

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

152

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to

the Minnesota Energy agency
(Agency or Board)

Regulation No. EA 400 - EA 411

Subject: Rules + Regs Governing Information Reporting.
By Minnesota Prime Petroleum Supplier and Pipeline Company

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

RICHARD L. BRUBACHER
Commissioner of Administration

SEP 2 1975

BY Ela Staudenmaier
AUTH. SIGNATURE

4:20 pm
PB

Stamped and filed with the Secretary of State 9-2-75 3:55pm

Rev. 9-72

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA ENERGY AGENCY

- - - - - - - - - - - - - - - - - - -

In the matter of the proposed Adoption by the Minnesota Energy Agency of Rules and Regulations Governing Prime Petroleum Supplier and Petroleum Pipeline Company Information Reporting (EA400 - EA411)

FINDINGS OF FACT

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The above entitled matter came on for hearing before the Minnesota Energy Agency (hereinafter the Agency) on the 9th day of June, 1975 at 9:30 a.m., in the large hearing room, American Center Building, 7th Floor, 160 E. Kellogg Blvd., St. Paul, Minnesota, after proper notice required by Minnesota Statute § 15.0412 (1974) was served upon all persons, associations and interested groups registered with the Secretary of State for that purpose and upon all members of the Minnesota Legislature.

After affording all persons an opportunity to present written and oral data, statements and arguments, having considered all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, the Agency finds the following:

1. Minn. Stat. § 116H.10 Subd. 1 (1974) requires the Director of the Minnesota Energy Agency (hereinafter the Director) to develop and maintain an effective program of collection, compilation and analysis of energy statistics.

2. Minn. Stat. § 116H.10 Subd. 2 (1974) requires each prime petroleum supplier and petroleum pipeline company to submit annually to the Director a report in which the supplier or company makes 5, 10 and 15-year forecasts of the projected demand for energy within its service area and the facilities necessary to meet the demand. Minn. Stat. § 116H.10 Subd. 2 (1974) further authorizes the Director to specify what information shall be included in the report.

3. Minn. Stat. § 116H.11 Subd. 1 (1974) requires the Director to make a biennial report to the governor and the legislature which is designed to identify emerging trends related to energy supply, demand, conservation, public health and safety factors, and to specify the level of statewide and geographic area energy needs. Much of the information required by EA400 - EA411 is necessary in order to enable the Director to prepare such reports.

4. In order to make the forecasts of petroleum supply and demand meaningful, and in order to enable the Agency to assess the accuracy of forecasts as required by Minn. Stat. § 116H.11 Subd. 1(a) (1974), the forecasts must contain information regarding the anticipated level of consumption by ultimate consumers, and the level of supply anticipated to be available. The Agency is responsible for assessing the overall energy picture and in this regard has asked all energy suppliers to forecast supply and demand. To excuse the petroleum suppliers from forecasting supply would frustrate the legislative scheme and work against the public interest.

5. The prime petroleum supplier's (hereinafter supplier) trade association can by voluntary action provide a mechanism by which information which is considered proprietary by the supplier can be transmitted to the agency for its use. The rules apply to the supplier and not to the trade association, so the association's participation is voluntary. If the association chooses not to act as intermediary, the data will be collected directly from the supplier.

6. Asking each supplier for regional demand forecasts is questionable, as suppliers do not have assigned service areas for which they are wholly responsible. Regional demand data in gross is based on demographics such that individual company marketing programs effect market share, but have very little effect on overall demand. Regional demand can be forecasted best by methods other than asking each supplier to produce a regional forecast.

7. Historical data for the past calendar year and historical data or estimates for the present calendar year will assist the Agency in determining the rate of growth in demand for petroleum products which is expected to occur.

8. In making its 5, 10 and 15-year forecasts, the supplier must state the assumptions on which the forecasts are based, the possible estimating error and probably deviations in order to enable the Agency to assess the accuracy of the forecasts.

9. Information regarding location of capacity of refineries, storage tanks, and pipelines will enable the Agency to determine whether additions to existing facilities or new facilities will

be necessary to supply the projected petroleum product demand. This information can be used as well in the certificate of need program (Minn. Stat. § 116H.13 (1974).)

10. Information regarding fuel requirements of refineries by fuel type will assist the Agency in assessing the future use of various scarce energy resources.

11. At some future date, the Agency may need quarterly reporting of some annually reported data.

12. Some uniform means of identification of the type of customers served by each supplier is necessary for the Agency to assess the accuracy of forecasts, to assist in operating the certificate of need program and to use in formulating energy use and substitution programs.

13. Standard Industrial Classification codes provide a familiar and uniform method of identifying types of consumers and can be easily utilized by most reporting suppliers in the future.

14. Information on customers using SIC codes is not available for the past and present years for most suppliers.

15. Small geographic regions can be defined in a variety of ways and mappings between the various regionalizations can be obtained. Zip code is only one of several methods that can be used. In those cases where a customer data file contains an address, the address will usually contain a zip code. If the zip code is treated as a point rather than an area, it is possible to map zip codes to counties with only a small error. Since zip codes are smaller than counties, and since they are usually easier to obtain, they can provide an effective basis for regionalization.

16. The petroleum manifest contains the basic information required by the Agency. Therefore, it can provide the customer information if the Agency can assign each manifest to an SIC code and a region (county). The Director must maintain control over the format and method by which the data is submitted in order to ensure that the new manifest data can be SIC coded and regionalized.

17. Identification of the largest petroleum users in the state will help direct the Agency's conservation programs.

18. Other information required by these regulations may also be required by other state or federal agencies, and if possible, suppliers may be allowed to substitute those reports for reports required under these regulations if the information required is substantially the same.

DATED: August 8, 1975

MINNESOTA ENERGY AGENCY

by _____
Philip W. Getts
Acting Director


RECEIVED
AUG 11 1975
ATTORNEY GENERAL
RECEIVED

ADMIN. 1000
3

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MIKE MILLER
Special Assistant
Attorney General

DATE: August 12, 1975

FROM : JOAN SWARTZ
Special Assistant
Attorney General

SUBJECT: Energy Agency Reporting Regulations for Prime Petroleum Suppliers

Enclosed are the forms for the last set of the Energy Agency reporting regulations. These govern prime petroleum suppliers - major oil companies and independents. The rules themselves request the same kind of information as the ~~three~~ two earlier sets. However, because of the competitive nature of the petroleum market, the oil companies regard some of this information, namely the information in EA406 and EA408, as proprietary. They claim that the Agency does not have the authority to ask for such information. I believe the Agency has statutory authority to request such information under Minn. Stat. §§ 116H.10 and 116H.11 (1974). However, I am not sure that the Agency can compel the oil companies to divulge proprietary information.

As a result of the oil companies' position the Agency had redrafted the rules to allow a trade association to get the information and report it to the Agency in non-proprietary form. However, this compromise broke down at the last minute. The adopted rules now require the oil companies to report the information in question directly to the Agency.

Because the rules were originally scheduled to be adopted by July 1st, the Agency is naturally anxious to have them approved as quickly as possible. Normally, that would be no problem. However, I am leaving on August 13 to get married and I can't postpone the wedding. Since I will be working for the Human Rights Department when I return, a new attorney will be assigned to the Energy Agency. The decision has not yet been made as to who it will be. I don't think the rules should be approved until the new attorney has had time to do some research on the question of whether the data requested is in fact proprietary and, if so, whether the Agency can compel its disclosure. I will leave a memo to the new attorney asking that person to do the research as soon as possible and will ask him or her to call you.

JS:km

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : New Energy Agency Attorney
(Whoever you may be)

DATE: August 12, 1975

FROM : Joan Swartz
Old Energy Agency Attorney

SUBJECT:

Just to get you started on the right foot, the Energy Agency has a problem that needs immediate attention. The Agency is required by Minn. Stat. §§ 116H.10 and 116H.11 (1974) to set up a system whereby energy suppliers report on the supply ~~of~~ demand for energy in Minnesota in the future. The Agency has already adopted rules governing reporting by electric utilities and natural gas suppliers. It has adopted rules for petroleum suppliers, but those have not been approved. I have asked Mike Miller, Special Assistant Attorney General for Administration, not to approve them until you have had a chance to do some research into the problem of requesting allegedly proprietary data. See enclosed memo to Mike Miller.

The person at the Energy Agency to call is Ron Visness (telephone 296-7456). He is in charge of the reporting program and wrote the regulations. I have alerted him to the problem and he is expecting your call. He can outline the situation for you. As I see it, there are 2 basic issues. First, is the information required by EA 406 and 408 proprietary, as the oil companies claim? If so, does the Agency have authority to compel them to report it when all reports filed with the Agency must be public? The Supreme Court library has some books on oil and gas law that may be helpful. Phil Getts, the Acting Director of the Agency, is an attorney and may be able to give you some other ideas.

When you have reached at least a tentative conclusion, call Mike Miller (telephone 296-4692) and inform him. Mike can't approve the rules before August 25 in any case (he must hold them for 10 days and I didn't send them to him until August 12). I will be back on August 25, and if you run into problems, wait until I get back and we'll discuss it. Good luck!

JS:bg

MINNESOTA ENERGY AGENCY

PROPOSED RULES AND REGULATIONS GOVERNING

MINNESOTA PRIME PETROLEUM SUPPLIERS AND PETROLEUM PIPELINE COMPANIES

EA 400 to EA 413

EA 400. PURPOSE

The purpose of these rules is to implement the forecasting, statistical and informational requirements of Minnesota Statutes §§ 116H.10 and 11 (1974). These rules are adopted pursuant to the powers of the director conferred by Minnesota Statutes § 116H.08 subdivision a (1974) and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors and to determine the level of state-wide and service area energy needs.

EA 401. APPLICABILITY OF THESE RULES

Each prime petroleum supplier and petroleum pipeline company in the State shall submit the information required by these rules to the director in the form specified by him.

EA 402. DEFINITIONS

For the purposes of these regulations, the following definitions shall apply:

(a) "Agency" means the Minnesota Energy Agency;

(b) "Aviation gasoline" means all of the various grades of aviation gasoline as defined in American Society for Testing and Materials (ASTM) D 910-70;

(c) "Construction" means significant physical alteration of a site to install or enlarge a large energy facility but does not include activities incident to preliminary engineering or environmental studies;

(d) "Director" means the director of the Minnesota Energy Agency;

(e) "End-user" means any person which is an ultimate consumer of a petroleum product other than a wholesale purchaser-consumer;

(f) "Jet fuel" means those fuels commonly known as kerosene-base jet fuel and naptha-base jet fuel;

(g) "Large energy facility" means any facility on a single site designed for or capable of storing more than one million gallons of crude petroleum or petroleum fuels or oil or derivatives thereof or any pipeline greater than six inches in diameter and over 50 miles in length used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof;

(h) "Middle distillate" means any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel which have a fifty per cent boiling point in the ASTM D86 standard distillation test falling between 371° - 700F. "Middle distillate" shall not include kerosene-based and naptha-based jet fuel, heavy fuel oils grades #4, 5 and 6, intermediate fuel oils which are blends containing #6 oil, and all specialty items such as solvents, lubricants, waxes and process oil;

(i) "Motor gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine whose major components are hydrocarbons with boiling points ranging from 140° to 390° F. and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties;

(j) "Petroleum pipeline company" means any company which owns or operates in Minnesota any pipeline greater than six inches in diameter and over 50 miles in length used for the transportation of crude petroleum or petroleum fuels or oil or derivaties thereof;

(k) "Prime petroleum supplier" means the supplier or producer which makes the first sale of any petroleum product into the state distribution system for consumption within the state. Any supplier or producer which is considered a Minnesota prime supplier by the Federal Energy Agency shall be deemed to be a prime petroleum supplier under these regulations;

(l) "Propane" means the chemical C_3H_8 in its commercial forms including propane-butane mixes in which propane constitutes greater than ten (10) per cent of the mixture by weight. Included within the definition of propane is the propane content of natural gas liquids and refinery gas when used for refinery fuel use.

(m) "Residual fuel oil" means the fuel oil commonly known as (a) No. 4, No. 5, and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; (d) crude oil when burned directly as a fuel; and all other fuel oils which have a fifty per cent boiling point over 700° F. in the ASTM D-86 standard distillation test;

(n) "Total petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene, #2 heating oil, diesel fuel, other middle distillates, aviation gasoline, jet fuel, #4 for utilities, #5 and #6 for utilities, #4 for non-utilities, #5 and #6 for non-

utilities, Bunker C, Navy Special, other residuals, lubricants, special napthas and solvents;

(o) "Wholesale purchaser-consumer" means any ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that consumer at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971;

(p) "Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

EA 403. REGISTRATION

Each prime petroleum supplier and petroleum pipeline company operating in Minnesota must file a registration statement with the director by July 1, 1975. Any prime petroleum supplier or petroleum pipeline company which commences operations in the state after June 1, 1975, shall file a registration statement

with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and shall contain the name and headquarter address of the prime petroleum supplier or petroleum pipeline company, the names and addresses of all officers of the supplier or company and the name, address and telephone number of a person who may be contacted for information about the prime petroleum supplier or petroleum pipeline company.

EA 404. REPORTING DATES

Except as provided by the director, each prime petroleum supplier shall file with the director the information required by EA 405, EA 406, EA 407, EA 408 and EA 409 by July 1st of each reporting year. Except as provided by the director, each prime petroleum supplier shall file with the director the information required by EA 409 on a quaterly basis as follows:

Information for the period of January 1 to March 31 shall be filed by April 30;

Information for the period of April 1 to June 30 shall be filed by July 31;

Information for the period of July 1 to September 30 shall be filed by October 31;

Information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

Each petroleum pipeline company shall file with the director the information required by EA 405 and EA 407, by July 1 of each reporting year.

No changes shall be made in reporting dates set forth in this section unless each prime petroleum supplier or petroleum pipeline company has been given written notice of such change 30 or more days before the effective date of such change.

EA 405. FEDERAL REPORTS FILED BY PRIME PETROLEUM SUPPLIERS AND PETROLEUM PIPELINE COMPANIES

Each prime petroleum supplier and petroleum pipeline company shall identify to the director all forms and reports which it regularly files with any federal agency. Upon request of the director, each firm shall make copies of any such forms or reports available to the director.

EA 406. FORECASTS

(a) Each prime petroleum supplier shall submit annually to the director 5, 10 and 20 year forecasts of petroleum supply and demand within its Minnesota service area;

(b) The energy forecast shall contain the following data for each reporting year:

(i) The annual supply of motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane, and total petroleum products that the supplier provides or will provide to its Minnesota service area;

(ii) The annual volume of motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane and total petroleum products sold at wholesale or retail for each reporting year by county in the supplier's Minnesota service area;

(iii) The annual volume of consumption in your Minnesota service area for motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane and total petroleum products if sufficient product were available to meet all demands;

(iv) The annual volume of crude oil in number of barrels available to the supplier's refineries located in Minnesota;

(c) Reporting years. The data required in 406(b) shall be supplied for the following years:

(i) the last calendar year;

(ii) the present calendar year;

(iii) the year 5 years after the present calendar year;

(iv) the year 10 years after the present calendar year;

(v) the year 20 years after the present calendar year.

In 1975, data shall also be supplied for the calendar year 1973.

(d) Criteria For Forecast. For the last calendar year and for the year 1973, historical data shall be supplied. If recorded figures are not available, estimates shall be used and shall be identified as such. For each other reporting year, the forecast shall be made using the supplier's best estimates of the amount of each petroleum product which will be supplied or consumed. These estimates shall be based on the factors which the supplier deems most likely to occur in its Minnesota service area. The data for each reporting year shall be calculated by applying these factors to the data for the last calendar year for which actual data required in 406(b) is available. The assumptions and factors used in arriving at the forecast shall be stated in

writing. Each prime petroleum supplier shall evaluate the size of the estimating error given the conditions and factors used in the estimate. Each prime petroleum supplier shall comment on probable deviations from the forecast.

EA 407. FACILITY REQUIREMENTS

(a) Present facilities. Each prime petroleum supplier or pipeline company shall provide the following information with regard to any facilities which it owns in Minnesota as of January 1 of the current year:

(i) Refineries:

(aa) the name of the refinery;

(bb) the location and address;

(cc) the year constructed;

(dd) average barrels per day production;

(ee) present maximum barrel per day production capacity;

(ii) Storage tanks at any one site in excess of 1 million gallons:

(aa) the location and address of the site;

(bb) the total storage capacity for the site;

(cc) the total storage capacity for the site by product stored;

(iii) Pipelines:

(aa) a geographical description of the pipeline from its origin to its termination in Minnesota;

(bb) the diameter of the pipeline;

(cc) whether it is a crude or refined product pipeline;

(dd) the maximum volume in barrels that can be delivered through the pipeline in a single day.

(b) Future facility requirements. Each prime petroleum supplier and pipeline company shall estimate the additional Minnesota facilities or additions to existing facilities necessary to provide for the forecast of supply that will be available to its Minnesota service area as projected in EA 406(b)(i). Each prime petroleum supplier or pipeline company shall provide the following information about each additional facility or addition to existing facility:

(i) Refineries

(aa) the location and address of any new facility or construction of an addition;

(bb) the year of anticipated commencement and completion of construction;

(cc) the maximum barrel per day capacity of the facility after completion;

(ii) Storage tanks

(aa) the location and address of any new storage tank location with a storage capacity of over 1 million gallons or an addition to an existing storage tank location with a storage capacity of over 1 million gallons;

(bb) the total storage capacity of the site by product stored;

(iii) Pipelines:

(aa) a geographical description of any new pipeline from its origin to its termination in Minnesota;

(bb) the diameter of the new pipeline;

(cc) whether the new facility will transport crude or refined product;

(dd) maximum volume of product that can be delivered through the pipeline in a single day.

(c) Refinery fuel requirements. Each prime petroleum supplier shall identify for each of its Minnesota refineries the annual volume of each petroleum product used in the refinery process for each of the requested forecasting years in 406(c).

EA 408. PETROLEUM DELIVERED TO CUSTOMERS.

(a) Beginning in the year 1976, each prime petroleum supplier shall report quarterly its volume of each of the following petroleum products devliered to its customers: motor gasoline, middle distillates, residual fuel oil, jet fuel, aviation gasoline, and propane by a customer class/geographic area combination.

(i) geographic areas will be defined by the customer's zip code;

(ii) customer class will be defined by standard industrial classification (SIC) codes with extensions for more detailed breakdown of households and governmental units;

(iii) in each customer class/geographic area combination the supplier will report the number of customers and the total amount of product sold.

Said information shall be in the form determined by the director. Upon written application, the director may allow a utility to report said information in a different form.

(b) The director may, after an evaluation of the date availability, level of automation and homogeneity of accounts of any supplier, require said supplier to report the information required by this section for

the 3rd and 4th quarters of 1975. Third quarter statistics for such suppliers shall be filed by October 31, 1975. No prime petroleum supplier shall be required to report in 1975 unless it has been notified in writing by the director of its obligation 30 or more days prior to the reporting dates;

(c) For 1975, each prime petroleum supplier shall provide the volume of motor gasoline, middle distillates, residual fuel oil, jet fuel, aviation gasoline, and propane delivered by the supplier, broken down by the customer categories listed below:

(i) Direct sales to end users and wholesale purchaser-consumers who are utilities;

(ii) Direct sales to end users and wholesale purchaser-consumers for agriculture purposes;

(iii) Direct sales to end users and wholesale purchaser-consumers for residential use (exclude that used for agriculture or utilities);

(iv) Direct sales to end users and wholesale purchaser-consumers for commercial use (exclude that used for agriculture or utilities);

(v) Direct sales to end users and wholesale purchaser-consumers for industrial purposes (exclude that used for agriculture or utilities);

(vi) Total direct sales to end users and wholesale purchaser-consumers;

(vii) Total sales to wholesale purchaser resellers.

Each prime petroleum supplier shall explain in writing any significant deviation in its customer assignments which would affect the delivery figures reported under this section.

(d) All prime petroleum suppliers shall submit actual data or estimates if data is not available based on the categories set forth in Section C for the years 1970 - 1974.

EA 409. OTHER INFORMATION REPORTED ANNUALLY

Each prime petroleum supplier shall provide the following information:

(a) The name and address of each wholesale purchaser-reseller to whom the supplier delivered petroleum products during the last calendar year and the type and volume of products sold to each during that year;

(b) The name and address of the 25 largest wholesale purchaser-consumers during the last calendar year and the type and volume of product sold to each in that year.

EA 410. CORRECTIONS

Corrections of any report or statement must be filed with the agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

EA 411. FEDERAL OR STATE DATA SUBSTITUTION FOR ENERGY AGENCY DATA REQUIREMENTS

The director may, upon written request, allow any prime petroleum supplier or petroleum pipeline company to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA ENERGY AGENCY

In the matter of the Proposed Adoption by the Minnesota Energy Agency of Rules and Regulations Governing Prime Petroleum Suppliers and Petroleum Pipeline Companies Information Reporting (EA400-413)

ORDER OF HEARING

To effectively implement Minnesota Statutes 116H.08 (Minnesota Laws 1974, Chapter 307), the Minnesota Energy Agency deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in the Agency by said Minnesota Statutes, Section 116H.08.

NOW, THEREFORE, IT IS ORDERED this 28th day of April, 1975, that a public hearing on the proposed rules captioned above shall be held in the Large Hearing Room on the 7th floor of the American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota on June 9, 1975, commencing at 9:30 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

MINNESOTA ENERGY AGENCY

By John C. McKay
John C. McKay, Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

COUNTY OF RAMSEY

In the matter of the Proposed
Adoption by the Minnesota
Energy Agency of Rules and
Regulations Governing
Prime Petroleum Company
and Petroleum Pipeline Company
Information Reporting (EA400-413)

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held pursuant to Minnesota Statutes Section 15.0412 (1973) and Minnesota Statutes 116H.08 (Minnesota Laws 1974, Chapter 307), in the above-entitled matter in the Large Hearing Room, on the 7th floor of the American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota on June 9, 1975, commencing at 9:30 A.M., and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted in writing without appearing at the hearing by mailing to the Minnesota Energy Agency, Room 740, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, at any time prior to closing of the record. The record shall close at 4:30 P.M. on June 29, 1975.

Copies of the proposed rules are not available and may be obtained by writing to the Minnesota Energy Agency at the address below. Additional copies will be available at the door on the date of the hearing.

These rules are proposed rules only and are subject to alterations or modifications as the Agency deems necessary and appropriate from its consideration of all the evidence adduced at the public hearing and all statements entered into the record.

Dated this 28 day of April, 1975.

MINNESOTA ENERGY AGENCY

By John C. McKay
John C. McKay, Director

Minnesota Energy Agency
740 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Telephone: 612/296-5120
612/296-5124

AFFIDAVIT OF ACQUISITION
OF MAILING LIST

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

In the Matter of the Proposed
Adoption by the Minnesota Energy
Agency of Rules and Regulations
Governing Prime Petroleum Supplier
and Petroleum Pipeline Company
Information Reporting (EA 400 to 413)

Julie Close, being first duly sworn upon oath, desposes and says:

1. That she is an allocation caseworker in the Minnesota Energy Agency for the State of Minnesota.

2. That on the 28th day of April, 1975, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of S State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minnesota Statute 15.0412.

3. That on the 28th day of April, 1975, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Julie Close
Julie Close

Subscribed and sworn to before me
This 5th day of April, 1975
Mildred G. Norling

MILDRED G. NORLING,
Notary Public, Hennepin County, Minn.
My commission expires February 9, 1982
IV 76

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

CERTIFICATE

In the matter of the Proposed
Adoption by the Minnesota
Energy Agency of Rules and
Regulations Governing
Prime Petroleum Suppliers
and Petroleum Pipeline Companies
Information Reporting (EA400 - 413)

I hereby certify that the attached 416 labels & one sheet constitute the complete list of persons, associations, and other interested groups who as of 4:15 o'clock P M., this 29th day of April, 1975, have requested pursuant to M.S. 1974, Stat. 15.0421, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing rules on the subject captioned above.

Joan Anderson Growe
JOAN ANDERSON GROWE
Secretary of State
State of Minnesota

By Neil Dion

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

In the matter of the Proposed Adoption by the Minnesota Energy Agency of Rules and Regulations Governing Minnesota Prime Petroleum Suppliers and Petroleum Pipeline Companies EA 400 - EA 413

AFFIDAVIT OF MAILING

Julie C. Close, BEING FIRST DULY SWORN, deposes and says:

That on the 5th day of May, 1975, at the City of Saint Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of Secretary of State.

Julie Close

Subscribed and sworn to before me this 5th day of May, 1975.

Mildred H. Norlin
Notary Public
State of Minnesota-County of Hennepin

My commission expires Feb 12, 1976.

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA ENERGY AGENCY

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In the matter of the proposed Adoption by the Minnesota Energy Agency of Rules and Regulations Governing Prime Petroleum Supplier and Petroleum Pipeline Company Information Reporting (EA400 - EA411)

STATEMENT OF NEED

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The above captioned rules have been adopted by the Minnesota Energy Agency in partial fulfillment of its responsibilities under the provisions of Minn. Stat. §§ 116H.10 and 11 (1974). The Agency is charged by the statute with collecting forecasts of future energy supply and demand from various energy suppliers. This information is needed by the Agency to permit it to accurately assess Minnesota's energy future. The rules and regulations adopted herewith are designed to ensure that the necessary information is presented by every supplier. Finally, in order to assess the validity of a particular forecast, it is necessary to know the assumptions which underly that forecast. For this reason, the rules are required to compel disclosure of the various forecasting assumptions and methodology employed by the suppliers.

DATED: August 8, 1975

MINNESOTA ENERGY AGENCY

by _____
Philip W. Getts
Acting Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA ENERGY AGENCY

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In the matter of the proposed Adoption by the Minnesota Energy Agency of Rules and Regulations Governing Prime Petroleum Supplier and Petroleum Pipeline Company Information Reporting (EA400 - EA411)

ORDER ADOPTING RULES

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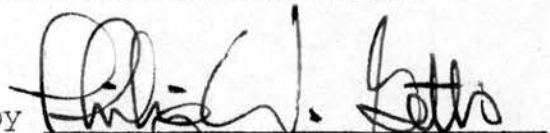
The above entitled matter came for hearing before the Minnesota Energy Agency on the 9th day of June, 1975, at 9:30 a.m. in the large hearing room, American Center Bldg., 7th Floor, 160 E. Kellogg Blvd., St. Paul, Minnesota, after proper notice required by Minnesota Statute 15.0412 (1974) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria and having confirmed the need for the above captioned rules:

NOW, therefore, IT IS ORDERED that these rules identified as EA400 - EA411 are adopted this 8th day of August, 1975, pursuant to the authority vested in the Agency by Minn. Stat. § 116H.08 (a) (1974).

MINNESOTA ENERGY AGENCY

by 

Philip W. Getts
Acting Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA ENERGY AGENCY

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In the matter of the Proposed Adoption By the Minnesota Energy Agency of Rules and Regulations Governing Minnesota Prime Petroleum Suppliers and Petroleum Pipeline Companies (EA 400- EA 411)

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

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I, Special Assistant Attorney General Joan Swartz, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

JOAN SWARTZ
Special Assistant
Attorney General

Dated: August 12, 1975.

MINNESOTA ENERGY AGENCY

RULES AND REGULATIONS GOVERNING INFORMATION REPORTING

BY MINNESOTA PRIME PETROLEUM SUPPLIERS AND PETROLEUM PIPELINE COMPANIES

EA 400 to EA 411

EA 400. PURPOSE

The purpose of these rules is to implement the forecasting, statistical and informational requirements of Minnesota Statutes §§ 116H.10 and 11 (1974). These rules are adopted pursuant to the powers of the director conferred by Minnesota Statutes § 116H.08 subdivision a (1974) and are designed to identify emerging energy trends based on supply and demand, conservation and public health and safety factors and to determine the level of state-wide and service area energy needs.

EA 401. APPLICABILITY OF THESE RULES

Each prime petroleum supplier and petroleum pipeline company in the State shall submit the information required by these rules to the director in the form specified by him.

EA 402. DEFINITIONS

For the purposes of these regulations, the following definitions shall apply:

(a) "Agency" means the Minnesota Energy Agency;

(b) "Aviation gasoline" means all of the various grades of aviation gasoline as defined in American Society for Testing and Materials (ASTM) D 910-70;

(c) "Construction" means significant physical alteration of a site to install or enlarge a large energy facility but does not include activities incident to preliminary engineering or environmental studies;

(d) "Director" means the director of the Minnesota Energy Agency;

(e) "End-user" means any person who is an ultimate consumer of a petroleum product other than a wholesale purchaser-consumer;

(f) "Jet fuel" means those fuels commonly known as kerosene-base jet fuel and naptha-base jet fuel;

(g) "Large energy facility" means any facility on a single site designed for or capable of storing more than one million gallons of crude petroleum or petroleum fuels or oil or derivatives thereof or any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof;

(h) "Middle distillate" means any derivative of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel which has a fifty per cent boiling point in the ASTM D86 standard distillation test falling between 371° - 700F. "Middle distillate" shall not include kerosene-based and naptha-based jet fuel, heavy fuel oils grades #4, 5 and 6, intermediate fuel oils which are blends containing #6 oil, and all specialty items such as solvents, lubricants, waxes and process oil;

(i) "Motor gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine whose major components are hydrocarbons with boiling points ranging from 140° to 390° F. and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties;

(j) "Petroleum pipeline company" means any company which owns or operates in Minnesota any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof;

(k) "Prime petroleum supplier" means the supplier or producer which makes the first sale of any petroleum product into the state distribution system for consumption within the state. Any supplier or producer which is considered a Minnesota prime supplier by the Federal Energy Agency shall be deemed to be a prime petroleum supplier under these regulations. "Prime petroleum supplier" shall not include any licensed petroleum distributor or propane retailer who takes delivery of a product in another state for use in Minnesota if he has in his possession a letter from his supplier stating that the supplier has or will report the sales of said product to the Federal Energy Agency and the State or if the total amount of any single product so received by the distributor or retailer is less than 500,000 gallons per year.

(l) "Propane" means the chemical C_3H_8 in its commercial forms including propane-butane mixes in which propane constitutes greater than ten (10) per cent of the mixture by weight. Included within the definition of propane is the propane content of natural gas liquids and refinery gas when used for refinery fuel use.

(m) "Residual fuel oil" means the fuel oil commonly known as (a) No. 4, No. 5, and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; (d) crude oil when burned directly as a fuel; and all other fuel oils which have a fifty per cent boiling point over 700° F. in the ASTM D-86 standard distillation test;

(n) "Total petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene, #2 heating oil, diesel fuel, other middle distillates, aviation gasoline, jet fuel, #4 for utilities, #5 and #6 for utilities, #4 for non-utilities, #5 and #6 for non-utilities, Bunker C, Navy Special, other residuals, lubricants, special napthas and solvents;

(o) "Wholesale purchaser-consumer" means any ultimate consumer which, as part of its normal business practices, purchases or obtains a product from a supplier and receives delivery of that product into a storage tank substantially under the control of that consumer at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971;

(p) "Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

EA 403. REGISTRATION

Each prime petroleum supplier and petroleum pipeline company operating in Minnesota must file a registration statement with the director by July 1, 1975. Any prime petroleum supplier or petroleum pipeline company which commences operations in the state after June 1, 1975, shall file a registration statement

with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and shall contain the name and headquarter address of the prime petroleum supplier or petroleum pipeline company, the names and addresses of all officers of the supplier or company and the name, address and telephone number of a person who may be contacted for information about the prime petroleum supplier or petroleum pipeline company.

EA 404. REPORTING DATES

Except as provided by the director, each prime petroleum supplier shall file with the director or its trade association, as applicable, the information required by EA 405, EA 406, EA 407 and EA 409 by July 1st of each reporting year. Except as provided by the director, each prime petroleum supplier shall file with the director the information required by EA 408 on a quarterly basis as follows:

Information for the period of January 1 to March 31 shall be filed by April 30;

Information for the period of April 1 to June 30 shall be filed by July 31;

Information for the period of July 1 to September 30 shall be filed by October 31;

Information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

Each petroleum pipeline company shall file with the director the information required by EA 405 and EA 407, by July 1st of each reporting year.

No changes shall be made in reporting dates set forth in this section unless each prime petroleum supplier or petroleum pipeline company has been given written notice of such change 30 or more days before the effective date of such change.

EA 405. FEDERAL REPORTS FILED BY PRIME PETROLEUM SUPPLIERS AND PETROLEUM PIPELINE COMPANIES

Each prime petroleum supplier and petroleum pipeline company shall identify to the director all forms and reports pertaining to energy supply and demand which it regularly files with any federal agency. Upon request of the director, each firm shall make copies of any such forms or reports available to the director.

EA 406. FORECASTS

(a) Each prime petroleum supplier shall submit annually to the director 5, 10 and 15 year forecasts of petroleum supply and demand within its Minnesota service area;

(b) The energy forecast shall contain the following data for each reporting year:

(i) The annual supply of motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane, and total petroleum products that the supplier provides or will provide to its Minnesota service area;

(ii) The annual demand for motor gasoline, middle distillates, jet fuels, aviation gasoline, residual fuel oil, propane and total petroleum products if sufficient product were available to meet all demands within the supplier's Minnesota Service Area.

(iii) The annual volume of crude oil in number of barrels available to the supplier's refineries located in Minnesota;

(c) Reporting years. The data required in 406(b) shall be supplied for the following years:

(i) the last calendar year;

(ii) the present calendar year;

(iii) the year 5 years after the present calendar year;

(iv) the year 10 years after the present calendar year;

(v) the year 15 years after the present calendar year.

In 1975, data shall also be supplied for the calendar year 1973.

(d) Criteria For Forecast. For the last calendar year and for the year 1973, historical data shall be supplied. If recorded figures are not available, estimates shall be used and shall be identified as such. For each other reporting year, the forecast shall be made using the supplier's best estimates of the amount of each petroleum product which will be supplied or consumed. These estimates shall be based on the factors which the supplier deems most likely to occur in its Minnesota service area. The data for each reporting year shall be calculated by applying these factors to the data for the last calendar year for which actual data required in 406(b) is available. The assumptions and factors used in arriving at the forecast shall be stated in writing. Each prime petroleum supplier shall evaluate the size of the estimating error given the conditions and factors used in the estimate. Each prime petroleum supplier shall comment on probable deviations from the forecast.

EA 407. FACILITY REQUIREMENTS

(a) Present facilities. Each prime petroleum supplier or pipeline company shall provide to the director the following information with regard to any facilities which it owns in Minnesota as of January 1 of the current year:

(aa) the name of the refinery;

(bb) the location and address;

(cc) the year constructed;

(dd) average barrels per day production

(ee) present maximum barrel per day production capacity;

(ii) Storage tanks at any one site in excess of 1 million gallons:

(aa) the location and address of the site;

(bb) the total storage capacity for the site;

(cc) the total storage capacity for the site by product stored;

(iii) Pipelines:

(aa) a geographical description of the pipeline from its origin to its termination in Minnesota;

(bb) the diameter of the pipeline;

(cc) whether it is a crude or refined product pipeline;

(dd) the maximum volume in barrels that can be delivered through the pipeline in a single day.

(b) Future facility requirements. Each prime petroleum supplier and pipeline company shall supply the director with an estimate of the additional Minnesota facilities or additions to existing facilities necessary to provide for the forecast of supply that will be available to its Minnesota service area as projected in EA 406(b)(i) or, in the case of pipeline companies, the facilities the company estimates will be necessary for the reporting years specified in EA 406(c). Each prime petroleum supplier or pipeline company shall provide the following information to the director about each additional facility or addition to existing facility:

(i) Refineries:

(aa) the location and address of any new facility or construction of an addition;

(bb) the year of anticipated commencement and completion of construction;

(cc) the maximum barrel per day capacity of the facility after completion;

(ii) Storage tanks:

(aa) the location and address of any new storage tank location with a storage capacity of over 1 million gallons or an addition to an existing storage tank location with a storage capacity of over 1 million gallons;

(bb) the total storage capacity of the site by product stored;

(iii) Pipelines:

(aa) a geographical description of any new pipeline from its origin to its termination in Minnesota;

(bb) the diameter of the new pipeline;

(cc) whether the new facility will transport crude or refined product;

(dd) maximum volume of product that can be delivered through the pipeline in a single day.

(c) Refinery fuel requirements. Each prime petroleum supplier shall identify for each of its Minnesota refineries the annual volume of each petroleum product used in the refinery process for each of the requested forecasting years in 406(c).

EA 408. PETROLEUM DELIVERED TO CUSTOMERS.

(a) Beginning in the year 1976, each prime petroleum supplier shall report quarterly its volume of each of the following petroleum products delivered to its customers: motor gasoline, middle distillates, residual fuel oil, jet fuel, aviation gasoline, and propane by a customer class/geographic area combination.

(i) geographic areas shall be defined by the customer's zip code;

(ii) customer class shall be defined by standard industrial classification (SIC) codes with extensions for more detailed breakdown of households and governmental units;

(iii) in each customer class/geographic area combination the supplier shall report the number of customers and the total kilowatt hours consumed;

Said information shall be in the form determined by the director. Upon written application, the director may allow a prime petroleum supplier to report said information in a different form.

In lieu of the data described in EA 408(a) each prime petroleum supplier may submit to the agency the manifest data required to be filed with the Commissioner of Revenue by Gas Tax Regulation 1 (c) if the manifest data covers the product classes listed in EA 408(a). Said manifest data shall be in the form determined by the director.

(b) The director may, after an evaluation of the data availability, level of automation and homogeneity of accounts of any supplier, require said supplier to report the information required by this section for the 3rd and 4th quarters of 1975. Third quarter statistics for such suppliers shall be filed by October 31, 1975. No prime petroleum supplier shall be required to report in 1975 unless it has been notified in writing by the director of its obligation 30 or more days prior to the reporting dates;

EA 409. OTHER INFORMATION REPORTED ANNUALLY

Each prime petroleum supplier shall provide to the director, the name and address of the 25 largest wholesale purchaser-consumers during the last calendar year and the type and volume of product sold to each in that year.

EA 410. CORRECTIONS

Corrections of any report or statement must be filed with the agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

EA 411. FEDERAL OR STATE DATA SUBSTITUTION FOR ENERGY AGENCY DATA REQUIREMENTS

The director may, upon written request, allow any prime petroleum supplier or petroleum pipeline company to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

APPROVED AS TO FORM AND LEGALITY
SEP - 2 1975 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP - 2 1975 3:55 PM.
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
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BY Eda Standenmaier
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