natural gas, propane, and butane, $F = 0.00982 \text{ dscf}/10^4 \text{ cal}$ ($87.4 \text{ dscf}/10^4 \text{ BTU}$).

e. An owner or operator may use the following equation to determine an F factor ($\text{dscf}/10^4 \text{ BTU}$) in lieu of the F factors specified by paragraph 6.d. of this section:

$$F = 10^6 \frac{3.64(\%H) + 1.53(\%C) + .57(\%S) + .14(\%N) - .46(\%O)}{\text{GHV}}$$

where:

(1) H, C, S, N and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined by ultimate analysis of the fuel fired, dry basis, using A.S.T.M. methods D3178-74 or D3176 (solid fuels) or D240-64(73) (liquid fuels) or computed from results using A.S.T.M. method D1137-53(70), D1945-64(73) or D1946-67(72) (gaseous fuels) as applicable.

(2) GHV is the gross heating value.

f. When combinations of fuels are fired, the F factors determined by paragraph 6.d. or e. of this section shall be prorated in accordance with the following formula:

$$F = \frac{x F_1 + y F_2 + z F_3}{100}$$

where:

x = the percentage of total heat input derived from gaseous fossil fuel.

y = the percentage of total heat input derived from liquid fossil fuel.

z = the percentage of total heat input derived from solid fossil fuel.

F_1 = the value of F for gaseous fossil fuels according to subsection 6.d. or e. of this regulation.

F_2 = the value of F for liquid fossil fuels according to subsection 6.d. or e. of this regulation.

F_3 = the value of F for solid fossil fuels according to subsection 6.d. or e. of this regulation.

g. When combinations of fossil fuels are fired, the actual heat input, expressed in cal/hr (BTU/hr),

shall be determined during each testing period. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the indirect heating system.

7. For each performance test, the emissions expressed in $\text{g}/\text{million cal}$ ($\text{lb}/\text{million BTU}$) shall be determined by the following procedure if the rated heat input is used:

$$E = \frac{E_t}{Z}$$

where:

E = pollutant emissions, $\text{g}/\text{million cal}$ ($\text{lb}/\text{million BTU}$).

E_t = pollutant emission rate, g/hr (lb/hr), determined by Method 5.

Z = applicable heat input, million cal/hr (million BTU/hr).

8. The rated heat input shall be used only in determining the amount of particulate matter emitted from existing indirect heating equipment. The actual heat input shall be used in determining the amount of sulfur dioxide emitted from existing indirect heating equipment. The actual heat input shall be used in conducting performance tests for all pollutants for new indirect heating equipment.

Chapter 11: APC 11

APC 11 Restriction of emission of visible air contaminants.

A. Applicability. The standards of performance in this regulation apply to any emission facility for which a specific standard of performance has not been promulgated in another regulation.

B. Visible emission restrictions for existing facilities. No owner or operator of an existing emission facility to which this regulation is applicable shall cause to be discharged into the atmosphere from the facility any gases which exhibit greater than 20% opacity; except that a maximum of 40% opacity shall be permissible for four minutes in any 60 minute period.

C. Visible emission restrictions for new facilities. No owner or operator of a new emission facility to which this regulation is applicable shall cause to be discharged into the atmosphere from the facility any gases which exhibit greater than 20% opacity.

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TABLE I — EXISTING SOURCES

RATED HEAT INPUT OF THE INDIRECT HEATING EQUIPMENT Million BTU/Hr.	RATED HEAT INPUT OF ALL DIRECT AND INDIRECT HEATING EQUIPMENT AT THE PARTICULAR LOCATION Million BTU/Hr.	EMISSION LIMITATIONS LBS. PER MILLION BTU		
		Particulate Matter All Fuels	Solid Fuels	SO ₂ Liquid Fuels
A. Within Minneapolis-St. Paul Air Quality Control Region				
Greater than 250	Greater than 250	0.4	3.0	1.6
Less than or equal to 250	Greater than 250	0.4	3.0	1.6
Less than or equal to 250	Less than or equal to 250	0.4	4.0	2.0
B. Within the City of Duluth				
Greater than 250	Greater than 250	0.4	4.0	2.0
Less than or equal to 250	Greater than 250	0.4	4.0	2.0
C. Outside Minneapolis-St. Paul Air Quality Control Region and Outside the City of Duluth				
Greater than 250	Greater than 250	0.6	4.0	2.0
Less than or equal to 250	Greater than 250	0.6	4.0	2.0
Less than or equal to 250	Less than or equal to 250	0.6	N.A.	N.A.

* N.A. — Not applicable

TABLE II — NEW SOURCES

RATED HEAT INPUT OF THE INDIRECT HEATING EQUIPMENT Million BTU/Hr.	RATED HEAT INPUT OF ALL DIRECT AND INDIRECT HEATING EQUIPMENT AT THE PARTICULAR LOCATION Million BTU/Hr.	EMISSION LIMITATIONS LBS. PER MILLION BTU					
		Particulate Matter All Fuels	SO ₂ Solid Fuels	Liquid Fuels	Solid Fuels	NO _x * Gaseous Fuels	Liquid Fuels
A. Within Minneapolis-St. Paul Air Quality Control Region							
Greater than 250	Greater than 250	0.1	1.2	0.8	0.7	0.2	0.3
Greater than 100 but less than or equal to 250	Greater than 250	0.1	3.0	1.6	N.A.**	N.A.	N.A.
Less than or equal to 100	Greater than 250	0.4	3.0	1.6	N.A.	N.A.	N.A.
Less than or equal to 250	Less than or equal to 250	0.4	4.0	2.0	N.A.	N.A.	N.A.
B. Within the City of Duluth							
Greater than 250	Greater than 250	0.1	1.2	0.8	0.7	0.2	0.3
Greater than 100 but less than or equal to 250	Greater than 250	0.1	4.0	2.0	N.A.	N.A.	N.A.
Less than or equal to 100	Greater than 250	0.4	4.0	2.0	N.A.	N.A.	N.A.
Less than or equal to 250	Less than or equal to 250	0.4	N.A.	N.A.	N.A.	N.A.	N.A.
C. Outside Minneapolis-St. Paul Air Quality Control Region and Outside the City of Duluth							
Greater than 250	Greater than 250	0.1	1.2	0.8	0.7	0.2	0.3
Less than or equal to 250	Greater than 250	0.4	4.0	2.0	N.A.	N.A.	N.A.
Less than or equal to 250	Less than or equal to 250	0.4	N.A.	N.A.	N.A.	N.A.	N.A.

* NO_x expressed as NO₂

**N.A. — Not applicable

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D. Performance tests. Unless another method is approved by the Agency, any person required to submit performance tests for emission facilities for which this regulation is applicable shall utilize Method 9 for visual determination of opacity.

Chapter 32: APC 32

APC 32 Standards of performance for fossil fuel-burning direct heating equipment.

A. Definitions. As used in this regulation, the following words shall have the meanings defined herein:

1. "Actual heat input" means the number of BTU per hour (cal/hr) determined by multiplying the gross heating value of the fuel by the rate of fuel burned.

2. "Direct heating equipment" means a furnace, kiln, dryer, or other combustion equipment used in the burning of a fossil fuel for the purpose of processing a material where the products of combustion have direct contact with the heated material.

3. "Fossil fuel" means natural gas, petroleum, coal, wood, peat, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

4. "Gross heating value" means the gross calorific value (cal/g or BTU/lb) of the fuel combusted as determined by A.S.T.M. test methods D 2015-66(72) for solid fuels; D 1826-64(70) for gaseous fuels, and D 240-64(73) for liquid fuels.

5. "Indirect heating equipment" means a furnace, a boiler or other unit of combustion equipment used in the process of burning fossil fuel for the purpose of producing steam, hot water, hot air, or other hot liquid, gas, or solid, where the products of combustion do not have direct contact with the heated medium.

6. "Rated heat input" means the number of BTU per hour (cal/hr) which the manufacturer has determined to be the continuous rated capability of the direct heating equipment.

B. Determination of applicable standards of performance.

1. This regulation shall apply to direct heating equipment for which a standard of performance has not been promulgated in a specific regulation.

2. The applicable standard of performance for sulfur dioxide shall be determined by using the total rated heat input of all indirect heating equipment and all di-

rect heating equipment of one owner or operator at that particular location.

3. When different fossil fuels are burned simultaneously in any combination, the applicable sulfur dioxide (SO₂) standard shall be determined by proration using the following formula:

$$w = \frac{y(a) + z(b)}{x + y + z}$$

where:

w is the maximum allowable emissions of sulfur dioxide gases in lbs. per million BTU (g/million cal), and

x is the percentage of total heat input derived from gaseous fossil fuel, and

y is the percentage of total heat input derived from liquid fossil fuel, and

z is the percentage of total heat input derived from solid fossil fuel, and

a is the allowable SO₂ standard for liquid fossil fuels expressed in lbs per million BTU (g/million cal), and

b is the allowable SO₂ standard for solid fossil fuels expressed in lbs per million BTU (g/million cal).

C. Standards of performance for fossil fuel-burning direct heating equipment.

1. Particulate limitations.

a. No owner or operator of any direct heating equipment shall cause to be discharged into the atmosphere from the direct heating equipment any gases which:

(1) Contain particulate matter in excess of the limits allowed by Minnesota Regulation APC 5, or

(2) Exhibit greater than 20% opacity, except that a maximum of 60% opacity shall be permissible for four minutes in any 60 minute period and that a maximum of 40% opacity shall be permissible for four additional minutes in any 60 minute period.

b. No owner or operator of an existing gray iron cupola with a melting capacity of less than one and one-half tons per hour shall allow emissions which exceed 0.3 grain per standard cubic foot, dry basis, and the owner or operator shall incinerate all gases, vapors, and gas entrained effluents from such cupolas at a temperature of not less than 1200 degrees Fahrenheit for a period of

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not less than 0.3 seconds. The owner or operator of any other gray iron cupola shall meet the requirements of subparagraph a.

2. Sulfur oxide limitations.

a. Within Minneapolis-St. Paul air quality control region. No owner or operator of direct heating equipment located within the Minneapolis-St. Paul Air Quality Control Region shall cause to be discharged into the atmosphere from such equipment any gases which contain sulfur dioxide:

(1) In excess of 3 pounds per million BTU heat input if a solid fossil fuel is burned or 1.6 pounds per million BTU heat input if a liquid fossil fuel is burned, if the total rated heat input of all indirect and direct heating equipment of the owner or operator at that particular location exceeds 250 million BTU per hour.

(2) In excess of 4 pounds per million BTU heat input if a solid fossil fuel is burned or 2 pounds per million BTU heat input if a liquid fossil fuel is burned, if the total rated heat input of all indirect and direct heating equipment of the owner or operator at that particular location is equal to or less than 250 million BTU per hour.

b. Outside Minneapolis-St. Paul air quality control region. No owner or operator of direct heating equipment located outside the Minneapolis-St. Paul Air Quality Control Region shall cause to be discharged into the atmosphere from such equipment any gases which contain sulfur dioxide in excess of 4 pounds per million BTU heat input if a solid fossil fuel is burned or 2 pounds per million BTU heat input if a liquid fossil fuel is burned, if the total rated heat input of all indirect and direct heating equipment of the owner or operator at that particular location is greater than 250 million BTU per hour.

D. Performance test methods. Unless another method is approved by the Agency, any person required to submit performance tests for direct heating equipment shall utilize the following test methods:

1. Method 1 for selection of sampling site and sample traverses.
2. Method 3 for gas analysis.
3. Method 5 for concentration of particulate matter and the associated moisture content.

4. Method 6 for concentration of SO₂.

5. Method 9 for visual determination of opacity.

E. Performance test procedures.

1. The sampling site, as selected by Method 1, shall be the same for each pollutant during a performance test.

2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Agency. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature between 120°C and 160°C (250°F and 320°F).

3. For Method 6, the sampling point in the duct shall be at the center of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). The sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

5. For each performance test for sulfur dioxide emissions, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following procedure if the actual heat input is used:

$$E = CF \left(\frac{20.90}{20.9 - \%O_2} \right)$$

where:

a. E = pollutant emission, g/million cal (lb/million BTU).

b. C = pollutant concentration, g/dscm (lb/dscf),

c. %O₂ = oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated sampling procedures of Method 3 or with the Orsat analyzer. The sample shall be obtained at approximately the same point in the duct as used to obtain the samples for Method 6.

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RULES

d. F = factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted. Values of F are given as follows:

(1) For anthracitic coal according to A.S.T.M. D388-66, $F = 0.01139 \text{ dscm}/10^4 \text{ cal}$ (101.4 dscf/10⁴ BTU).

(2) For subbituminous and bituminous coal according to A.S.T.M. D388-66, $F = 0.01103 \text{ dscm}/10^4 \text{ cal}$ (98.2 dscf/10⁴ BTU).

(3) For liquid fossil fuels including crude, residual, and distillate oils, $F = 0.01036 \text{ dscm}/10^4 \text{ cal}$ (92.2 dscf/10⁴ BTU).

(4) For gaseous fossil fuels including natural gas, propane, and butane, $F = 0.00982 \text{ dscm}/10^4 \text{ cal}$ (87.4 dscf/10⁴ BTU).

e. An owner or operator may use the following equation to determine an F factor (dscf/10⁴ BTU) in lieu of the F factors specified by paragraph 5.d. of this section:

$$F = 10^6 \frac{3.64(\%H) + 1.53(\%C) + 0.57(\%S) + 0.14(\%N) - .46(\%O)}{GHV}$$

GHV

where:

(1) H, C, S, N, and O are content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined by ultimate analysis of the fuel fired, dry basis, using A.S.T.M. methods D3178-74 or D3176 (solid fuels) or D240-64(73) (liquid fuels) or computed from results using A.S.T.M. method D1137-53(70), D1945-64(73) or D1946-67(72) (gaseous fuels) as applicable.

(2) GHV is the gross heating value

f. When combinations of fuels are fired, the F factors determined by paragraph 5.d. or e. of this section shall be prorated in accordance with the following formula:

$$F = \frac{x F_1 + y F_2 + z F_3}{100}$$

where:

x = the percentage of total heat input derived from gaseous fossil fuel.

y = the percentage of total heat input derived from liquid fossil fuel.

z = the percentage of total heat input derived from solid fossil fuel.

F_1 = the value of F for gaseous fossil fuels according to subsection 5.d. or e. of this regulation.

F_2 = the value of F for liquid fossil fuels according to subsection 5.d. or e. of this regulation.

F_3 = the value of F for solid fossil fuels according to subsection 5.d. or e. of this regulation.

g. When combinations of fossil fuels are fired, the actual heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the direct heating system.

Board of Psychology License Applications and Renewals

Psych 2 Application.

A. Any person seeking a license must complete and submit to the Board the approved application form not later than sixty days prior to the date of the examination.

B. The application form must be completed in accordance with instructions contained in the application instructions sheet.

C. Prior to July 1, 1977 each application must be accompanied by a check or money order in the amount of seventy-five dollars (\$75.00). On July 1, 1977 and thereafter, each application must be accompanied by a check or money order in the amount of one hundred dollars (\$100.00). [or such amount as may be prescribed by the Board or by law. This] The application fee will not be refunded.

D. Applicants will be notified in writing of deficiencies in their applications. If the requested information to remedy such deficiencies is not received by the Board fifteen days before the date of the scheduled examination, the application shall be terminated.

E. No application will be considered by the Board until the endorsers listed in Section 4 of the application form have been contacted, certified copies of transcripts have been received by the Board, and satisfactory evidence of the candidate's qualifications has been supplied in writing on the prescribed endorsement form by at least three persons listed as endorsers.

RULES

F. Endorsers listed on the application form for a license must be persons who are or have been licensed or certified psychologists in the State of Minnesota, or are members of APA, ABPP, or similar professional associations whose standards of membership are acceptable to the Board. Current members of the Board may not endorse applicants.

G. An applicant whose licensing application has been denied or terminated as in D. above, may reapply for licensing at the next regularly scheduled examination or when the applicant believes he/she has met the conditions stated by the Board as requirements for his/her admittance to be examined.

H. An application re-submitted following denial by the Board, under the conditions set forth in G. above, must be accompanied by the current application fee.

I. The Board will review each application for licensing to determine that the candidate meets all requirements as provided in the Law.

J. With reference to the requirement "is of good moral character and is not found to be engaging in unethical practices," the Board will make special inquiries whenever a question arises. In considering unethical practices, the Board will be guided by the Code of Ethics it has adopted (Psych 10).

Psych 7 License renewal.

A. At least [two (2)] **one (1) month[s]** before the renewal date, a renewal notice will be sent to each license holder to the last address in the Board's file. Failure to receive such notice shall not relieve the license holder of his/her obligation to pay renewal fees in such a manner that they are received by the Board on or before the renewal date.

B. Renewal fees of **seventy-five dollars (\$75.00)** (biennial) shall be received by the Board on or before the end of the last month during which the license is valid.

[1. Whenever renewal fees are not received as specified in B. above, the license lapses and becomes invalid from the day following its expiration date.]

C. An applicant for renewal shall pay a late penalty fee of **fifty dollars (\$50.00)** as well as the current renewal fee if the application for renewal is postmarked after the

last day of the month during which the original license or the previous renewal was valid.

1. Failure to pay the renewal fee and late penalty fee within sixty (60) days after the last day of the month during which the original license or previous renewal was valid shall constitute grounds to suspend the license to practice psychology in this state. A license may be reissued following suspension only upon a non-prorated payment of full biennial renewal fees and full biennial late penalty fees for each biennium or portion of a biennium following expiration of the original license or previous renewal.

[C.] D. A renewed license shall be valid for a period of **only two years** following the expiration date of the [previously held license.] **original license or previous renewal, regardless of when fees are received, unless the license is suspended.** [Exceptions to this rule shall occur when a license lapses.] **A License reissued after suspension shall be valid for a period of two years from the date of reissuance of the license.**

[1. Renewal of a lapsed license after a lapse of 18 months or less will not change the biennial renewal date established by the previously held license and the validity period of the renewed lapsed license shall be less than two (2) years.]

[2. If the lapse of the license is greater than 18 months, upon payment of the fee required for the original license, the renewed license shall be valid from the issuance date of the renewed license to the end of this issuance date month two (2) years later.]

[D. For renewal of a lapsed license, the renewal fee shall be either the fee current on the date of the renewal notice (A. above), or the fee current on the first day when the renewed license becomes valid, whichever is greater.]

E. Licensees may, upon occasion of renewal of licensure, voluntarily choose to terminate their license by so notifying the Board in writing. Such notification must be received prior to the Board's suspension of the license for failure to renew. Such individuals may be licensed again only after submitting an original application and complying with all laws and rules required of original applicants for initial licensure.

[E.] F. The Board will not renew the licenses of psychologists who have neither lived nor practiced within the State for a period in excess of ten (10) years.

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OFFICIAL NOTICES

EQC Monitor Environmental Quality Council

Actions Taken at the January 7, 1977 EQC Meeting

1. In the matter of NSP-TR-1 High Voltage Transmission Line (HVTL) from near Forbes to the International border, the Council resolved to review Hearing Officer's findings and issue construction permit at February 8 meeting.

2. In the matter of MP&L-TR-1A HVTL from near Kettle River to Forbes, EQC resolved to require Minnesota Power and Light to revise construction permit application, remove original application and re-distribute to all designated locations.

3. Resolved that State Planning Agency and Department of Natural Resources staffs together address deficiencies in Saganaga Lodge Final Environmental Impact Statement (EIS) and Council table this EIS since there is no project now proposed and therefore no action.

4. Found Edenvale Final EIS adequate.

5. Determined to review Final EIS on High Density Development within 1000 feet of Lake Cedar, Isles and Calhoun.

6. Approved budget of Copper-Nickel study for next biennium.

Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Annual Meeting for the Election of Officers for the Coming Year

The Board of Architecture, Engineering, Land Surveying and Landscape Architecture will hold its Annual Meeting on Friday, February 18, 1977 at 9:00 AM in the Hearing Room of the Department of Commerce, Fifth Floor, Metro Square, 7th & Robert Streets, St. Paul, Minnesota, for the

election of officers for the coming year and any other matters which may properly come before the Board.

Department of Commerce Banking Division

Maximum Lawful Rate of Interest for Mortgages for the Month of February, 1977

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to the Conventional Home Loan Assistance and Protection Act, Laws of 1976, ch. 300, hereby determines the maximum lawful rate of interest for home mortgages for the month of February, 1977, is Eight and One-Half (8.50 percent).

Robert A. Mampel
Commissioner of Banks

Department of Administration Office of the State Register

State Register Policy Notice

The Office of the State Register wishes to announce that annual subscriptions to the *State Register* cannot be refunded, effective Jan. 18, 1977. Single weekly copies are available for those who would prefer not to subscribe for an entire year.

George T. Morrow, II
Director

Errata

1. 1 S.R. 684: change "Authority" to "Authority" at N.R. 2500 B.

2. 1 S.R. 634: change "DE 32 A.2." to "DE 52 A.2." at DE 52 E.

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