Pages 1693-1720

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STATE OF MINNESOTA

HIGHLIGHTS:

Minnesota Hospital Rate Review System
—Adopted Rules from the Department of Health

Credit Life and Credit Accident and Health Insurance Rates
—Public Opinion Sought by the Department of Commerce, Insurance Division

Large Electric Generating Facilities and Large High Voltage Transmission Lines
—Public Opinion Sought by the Energy Agency

EQC Monitor:

—Adopted Rules Governing the Operation of Environmental Permit Coordination
—Notice of Name Change
—Notice of Intent to Solicit Outside Opinion
—Negative Declarations
—Receipt of Objections to EIS Preparation Notice
—Receipt of Objections to Negative Declaration

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Contents

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

List of MCAR Rules Affected*

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

Department of Agriculture
Agr 165, 169 1477
Agr 1188, 1189, 1190 ..... 911, 1665

Cable Communications Board
MCCB 2, 20, 46-56, 61-62, 64-77, 80, 91, 99, 103, 111-113, 121, 134, 136, 166-168, 171, 201, 225 1633

Department of Education
EDU 44 (proposed) 1539

Energy Agency
EA 201-213 1619
EA 301, 303, 304-316 (proposed) 1666

Department of Labor and Industry
MOSHC 1 1560

Livestock Sanitary Board
LSB 41 1562

Public Service Commission
PSC 3 1477

*New rules, both proposed and adopted, and which have never been disseminated or published, are not included in the List of MCAR Rules Affected. Rules which are listed as "uncodified" have been disseminated, but have never been published in the MCAR.

RULES

Department of Health

Minnesota Hospital Rate Review System

The rules published at State Register Vol. 1, No. 21, p. 832, November 30, 1976 (1 S.R. 832), are adopted and are identical in every respect to their proposed form, with the following amendments:

Chapter Twenty-Eight

MHD 471 Scope.

B. Beds located in these hospitals, which are not licensed as acute care beds pursuant to Minn. Stat. §§ 144.50 to 144.58, are not subject to the requirements of the Minnesota Hospital Rate Review System. Where costs incurred through the operation of these beds are co-mingled with the costs of operation of acute care beds in a hospital subject to the system, associated revenue and expenses and other related data shall be separated in a manner consistent with the normal [[step-down]] requirements for allocation of costs as stated by 20 CFR 405.453 (Medicare).

MHD 472 Definitions. For the purposes of these rules, the following terms have the meanings given them:

E. "Beds" means the [[average number of beds in a hospital which are in place and operating with staff regularly assigned to them during an accounting period. This number need not be equivalent to the licensed or constructed bed capacity but it shall be equivalent to the average number of those beds commonly considered to be set-up and staffed during an accounting period.]] number of acute care beds licensed by the Minnesota Department of Health, pursuant to Minnesota Statutes, §§ 144.50 to 144.58.

G. "Charges" means the regular amounts charged to [[both paying patients and insurers who receive services]] patients and/or insurers, prepayment plans and self-insured groups on the patient's behalf, irrespective of any discounts, deductions, or other reductions in these charges which, by contract or other agreement, may be applicable. The terms "charges" and "rates" are synonymous for the purposes of these rules.

I. "Emergency services" are those inpatient [[hospital services and]] or outpatient hospital [[diagnostic]] services [[which]] that are necessary to prevent [[the death or serious impairment of the health of the individual, and which, because of the threat to life or health of the individual, necessitate the use of the most accessible hospital available and equipped to furnish such services.]] immediate loss of life or function due to the sudden onset of a severe medical condition.

J. "Emergency visit" means an [[admission]] acceptance of a patient [[to]] by a hospital [[which maintains a distinct emergency service center for purposes of receiving emergency services.]] for the purpose of providing emergency services in a distinct emergency service center.

O. "Loss" means the excess of all expenses over revenues for an accounting period or the excess of all or the appropriate portion of the [[cost or]] net book value of assets over related proceeds, if any, when items are sold, abandoned, or either wholly or partially destroyed by casualty or otherwise written off.

R. "Outpatient visit" means an [[admission]] acceptance of a patient [[to]] by a hospital [[which maintains a distinct outpatient diagnostic service center for purposes of providing outpatient services.]] for the purpose of providing outpatient services in a distinct outpatient service center.

U. "Rate" means [[the average revenue for each inpatient admission]] "charges" as defined in MHD 472 G.

$$[[\frac{\text{Total Revenue}}{\text{Number of Inpatient Admissions}}]]$$

[[for a full accounting period.]] "[[Adjusted]] Aggregate rate" means the average revenue [[for each]] per adjusted admission for a full accounting period determined by dividing total revenue by the number of adjusted admissions.

$$\frac{\text{Total Revenue}}{\text{Number of Adjusted Inpatient Admissions}}$$

Adjusted admissions are determined by:

$$\text{Number of Outpatient \& Emergency Visits} \times \frac{\text{Total Outpatient \& Emergency Revenue}}{\text{Number of Outpatient \& Emergency Visits}}$$

$$\times \frac{1}{\text{Inpatient Revenue Per Admission}} \quad \text{PLUS} \quad \text{The Number of Inpatient Admissions}$$

The aggregate rate for the budget year shall always be based upon annually projected admissions as stated in the rate revenue and expense report.

A_1. "Third party payors" mean insurers, health maintenance organizations licensed pursuant to Minn. Stat. ch. 62D, nonprofit service plan corporations, self-insured or self-funded plans, and governmental insurance programs, including the health insurance programs authorized by Title V, Title XVIII and Title XIX of the United States Social Security Act (Medicare and Medicaid).

MHD 473 The Minnesota hospital rate review system. The Minnesota Hospital Rate Review System is established. This system shall be operated by the board [[or]] and any voluntary nonprofit rate review organization whose reporting and review procedures have been approved by the board, pursuant to MHD 496. The system shall consist of reports, administrative procedures, and standards.

MHD 474 Report requirements. The system shall require annual financial information and rate revenue and expense, and interim increase reports.

A. 1. a. (5) Deferred credits and other liabilities, including:

(a) Deferred income taxes;

(b) Deferred third party revenue;

(c) Long-term debt; and

(d) Fund balances[[.]] (identifying donor restricted and unrestricted funds).

A. 2. a. (3) Reductions in gross revenues that result from charity care, [[courtesy discounts,]] contractual adjustments, administrative and policy adjustments, provision for bad debts, and other factors;

A. 2. a. (6) (d) Other professional fees, including:

(i) Consulting and management services;

(ii) Legal services; [[and]]

(iii) Auditing services[[.]]; and

(iv) Collection services.

(g) Purchased services, including:

(i) Medical — purchased services;

(ii) Repairs and maintenance — purchased services;

(iii) Medical school contracts — purchased services; and

[[(iv) Management services;]]

[[(v) Collection services; and]]

[[(vi)]] (iv) Other purchased services.

A. 5. Attestation by a qualified, independent public accountant that the contents of the balance sheet and statement of income and expense [[are true and conform to the bases for judging the reasonable use of finances in a hospital, as established by MHD 487 A.]] have been audited.

B. 1. b. The hospital's full accounting period during which a hospital files this report with the system. This period shall be known as the current year. Information for the current year shall be actual and estimated according to the following:

(1) Information for at least the first [[eight]] six months shall be actual;

(2) Information for the [[last four]] remaining months may be estimated.

B. 2. Statistical information for the rate revenue and expense report shall include:

a. The number of inpatient days for the hospital[[.]] and each appropriate service center.

B. 2. d. The number of beds [[available for the hospital and for each appropriate routine service center.]] (licensed), the number (the statistical mean) of beds physically present, and the number (the statistical mean) of beds actually staffed and set up for the hospital and for each appropriate service center.

B. 2. [[e. The average annual occupancy rate for the hospital and for each appropriate routine service center.]]

B. 2. [[f.]] e. The number of outpatient clinic [[admissions]] [[(]]visits[[)]] for the hospital.

B. 2. [[g.]] f. The number of emergency [[admissions (]]visits[[)]] for the hospital.

B. 2. [[h.]] g. The number of units of service provided by each of the hospital's other service centers. The hospital shall select the statistic that best measures the level of activity for a particular function or service center and that, in addition, is compiled on a routine basis by the hospital to serve as the appropriate unit of service for each of its service centers.*

* For example, although patient days might be used as the unit of service for daily patient services, treatments, procedures, visits, hours or other statistics would be the applicable measure of activity in other service centers.

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B. 3. Financial information for the rate revenue and expense report shall include:

B. 3. d. A statement of total direct and indirect costs for the hospital and for each of its service centers before and after the [[step-down]] allocation of expenses.

B. 3. e. A statement of the accounts receivable by type of purchaser of services and a statement of the average aggregate number of [[patient days]] day's charges outstanding at the end of each period.

B. 3. g. A statement of the capital budget of the hospital.

B. 4. The report of rate revenue and expense shall also contain the following information:

B. 4. a. The pricing policy of the hospital which incorporates the overall pricing policy and financial objectives of the institution. This will be supplemented by a statement of budgeted increases in charges, revenue and aggregate rates for the budget year including these items:

(1) Date(s) on which charges, revenue, and aggregate rates will be adjusted.

(2) For each such date, the resulting aggregate dollar amount and weighted average percent of increase in budget year aggregate rates and gross charges for each revenue center.

(3) For each such date, the resulting aggregate dollar and weighted average percent of increase in budget year total hospital revenues.

(4) For each date, the resulting aggregate dollar amount and percent of increase in the budget year aggregate rate.

C. Interim increase reports.

1. Each hospital desiring to amend or modify the aggregate rate[[s]] for the budget year stated in the rate revenue and expense report then on file with the system to an extent exceeding the allowable increase limit prescribed according to MHD 504, shall submit an interim increase report.

C. 6. This report shall also include a narrative statement describing the reason for amendments or modifications to the hospital's aggregate rate[[s]].

MHD 481. Administrative procedures.

A. General provisions for filing of reports.

A. 3. The system shall establish a method of [[filing]] record-keeping which shall insure that reports and other documents are ordered, [[filed]] stored, designated and dated in such a manner that facilitates easy public access to the contents of those reports, documents, and other information as required by these rules. These [[files]] records shall be open to the public inspection during normal business hours.

B. 2. Failure to file. Any hospital which fails to file the annual financial information report, and which has not requested an extension of time pursuant to MHD 481 G., to file that report shall be considered to be in violation of rules. The system shall notify the board, [[and]] the appropriate health systems agency and professional standards review organization to this effect. [[Pursuant to Minnesota Statutes, § 144.55, the board may consider this violation as cause to revoke, suspend or deny reissuance of that hospital's license to operate.]]

C. Filing of report of rate revenue and expense.

C. 1. Each year, each hospital shall file a report of rate revenue and expense up to sixty days prior to the commencement of any accounting period of the hospital. No change in rates shall be made until sixty days have elapsed from the date of filing.

C. 2. a. Failure to file. Any hospital which fails to file a report of rate revenue and expense, and which has not requested an extension of time, pursuant to MHD 481 G., to file that report shall be considered to be in violation of rules. The system shall notify the board, [[and]] the appropriate health systems agency and professional standards review organization to this effect. [[Pursuant to Minnesota Statutes, § 144.55, the board may consider this violation as cause to revoke, suspend or deny reissuance of that hospital's license to operate.]]

D. Filing of interim increase reports.

D. 1. A hospital shall file an interim increase report sixty days prior to the effective date of any amendments or modifications to aggregate rates then on file with the system for the budget year if:

D. 1. a. The proposed aggregate rate change exceeds the allowable increase limit established according to MHD 504.

D. 1. b. Amendments or modifications to aggregate rates which are to become effective after the first day of the budget year and prior to the end of the last day of the budget year were not included in the report of rate revenue and expense then on file with the system.

D. 1. [[c. It is not filed within ninety (90) days of any other interim increase or rate revenue and expense report filed by that hospital.]]

D. 1. [[d. There are no reports, fees, or other documents or information due to the system from that hospital.]]

D. 1. [[e. These provisions may be waived by the system if the hospital can show cause why they should be waived.]]

D. 2. Limitations. An interim increase report may not be filed within ninety (90) days of any other interim increase or rate revenue and expense report filed by that hospital or when there are any reports, fees or other documents due to the system from that hospital. This provision may be waived by the system if the hospital can show cause therefor.

D. [[2.]] 3. Failure to file.

a. A hospital which fails to file an interim increase report with the system when it is required to file such a report pursuant to MHD 474 C., shall be considered in violation of these rules.

D. 3. b. If this violation is discovered by the system during the budget year, the system may require a hospital so violating these rules to adjust its aggregate rate[[s]] to be consistent with the allowable increase limits until sixty days after the hospital properly files an interim increase report.

D. 3. c. If this violation is discovered by the system subsequent to the expiration of the budget year during which the violation occurred, the system may investigate this violation, pursuant to MHD 487 B., in order to determine the effect of this violation upon the aggregate rate[[s]] of the hospital. The system may recommend a reduction in the rates of the hospital and require that the hospital submit interim increase reports for every increase in aggregate rate[[s]], irrespective of the allowable increase limits, for the next two subsequent full accounting periods following the discovery of the violation.

D. 3. d. In making any retrospective assessment of a hospital's compliance with requirements to file interim increase reports, the system shall recognize that the actual aggregate rate[[s]] for the budget year may exceed the projected aggregate rate[[s]] for that budget year by a reasonable amount due to slight variations from projected information contained in the rate revenue and expense report then on file with the system. A reasonable amount may vary with the financial and statistical composition of each hospital but, it should never exceed one and one-tenth times the allowable increase limit for the accounting period in question.

D. [[3.]] 4. Allowable increase limits: Hospital Calculation. In order for a hospital to determine the extent to which it may increase its aggregate rate[[s]] during the budget year before it is required to submit an interim increase report, the hospital shall:

D. 4. a. Add the four quarterly allowable increase limits established by the board, pursuant to MHD 504, which are appropriate for the budget year of the rate revenue and expense report then on file with the system. This calculation provides the hospital with an allowable increase limit for the budget year stated in percentage terms; then,

D. 4. b. Subtract from the allowable increase limit for the budget year the percentage of the aggregate rate increase for the hospital, if any, from the current year to the budget year, as stated in the rate revenue and expense report then on file with the system. To the extent that the remainder from this calculation is positive, the hospital may increase its aggregate rate[[s]] for the hospital by this amount at any time during the budget year. Cumulative increases in the aggregate rate[[s]] of the hospital over the budget year up to this amount do not require the submission of an interim increase report. The system should be advised by the hospital at the time that rates are being so increased, stating the reason for and general scope of such an increase. The next subsequent rate revenue and expense report of the hospital should detail these increases.

D. 4. c. Amendments or modifications which do not exceed the allowable increase limit or provide for aggregate rate decreases may take effect immediately upon determination by the hospital's governing authority or its designee. Notice of the amendments or modifications at the time they become effective shall be given to the board. These amendments or modifications shall also be noted in the hospital's next subsequent rate revenue and expense report.

[[E. Application for variance in rate determination. If a hospital desires to adopt an alternative method of accounting, cost control, rate determination or payment which may affect the way in which the system proceeds in its assessment of that hospital's rates, it shall notify the system sixty days in advance of the effective date of this new method. Such notification shall detail the new method, including expected impacts upon hospital revenues, expenses and rates as well as the impact of the new method on the equity with which rates are set.]]

[[F.]] E. Filing of reports: Multi-Hospital Corporations and Other Organizations Operating More Than One Hospital. The system requires the filing of all reports for each individually licensed acute care hospital, as provided by

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MHD 474. A multi-hospital corporation or organization operating more than one hospital may act as the reporting organization for the hospital to the system. This reporting organization shall provide all information separately for each hospital it operates. The reporting organization shall also provide with this information, a statement detailing the financial relationship between each hospital it operates and the reporting organization, as required by MHD 474 A.1.a (6), for the annual financial information report.

[[G.]] F. Filing of reports: extensions. Upon reasonable cause being shown by a hospital, the system may extend any period of time established for the submittal of any report or other information, or any period of time established for the performance of any other act permitted or prescribed by these rules, for an additional and specified period of time.

MHD 487 Investigations, analysis and review standards. The system shall investigate, analyze and review all reports and other information it receives relating to hospital rates according to the following standards:

A. Bases for judging the reasonable use of finances in a hospital. In all investigations, analyses, and reviews conducted pursuant to Minn. [[Laws 1976, Chapter 296, Article II, Sections 1 through 9,]] Stat. §§ 144.695-144.703, and these rules, the system shall recognize that rates must supply the financial resources necessary to meet the financial requirements of a hospital. In meeting the reporting requirements of these rules, hospitals shall address the contents of their reports to and indicate their compliance with these financial requirements and to the other stated bases for judging the reasonable use of finances in a hospital. The system shall then conduct investigations, analyses and reviews following these established bases.

A. 1. a. (2) (d) Interest is necessary if it is:

(ii) Incurred on a loan made for a purpose reasonably related to patient care. [[Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost and which has been determined to have excess capacity, pursuant to MHD 487 A.4., or whose services have been determined to be inappropriate, pursuant to Public Law 93-641, § 1523 (a) (6) (National Health Planning and Resources Development Act of 1974), are not considered to be for a purpose reasonably related to patient care.]] Loans made for the following are not to be considered to be for a purpose reasonably related to patient care: to expand facilities that have been determined to have excess capacity, pursuant to MHD 487 A.4.

A. 1. a. (3) Educational program expenses.

(a) Rates should provide the finances necessary to recover the net cost to the hospital of providing educational activities which:

(i) Are approved educational activities and can be demonstrated to directly contribute to the care of patients who are in hospitals during the time the cost is incurred; [[and]] or

(ii) Can be demonstrated to contribute to the preventive health education of the population of areas of patient origin which the hospital serves.

A. 1. a. (3) (c) "Net cost" means the cost of approved educational activities (including stipends of trainees, compensation of teachers, and other costs), less any reimbursement from grants, tuition and specific donations. Non-inpatient revenue sources, including fees from those receiving educational benefits, should be investigated and utilized prior to the inclusion of the cost of community preventive health education in financial requirements.

A. 1. a. (3) (e) The extent of costs incurred for the provision of educational activities contributing to the preventive health education of the population of the hospital's areas of patient origin should not exceed that amount necessary to provide activities recommended appropriate for hospitals by the State Health Planning and Development Agency [[,]] and appropriate health systems agency, pursuant to Public Law 93-641, § 1523 [[(a) (6)]] and § 1513, respectively. [[In any instance, these costs should not include any payments in excess of the normal salary or remuneration to professional employees of the hospital or health professionals who maintain consultative, contractual, or patient relationships with that hospital.]]

A. 1. a. (5) Bad debt, charity allowances, [[Courtesy Discount Allowances,]] and contractual allowances [[Expenses]].

(a) Rates should provide finances necessary to recover losses in revenue due to bad debts, charity allowances, [[courtesy discount allowances,]] and contractual allowances.

(i) "Bad debts" mean amounts considered to be uncollectable from accounts and notes receivable which were created or acquired in providing services. Accounts receivable and notes receivable are designations for claims arising from the rendering of services, and are collectable in money in the near future. These amounts should not include any amount attributable to a reclassification of any expenses incurred due to the provision of charity care. Income reductions due to charity allowances, [[courtesy discount allowances]] and contractual allowances should be recorded as such in the records of a hospital and not as bad debts.

(ii) "Charity allowances" mean the provision of care at no charge to patients determined to be qualified for care according to 42 CFR 53.111(f) and (g), in

hospitals required to provide free care, pursuant to 49 U.S.C. § 291, et. seq. (The Hill-Burton Act.) The annual amount of charity care shall be no greater than the amount of the Hill-Burton grant or Hill-Burton guaranteed loan amortized in equal installments over the life of the hospital's Hill-Burton free care obligation.

(iii) "Contractual allowances" [[and "courtesy discounts" are those governmental contract adjustments to or other cost justified discounts or differentials from the established charges of a hospital.]], "Cost justified Discounts" and "Non-cost justified Discounts."

A. 1. a. (5) (a) (iii) (bb) "Cost justified discounts" or "differentials" mean those cash, trade, or quantity discounts or differentials from the established charges. [[granted to certain patients, groups of patients, or third party payors at the time services are paid for.]] In order to include the amount of these discounts or differentials in rates, hospitals shall demonstrate that the value, as measured in money, of services or other benefits for an accounting period provided by certain patients, groups of patients, or third party payors to the hospital is equal to or greater than the aggregated amount, as measured in money, of the differential or discount granted to certain patients, groups of patients or third party payors for that same accounting period.

A. 1. a. (5) (b) These losses in revenues due to bad debts, charity allowances, [[courtesy discount allowances,]] and contractual allowances should be offset by available and applicable income from sources other than patients, as identified by MHD 487 A.2., before these losses are included in rates. Such offsets should never result in a condition where charges are lower than the actual cost of providing care for purposes of reimbursement by third party payors or by governmental programs.

A. 1. b. Plant capital needs. Rates should provide the finances necessary for various plant capital needs. [[Plant capital needs must be funded to be included in the rates.]] In order to include plant capital needs in rates, the hospital must fund the plant capital requirement and be in receipt of a certificate of need as required by Minnesota Statutes § 145.71-§ 145.84. Funding of depreciation shall mean the actual placement of the cash in the fund or meeting the capital obligations and depositing the net amount to the fund.

(1) Finances which relate to land, land improvements, building and building equipment and movable equipment shall be placed in an *an identifiable* fund. The use of the fund shall be restricted to debt principal retirement, new plant and equipment (with certificate of need approval if necessary), major repairs, and replacement of capital equipment (with certificate of need approval if necessary). The annual increment to this fund should be:

(a) [[The greater of:]]

[[(i) The annual debt principal repayment on buildings, building equipment and movable equipment. This principal repayment should be computed as though it were a level payment over the life of the debt instrument; or]]

[[(ii)]] The annual straight-line depreciation expense on land improvements, buildings, building equipment and movable equipment.

(b) Plus inflation factors, annually determined and consistent with the established useful lives of land improvements, buildings, building equipment, and movable equipment. These inflation factors shall be determined by the *system* on the basis of a price level adjustment index recognized by independent public appraisers as expressing the annual price level adjustment from historical cost of hospital land improvements, buildings, hospital building equipment and movable equipment. The system shall derive these factors from any of the most current indices then available to the system which give specific recognition to the following factors:

A. 1. b. (1) (b) (i) The effect of inflation upon the replacement cost of existing land improvements, buildings, building equipment, and movable equipment, based upon their historical cost; and

A. 1. b. (1) (b) (ii) The effect of inflation upon funds necessary for the modification of or addition to hospital buildings, land improvements, building equipment, and movable equipment.

A. 1. b. (2) 100 percent of the inflation factors should be included by the hospital as the annual inflation factor unless the hospital has been determined to have excess capacity, as provided by MHD 487 A.4., or by the appropriate health systems agency, professional standards review organization and State Health Planning and Development Agency. In instances where excess capacity exists, the annual inflation factor and the level of debt principal payment in excess of the depreciation allowance permitted by MHD 487 A.1.b.(1) should be reduced by the proportion of facilities determined to be in excess.

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A. 1. b. (4) The annual interest income earned from an investment of this fund annually should be used to reduce the inflation factor requirements for plant capital needs which are included in rates. In addition, the annual increment to the plant capital fund, when projected over the lives of the depreciable assets of the hospital using the current year's experience, should be evaluated with regard to the individual hospital's capital needs in relationship to the appropriate health systems agency's areawide health plan and the State Health Planning and Development Agency's State Health Plan.

A. 1. b. (5) In the event that sufficient financial resources are not available in this fund to meet plant capital needs (including the need for the replacement of existing facilities and the need for expansion of the scope of services to accommodate advances in medical technology, where either or both of these needs have received certificate of need approval when required), the additional financial resources should be acquired from:

A. 1. b. (5) (b) Borrowed funds or leases [[when]] to the extent income from sources other than patients can be demonstrated to be inadequate; or

(c) Approved inclusion in rates[[, when the hospital]] to the extent it can demonstrate that insufficient resources exist [[in (i) or (ii)]] from (a) and (b) above, [[or when a hospital can demonstrate]] and that inclusion in rates will result in a lower cost to current patients than would result from the borrowing of funds or leasing of plant capital assets. Approval of inclusion in rates shall be by the system upon demonstration by the hospital of [[either or]] both of the conditions herein stated. Once approved, the inclusion in rates of these additional financial requirements may be considered reasonable. Any portion of the annual equal amortized historical cost of any plant capital needs, as determined over the useful life of those plant capital needs, so included in rates should not be depreciated.

A. 1. b. (7) If a hospital can demonstrate that the [[inclusion in the fund]] assumption of any specific capital debt will result in a greater cost to current patients than depreciation or retirement of that debt under consistent financial practices of that hospital which differ from the [[funding]] determination of plant capital needs as stated by these rules, then a hospital may choose [[not to fund the specific capital debt.]] an alternative method of meeting its plant capital needs. In this instance, the hospital should provide complete information to the system regarding the precise method which will be used to meet such a plant capital need. Direct inclusion of plant capital needs in rates requires approval by the system as provided by MHD 487 A.1.b., above.

A. 1. c. (2) The amount of working capital is dependent upon the number of days charges in accounts receivable for the hospital. These days charges should be stated in aggregate for an accounting period. [[and a]] A statement of accounts receivable by payor[[.]] must also be provided.

A. 2. a. Restricted endowment funds, specific purpose funds, and gifts.

[[(5) If funds or the income therefrom are restricted to the provision of charity care, these funds or their income should be annually budgeted to offset charity care requirements prior to the budgeting of the use of any patient generated revenue for charity care for any accounting period.]]

[[(6)]] (5) Funds restricted to research should be used if needed and available to offset any research costs. Patient revenues from revenue cost centers should not be used to provide matching monies for non-patient-care related research.

A. 2. b. Unrestricted funds from non-patient sources. Unrestricted funds from non-patient sources should be used to reduce the total financial requirements of a hospital. Exceptions to this rule may be granted if the hospital can show that alternative uses of these funds are to the economic benefit of current patients and/or in the best interests of the community served.

A. 3. Variations from budgeted volumes of activity and service. Changes in the aggregate rate[[s]] may be necessary due to variations from budgeted volumes of activity and service. The financial requirements of a hospital for a budget year should reflect adjustments in volumes of activity and service realized during the prior and current years.

a. If a hospital over-projects its volume in a service center, in the next year its financial requirements should be increased by an amount equal to the [[percentage]] ratio of [[(]]fixed[[)]] to total costs for that service center [[and]] multiplied by the income loss due to unrealized activity.

b. If a hospital under-projects its volume in a service center, in the next year its financial requirements should be reduced by the [[percentage]] ratio of [[(]]fixed[[)]] to total costs of that service center [[and]] multiplied by the difference between the actual and budgeted income of that service center.

c. The system proposes three alternative procedures for identifying the costs related to increased volume or reduction in expenses anticipated resulting from decreases in volume as compared to original budget forecast.

(1) Alternative 1. The system will establish different fixed to variable expense ratios for different peer groups of hospitals. The ratios will vary from 80%/20% to 60%/40% and shall be applied to hospitals in a manner consistent with the hospital's size and complexity of serv-

ices. The fixed to variable expense ratio will be applied to total patient admissions adjusted for outpatient activity, with the adjustment based on the ratio of outpatient revenues to inpatient revenues.

(2) Alternative 2. In the event that an individual hospital identifies that its fixed to variable expense ratio differs significantly in aggregate total from that established by the system, that hospital may submit supporting data to the system requesting a fixed to variable ratio different than that adopted for its peer group. In such cases, the system may approve a fixed to variable expense ratio other than that established under MHD 487 A.3.c.(1). Under this alternative, the fixed to variable ratio would represent an aggregate average hospital-wide experience and would be applied to adjusted patient admissions, with the adjustment based on the ratio of outpatient revenues to inpatient revenues. Revenue and rate adjustment based on volume variance within the provisions of Alternatives 1 and 2 can be made on aggregate average annual rates per adjusted patient admissions. These rates, based on total approved budget, are identified at the time of the budget review.

(3) Alternative 3. In the event that a hospital has identified that its operating expenses by service center depart drastically from the fixed to variable expense ratio at the aggregate level, such a hospital may submit supporting data to the system establishing a different fixed to variable expense ratio for each service center. In such instances, the volume variances would be measured according to the unit of service established for each service center, and the expense adjustment allowance would be based on the ratio of fixed to variable expenses for each service center, rather than on the aggregate overall average expenses and per adjusted admission.

A. 4. Excess capacity. For hospitals with occupancy rates, based upon staffed and set up beds, below the average occupancy rate of other hospitals determined by the system to share common characteristics, the aggregate rate[[s]] set on the basis of costs may produce unreasonable charges to patients. The system may assess the aggregate rate[[s]] of such hospitals where the criteria of need for beds shall be consistent with the demand for beds as indicated on a hospital or a service center level by occupancy rates. In cases where low occupancy appears to affect the aggregate hospital rate[[s]], the hospital shall be considered to have excess capacity.

a. Prior to any determination by the system that excess capacity exists in a hospital, the system shall submit its preliminary determination to the appropriate health systems agency and to the State Health Planning and Development Agency, both of which are identified according to Public Law 93-641, §§ 1515 and 1521[[.]], as well as the appropriate professional standards review organization. These agencies may comment to the system regarding the consistency of this preliminary determination with health [[planning]] care standards regarding occupancy rates[[.]] in their areas of expertise.

C. 1. b. If the system has not responded to the hospital within ten working days after the receipt of a report by the system, the report is deemed to be complete and filed as of the initial day of receipt by the system. The system may stipulate any additional time it may need to ascertain a report's completeness in which case, the ten working day period does not apply. Such stipulated additional time shall not exceed thirty days after the day of the initial receipt of a report by the system. If a report is not found to be incomplete during such additional period, it shall be deemed to be complete and filed as of the initial day of receipt by the system.

c. A report determined by the system to be incomplete shall be returned immediately by the system to the hospital [[stating the need for more data.]] with a statement describing the report's deficiencies.

The hospital shall resubmit an amended report to the system. Such a return and resubmittal shall be recorded in that hospital's file as maintained by the system. If the resubmitted report is determined to be complete by the system, then it shall be deemed to be filed on the date the resubmitted report is received by the system.

C. 1. e. (1) In the case of an interim increase report or a rate revenue and expense report, the submittal of an amended report by a hospital to the system shall not affect the date of filing or the sixty-day period required, providing:

(a) The hospital informs the system of any errors [[within thirty calendar days of the initial filing of a report;]] prior to the system's public comments on the reasonableness of the hospital's aggregate rate; and

(b) The [[amendment to the report is submitted to the system by a date determined by the hospital and the system to be acceptable.]] errors are not of such great magnitude as to affect the system's ability to make a fair comment.

C. 1. f. If the system discovers an error in the statements or calculations in a report filed with it which the system determines will have a noticeable impact upon its ability to render a fair comment on the report, it may[[:]]

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.

[[(1) If the discovery occurs within thirty calendar days after the date of filing of the report,]] require the hospital to amend and resubmit the report by a date determined by the system [[and the hospital to be acceptable.]] to be reasonable. The initial filing date is not affected [[in this instance.]] if the hospital resubmits the report by the determined date. If the hospital fails to resubmit the amended report by that date, the date of filing shall be the date the system receives the resubmission.

[[(2) If the discovery occurs thirty calendar days or more after the date of filing of the report, require that the hospital resubmit a new report. The date of filing shall then be the date when the new report is submitted to the system, pending the determination by the system that the new report is complete.]]

C. 2. b. Comment. The system shall comment upon interim increase reports and rate revenue and expense reports to the hospital, the board and the public[[.]] prior to the implementation of proposed budgets or rates. The comment shall state that a hospital's existing and proposed rates are reasonable or are in question.

(1) Bases which may be used to comment that a hospital's existing and prospective rates are reasonable, include:

(a) Rates are similar to the average of the aggregate rates then in effect for other hospitals in a peer group;

(b) Prospective aggregate rates represent a minimal increase which is consistent with the principles of the bases for judging established by MHD 487 A.;

(c) Aggregate [[R]]rates have been demonstrated by the hospital to be necessary and consistent with the principles of the bases for judging established by MHD 487 A.

C. 2. b. (2) Bases which may be used to comment that a hospital's existing and prospective rates are in question include:

(a) Rates deviate from the average of the rates then in effect for other hospitals in a peer group;

[[(b) Rates provide revenue which is in excess of expenses which deviate from the past financial practices of that hospital, of hospitals sharing common characteristics, or which deviate from the principles of the bases for judging established by MHD 487 A.;]]

[[(c)]] (b) Rates have not been demonstrated by the hospital to be necessary and consistent with the bases for judging established by MHD 487 A.

MHD 504 Board determination of allowable increase limit.

G. Compensation. Should quarterly allowable increase limits prospectively established by the board according to these rules allow increases in aggregate rates in excess or less than any actual increases in the Consumer Price Index, the board may compensate for this excess by:

[[H. Exceptions. Increases directly attributable to any of the following causes are allowable, providing the hospital notifies the system by letter at the time of such increases and the exception category under which the increase qualifies and the hospital documents any of these as the causes for increase in rates in its next subsequent report of rate revenue and expense:

1. The base cost and dollar amount of increased costs of malpractice insurance. The hospital shall provide information indicating the effective date of any related premium increases.

2. The increased cost of any government mandated pension funding requirements. The hospital shall indicate the effective date of the related cost increase.

3. The increased cost of salaries, wages, or fringe benefits to employees resulting from labor negotiations. The hospital shall indicate the extent of increased costs.

4. Changes in Federal or State law or regulation which cause uncontrollable increases in cost. The hospital shall indicate the law or regulation causing change and the nature of the effect of the change upon rates.

5. Changes in rates in acute care beds in hospitals operated by the commissioner of public welfare due to legislative action.]]

MDH 509 Fees. Hospitals whose rates are reviewed by the [[system as operated by the]] board, as distinct from a voluntary, nonprofit rate review organization, shall submit filing fees with rate revenue and expense reports and interim increase reports which are submitted to the board. These fees are based on the cost of reviews and the number of beds licensed as acute care beds in a hospital, pursuant to Minn. Stat. §§ 144.50 to 144.58.

A. Rate revenue and expense report fee. On each occasion which a hospital submits a rate revenue and expense report to the [[system as operated by the]] board, as distinct from a voluntary, nonprofit rate review organization, it shall accompany this report with a filing fee based upon the following schedules which shall be annually adjusted to reflect the impact of inflation upon these fees, providing the report is timely:

If the Number of Licensed Acute Care Beds of the Hospital Is:	Then the Filing Fee Is:
6 to 24	$ 385.00
25 to 49	$ 495.00
50 to 99	$ 710.00
100 to 149	$ 930.00
150 to 199	$1,150.00
200 to 249	$1,370.00
250 to 299	$1,590.00
300 to 349	$1,810.00
350 to 399	$2,025.00
400 to 449	$2,250.00
450 to 499	$2,470.00
500 or over	$2,685.00

B. Interim increase report fee. On each occasion which a hospital submits an interim increase report to the [[system as operated by the]] board, as distinct from the voluntary, non-profit rate review organization, it shall accompany this report with a filing fee. This fee shall be one-half of the rate revenue and expense report fee, as established by MHD 509 A., providing the report is timely.

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

OFFICIAL NOTICES

Department of Commerce Insurance Division

Credit Life and Credit Accident and Health Insurance Rates

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Department of Commerce, Insurance Division has begun consideration of proposed rules governing credit life and credit accident and health insurance rates mandated by Minn. Stat. § 62B.12 (1976). In order to adequately determine the nature and utility of such rules, the Commerce Department, Insurance Division, hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

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

J. P. Koleski
Assistant Insurance Commissioner
Insurance Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101

All statements of information and comment must be received within twenty-one (21) days of the above date.

The proposed rules, if adopted, may change the rates for individual policies and group certificates of credit life and credit accident and health insurance sold in the State of Minnesota.

BERTON W. HEATON
Commissioner of Insurance and
Chairman, Commerce Commission
500 Metro Square Building
Saint Paul, Minnesota 55101

Energy Agency

Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Electric Generating Facilities and Large High Voltage Transmission Lines

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Energy Agency (hereinafter the "Agency") is seeking information or opinions from sources outside the Agency in preparing to amend rules governing contents of applications for certificates of need and criteria for assessment of need for large electric generating facilities and large high voltage transmission lines.

The Agency, pursuant to MEQC 25 (g), must prepare an environmental report in conjunction with the processing of an application for a certificate of need for an electric power plant or transmission line. The Agency is therefore specifically seeking opinions and information which would lead to the inclusion of an environmental data section in the subject rules. Information supplied by an applicant in response to such an environmental data section would serve as a primary data source for the environmental report.

Interested or affected persons or groups may submit statements of information and comment orally or in writing. Written statements may be addressed to:

David L. Jacobson
Chief Energy Facility Analyst
Minnesota Energy Agency
740 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-7502, and in person at the above address.

All statements of information and comment must be received by June 13, 1977. Any written material received by the Agency shall become part of the hearing record in the event that amendments to the rules are promulgated.

Richard A. Wallen
Director, Certificate
of Need Program

EQC MONITOR

Environmental Quality Board

Operation of Environmental Permit Coordination

[[MEQC]] MEQB 101 Authority, purpose, exemptions, definitions.

A. Authority. These Rules are prescribed by the Minnesota Environmental Quality [[Council]] Board under:

1. Minn. Stat. § 116C.23, establishing an environmental permits coordination unit. This unit will implement the provisions of Minn. Stat. §§ 116C.22 through 116C.34, herein titled the Environmental Coordination Procedures Act;

2. Minn. Stat. § 116C.32, to adopt rules, not inconsistent with rules of procedure established by the office of hearing examiner, implementing the Environmental Coordination Procedures Act.

B. Purpose. These Rules provide [[a]] an optional procedure to assist a person who, before undertaking a project which would use the state's air, land, or water resources, must obtain more than one state permit as defined by these Rules when that person voluntarily decides to use this procedure. The assistance involves: identifying all such required permits before the project is implemented; providing a single hearing on appropriate permit applications; providing time frames for the making of agency decisions; and providing to the applicant statements of the reasons that agencies approve or deny the permit applications.

C. Exemptions. These Rules shall not apply to projects that:

1. Require permits issued under Minn. Stat. ch. 93, pertaining to reservations, permits and leases of state owned mineral lands; Minn. Stat. §§ 116C.51 to 116C.69, the Minnesota Power Plant Siting Act; or Minn. Stat. § 116H.13, pertaining to certificates of need for large energy facilities; or

2. Are initiated for taconite tailings disposal or mining, or producing or beneficiating copper, nickel or copper-nickel.

D. Definitions. The terms specified below shall have the following meanings for the purpose of these Rules:

1. "Agency" means a state department, commission, board or other instrumentality of the state, however titled, or a local government unit or instrumentality if that local unit is acting within existing legal authority to grant or deny a permit that otherwise would be granted or denied by a state agency.

[[3]] 2. [["Council" means that agency]] "Board" means the Minnesota Environmental Quality Board established pursuant to Minn. Stat., § 116C.03, [[to coordinate interaction among the state agencies concerning solutions to the state's environmental problems.]] formerly called the Minnesota Environmental Quality Council.

[[2]] 3. "Coordination Unit" means the Environmental Permits Coordination Unit established pursuant to Minn. Stat. § 116C.25, to assist persons using the master application process.

4. "Days": In computing any period of time prescribed or allowed in these Rules, the day the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period will extend until the end of the next day that 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.]]

5. "Environmental review process" means any procedure for review established by the [[Council]] Board pursuant to Minn. Stat. § 116D.04, subd. 2.

6. "Hearing examiner" means a hearing examiner regularly appointed [[or assigned by contract]] by the chief hearing examiner as provided for in Minn. Stat. § 15.052.

7. "Joint hearing" means the optional hearing at which one or more agencies participate as herein described as a replacement for individual state agency hearings that may be held following each agency's separate permit review procedures.

8. "Local government unit" means a county, city, town or special district with legal authority to issue a permit.

9. "Master application" means an application requesting the issuance of all state permits necessary for construction or operation of a project requiring more than one permit.

10. "Participating agency" means an agency with one or more permit programs under its jurisdiction that are pertinent to a project for which a completed master application has been submitted to the coordination unit and which orders a hearing to be held pursuant to these Rules.

11. "Permit" means a license, permit, certificate, certification, approval, compliance schedule, or other similar

document pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with, the natural resources of land, air or water, which is required to be obtained from a state agency prior to constructing or operating a project in this state. Nothing in these Rules shall relate to the granting of a proprietary interest in publicly owned property through a sale, lease, easement, use permit, license or other conveyance.

12. "Permit Information Center" means an office established to provide information to the public about the requirements of state and local government regulations concerning the use of natural resources and protection of the environment.

13. "Person" means an individual, an association, partnership, or cooperative, or a municipal, public, or private corporation, including but not limited to a state agency and a county.

14. "Project" means a new activity or an expansion of or addition to an existing activity, which is fixed in location and which requires permits from an agency(ies) prior to construction or operation, including but not limited to industrial and commercial operations and development.

15. "Regional Development Commission" means any Regional Development Commission created pursuant to Minn. Stat. §§ 462.381 to 462.396, and the Metropolitan Council created pursuant to Minn. Stat. ch. 473B.

[[MEQC]] MEQB 102 Master application.

A. Scope. A person proposing a project that might require more than one permit may, before the initial construction of the project or the initial operation of the project if construction of the project requires no permits, submit to the Coordination Unit a master application requesting the issuance of all permits necessary for construction and (or) operation of the project.

1. Other permits, in addition to those defined by these Rules, may be included in these permit coordination procedures if the applicant and state regulatory agency so agree and if such procedure is permissible under the statutes and regulations that apply to such non-included permits. A written agreement to such an arrangement shall be provided by the agency to the Coordination Unit within 30 days of receipt by the agency of the master application. If such other permit applications are included within the master application process, they shall remain with the process until final disposition of the master application and for purposes of the master application process shall be included as a permit as defined by these Rules.

2. If a permit is required for the operation of a project or if a state agency must approve the engineering design plans of a project, and if [[sufficient]] the information needed by the agency to reach a decision [[would be unavailable]] could not be made available through the master application process, because post-construction or operation data are required to be collected or evaluated or because the issuance of the permit depends upon a post-construction facilities inspection or performance demonstration, then that permit or approval may be processed independently from the master application process provided both the applicant and the agency agree.

B. Master application form. The Coordination Unit shall provide a master application form which requests information necessary for agencies to determine permit applicability. Information required shall include but not be limited to:

1. The name and address of the applicant.

2. The location of the project.

3. A description of the project, including but not limited to possible discharges of waste; use of or interference with natural resources; the time for project completion; and, if the project is to be phased, the timing of such phases.

C. Signatories. Permit forms of agencies shall be signed as required by the rules of the respective agencies. Any form, exclusive of the agencies' permit forms, submitted to the Coordination Unit shall be signed as follows:

1. In the case of a corporation, by a principal executive officer or his duly authorized representative or agent, if such representative or agent is responsible for the project for which the permit is requested.

2. In the case of a partnership, by a general partner.

3. In the case of a sole proprietorship, by the proprietor.

4. In the case of a municipal, state or other public signatory, by either a principal executive officer, ranking elected official, or other duly authorized employee.

D. Certification. The Coordination Unit shall provide certification application forms which shall be submitted respectively by all applicants as follows:

1. Certification must be obtained from the local government unit(s) in which the proposed project will be located that the project complies with all local zoning ordinances, subdivision regulations, and environmental regulations administered by the local government unit. Certification under this paragraph must be issued not more than 120 days before the submission date of the master application. The local government unit(s) shall either issue a certification or deny that certification in accord with the following procedures.

a. Within 45 days after the applicant has submitted a certification application form to the local government unit, the unit shall return the completed form to the applicant or notify the applicant in writing that the certification is denied, including the reasons for the denial.

b. No local government unit shall rescind such a certification for a master application, even though the local government may have changed its zoning ordinances, subdivision regulations, or environmental regulations. A change of zoning ordinances, subdivision regulations, or environmental regulations shall not invalidate a previously given certification for the purpose of securing a state permit under [[MEQC]] MEQB 101 to 110. After certification, the local government may change such zoning ordinances, subdivision regulations, or environmental regulations, but not so as to affect the proposed project until the procedures of [[MEQC]] MEQB 101 to 110, including any administrative or judicial reviews, are completed.

c. A local government unit denial of certification shall not be appealable under these Rules. Such denial shall not preclude the applicant from filing a permit application under any other available statute or procedure.

2. Certification must be obtained from the [[Council]] Board, that an environmental impact statement on the project either has been completed or is not required. Within five days after the first [[Council]] Board meeting following submission of a certification application form to the [[Council]] Board, the [[Council]] Board shall return the completed form or notify the applicant in writing that the proposed project is undergoing review under the environmental review process. If the project is undergoing review under the environmental review process, the [[Council]] Board shall return a completed form to the applicant within ten days after such process is completed. If an environmental impact statement was required on the project, a copy of the [[completed]] final environmental impact statement shall be attached to the [[Council's]] Board's certification.

E. Acceptance for processing. Upon receipt of a completed master application, including certifications required in [[MEQC]] MEQB 102 D, the Coordination Unit shall immediately notify the applicant that the application has been accepted and is ready for processing.

1. Upon acceptance, the Coordination Unit shall immediately notify in writing each agency having a possible permit interest in the project. The notice shall be accompanied by a copy of the master application.

2. Each notified agency shall respond in writing to the Coordination Unit within 20 days of receipt by the agency of the master application, advising whether the agency will or will not require a permit for the described project. If the agency responds affirmatively, it shall include application forms and information concerning the specific permit program(s) applicable to the project as described and state whether a public hearing is required or appropriate relating to permit requirements for the project; provided, that a statement whether a public hearing is required or appropriate relating to National Pollutant Discharge Elimination System (NPDES) permit requirements for the project shall not be required at this time. If an agency affirms that a public hearing is required or appropriate, it shall provide a brief statement identifying the reasons.

3. If after all agency responses are received, only one permit is required, the master application procedure shall no longer be available to the applicant for that project. The applicant may then proceed to process the permit application using the normal procedures established by the agency requiring the permit. However, an agency(ies) shall not require an additional permit(s) of the applicant unless one of the conditions described in [[MEQC]] MEQB 102 E.4. arises.

4. A notified agency that makes a timely response indicating that a permit(s) is not required, or that fails to make a timely response concerning a permit program or programs, shall not require such a permit of the applicant for the described project unless:

a. The master application provided to the agency lacked information or contained false, misleading, or deceptive information [[or lacked information,]] that would reasonably lead the agency to misjudge the applicability of its permit(s) to the project; or

b. Subsequent laws or rules require additional permits; or

c. Unusual circumstances prevented the agency from notifying the Coordination Unit, and the agency can establish that failure to require a permit would result in substantial harm to the public health and welfare.

5. If one of the conditions listed in [[MEQC]] MEQB 102 E.4.a. through c. arise, the affected agency(ies) shall so notify the applicant, the Coordination Unit and the [[Council]] Board, and shall request a determination by the [[Council]] Board whether an order should be issued to require the relevant permit(s). Included with the agency's

request shall be a statement justifying the need to require the additional permit(s). The [[Council]] Board at its first meeting held more than 15 days after being notified by the agency shall determine whether the permit(s) shall be required. If additional permit(s) are required because one of the conditions of [[MEQC]] MEQB 102 E.4.a. occurs necessitating a change in the notice required by [[MEQC]] MEQB 105 A, [[or a change in the joint hearing procedures under MEQC 106 A, or the holding of an additional hearing,]] the applicant shall pay the additional costs, if any, resulting from the requirement for the additional permit(s). [[If additional permit(s) are required because the conditions of MEQC 102 E.4.b. or c. occur, the agency requiring the additional permit(s) shall pay the additional cost, if any, resulting from the requirement for the additional permit(s).]] Any other costs resulting from the conditions in MEQB 102 E.4.a. through c. will be borne by the agency(ies) requiring additional permits.

F. Alteration of Project. If the applicant without being required by a public agency alters the proposed project in a way that may affect the validity of the certifications required in [[MEQC]] MEQB 102 D. or an agency response required in [[MEQC]] MEQB 102 E.2, the applicant shall immediately notify the Coordination Unit of the proposed alteration. The Coordination Unit shall then immediately notify the [[Council]] Board, the local government units involved, and all agencies which may have a permit interest in the proposed project. Within [[ten]] 15 days after notification by the Coordination Unit, the [[Council]] Board, the local government unit(s), and the agencies shall respond to the Coordination Unit and the applicant whether the previous certification is still valid or additional permits are required. If a new certification is needed or additional permits are required, the master application process shall be suspended. The period of suspension shall not exceed the time periods provided in [[MEQC]] MEQB 102 D.1.a, [[MEQC]] MEQB 102 D.2. and [[MEQC]] MEQB 102 E.2. [[If the joint hearing required to MEQC 105 has been held prior to notification of the proposed alteration of the project, the applicant shall be responsible for the costs of any additional hearing that may be required.]]

[[MEQC]] MEQB 103 Permit applications. Within five days after the deadline for agency responses, the Coordination Unit shall submit to the applicant all necessary application forms for the permits identified in the affirmative agency responses described in [[MEQC]] MEQB 102 E.2. The applicant shall complete and return these forms to the Coordination Unit, with any required individual permit fees, within 90 days.

A. Transmittal to agencies. Within ten days of receipt of the full set of completed forms the Coordination Unit shall send each application to the appropriate agency for its permit review in accord with the procedures of these Rules, provided, that a completed NPDES form shall be forwarded to the Minnesota Pollution Control Agency (MPCA) immediately upon receipt by the Coordination Unit.

B. Priorities. If an agency has a procedure for setting priorities in permit issuance according to the application date, the date used shall be the day the master application is received by the Coordination Unit.

[[MEQC]] MEQB 104 NPDES permit review. Whenever the MPCA responds under [[MEQC]] MEQB 102 E. that a NPDES permit is required for a master application, within 110 days after it has received a completed NPDES application under [[MEQC]] MEQB 103 A. the MPCA shall complete all permit review procedures necessary to determine the necessity or appropriateness of a hearing on the NPDES requirements for the project, and shall within the 110 days notify the Coordination Unit whether a hearing is required or necessary. When conditions prevail that do not require the full 110 day processing period, the MPCA will notify the Coordination Unit as soon as possible as to whether a hearing is required.

[[MEQC]] MEQB 105 Notice.

A. Publication. Immediately after transmittal of the completed permit applications and any required permit fees to the appropriate agency, the Coordination Unit shall publish notice, at the applicant's expense once each week on the same day of the week for three consecutive weeks, in a newspaper of general circulation in each county in which the project is proposed to be constructed or operated.

B. Content. The notice shall contain:

1. A description of the proposed project.

2. The name and address of the applicant.

3. The location of the project.

4. The permits applied for and the agencies with permit jurisdiction.

5. The Coordination Unit telephone number to contact for more information about the project.

6. A statement that a copy of the master application and a copy of all permit applications for the project are

available for public inspection during normal business hours in the office of the county auditor of each county in which the project is proposed to be constructed or operated, and in other locations the Coordination Unit may designate.

7. Except as provided in [[MEQC]] MEQB 104 or [[MEQC]] MEQB 105C, the time and place of the joint hearing and other contents of the order for hearing, to commence not less than 20 days or more than 45 days after publication of the last newspaper notice.

8. Additional information concerning the permit application or hearing, upon notification by an agency that such specified information is required to be provided in the notice.

C. If joint hearing of no value. If agency responses to the master application unanimously affirm that a public hearing concerning the master application is not required or is not in the public interest, the newspaper notice shall not refer to a joint hearing. The notice shall state that members of the public may present relevant views and supporting material concerning specified permits in writing to the Coordination Unit within 30 days after the last notice has been published.

D. Additional notice. Persons wishing to receive notice by mail of master applications may do so upon written request. The request shall give the name and address of the person to receive notice and the counties for which master application notice is requested. The request shall be valid for one year and may be renewed upon notice of expiration by the Coordination Unit. Upon notification by an agency, the Coordination Unit shall also mail notices to any additional persons entitled to receive notice according to the requirements of individual permit programs.

E. Confidentiality. If the applicant requests that information contained on the application or in supplement to the application be certified as confidential, the information shall not be released unless the appropriate agency responds in writing that the information is not to be certified as confidential. If the agency so responds, the Coordination Unit shall immediately notify the applicant that the agency has failed to certify the information as confidential. Within ten days after such notification, the applicant may withdraw the subject information by giving written notice to the Coordination Unit. The information shall not be subsequently released if it is withdrawn by the applicant within the ten day period.

[[MEQC]] MEQB 106 Joint hearing.

A. Joint hearing procedure. When one or more agencies affirm that a hearing is required or appropriate relating to its permit requirements for the project, the agency(ies) shall issue an order for a hearing. In preparing the order for hearing, the agency(ies) shall consult with the Coordination Unit in setting the time and place for the joint hearing. The Coordination Unit shall issue a notice that a joint hearing will be held pursuant to the contested case provisions of Minn. Stat. ch. 15, the Rules and Regulations of the Office of Hearing Examiners, and these Rules. Copies of the notice and order(s) shall be immediately forwarded to all agencies having a permit interest in the project and to the applicant by the Coordination Unit.

B. State agency participation. Each participating state agency shall be represented at the joint hearing by its chief administrative officer or his designee. The representative shall participate in the portion of the joint hearing pertaining to submission of information, views, and supporting materials that are relevant to the specific permit application(s) under the jurisdiction of that agency. The manner of agency participation shall be consistent with the contested case provisions of the Rules and Regulations of the Office of Hearing Examiners. The hearing examiner may, when appropriate, continue a joint hearing from time to time and place to place. The joint hearing shall be recorded in any manner suitable for transcription pursuant to Minn. Stat. ch. 15. The record of the joint hearing shall be made available for public inspection by the Coordination Unit.

C. Hearing examiner report. Upon termination of the joint hearing, the hearing examiner's report, containing recommendations on each permit, shall be forwarded to the Coordination Unit. The Coordination Unit shall forward copies of the report to the participating agencies and to the applicant.

D. Costs. Costs of the joint hearing shall be apportioned by the Coordination Unit to each participating agency. The hearing costs shall be apportioned based on the percentage of the hearing record that is pertinent to each participating agency.

E. Final agency decision. Within 60 days of receipt of the hearing examiner's report or notification by the Coordination Unit of its availability to those agencies not participating in the hearing, each agency shall notify the Coordination Unit of its final decision on the permit applications within its jurisdiction, provided that this date may be extended by the Chairman of the [[Council]] Board for reasonable cause. A request for such extension, setting forth specific reasons, shall be filed with the Coordination Unit, which shall immediately notify the Chairman of the [[Council]] Board and the applicant. Such extension shall be the minimum time needed by the agency to reach a final decision and shall be considered an exception to normal operating procedure. Each final decision shall set forth the reasons for the decision together with a final order denying or granting the permit, including any conditions under which the permit is issued. [[Each final decision of the participating agencies shall be consistent with the requirements of the Rules and Regulations of the Office of Hearing Examiners.]]

[[MEQC]] MEQB 107 Non-Hearing procedure. If no joint hearing is conducted, pursuant to [[MEQC]] MEQB 105 C, the Coordination Unit shall, not less than 30 days after publication of the last newspaper notice, submit a copy of all views and supporting material it has received to the agencies. The agencies shall consider such information during review of permit applications. Concurrently, therewith, the Coordination Unit shall notify each agency, in writing of the date, 60 days after agency receipt of such notice, by which final decisions on applications shall be forwarded to the Coordination Unit, provided that this date may be extended by the Chairman of the [[Council]] Board for reasonable cause. A request for such extension, setting forth specific reasons, shall be filed with the Coordination Unit, which shall immediately notify the Chairman of the [[Council]] Board and the applicant. Such extension shall be the minimum time needed by the agency to reach a final decision and shall be considered an exception to normal operating procedure. Every final decision shall set forth the information required by [[MEQC]] MEQB 106 E.

[[MEQC]] MEQB 108 Agency decisions. Upon receipt by the Coordination Unit of all final decisions of the agencies, the Coordination Unit shall immediately incorporate them, without modification, into one document and transmit the document to the applicant either personally or by registered mail.

1. A person aggrieved by a final decision of an agency in granting or denying a permit shall seek redress directly and individually from that agency in the manner provided by Minn. Stat., Chapter 15, or any other statute authorizing either judicial or administrative review of an agency decision.

[[MEQC]] MEQB 109 Withdrawal from the master application process.

A. [[Agency Withdrawal. If an agency responds that it has one or more permit programs applicable to a project, it may at any time withdraw from further participation in procedures hereunder concerning such project by submitting written notification to the Coordination Unit and the applicant that the agency has subsequently determined that it has no permit programs under its jurisdiction that are applicable to the project. If such withdrawal necessitates a change or withdrawal of any notice required under these Rules, said agency shall pay the cost, if any, of such change or withdrawal of notice unless the agency's withdrawal resulted from an alteration in the project made by the applicant that was not required by a public agency or if the agency's initial determination that a permit was required was made on the basis of incorrect information supplied by the applicant in which case the applicant shall pay the cost, if any, of such change or withdrawal of notice.]]

Agency withdrawal. An agency which has responded affirmatively under MEQB 102 E.2. may withdraw from the process at any time if it has subsequently determined that it has no permit programs applicable to the project. The withdrawal becomes effective when the agency submits written notice of this determination to the Coordination Unit and to the applicant. The cost of a change or withdrawal of any notice required under these Rules, resulting from agency withdrawal shall be paid by the applicant if such withdrawal is due to an alteration the applicant has made in the project that is not required by a public agency or if the agency's initial affirmative determination was based on incorrect information supplied by the applicant; in all other cases, the withdrawing agency shall pay for the change or withdrawal of notice.

B. Applicant withdrawal. If an applicant has initiated the master application process, the applicant may at any later time withdraw from further participation in the process by submitting written notification to the Coordination Unit. If such withdrawal necessitates a change or withdrawal of any notice required under these Rules, the applicant shall pay the cost, if any, of such change or withdrawal of notice.

[[MEQC]] MEQB 110 Application.

A. Agency jurisdiction. Each agency having jurisdiction to issue or reject a permit shall retain this authority as vested in it before the effective date of these Rules. Nothing in these Rules shall lessen or reduce such authority and these Rules shall modify only the procedures followed in carrying out such authority.

1. A state agency may, in performing its responsibilities under these Rules, request or receive additional information from an applicant. A copy of that request or receipt shall be immediately forwarded to the Coordination Unit, which shall immediately notify all other agencies having permit interest in the project.

2. Fee schedules authorized by statute or rules for an application or permit shall continue to be applicable even though the application or permit is processed according to these Rules. The Coordination Unit shall not charge the applicant or participating agencies a fee for services.

B. Post-Decision proceedings. These Rules shall have no applicability to an application for a permit renewal, amendment, extension, or other similar document required subsequent to the completion of decisions and proceedings under [[MEQC]] MEQB 101 to [[MEQC]] MEQB 110, or to a replacement thereof or to a quasi-judicial or judicial proceeding held pursuant to an order of remand or similar order by a court in relation to a final decision of an agency.

C. Nothing in these Rules shall modify in any manner whatsoever the applicability or inapplicability to the lands

of any agency of any land use regulation, statute, or local government zoning ordinance.

D. The [[Council]] Board, to the limited extent necessary to comply with procedural requirements of federal statutes relating to permit systems operated by the state, may modify the notice, timing, hearing and related procedural matters provided in these Rules.

[[MEQC 111-MEQC 114]] MEQB 111-MEQB 114 Reserved for future use.

[[MEQC]] MEQB 115 Permit information center grant program.

A. Applicability. Funds appropriated for grants for the establishment of regional permit information centers by Minn. Stat. § 116C.34 (1976) and any future funding for such centers appropriated to the State Planning Agency shall be distributed to those public bodies authorized by laws pursuant to the recommendation of the Director of the State Planning Agency and these Rules.

B. Eligibility. A Regional Development Commission may apply for a grant from the Director of the State Planning Agency for the establishment of a regional permit information center provided that the following conditions are met:

1. The grant application is submitted before May 1 of the fiscal year for which the legislative appropriation was made.

2. The amount of the grant application does not exceed the legislative appropriation.

3. The Regional Development Commission agrees to perform the following functions for at least one year following approval of the grant application.

a. Designate one person to act as liaison between the regional permit information center and the Environmental Permit Coordination Unit.

b. Provide an information and referral system to assist the public in understanding and complying with the requirements of state and local government regulations concerning the use of natural resources and protection of the environment.

c. Provide for the dissemination of printed materials concerning the requirements of state and local government regulations.

d. Publicize the availability and location of the permit information center.

e. Provide information to the public on the regulatory functions relating to the environment of the local government units in its region.

f. Establish and maintain a file for applicable state resource agency permits, including pertinent rules and regulations, criteria for permit issuance and use, and compliance with relevant statute requirements.

Notice of Name Change

Environmental Quality Council

The official name of the Environmental Quality Council (EQC) has been changed to the Environmental Quality Board (EQB), effective January 1, 1978. Until that date, materials may carry either designation.

Notice of Intent to Solicit Outside Opinion

Environmental Quality Board

Power Plant Siting and Transmission Line Routing

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, that the Environmental Quality Board will adopt new rules for power plant siting and transmission line routing.

All interested parties desiring to submit data or views relating to all aspects of power plant siting or transmission line routing, consistent with the Power Plant Siting Act, Minn. Stat., § 116C.51 *et. seq.* (1977), including the procedure for designating sites and routes, the manner and timeliness of proposing alternative sites and routes, site and route designation considerations and criteria, and route exemption criteria and procedures, should address their comments to John P. Hynes, Acting Manager, Power Plant Siting, Room 100, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, 55101, telephone: 612/296-2641. All materials must be received by July 10, 1977.

Peter Vanderpoel, Chairman
Environmental Quality Board

Negative Declarations (No EIS)

The Environmental Assessment Worksheets (EAWs) listed below have been filed with the EQC. These EAWs determined that EISs are not needed on these projects because they are not major actions and do not have the potential for

significant environmental effects. **No EIS's will be required on these projects unless objections are filed with the EQC by June 30, 1977.** MEQC Rule 28B indicates the procedures for filing objections to a Negative Declaration.

Fountain Lake Apartments Freeborn County

Proposer: JUO Company

Responsible Agency: City of Albert Lea Planning Dept.

Project Description: A three story structure comprising 66 apartment units (one and two bedroom). The site would be landscaped including seeding, sodding, shrubbery, trees, surfaced play areas and some waterfront improvements such as a dock and deck. There will be no permanent mooring or servicing of watercraft.

Project Location: Albert Lea, Freeborn County; Sec. 9; R21W, Twp. 102N.

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

Planning Department
221 East Clark Street
Albert Lea, MN 56007
(507) 373-2393

For further information on this EAW contact Michael H. Miller, City of Albert Lea, at the above address and telephone number.

West Oaks of Bald Eagle Residential Development Anoka County

Proposer: Homer Bruggeman

Responsible Agency: City of Lino Lakes

Project Description: Single family residential development of 60 lots; minimum lot size of one acre on 130 gross acres; individual on-site sewer and water.

Project Location: Lino Lakes, Anoka County; Gov't. Lot 3 subject to Bald Eagle Road, Gov't. Lot 4 lying Westerly of Bald Eagle Road, W½ SE¼, Sec. 36, R22W, Twp. 31N

Copies of the EAW and supporting documentation are on file for public review from 9:00 a.m. to 4:00 p.m. at:

City Hall
1189 Main Street
Lino Lakes, MN 55014
(612) 464-5562

For further information on this EAW contact Edna L. Sarner, Clerk-Treasurer, City of Lino Lakes at the above address and telephone number.

Wood Park Residential Development Dakota County

Proposer: Graham Development Company

Responsible Agency: City of Burnsville

Project Description: Planned residential development of 137.94 acres of single family and quadraminium units, parks and roads; overall gross density of 3.26 units per acre.

Project Location: Burnsville, Dakota County; Sec. 30, R20W, Twp. 115N; northwest of the intersection of County Rd. 42 and County Rd. 11.

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

City of Burnsville Offices
1313 East Highway 13
Burnsville, MN 55337
(612) 890-4100

For further information on this EAW contact Glen Northrup, City of Burnsville, at the above address and telephone number.

Receipt of Objections to EIS Preparation Notice for Duplexes at 362-364 Summit Ave., St. Paul

On May 17, 1977 the Environmental Quality Council received Objections from the City of St. Paul to the EIS Preparation Notice submitted by the Minnesota Historical Society (see 1 S.R. 1529) regarding the proposed construction of duplexes at 362-364 Summit Avenue in St. Paul.

Objections to the EIS Preparation Notice were also filed by the project proposer, Malcolm Lein, on May 5, 1977 and **a contested case hearing to determine the need for an Environmental Impact Statement was ordered to be held on June 6, 1977 in the Office of Hearing Examiners Hearing Room, Room 300, 1745 University Avenue, St. Paul, commencing at 9:00 a.m.** (For full Order For Hearing and Notice thereof, see "EQC Monitor", *State Register*, Vol. 1, Issue 46, May 23, 1977.)

Receipt of Objections to Negative Declaration on High Security Facility, Washington County

On May 18, 1977 the Environmental Quality Council received a petition objecting to the Negative Declaration submitted by the Minnesota Department of Administration (see 1 S.R. 1529) regarding the proposed construction of a 400-inmate high security prison in Oak Park Heights and Baytown Township, Washington County.

A contested case hearing on this matter has not yet been scheduled, however the order for hearing will be published in the "EQC Monitor" when scheduled.

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER
95 Sherburne, Suite 203
St. Paul, Minnesota 55103
(612) 296-8239

ORDER FORM

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_____ Annual subscription(s) to the *EQC Monitor* at $50.00 (second and additional subscriptions are $35.00 each). Contains all items of environmental concern.

NOTE: The above items are not subject to Minnesota sales tax. *State Register* binders, listed below, do require either sales tax or your tax exempt number.

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These are 3-½ inch durable plastic self-locking binders, imprinted with the *State Register* logo.

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Name of Company or Organization_____

Attention to: _____

Street _____

City _____ State_____ Zip_____

Telephone_____ [S.R. 3/14/77]

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