

Minnesota Attorney General: Administrative Rules Proceedings

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As Adopted

MINNESOTA ENERGY AGENCY RULES

GOVERNING CONTENTS OF APPLICATIONS

FOR CERTIFICATES OF NEED AND CRITERIA

FOR ASSESSMENT OF NEED FOR

LARGE COAL STORAGE FACILITIES

FOR COAL SUPPLIERS

AND COAL TRANSSHIPMENT FACILITIES

Chapter 9
EA 901-981

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EA 901 PURPOSE OF RULES

The purpose of these rules is to specify the contents of applications for certificates of need and to specify criteria for assessment of need for large coal storage facilities for coal suppliers and coal transshipment facilities. In accordance with Minn. Stat. §§ 116H.13 subd. 4, a coal supplier shall apply for a certificate of need to construct a new large energy facility.

EA 902 APPLICABILITY OF RULES

A. Each coal supplier applying for a certificate of need for a large coal storage facility or any person applying for a certificate of need for a coal transshipment facility shall provide all information required by these rules. A certificate of need is required for each new large coal storage facility, each new coal transshipment facility, and for each expansion of either such facility, which expansion is itself of sufficient size to come within the definition in either rule EA 904 E or rule EA 904 L.

B. Exception. Any person who as of the effective date of these rules has begun or has completed

construction of a large coal facility shall not be subject to these rules for that facility.

EA 903 APPLICATION PROCEDURES AND TIMING

A. Each applicant for a certificate of need shall apply in a form prescribed by the director.

B. A minimum of seven (7) bound copies and one (1) unbound copy of the application must be filed with the director. The director may require additional bound copies. All documents, forms, and schedules filed with the application must be typed on 8½" x 11" paper except for blueprints, engineering drawings, maps, and similar materials. The date of preparation and the applicant's name shall appear on each page of the application, as well as on each document filed with the application. Each application shall contain a title page and a complete table of contents which includes the applicable rule by the titles and numbers given in these regulations.

C. Subsequent to filing an application, any changes or corrections to the application shall comply with rule EA 903 B as to the number of copies and size of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the hearing examiner, and the remaining copies shall be submitted to the director.

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

E. A hearing examiner shall be appointed and a public hearing shall be scheduled to commence no later than eighty days after the receipt of the application, in accordance with Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, Minn. Regs. EA 500 et seq., and the Hearing Examiner Rules for Contested Case Procedures, Minn. Regs. HE 201 et seq.

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

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

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

EA 904 DEFINITIONS

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

A. "Agency" means the Minnesota Energy Agency;

B. "Applicant" means the person or persons submitting a certificate of need application;

C. "Application" means a document, the contents of which are described in these rules, submitted by a person or persons to the director for the purpose of obtaining a certificate of need;

D. "Coal Supplier" means an entity engaged in this state in the wholesale distribution of coal or transportation into this state of any coal intended for use or distribution in the state or transshipment from the state;

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

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

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

H. "Director" means the director of the Agency;

I. "Energy Product" means a product which may be used to provide energy;

J. "Forecast" means a prediction of future demand for some specified time period;

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

L. "Large Coal Storage Facility" means a facility designed for or capable of storing more than 7500 tons of coal or with an annual throughput of more than 125,000 tons of coal;

M. "Minnesota Service Area" means that portion of the service area which is within Minnesota;

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

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

P. "Substantially Complete Application" means an application which is deemed by the director to be in substantial compliance with the informational requirements of these rules; and

Q. "Ton" means 2000 pounds.

EA 905 FILING FEES AND PAYMENT SCHEDULE

The fee for processing an application shall be:

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

2. $10,000 plus $200 per one hundred thousand tons of design annual throughput for a coal transshipment facility;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility. In no event shall the total fee required of any applicant exceed $50,000. Fifty percent of the fee set according to either item 1 or 2 above shall accompany the application and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of notification. The billing for such additional fees shall be accompanied by an itemized statement. No certificate of need shall be issued unless all fees are paid in full.

EA 911 CRITERIA FOR ASSESSMENT OF NEED

A. Purpose of the Criteria. The criteria for assessment of need will be used by the director in the determination of the need for a proposed large energy facility pursuant to Minn. Stat. §§ 116H.01 through 116H.15. The factors listed under each of the criteria below will be evaluated to the extent that the director deems them applicable and pertinent to each facility proposed pursuant to these rules.

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

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

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

b. the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

c. the effects of promotional practices which may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;

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

e. the effect of the proposed facility in making more efficient use of resources;

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

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

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

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

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

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

a. the relationship of the proposed facility to overall state energy needs;

b. the impact of the proposed facility upon the natural and socioeconomic environments compared to the impact of not building the facility;

c. the effects of the proposed facility in inducing future development; and

d. socially beneficial uses of the output of the proposed facility, including its uses to protect or enhance environmental quality;

and that

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

EA 921 CONTENTS OF APPLICATION

A. Each application for a certificate of need for a large coal storage facility or a coal transshipment facility shall provide the information required by rules EA 931-934 and 941-945.

B. An application for a certificate of need may contain information in response to rule EA 971, if desired by the applicant.

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

D. Multi-Party Ownership and Use. Each application for a certificate of need for a facility which is owned and used by two or more persons shall be considered as a joint application for purposes of these rules.

EA 931 GENERAL INFORMATION

A. Each application shall contain a general information section which shall include the following information:

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

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

3. a brief description of the nature of the applicant's business and of the services rendered;

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

5. the total fee for the application as prescribed by rule EA 905, and the amount of the fee submitted with the application; and

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

B. Each application shall contain a schedule in the general information section which shall list all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

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

2. the title of each required permit or certificate issued by each authority named in response to rule EA 931 B 1 and needed by the applicant;

3. for each permit or certificate listed in response to rule EA 931 B 2, the date an application was filed or the projected date of future application;

4. for each permit or certificate listed in response to rule EA 931 B 2, the actual date a decision was made on the application, or the anticipated decision date; and

5. for each permit or certificate listed in response to rule EA 931 B 2, for which an application was filed, the disposition or status of the permit or certificate.

EA 932 NEED SUMMARY

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

EA 933 SUMMARY OF ADDITIONAL CONSIDERATIONS

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

A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;

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

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

EA 934 CONSERVATION PROGRAMS

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

A. Does the applicant have an energy committee or an individual responsible for determination of its energy needs?

B. Has the applicant defined energy or conservation goals or objectives?

C. What specific energy or conservation programs has the applicant considered?

D. Have any energy or conservation programs been implemented? If so, explain the program and the measured results achieved to date.

E. Has the applicant measured or studied the energy efficiency of its facilities? What were the results?

F. What major accomplishments in energy efficiency or conservation have been made by the applicant within the past five years?

EA 941 HISTORICAL ENERGY DATA

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

1. If there is an existing coal storage facility at the site where the proposed facility will be located, list the existing facility's capacity in tons, its maximum annual throughput in tons, the type(s) of coal normally stored, the year in which it was first placed in service and its use in the applicant's business.

2. For the facility listed in response to rule EA 941 A 1, describe the system for inloading and outloading or the transferring of coal, including a description of facilities for hopper cars, unit trains, trucks, barges, and the distribution system.

3. For the facility listed in response to rule EA 941 A 1, describe the normal inventory cycle, including the applicant's policies, if any, of building inventories of specific types of coal during certain seasons of the year, and the ways in which the mix of product or inventory cycle has been changing over the past five years.

4. For the facility listed in response to rule EA 941 A 1, provide the average percentage of use of its design capacity during the winter season and during the summer season for each of the five most recent calendar years.

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

6. For each type of coal listed in response to rule EA 941 A 5, provide the following information for each of the five most recent calendar years:

   a. the geographical location of each source of coal purchased or transshipped;

   b. the annual tonnage from each geographical location; and

c. the mode(s) of transportation from each geographical location.

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

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

1. Market. For each of the five most recent calendar years, describe the historical market for coal in the geographic service area of the proposed facility, including:

a. the types of coal used and the annual tonnage supplied; and

b. a description of the types of customers which used the coal and the annual usage in tons by type of customer. At a minimum, the types of customers shall include:

(1) electric utilities;

(2) other utilities;

(3) mining;

(4) industrial users; and

(5) other users.

2. Distribution Channels. Describe the existing distribution or transshipment channels in the geographic service area of the proposed facility, including:

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

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

3. Supply Areas. Provide information regarding the general geographic location or source of the coal which was supplied to the geographic service area of the proposed facility, including:

a. the type of coal supplied from each geographic location;

b. the annual tonnage supplied for each year during the past five most recent calendar years from each geographic location; and

c. the mode(s) of transportation from each geographic location.

EA 942 FORECAST DATA

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

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

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

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

a. electric utilities;

b. other utilities;

c. mining;

d. industrial users; and

e. other users; and

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

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

1. the mode(s) of transportation used in the distribution or transshipment of coal from the proposed facility and the percentage of coal volume transported by each;

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

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

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

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

1. the type(s) of coal to be supplied from each geographic location;

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

3. the mode(s) of transportation to the proposed facility from each geographic location; and

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

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

1. a list of the expected annual tonnage of coal by type(s) to be stored in the proposed facility;

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

3. a discussion of the impact of the proposed facility upon the applicant's ability:

a. to maintain an adequate inventory;

b. to provide operating efficiencies or economies of scale to its users or customers; and

c. to supply its users or customers;

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

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

EA 943 DESCRIPTION OF PROPOSED FACILITY

A. Purpose. Each applicant shall explain the purpose and planned use of the proposed facility.

B. Design. Each applicant shall provide the following information on the design of the proposed facility:

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

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

3. a description of the proposed facility, including:

a. its design throughput in tons and its design storage capacity in tons;

b. its dimensions;

c. preliminary drawings or blueprints which show the proposed facility and its basic components in relationship to one another and to the natural terrain;

d. a description of the facilities for the in-loading and out-loading of coal and the mode(s) of transportation which they may service; and

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

C. Safeguards. Each applicant shall provide a description of the safeguard facilities which are planned to control emissions into the air or water during the construction and operation of the proposed coal facility, including:

1. a description of the dust control equipment;

2. a description of the equipment for the recovery of accidental coal spills; and

3. a description of the equipment or system for the collection and treatment of liquid contaminants.

D. Construction and Operation. Each applicant shall provide the following information on the construction and operation of the proposed coal facility:

1. the complete name and address, if known, of the contractor(s) or firm(s) which would construct the coal facility;

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

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

4. a description of the potential, if any, for future expansion of the proposed facility, including:

a. the maximum storage capacity and annual throughput in tons; and

b. the estimated additional cost to expand the proposed facility to its maximum capability.

EA 944 ALTERNATIVES

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

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

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

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

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

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

1. the storage capacity in tons;

2. the annual throughput in tons;

3. the dimensions and the amount of land and shoreline, if any, required; and

4. the estimated cost.

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

1. any known restrictions or limitations on the use of specific sites;

2. any known limitations on the distance from the proposed site to the major market area(s) or its proximity to waterways; and

3. the reason(s) each site considered was rejected.

EA 945 ENVIRONMENTAL DATA

Each applicant shall provide environmental data for the proposed facility and for each alternative discussed in response to rule EA 944, to the extent that such data is reasonably

available. Environmental data for the proposed facility shall conform to the format given in subdivisions A through D of rule EA 945. Information for each of the alternatives considered shall include 1) a list of the natural and cultural resources, as given in items A 2 f through i of rule EA 945 that would be directly impacted and 2) a discussion of those applicable areas of environmental concern that are detailed in subdivisions B through D of rule EA 945.

A. Location

1. If the specific location for the proposed facility is known, provide the county, township, range, and section(s) of that site. If a specific location has not been chosen, provide the county, township, range and section(s) for each parcel of land which in the opinion of the applicant could serve as the site for the facility.

2. For each site identified in response to rule EA 945 A 1 list:

a. the nature of the terrain at the site;

b. the general soil type at the site;

c. the depth to groundwater at the site;

d. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site;

e. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site;

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

g. national natural landmarks, national wilderness areas, national wildlife refuges national wild and scenic rivers, national parks, national forests, national trails and national

waterfowl production areas within one mile of the site, as mapped on the Inventory of Significant Resources by the State Planning Agency;

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

i. national historic sites and landmarks, national monuments, National Register Historic Districts, registered state historic or archeological sites, state historic districts, sites listed on the National Register of Historic Places, and any other Cultural Resources within one mile of the site, as indicated by the Minnesota Historical Society.

B. Projected Air Emissions, Wastewater, Solid Waste and Noise Sources

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

2. Discharges to Water

a. Point Discharges. Indicate the location, route and final receiving waters for any discharge points. For each discharge point indicate the source, the amount and the nature of the discharge. (Provide quantitative data if possible.)

b. Area Runoff. Indicate the area from which runoff may occur, potential sources of contamina-

tion in the area, and receiving waters for any runoff.

3. Airborne Emissions

a. Point Sources. Estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source and indicate the location and nature of the release point.

b. Area Sources. Indicate locations which may be sources of fugitive dust and indicate the nature of the source (including type of material, amount, and turnover rate).

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

C. Pollution Control and Safeguards Equipment

1. Pollution Control Equipment and Measures. Indicate any pollution control equipment and measures, in addition to those provided in response to rule EA 943 C, that would be used to reduce the impact of the facility.

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

D. Induced Developments

1. Vehicular Traffic. Estimate the amounts and types of vehicular traffic which would be generated by the facility.

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

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

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

5. Dislocation of Human Beings. Estimate the number of people that would have to relocate if the facility were constructed.

EA 971 OTHER DATA FILED WITH THE APPLICATION

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

EA 981 CERTIFICATE OF NEED MODIFICATIONS

A. Issuance of a certificate may be made contingent upon modifications required by the director. When the director denies an application, he shall state the reason(s) for the refusal and the changes, if any, which would make the facility certifiable.

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

1. coal storage facility capacity or throughput additions or subtractions or less than ten (10) percent of the capacity or throughput approved by the director;

2. coal transshipment facility capacity or throughput additions or subtractions of less than ten (10) percent of the capacity or throughput approved by the director; and

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

C. If an applicant determines that a change greater than those specified in rule EA 981 B is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said statement notify the applicant whether the proposed change is acceptable without recertification.

APPROVED AS TO FORM AND LEGALITY
FEB 17 1977 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 17 1977 5:00 P.M.
Joan Anderson Growe
Secretary of State

285

Dwight S. Wagenius
Special Assistant
Attorney General
Energy Agency

February 22, 1977

- EA 901-981

MINNESOTA ENERGY AGENCY
740 American Center Building, 160 East Kellogg Boulevard
St. Paul, Minnesota 55101 612-296-5120

January 6, 1977

Michael B. Miller
Special Assistant
Attorney General
Department of Administration
G-19-K State Administration
Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

Re: In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transshipment Facilities, EA 901-981

Dear Mr. Miller:

Enclosed pursuant to Minn. Stat. § 15.0412 subd. 4 (Supp. 1975) and Minn. Regs. Atty Gen 301 et seq. is the entire record of the above-captioned proceeding.

Sincerely,

Dwight S. Wagenius

DWIGHT S. WAGENIUS
Special Assistant
Attorney General

DSW:sc
Enc.

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA ENERGY AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE MINNESOTA ENERGY AGENCY)
GOVERNING CONTENTS OF APPLICATIONS FOR)
CERTIFICATE OF NEED AND CRITERIA FOR)
ASSESSMENT OF NEED FOR LARGE COAL)
STORAGE FACILITIES FOR COAL SUPPLIERS)
AND COAL TRANSSHIPMENT FACILITIES.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on July 2, 1976, and was continued and reconvened on July 16, 1976, before William Seltzer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Findings of Fact, Conclusions and Recommendations made pursuant to Minn. Stat. §15.052, Subd. 3, were issued to the Energy Agency on November 17, 1976; and

WHEREAS, the Energy Agency now has determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Energy Agency has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Energy Agency has met all requirements of Minn. Stat. §15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Energy Agency has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 30th day
of December, 1976.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transshipment Facilities, EA 901-981.	Docket No. EA-76-004-WS STATEMENT OF COMPLIANCE WITH MANUAL OF RULE-MAKING PROCEDURES

I, Special Assistant Attorney General Dwight S. Wagenius, 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 Rulemaking Procedures has been followed.

Dated: January 6, 1977

Dwight S. Wagenius
Special Assistant
Attorney General

EA # 4

ERRATA SHEET FOR
MINNESOTA ENERGY AGENCY PROPOSED RULES
GOVERNING CONTENTS OF APPLICATIONS
FOR CERTIFICATES OF NEED AND CRITERIA
FOR ASSESSMENT OF NEED FOR
LARGE COAL STORAGE FACILITIES
FOR COAL SUPPLIERS
AND COAL TRANSSHIPMENT FACILITIES

Chapter 9
EA 901-981

\+ Line Numbered from Top of Page
\- Line Numbered from Bottom of Page

Page	Location	Description of Change
Table of Contents	3	Change: CERTIFICATE To read: CERTIFICATES
Table of Contents	-10	Change: Historical Energy Usage To read: Historical Energy Data
1	3	Change: CERTIFICATE To read: CERTIFICATES
1	-8	Change: Each applicant for a certificate of need for a large coal storage facility or a coal transshipment facility shall provide all information required by these rules. To read: Each coal supplier applying for a certificate of need for a large coal storage facility or any person applying for a certificate of need for a coal transshipment facility shall provide all information required by these rules.
2	14	Change: applicable rule section titles To read: applicable rules by the titles
2	17	Change: with (b) To read: with paragraph (b)
2	-13	Change: between the date To read: after the date
2	-5	Change: requested and the number of copies filed and shall contain a list of sections and subdivisions to which the applicant has responded. To read: requested, the number of copies filed, and the rules and subdivisions thereof to which the applicant has responded.

EA EXHIBIT 4
K. A. H. DATE 7/2/76

Page	Location	Description of Change
3	6	Change: for certificate To read: for a certificate
3	17½	Insert: For purposes of these rules, the following definitions shall apply:
3	-11	Change: for purposes of To read: for the purpose of
4	-14	Change: of a To read: of the
5	3	Change: designed To read: of design
5	6	Change: designed To read: design
5	11	Change: set fee (according to (1) or (2) above) To read: fee set according to either item (1) or (2) above
5	-12	Change: Purpose of the criteria. To read: Purpose of the Criteria.
5	-9	Change: § To read: §§
6	12	Change: requiring a certificate To read: requiring certificates
6	-14	Change: compared to reasonable To read: compared to those of reasonable
6	-7	Change: on the natural To read: upon the natural
7	5	Change: on the natural To read: upon the natural
7	-13	Change: requested in To read: required by
7	-6	Change: then each such To read: then, when specified in these rules, each such
8	13	Change: the complete To read: its complete
8	-2	Change: in (1) To read: in item (1)
9	1	Change: in (2) To read: in item (2)

Page	Location	Description of Change
9	4	Change: in (2) To read: in item (2)
9	7	Change: in (2) To read: in item (2)
9	-1	Change: in a joint To read: submitting a joint
10	17	Change: [redacted] who is a coal supplier and To read: or a coal transshipment facility
10	-10	Change: located To read: located,
10	-5	Change: in (1) To read: in paragraph (1),
11	1	Change: in (1) To read: in paragraph (1)
11	8	Change: For the existing coal storage facility described in (1), To read: For the facility listed in paragraph (1),
11	14	Change: most recent five To read: five most recent
11	16	Change: For each type of coal listed in (5) above, provide the following information for each year during the five most recent calendar years; To read: For each type of coal listed in paragraph (5) above, provide the following information for each of the five most recent calendar years:
11	-11	Change: each year for the To read: each of the
11	-2	Change: For the five To read: For each of the five
12	4	Change: supplied for each year during the past five years; and To read: supplied; and
12	8	Change: customer for each year during the past five years. To read: customer.
12	-13	Change: past five To read: five most recent
12	-9	Change: Describe the general To read: Provide information regarding the general

Page	Location	Description of Change
13	7	Change: Within each answer provide the methods, assumptions To read: Each answer shall include a discussion of the methods, assumptions
13	-12	Change: alternate source. To read: alternate source of energy.
13	-3	Change: the percentage annual distribution of coal from the proposed facility within the state of Minnesota; To read: the expected annual percentage of coal from the proposed facility to be distributed within the state of Minnesota;
14	7	Change: describe the general To read: provide information regarding the general
15	13	Change: name, if known, and address To read: name and address, if known,
16	11	Change: name, if known, and address To read: name and address, if known,
16	12	Change: will construct To read: would construct
17	6	Change: area, and of To read: area and in
17	-8	Change: EA 945 To read: EA 945*
17	-2	Change: requested in To read: required by
17	Bottom	Add: * Rule EA 945 is a proposed alternative to rule EA 946. The Agency expresses no preference.
18	8	Change: requested in To read: required by
18	16	Change: the amount of water used by or for the facility, whether it is surface water or groundwater, how it will be used, and how its use will vary over time; To read: the amount of surface water or groundwater which would be used by or for the facility, how it would be used, and how its use would vary over time;
18	-3	Change: is to be To read: would be

Page	Location	Description of Change
20	14	Change: any other measures proposed by the applicant other than those To read: any measures proposed by the applicant, other than those
20	20	Change: EA 946 To read: EA 946*
20	-5	Change: file data which the director did not request. To read: file other data.
20	-2	Change: their application To read: its application
20	Bottom	Add: * Rule EA 946 is a proposed alternative to rule EA 945. The Agency expresses no preference.
21	2	Change: (a) When the director denies an application, he shall state the reasons for the refusal and the changes, if any, which would make the facility certifiable. (b) Applications for changes in in-service date for facilities previously certified shall conform to the following: (1) If an applicant determines that a change in the in-service date is necessary for a facility previously certified by the director, he shall inform the director of the desired change of date for in-service operation, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said application notify the applicant if the proposed change of in-service date is acceptable. (2) Delays in the in-service date of facilities previously certified by the director for up to two years are not subject to review by the director. The applicant shall inform the director as soon as he determines that a delay is imminent, accompanied by a written statement detailing the reasons for such delay. (c) The following changes in a facility previously certified by the director shall not require recertification: (1) coal storage capacity additions or subtractions of less than ten (10) percent of the capacity approved by the director; and

Page	Location	Description of Change
		(2) coal transshipment facility capacity or throughput additions or subtractions of less than ten (10) percent of the capacity or throughput approved by the director.
		To read: (a) Issuance of a certificate may be made contingent upon modifications required by the director. When the director denies an application, he shall state the reason(s) for the refusal and the changes, if any, which would make the facility certifiable. (b) The following changes in a facility previously certified by the director shall not require recertification: (1) coal storage facility capacity or throughput additions or subtractions of less than ten (10) percent of the capacity or throughput approved by the director; (2) coal transshipment facility capacity or throughput additions or subtractions of less than ten (10 percent of the capacity or throughput approved by the director; and (3) changes of less than two years in the in-service date. (c) If an applicant determines that a change greater than those specified in paragraph (b) is necessary or desirable, it shall inform the director of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The director shall evaluate these reasons and within 45 days of receipt of said application notify the applicant whether the proposed change is acceptable without recertification.

RECEIVED
MAY 26 1976
OFFICE OF HEARING EXAMINERS

Received 4:34 p.m. 5/26/76 AHW agencies for Wm Seltzer

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE MINNESOTA ENERGY AGENCY)
GOVERNING CONTENTS OF APPLICATIONS FOR)
CERTIFICATE OF NEED AND CRITERIA FOR)
ASSESSMENT OF NEED FOR LARGE COAL)
STORAGE FACILITIES FOR COAL SUPPLIERS)
AND COAL TRANSSHIPMENT FACILITIES.)

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above captioned rules be held in the Veterans Service Building, Room A, First Floor, St. Paul, Minnesota on July 2, 1976 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State of that purpose.

John P. Millhone, Director

Date: May 26, 1976

EA Exhibit 1
K. A. K. DATE 7/2/76

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA ENERGY AGENCY GOVERNING CONTENTS OF APPLICATIONS FOR CERTIFICATE OF NEED AND CRITERIA FOR ASSESSMENT OF NEED FOR LARGE COAL STORAGE FACILITIES FOR COAL SUPPLIERS AND COAL TRANSSHIPMENT FACILITIES.	NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above entitled matter will be held in Room A, First Floor of the Veterans Service Building, St. Paul, Minnesota 55155 on July 2, 1976 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to State of Minnesota, Office of Hearing Examiners, William Seltzer, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would establish the contents of applications for a certificate of need and criteria for assessment of need for large coal storage facilities for coal suppliers and coal transshipment facilities. After the assessment of need criteria have been promulgated, no large energy facility covered by these rules, shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Director of the Minnesota Energy Agency. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Energy Agency, 740 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101. Additional copies of the proposed rules will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §116H.08. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. §10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

John P. Millhone, Director

Date: May 26, 1976

MINNESOTA ENERGY AGENCY PROPOSED RULES

GOVERNING CONTENTS OF APPLICATIONS

FOR CERTIFICATE OF NEED AND CRITERIA

FOR ASSESSMENT OF NEED FOR

LARGE COAL STORAGE FACILITIES

AND COAL TRANSSHIPMENT FACILITIES

FOR COAL SUPPLIERS

Chapter 9
EA 901-981

Rule Number	Title of Rule
EA 901	Purpose of Rules
EA 902	Applicability of Rules
EA 903	Application Procedures and Timing
EA 904	Definitions
EA 905	Filing Fees and Payment Schedule
EA 911	Criteria for Assessment of Need
EA 921	Contents of Application
EA 931	General Information
EA 932	Need Summary
EA 933	Summary of Additional Considerations
EA 934	Conservation Programs
EA 941	Historical Energy Usage
EA 942	Forecast Data
EA 943	Description of Proposed Facility
EA 944	Alternatives
EA 945*	Environmental Data
EA 946*	Environmental Data
EA 971	Other Data Filed with the Application
EA 981	Certificate of Need Modifications

* These two sections are alternatives proposed by the Agency for Environmental Data. The Agency has no preference.

RECEIVED
JUN 7 1976
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

In the Matter of the Proposed Adoption by the Minnesota Energy Agency of Rules Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transshipment Facilities
EA 901-981

AFFIDAVIT

OF MAILING

Richard A Wollow, BEING FIRST DULY SWORN deposes and says:

That on the 28th day of May, 1976, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint 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 the Secretary of State.

Richard A Wollow

Subscribed and sworn to before me this 28 day of May, 1976.

Susan K. Riedinger
Notary Public

SUSAN K. RIEDINGER
Notary Public, Ramsey Co., Minn.
My Commission Expires
Dec. 7, 1982

In the Matter of the Proposed)
Adoption of Rules of the)
Minnesota Energy Agency)
Governing Contents of Applications)
for Certificates of Need and)
Criteria for Assessment of Need)
for Large Coal Storage Facilities)
for Coal Suppliers and Coal)
Transshipment Facilities,)
EA 901-981.)

CLARIFICATION OF
IDENTIFICATION OF
MAILING LIST AFFIDAVITS

RECEIVED
JUN 7 1976
OFFICE OF HEARING
EXAMINERS

At the time the Secretary of State's mailing list labels were obtained, May 25, 1976, two copies of the mailing list labels were required for the mailing of the Notice of Hearing for four rules hearings. The first mailing was intended to notify its recipients of the hearings for the EA 800 series of rules, the EA 1000 series of rules and the EA 900 series of rules. The second mailing, soon thereafter, was intended to notify its recipients of the hearing for the EA 700 series of rules. Therefore, there was a consolidation of rules captions into a single caption for the mailing list affidavits. The above captioned rules are seen to be contained in the consolidated caption for the mailing list affidavits.

The consolidated caption also contains Coal Liquefaction Facilities and Solid Fuel Refinery Facilities. Rules for these possible future facility types shall not be promulgated in this series of four hearings.

Paul Steinback

Paul Steinback

Subscribed and sworn to before me
This 7th day of June, 1976

Susan K. Riedinger

Notary Public

SUSAN K. RIEDINGER
Notary Public, Ramsey Co., Minn.
My Commission Expires
Dec. 7, 1982

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of the Proposed Adoption by the Minnesota Energy Agency of Rules Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for: (1) Liquefied Natural Gas Storage Facilities, Large Propane Storage Facilities, Underground Natural Gas Facilities, Large Gas Pipeline Facilities, and Large Coal Gasification Facilities (EA 700); (2) Large Oil Storage Facilities and Large Coal Storage Facilities - Users (EA 800); (3) Large Coal Storage Facilities - Suppliers, Large Coal Transshipment Facilities and Solid Fuel Refinery Facilities (EA 900); and (4) Large Oil Storage Facilities - Suppliers, Large Oil Pipeline Facilities, Oil Refinery Facilities, and Large Coal Liquefaction Facilities (EA 1000)

I hereby certify that the attached 482 labels & one sheet constitute the complete list of persons, associations, and other interested groups who as of 8:00 o'clock A.M., this 25th day of May, 1976, 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 on proposed rules on the subject captioned above.

Joan Anderson Growe

JOAN GROWE
Secretary of State
State of Minnesota

BY Neil Dion

Ashrae Energy Conservatio Comm.,Att:E.H.Bartels, 7 Marquatte Ave.,Mpls.55402

Drawz, John E., 1100 First Nat'l Bk Bldg., Mpls. 55402

Miller, Alvin, %Hussmann North Central, 6100 Wayzata Blvd,Mpls. 55416

Pooler, Albert L., Minn. Gas Co., 733 Marq.Ave., Mpls.,MN. 55402

Sievert, Sandra J., Industrial Coatings, Inc., RT. 2 Box 63C Rogers,Mn. 55374

Simonson Cashway Co., Att: Glenn Lahm, 535 First St. N.E. St. Cloud 56301

Tegan, James, Brin Glass Co., 600 Washington Ave. N., Mpls. 55401

ALLENDORF MARSHALL
220 GRAIN EX 400 S 4TH
MPLS MN
55415

AMER CAMPING ASSN
3639-21/2 ST N.E.
MPLS MN
55418

ANDERSON GRAHAM
951 E HENN
MPLS MN
55414

ANDERSON HERBERT
418 8TH ST. SO.
VIRGINIA MN
55792

ANDERSON MARY
4425 RUTLEDGE AVE
EDINA MN
55436

ANDERSON STANFORD P
14600 MINNETONKA BLVD
MINNETONKA MN
55343

ARNOLD ROBERT MESPA
41 SHERBURNE
ST PAUL MN
55103

ARROWHEAD REGIONAL DEV CO
200 ARROWHEAD PLACE
DULUTH MN
55802

ASSOCIATED GEN CONTROF MN
48 E 8TH STREET
ST PAUL MN
55101

ASSOCIATED INDUST OF MPLS
NATIONAL BLDG
MPLS MN
55402

AUTOMOBILE MFRS ASSN INC
55 SHERBURNE AVE
ST PAUL MN
55103

ALBERT,AA CALDER CORP
366 JACKSON ST
ST PAUL MN
55101

AM INST PROF GEOLOGISTS
2201 PRINCETON AVE
ST PAUL MN
55105

ANCHOR BLOCK COMPANY
PO BOX 3360
ST PAUL MN
55165

ANDERSON HAROLD
BOX 3047
MANKATO MN
56001

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ANTHONY DICK WDSM RADIO
230 E SUPR ST
DULUTH MN
55102

ANTI-TRUST DIV.ATTY GEN.
160 STATE OFF BLDG
ST PAUL MN
55155

ARVER JOHN A
2467 COHANCY
ST PAUL MN
55113

ASMUSSEN,DENNIS,MPIRG
3036 UNIV AVE SE
MPLS MN
55414

ASSN OF MINN COUNTIES
55 SHERBURNE AVE #203
ST PAUL MN
55103

ASSN RESIDENCES FOR RETARDED
459 RICE SUITE 301
ST PAUL MN
55103

BABCOCK LOCHER NELSON ET AL
118 E MAIN ST
ANOKA MN
55303

BADALICH JOHN P
2025 THOMPSON AVE
SO ST PAUL MN
55075

BATES DENNIS
446 STATE OFF BLDG
ST PAUL MN
55155

BECK PAT
953 HYACINTH AVE
ST PAUL MN
55106

BEMIDJI STATE COLLEGE
PLACEMENT BUR.J.C.BRADY
BEMIDJI MN
56601

BENSONI PETER USW OF AM.
609 PROVIDENCE BLDG.
DULUTH MN

BERGUSON & LOFGREN
MN GAS 700 LINDEN W
MPLS MN
55403

BEST FLANAGAN ET AL
4040 IDS CENTER
MPLS MN
55402

BLOOMINGTON CITY CLERK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

BOLTON MALCOLM
422 ALDRICH AVE NO
MPLS MN
55405

BRIGGS & MORGAN - B F FRIEL
2200 W 1ST NATL BK BLDG
ST PAUL MN
55101

BRIGHAM E M III
RR4
RED WING MN
55066

BROWN D M GOODRIDGE PUE SCH
IND DIST #561
GOODRIDGE MN
56725

BROWN H D
4961 KINGSBERRY LANE
MINNETONKA MN
55343

BUCHHOLTZ CHARLES
5044 BRENT AVE E
INV GRV HTS MN
55075

BURGER ALBERT
600 DEGREE OF HONOR BLD
ST PAUL MN
55101

BUSCH NOEL
3131 FERNBROOK LANE N
MPLS MN
55441

CAIRNS JOHN A
47TH FLR IDS CENTER
MPLS MN
55402

CAPITOL NEWS SERVICE
BOX 17035
ST PAUL MN
55117

CARRISON DALE K
MANKATO STATE COLLEGE
MANKATO MN
56001

CENTRAL BUSINESS DATA
BENSON RADIO ARCADE BLD
BENSON MN
56215

CHAMBERLAIN JOHN L
PO BOX 241
MPLS MN
55440

CHERCHES CHRIS CITY MGR
5005 MTKA BLVD
ST LOUIS PARK MN
55416

BARRETT FRED
ST LOUIS CO COURT HOUSE
DULUTH MN

BARTHOLOW HAROLD E FIRE C
2600 109 AVE N W
CCON RAPIDS MN
55433

BEECHER EVERETT
10 10 1ST ST SO
HOPKINS MN

BEGALKA D REV
212 N ELK ST
BELLE PLAINE MN
56011

BERGERUD ALF
300 ROANOKE BLDG
MPLS MN
55402

BERGSETH THOMAS
1011 NICOLLET MALL
MPLS MN
55403

BEUTEL ROBERT
2200 SILVER LAKE RD
NEW BRIGHTON MN
55112

BLOMQUIST BARRY L

NORTH BRANCH MN
55056

BREHL JAMES W
332 HAMM BLDG
ST PAUL MN
55102

BRICK PHILIP D
807 SELLWOOD BLDG
DULUTH MN
55802

BROEKER JOHN
2850METRO DR. SUITE 504
BLOOMINGTON MN
55420

BROOKS WILLIAM F JR
854 MIDLAND BK BLDG
MPLS MN
55401

BRUBACHER RICHARD COMM ADM
208 ADM BLDG
ST PAUL MN
55101

BRUNING C.R.DEPT.CLINIC.E
BURTON HALL
MPLS. MN
55455

BUR.ENGR.IND.DIV. MR.KIBIGER
219 N. 2ND ST.
MPLS. MN

BUR NATL AFFAIRS INC
1231 25TH ST NW
WASHINGTON DC
20037

CABLE COMM SYST-H SARRAZIN
BOX 777
HECTOR MN
55342

CAIN RUTH
730 E 38TH ST
MPLS MN
55407

CARLSON CARL L
7516 80TH ST S
COTTAGE GROVE MN
55016

CARLSON VERNE E
BOX 755 CITY HALL
WILLMAR MN
56201

CENTRAL MN REGIONAL DEV COMM
1139 FRANKLIN AVE
SAUK RAPIDS MN
56379

CHAMBER OF COMMERCE
30 SO 1ST AVE EAST
ELY MN
55731

CHRISTIAN SCI COMM ON PUB
1821 UNIV AVE SUITE 271
ST PAUL MN
55104

CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
ST PAUL MN
55155

CHRYSALIS CENTER FOR WOMEN
2104 STEVENS AVE S
MPLS MN
55404

CITY CLERK
386 CITY HALL
ST PAUL MN
55102

CLARKSON J.B.
2350 I.D.S. CENTER
MINNEAPOLIS MN
55402

CLAUSEN PHILLIP
2307 STANDISH ST
ST PAUL MN
55108

COLLIN LAURENCE
RT 2
ISANTI MN
55040

COMMUNITY DESIGN CENTER
118 E 26TH ST
MPLS MN
55404

COUNTY ATTYS COUNCIL
95 SHERBURNE AVE S203
ST PAUL MN
55103

CRAVEN NORMAN
10637 THOMAS AVE S
BLOOMINGTON MN
55431

DAHLKE LOIS M
118 S EAGLE ST
BELLE PLAINE MN
56011

DANIELSON RODNEY L
416 AUDITORIUM
ST PAUL MN
55102

DAYTON CHAS SIERRA CLUB
800 MIDLAND BANK BLDG
MPLS MN
55401

DIEHL JOHN
26 KENWOOD PKWY
ST PAUL MN
55105

DISPATCH PIONEER PRESS
PRESS RM STATE CAPITOL
ST PAUL MN
55101

DOW CHEMICAL
47 BLDG
MIDLAND MI
48640

DOYTON MAURICE, MET SEWER BD
350 METRO SQ BLDG
ST PAUL MN
55101

DZUGAN KEN ST PAUL PLANNING
421 WABASHA ST
ST PAUL MN
55102

ELDRED R W ARMOUR & CO
UNION STOCK YARDS
SO ST PAUL MN
55075

ELMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

ENV SERV-GEN RESOURCE CORP
6340 INDUSTRIAL DR
HOPKINS MN
55343

ESSE KENNETH
4801 W 50TH ST
EDINA MN
55424

ETHICS COMM
RM 410 STATE OFF BLDG
ST PAUL MN
55155

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CITY OF ROBBINSDALE
C LARSON 4221 LAKE RD
ROBBINSDALE MN
55422

CLAWSON CONNIE
HELP CT 317-17TH AV SE
MPLS MN

COLEMAN NICHOLAS D
700 LINWOOD AVE
ST PAUL MN
55105

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CONSUMER SERVICES DEPT CO
5TH FLR METRO SQ BLDG
ST PAUL MN
55101

CROW WING CO PLANNING & ADV
COURT HOUSE
BRAINERD MN
56401

CUSHMAN J S DAYTON HUDSON
700 NICOLLET MALL
MPLS MN
55402

DAILEY THOMAS ECONOMICS LAB
370 WABASHA ST
ST PAUL MN
55102

DANKERS,KENNETH
1200 WEST FOURTH STREET
RED WING MN
55066

DEVELOP DISABILITIES PROGRAM
STATE PLAN 101 CAP SQ
ST PAUL MN
55155

DICKINSON MRS JOANNE
BOX 1065
MARSHALL MN
56258

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN
55402

DOUGLAS BELL ET AL
2212 AM.NATL BK BLDG
ST PAUL MN
55102

DUDLEY E H
RT 7 BOX 122
EXCELSIOR MN
55331

DUNN OLIVER PLUMBERS LOC
708 SO 10TH ST
MPLS MN
55404

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ELDER DR JAMES B
11140 WASHBURN AVE SO
BLOOMINGTON MN
55431

EMERICK RICHARD A
1908 IDS CENTER
MPLS MN
55402

ENGELBRECHT DOUGLAS
809 RANGE ST
NO MANKATO MN
56001

ERDMAN ROGER TENNANT CO
701 N LILAC DR
MPLS MN
55441

ERNEST K LEHMANN & ASSOC.
1409 WILLOW ST.
MPLS MN
55403

EVANS CHAS.L. PRENTICE-HALL
ENGELWOOD CLIFFS
NEW JERSEY

EVERETT JERRY NW PETRO AS
512 NICOLLET MALL RM917
MPLS MN
55402

EWALD DOUGLAS MINN HOSP ASSN
2333 UNIV AVE SE
MPLS MN
55414

EWING MRS WM
42 ASTAR RD
BABBITT MN
55706

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FARRELL FRANK BUR NOR
RM 1180 176 E 5TH ST
ST PAUL MN
55101

FINLEY JAMES F
920 MINN BLDG
ST PAUL MN
55101

FINNEGAN J.R.
55 E. 4TH
ST. PAUL MN
55101

FLEMING FREDERICK A
1860 HIGHLAND PARKWAY
ST PAUL MN
55116

FLADLAND CLINT MN L&P BUR
795 RAYMOND AVE
ST PAUL MN
55114

FOX W.E. LINDQUIST & VENNUM
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

FRANKLIN ROBERT B MPLS TRIB
426 PORTLAND
MPLS MN
55415

F W WOOLWORTH CO
3310 W 66TH ST
EDINA MN
55424

GEBERT K L
220 GRAIN EXCH
MPLS MN
55415

GEO A HORMEL & CO LAW DEPT
PO BOX 800
AUSTIN MN
55912

GLEN. HILLS HOSP.R.VAN HAUER
3901 GOLDEN VALLEY RD.
MPLS. MN
55422

GODIN RALPH J
3824 47TH AVE SO
MPLS MN
55406

GRANATH MARVIN -HONEYWELL
2701 4TH AVE SO
MPLS MN
55408

GREATER MET AREA HOSPITALITY
5152 CEDAR AVE S
MPLS MN
55417

GREEN JANET
9773 N SHORE DR
DULUTH MN
55804

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

H B FULLER CO
2400 KASOTA AVE
ST PAUL MN
55108

HAROLD J WESTIN CONSTRUCTORS
45 E 8TH ST
ST PAUL MN
55101

FAEGRE & BENSON ATTN LIBR
1300 NW BANK BLDG
MPLS MN
55402

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FILTER LOREN
BOX 36
BRITT MN
55701

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FLADLAND CLINTON MN L&P B
796 RAYMOND AVE
ST PAUL MN
55114

FORBES GORDON MINN RRS ASSN
203 HANOVER 480 CEDAR
ST PAUL MN
55101

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FREDIN CONRAD M
811 FIRST NATL BK BLDG
DULUTH MN
55802

FREDRIKSON BYRON ET AL
47TH FLR IDS CENTER M
PLS MN
55402

GALVIN M J JR
W2162 1ST NATL BK BLDG
ST PAUL MN
55101

GARDNER HDW - R A JOHNSON
515 WASHINGTON AVE N
MPLS MN
55401

GIEL DAVID
RM B-28 STATE CAPITOL
ST PAUL MN
55155

GLEESON MICHAEL
909 SOC SC BLDG U OF M
MPLS MN
55455

GOODMAN DF TEL CABLE TV
302 E SUPERIOR
DULUTH MN
55802

GRAHAM THOS H
854 MIDLAND BK BLDG
MPLS MN
55401

GREEN DEL CITY MGR
BLOOMINGTON CITY HALL
BLOOMINGTON MN
55431

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

GUSTAFSON DAN-LABOR TEMPLE
312 CENTRAL
MPLS MN
55414

GUSTAFSON WALLACE
BOX 567
WILLMAR MN
56201

HANFT PHILIP M
1200 ALWORTH BLDG
DULUTH MN
55802

HANSON ETHEL
2813 85TH AVE N
MPLS MN
55444

HALLBERG LEE & MCCABE
4927 34TH AVE S
MPLS MN
55417

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HAYES, THOMAS W
700 SELLWOOD BLG
DULUTH MN
55812

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HARTFELDT WILL
434 HAMM BLDG
ST PAUL MN
55102

HAVEN ROBT TWIN TN TREATMENT
1706 UNIV AVE
ST PAUL MN
55104

HEARING EX.OFF. M GREENBERG
1745 UNIV AVE
ST PAUL MN
55104

HEIM PAUL
1320 SOO LINE BLDG
MPLS MN
55402

HENDRICKSON A WM
100 FREEMAN DRIVE
ST PETER MN
56082

HOLDAHL SCOTT
380 N BLDG GRAIN EXCH
MPLS MN
55415

HOLEY GEO . AERONAUTICS
DOWNTOWN AIRPORT
ST PAUL MN
55107

HORNER WALDORF - KAZIUKEWICZ
PO BOX 3[illegible]
ST PAUL MN
55165

HOULE MELVIN
881 W HWY 96
SHOREVIEW MN
55112

HOUSE RESEARCH
RM 17 STATE CAPITOL
ST PAUL MN
55155

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUMAN SERVICES
414 LAFFAYETTE RD 5THFL
ST PAUL MN
55101

HUSEBYE, CRAIG J.
5036 FRANCE S.
EDINA MN
55410

HYDROLOGIST
CHIPPEWA NATL FOREST
CASS LAKE MN
56633

HYLAND DEAN
1501 W 50TH ST
MPLS MN
55419

INGEBRIGTSEN DR K H
23 SE 4TH ST
MPLS MN
55414

INGVALSON VERN MN.FARM BUR.
3110 WOODDALE DR PO 337
CST PAUL MN
55165

IUCE LOC 49 CHAS SWENSON
2580 UNIV AVE
ST PAUL MN
55101

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

JACKMAN DONALD G
4023 E LAKE ST
MPLS MN
55406

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

HENTHORN GARY WOODSTOCK
7365 LANDAU DR
BLOOMINGTON MN
55438

HART PATRICK V
112 E LIBERTY BOX 3271
MANKATO MN
56001

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEINTZ MARY ELLEN
PO BOX 599
CINCINNATI OH
45201

HEISENFELT WM
BOX 516
BEMIDJI MN
56601

HILL JIM ASSOC.MILK PROD.
7850 METRO PARKWAY
MINNEAPOLIS MN
55420

HINRICHSEN PATRICK
MANKATO FREE PRESS
MANKATO MN
56001

HOLMES EUSTIS ET AL
4610 IDS CENTER
MPLS MN
55402

HOPKINS WM.B. DIR.MISCCA
3915 GOLDEN VALLEY ROAD
GOLDEN VALLEY MN
55422

HOUSE APPROPRIATIONS COMM
RM 109 STATE CAPITOL
ST PAUL MN
55101

HOUSE ED STANDING SUB COM
RM 109 STATE CAPITOL
ST PAUL MN
55101

HULTMAN WARREN R
C/O BARBAROSSA R3
OSSEO MN
55369

HUMAN RIGHTS
200 CAPITOL SQ BLDG
ST PAUL MN
55101

HUNT JAMES P JR
11470 GALTIER DR
BURNSVILLE MN
55378

HUTCHISON R.M. ANOKA CO.C
COURT HOUSE
ANOKA MN
55303

ILLINGWORTH ROBERT C
6750 FRANCE AVE S RM290
MPLS MN

INS FED OF MINN
902 SOO LINE BLDG
MPLS MN
55402

INTERSTATE POWER RW STEEL
1000 MAIN ST
DUBUQUE IA
52001

IZAAK WALTON MN DIV
111 E FRANKLIN RM-210
MPLS MN
55404

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN ARTHUR,CITY CLK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

JENSEN CARL A
127 E MAIN ST
SLEEPY EYE MN
56085

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHNSON CLARENCE IBEW LU 292
3615 37TH AVE S
MPLS MN
55406

JOHNSON LEROY
9939 BLUEBIRD ST NW
COON RAPIDS MN
55433

KABLE RICHARD W

BETHEL MN
55006

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KEILY DANILE
3549 V2 PLEASANT AVE
MPLS MN
55408

KLOSTER MARION PEAVEY CO
730 2ND AVE S
MPLS MN
55402

KLUZ STEVEN J
1910 1ST NATL BK BLDG
MPLS MN
55402

KNUTSON DR KEITH,BIOLOGY DPT
ST CLOUD STATE
ST CLOUD MN
56301

KNUTSON R N GRANNIS ETAL
F J SCHULT BLDG
ST ST PAUL MN
55075

KOPP MRS VERNON
2050 65TH ST E
INVER GR HGHT MN
55075

KRAMER ERNEST W
717 DELAWARE ST SE
MPLS MN
55440

KROON H CLIFTON
210 E WALNUT
MANKATO MN
56001

KUHL CARL
4421 4TH ST NE
COL HEIGHTS MN
55421

LABELLE JUANITA MRS
5816 AQUILA AVE NO
NEW HOPE MN
55428

LAKE SUPERIOR INDUSTRIAL BUR
828 FIRST AM. BK. BLDG.
DULUTH MN
55802

LANSING & OAKES
400 SIBLEY ST
ST PAUL MN
55101

LAPP LAZAR LAURIE ET AL
1200 BUILDERS EXCHANGE
MINNEAPOLIS MN
55402

LEAGUE MN MUNIC
300 HANOVER 480 CEDAR
ST PAUL MN
55101

LEAGUE WOMEN VOTERS OF MINN
555 WABASHA
ST PAUL MN
55102

LINDALL & JONATHAN DEVELOP.
VILLAGE ONE CENTER
CHASKA MN
55318

LOCKNER GARY
R R 1 BOX 23
BAUDETTE MN
56623

JOHANSEN BUS SERV INC
19 DAYTON RD
CHAMPLIN MN
55316

JOHNSON & SANDERSON
ST MARYS HOSPITAL
ROCHESTER MN
55901

JOHNSON M.D. FRUNDT & FRUNDT

BLUE EARTH MN
56013

JOHNSON LANCE J
265 S LAFAYETTE RD
ST PAUL MN
55107

KAVANEY RICHARD
1220 NORTHERN FED BLDG
ST PAUL MN
55102

KEABLE MIKE
909 6TH AVE N
ST CLOUD MN
56301

KIMBALL ROBERT
647 CAPITOL SQ BLDG
ST PAUL MN
55101

KJERVIK DIANE
4302 POWEL HALL U OF M
MPLS MN

KNAPP J A
RM 3 CAPITOL
ST PAUL MN
5515

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

KNUDSON ROBT
4375 BROWNDALE AVE
MPLS MN
55424

KOLLER MR & MRS ERWIN A
1568 DULUTH ST
ST PAUL MN
55108

KROEGER CHARLES
122 NW 7TH STREET
FARIBAULT MN
55021

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

KVB ENGINEERING INC
600 S CO RD 18
MPLS MN
55426

LANAHAN E F - SIBLEY CO
184 E 6TH ST
ST PAUL MN
55101

LANGVIN DAVID
7500 80TH ST S
COTTAGE GROVE MN
55016

LARSON C L
3800 MINNEHAHA AVE SO
MPLS MN
55406

LARSON HANS P DIV HOSP SE
717 DELAWARE ST SE
MPLS MN
55440

LEG.REF.LIB-Z. DEWITT
RM 111 STATE CAPITOL
ST PAUL MN
55155

LIBBEY LEONARD
BOX 17011 NOKOMIS STA
MPLS MN
55417

LOOS CALVIN J
6809 LYNDALE AVE SO
MPLS MN
55423

LOWE DOUG
2701 N LEXINGTON AVE
ROSEVILLE MN
55113

LYNCH DONALD SIBLEY CO
184 E 6TH ST
ST PAUL MN
55102

MCFADDEN G F DISPATCH-PRESS
55 E 4TH ST
ST PAUL MN
55101

MALONE E T COMM LABOR & INDU
444 LAFAYETTE RD 5TH FL
ST PAUL MN
55101

MARRINAN MARGARET M
1117 COMMERCE BLDG
ST PAUL MN
55101

MECCA
867 GRAND AVE
ST PAUL MN
55105

METROPOLITAN COUNCIL LIBRARY
300 METRO SQUARE
ST PAUL MN
55155

MILLER TOM
2311 PILLSBURY AVE S
MPLS MN
55404

MPLS STAR PRESS ROOM
STATE CAPITOL
ST PAUL MN
55101

MINN APT ASSN
GRIGGS-MIDWAY BLDG
ST PAUL MN
55104

MN SCC SERV ASS J HOOD
614 PORTLAND
ST PAUL MN
55102

MINN ASSN ELEC COOPERATIVES
4901 W 77TH ST
MPLS MN
55435

MINN COMM FOR HANDICAPPED
METRO SQ 492 7TH & ROBT
ST PAUL MN
55101

MCKIBBON MRS SHIRLEY
11 EVERGREEN LN
BABBITT MN
55706

MANKATO STAT STUDENT SENATE
CENTENNIAL STUDENT UN
MANKATO MN
56001

MASTOR & MATTSON LTD
315 PEAVEY BLDG
MPLS MN
55402

MEIEROTTO, JOAN
1794 SO LEXINGTON
ST PAUL MN
55118

MEYER HERBERT
10824 ZENITH AVE S
BLOOMINGTON MN
55431

MINN RETAIL FED INS
131 METRO SP
ST PAUL MN
55101

MPLS TRIBUNE CITY DESK
425 PORTLAND AVE
MPLS MN
55415

MN. ASN.C&IND H.D.PETERSON
480 CEDAR ST.
ST.PAUL MN
55101

MN STATE SER BLIND-K NATARDY
1745 UNIVERSITY AVE
ST PAUL MN
55104

MINN. ASSN. PET RETAILERS
1115 2ND AVE. SO.
MINNEAPOLIS MN
55403

MINN COMMUNITY DEVELOP SERV
512 ROSSMOR BLDG
ST PAUL MN
55101

MANSFIELD LARRY
HCARC 22 27TH AVE SE
MPLS MN
55414

MCDONALD PHILIP M
2077 SELBY AVE
ST PAUL MN
55104

MCLELLAN LARKIN
215 ADM BLDG ST CAPITOL
ST PAUL MN
55101

MANKATO STATE STUDENT ASSN
BOX 58 MANKATO COLLEGE
MANKATO MN
56001

MANTHEY T J PICKANDS MATH
1100 SUPERIOR AVE
CLEVELAND OH
44114

MAUL WARREN E
320 S 4TH ST
MPLS MN
55415

MAYO FOUNDATION G ORWOLL
200 FIRST AVE NW
ROCHESTER MN
55901

MERRITT GRANT POLLUTION CONT
1935 W CO RD 32
ROSEVILLE MN
55113

MET TFR MEN ASSN A ROSENT
1821 UNIV AVE
ST PAUL MN
55104

MIDLAND GLASS- HD SPURLING
PO BOX 69
SHAKOPEE MN
55379

MILLER RICHARD A
1020 PLYMOUTH BLDG
MPLS MN
55402

MPLS CHAMBER COMM TRANSP DPT
15 S 5TH ST
MPLS MN
55402

MPLS CITY ATTORNEY
325M CITY HALL
MPLS MN
55415

MIDLAND GLASS-HD SPURLING
PO BOX 69
SHAKOPEE MN
55379

MILLER PAUL J PHARMACY SE
ST MARYS HOSP
ROCHESTER MN
55901

MN AFL-CIO L.O. LASHOMB
175 AURORA
ST PAUL MN
55103

MN.BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MINN ASPHALT PAVEMENT ASSN
555 WABASHA RM 209
ST PAUL MN
55102

MINN ASSN COOPERATIVES
55 SHERBURNE AVE
ST PAUL MN
55103

MINN ASSN WATERSHED DIST'S

ADA MN
56510

MINN AUTOMOBILE DEALERS A
GRIGGS MIDWAY BLDG
ST PAUL MN
55104

MINN COUNCIL STATE EMP NO 6
475 RICE ST
ST PAUL MN
55103

MINN DEPT HEALTH J C MCKA
717 DELAWARE S E
MPLS MN
55440

MINN ENV LAW INST INC
PO BOX 15076 CCMM STA
MPLS MN
55415

MINN HEREFORD-LJ SCHAFER

BUFFALO LAKE MN
55314

MINNo HOTEL & MTRo ASSN
2001 UNIVERSITY AVE
ST PAUL MN

MINN LAND USE COMMITTEE
4344 IDS CENTER
MPLS MN
55402

MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
55426

MINN PETROLEUM COUNCIL
1020 NORTHERN FED BLDG
ST PAUL MN
55102

MINN POULTRY & HATCHERY ASSN
BOX 158
MADELIA MN
56062

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
55416

MINN SOCIETY ARCHITECTS AIA
NW NATL BK BLDG
ST PAUL MN
55101

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN STATE CAPITOL EMP UNION
PO BOX 3215
ST PAUL MN
55165

MINN TEAMSTERS CREDIT UNION
2021 HENN AVE E
MPLS MN
55413

MINN TBR PRODUCERS ASSN
200 CHRISTIE BLDG
DULUTH MN
55802

MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
ST PAUL MN
55102

MINN-WISC BOUNDARY AREA COMM
600 2ND ST
HUDSON WI
54016

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MOOD R BLOOMINGTON HLTH DEPT
10200 PENN SO
BLOOMINGTON MN
55431

MURPHY DIANA E
4200 IDS-LINDQUIST VENN
MPLS MN
55402

NATL COUNCIL JEWISH WOMEN
4330 CEDAR LK RD
MPLS MN
55416

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NEDELL HAROLD - MEINEKE
6300 W LOOP S SUITE 200
BELLAIRE TX
77401

NEREN MADONNA
376 NEAL AVE S
AFTON MN
55001

MINN FARMERS UNION PRES OFF
1275 UNIV AVE
ST PAUL MN
55104

MINN FOOD RETAILERS ASSN
555 WABASHA
ST PAUL MN
55101

MINN HOUSING INST N T CARTER
7801 METRO PKWY
MPLS MN
55420

MINN HWYS MANAGEMENT SERV
407 HWY BLDG
ST PAUL MN
55101

MINNE MINE CREDIT UNION
3000 HUDSON PK S 100
ST PAUL MN
55119

MINN.MTR.TRANSP. .J.N.D
1821 UNIV.
ST.PAUL MN
55104

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MINN RESTAURANT ASSN
2001 UNIVERSITY AVE.
ST PAUL MN 55
104

MINN SOC CERTIFIED PUB ACCTS
1102 WESLEY TEMPLE BLDG
MPLS MN
55403

MINN STATE BAR ASSN
100 MINN FED BLDG
MPLS MN
55402

MINN STATE MED ASSN
375 JACKSON ST
ST PAUL MN
55101

MINN STATE RETIREMENT SYS
529 JACKSON ST
ST PAUL MN
55101

MINN.TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MINN VETERANS MED ASSN
2175 W HWY 36
ROSEVILLE MN
55113

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

MORTON BUILDINGS INC
R #1
FOLEY MN
56329

MPIRG
BOX 45 ST MARYS COLLEGE
WINONA MN
55987

NASS GEO V HENN CO GEN HOSP
5TH AND PORTLAND AVE
MPLS MN
55415

NATL CAR RENTAL ATT D MIT
5501 GREEN VALLEY DR
MPLS MN
55437

NAT'L SOLID WASTES-R. GRASSO
1730 RHODE ISLAND AV.NW
WASHINGTON DC
20036

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NEUMAN RALPH W
RT 2 BOX 125
EMBARRASS MN
55732

NIELSEN STOCK & BLACKBURN
415 730 BLDG
MPLS MN

NO SUB MONTESSORI-S SADDLER
2487 HELEN COURT
NO ST PAUL MN
55109

NORTH CENTRAL ELEC ASSN
PO BOX 202
BATTLE LAKE MN
56515

NUTTER JULIA
743 W MONTANA
ST PAUL MN
55117

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

OLD COLONY GAS & OIL COMPANY
17TH AVE N AT 2ND ST
MPLS MN
55411

OTTER TAIL POWER CO.
215 S. CASCADE ST.
FERGUS FALLS MN
56537

PAYNE WM B
2400 FIRST NATL BK BLDG
MPLS MN
55402

PETERSON JOHN W
510 NW BK BLDG
ST PAUL MN
55101

PHAR MFGRS ASSN WM C PATTON
1155 15TH ST NW
WASHINGTON DC DC
20005

PHILLIPS LEGISLATIVE SERVICE
459 RICE ST
ST PAUL MN
55103

PORTER LYLE O

TRACY MN
56175

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

POYZER ROBT
BOX 675
FERGUS FALLS MN
56357

PRAUSE JOS.C.
2220 105TH AVE.N.W.
COON RAPIDS MN
55433

RAMSEY CO MEDICAL SOCIETY
1500 LOWRY MEDICAL BLDG
ST PAUL MN
55102

RAUENHORST CORP-C ANDERSON
7900 XERXES S. S-2200
MPLS MN
55431

RED OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

REID DAVID H
5633 WASHBURN AVE S
MPLS MN
55410

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

NW COUNTRY ELEVATOR ASSN
802 GRAIN EXCH BLDG
MPLS MN
55415

NURSING HOME ADMRS BD EXA
RM 340 717 DELAWARE SE
MPLS MN
55414

NYQUIST DEAN A
3707 53RD PL N
BROOKLYN CTR MN
55429

O'BRIEN J.DENNIS
1100 1ST NATL.BANK BLDG
MINNEAPOLIS MN
55402

OLOFSON ARTHUR MBO & MAINC
927 SOO LINE BLDG
MPLS MN
55402

OSTRUM DONALD E
PO BOX 33163
COON RAPIDS MN
55433

PATTISON ORVIS
BOX 645
WILLMAR MN
56201

PAYNE COL ALVIN

DEGRAFF MN
56233

PETERSON GARY
854 MIDLAND BK BLDG
MPLS MN
55401

PFEIFER AND SHULTZ, INC
1433 UTICA AVE S
MPLS MN
55416

PINNETTI NICK M HALEY & ASS.
40 CENTRAL PARK S
NEW YORK NY
10019

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORTER DAVID
3212 LONGFELLOW AVE S
MPLS MN
55407

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

PROCTOR&GAMBLE L THEOHAROUS
IVORYDALE TECH CENTER
CINCINNATI OH
45217

PULSCHER RBT SPRINGSTED I
813 OSBORN BLDG
ST PAUL MN
55102

RADMAN RICHARD-LABOR TEMPLE
418 AUDITORIUM
ST PAUL MN
55102

RANALLO CLARENCE
800 CENTRAL AVE N E
MPLS MN
55413

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

REINO O LAINE 3M COMPANY
3M CENTER
ST PAUL MN
55101

RENNER R.H. ST PAUL AREA
300 OSBORN BLDG.
ST PAUL MN
55102

RICHARDS MONTGOMERY ET AL
1430 RAND TOWER
MPLS MN
55402

RIEKE DAVID R
P O BX 509
THIEF RIV FLS MN
56701

RCE DAVID
175 AURORA
ST PAUL MN
55103

ROBBIE JOSEPH
904 CARGILL BLDG NO CTR
MPLS MN
55402

ROSS ROY J
CLK TREAS
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ST PAUL BUS HLTH DR P COX
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1220 ARCADE
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SCHMIDT D R MN ASSN REALTORS
6101 WAYZATA BLVD
MPLS MN
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SCHMIDT H W TCHRS RETIREMENT
302 CAPITOL SQ BLDG
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SCHUTZ LINDA
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55155

SCHWARTAU NEAL METH HOSP
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STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

RECEIVED
JUN 7 1976
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transhipment Facilities, EA 901-981.

Docket No. EA-76-004-WS

STATEMENT OF NEED

The above-captioned rules are not amendments to existing rules of the Minnesota Energy Agency. They are being proposed for initial adoption at this time.

The need to adopt rules specifying criteria for assessment of need and governing the contents of applications for certificates of need arises from legislative mandate.

> Subdivision 1. The director shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, promulgate assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section. The assessment of need criteria for electric generation facilities and electric transmission lines shall be promulgated no later than September 15, 1975. The assessment of need criteria for all other large energy facilities shall be promulgated no later than July 1, 1976.
>
> Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.

Minn. Stat. § 116H.13 subds. 1-2 (Supp. 1975). (Emphasis added.) It is further provided that "(t)he application shall be on forms and in a manner established by the director." Minn. Stat. § 116H.13 subd. 4 (1974).

It is further provided in the Rules of Procedure Governing Certificate of Need Program that

> any person desiring to construct a new large energy facility in Minnesota shall submit an application for a certificate of need for said facility to the director prior to commencing construction of said facility . . . . The application shall contain the information required in the applicable substantive rules . . . .

EA Comp Ex EXHIBIT 2
DATE 7/2/76

Minn. Reg. EA 502(a). "Large energy facility" is defined to include

> . . . any facility designed or capable of serving as a depot for coal transported into this state for use within the state or transhipment from the state . . . .

Minn. Stat. § 116H.02 subd. 5 (Supp. 1975).

The need to adopt rules establishing fees which shall accompany applications for certificates of need arises from a further legislative mandate in the Energy Agency Act.

> Any application for a certificate of need shall be accompanied by a fee not to exceed $50,000. The director shall establish by regulation pursuant to chapter 15 and sections 116H.01 to 116H.15, a schedule of fees based on the output or capacity of the facility and the difficulty of assessment of need. Funds collected in this manner shall be credited to the general fund of the state treasury.

Minn. Stat. § 116H.13 subd. 6 (1974).

The need to adopt a rule providing for inclusion of environmental data in applications for certificates of need arises from legislative mandate in the Energy Agency Act, Minnesota Statutes chapter 116H, and the Minnesota Environmental Policy Act, Minnesota Statutes chapter 116D, which read, in part, as follows:

> FINDINGS AND PURPOSE. The legislature finds and declares that the present rapid growth in demand for energy is in part due to unnecessary energy use; that a continuation of this trend will result in serious depletion of finite quantities of fuels, land and water resources, and threats to the state's environmental quality; that the state must insure consideration of urban expansion, transit systems; economic development, energy conservation and environmental protection in planning for large energy facilities; that there is a need to carry out energy conservation measures; and that energy planning, protection of environmental values, development of Minnesota energy sources, and conservation of energy require expanded authority and technical capability and a unified, coordinated response within state government.
>
> The legislature seeks to encourage thrift in the use of energy, and to maximize use of energy-efficient systems, thereby reducing the rate of growth of energy consumption, prudently conserving energy resources, and assuring statewide environmental protection consistent with an adequate, reliable supply of energy.

Minn. Stat. § 116H.01 (1974).

> No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the director shall evaluate:
>
> . . . .
>
> (5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;
> (6) The effects of the facility in inducing future development;
> (7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities;
> (8) The policies, rules and regulations of other state and federal agencies and local governments.

Minn. Stat. § 116H.13 subd. 3 (1974).

> ACTION BY STATE AGENCIES. Subdivision 1. The legislature authorizes and directs that, to the fullest extent practicable the policies, regulations and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.
>
> Subd. 2. All departments and agencies of the state government shall:
>
> . . . .
>
> (c) Identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations;
> (d) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;
> (e) Recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;
> (f) Make available to the federal government, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, Chapter 412;
> (g) Initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects . . . .

Minn. Stat. § 116D.03 (1974).

The rules are needed to inform each applicant for a certificate of need for a large coal storage facility or a coal transhipment facility of the application procedures, the filing fee which must accompany the application, the criteria by which the need for the proposed facility shall be assessed,

and the data elements which must appear in the application.

The need for each proposed rule is as follows:

EA 901: This rule is needed to clarify the applicability of these rules to the contents of applications for certificates of need submitted for large coal storage facilities by coal suppliers and coal transshipment facilities to be constructed in Minnesota. Further, this rule indicates that the proposed rules specify the criteria by which the director will assess the need for the proposed facility.

EA 902: This rule is needed to identify those certificate of need applicants who must comply with the porposed rules and those who are exempt for having begun or completed construction prior to the effective date of these rules.

EA 903: This rule is needed to prescribe the form, size, and number of copies required, correction of application procedures, cover letter requirements, public hearings scheduling requirements, maximum processing duration, procedures for applications which are not substantially complete, and other procedural requirements imposed upon applicants.

EA 904: This rule is needed to define certain terms of specific application in the proposed rules.

EA 905: This rule is needed to establish the fee schedule based upon the two general criteria provided in Minn. Stat. § 116H.13 subd. 6 (1976): 1) the capacity of the facility, and 2) the difficulty of the assessment of need. The fee schedule is set so as to assure a reasonable probability that the expenses attributable to processing applications are covered by the fees collected.

EA 911: This rule is needed to establish criteria to be used by the director in assessing the need for new large energy facilities. The rule establishes four criteria upon each of which the director must make an affirmative determination before a certificate of need may be granted. The rule is further needed to incorporate into the criteria the eight factors listed in Minn. Stat. § 116H.13 subd. 3 (1974).

EA 921: This rule is needed to direct each applicant to the rules which specify information required, and optional, is his application. In addition, the rule is needed to provide for joint applications and for applications for facilities owned and used by two or more persons.

EA 931: This rule is needed to provide for a section in the application which includes basic factual data concerning the applicant, the applicant's business, the proposed facility, the total fee, and those individuals associated with the applicant who will respond to inquiries directed to the applicant. This rule is also needed to require a listing of all other known permits or certificates required for the proposed facility, to enable the director to perform his overall coordination function.

EA 932: This rule is needed to insure that each application shall contain a section which states briefly the justification for the need for the proposed facility. A reader of the summary should quickly gain a broad understanding of the factors favoring certification of need.

EA 933: This rule is needed to insure that each applicant provides information responding to the three statutory factors (Minn. Stat. § 116H.13 subd. 3 (4), (5), (6) (1974) concerning which no other rule requires specific information.

EA 934: This rule is needed to determine whether each applicant has studied or implemented a conservation program which might affect his need for the proposed facility.

EA 941: This rule is needed to provide the director with historical data on the applicant's business operations, which data, in conjunction with information on conservation and energy efficiency, will assist the director in analyzing the applicant's forecast of future need for the proposed facility.

EA 941: This rule is needed to require the applicant to provide information concerning his anticipated operations. Forecast information is the primary justification for a new large energy facility and will aid the director in evaluating the relationship of the proposed facility to overall state energy needs.

EA 943: This rule is needed to provide the director with a detailed description of the proposed facility. In addition, the information required by this rule is needed to aid the director in analyzing alternatives to the proposed facility and in determining the relationship of the proposed facility to overall state energy needs.

EA 944: This rule is needed to insure that each applicant has considered alternatives to the proposed facility and to provide the director with specific information about the alternatives considered. The required information is needed to aid the director in determining whether the proposed facility is the most reasonable and prudent alternative available to the applicant, its customers, and the citizens of Minnesota and neighboring states.

EA 945 or 946: One of these two rules is needed to provide data regarding the environmental impact of the proposed facility, to determine whether the output of the facility may be used to protect or enhance environmental quality, and to determine whether the proposed facility is the most reasonable and prudent alternative available.

EA 971: This rule is needed to provide each applicant with the opportunity to present additional data relevant to the determination of the need for the facility.

EA 981: This rule is needed to require that the director justify each denial of a certificate of need application. The rule is further needed to specify those situations when recertification is required by a change in a facility previously certified by the director.

Dated: June 7, 1976

RICHARD A. WALLEN
Director, Certificate of
Need Program

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

RECEIVED
JUN 7 1976
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for large coal storage facilities for coal suppliers and coal transshipment facilities, EA 901-981

Docket No. EA-76-004-WS

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, and in support thereof, the Minnesota Energy Agency will introduce the following evidence: Minnesota Energy Agency Rules of Procedure Governing Certificate of Need Program, Minn. Regs. EA 500-520; Minnesota Energy Agency Rules Governing Contents of Applications for Certificate of Need and Criteria for Assessment of Need for Large Electric Generating Facilities and Large High Voltage Transmission Lines, Minn. Regs. EA 601-638; a rule by rule statement of justification for the rules; and the expert opinion of Dr. Richard A. Wallen, Director of the Certificate of Need Program, Minnesota Energy Agency, and Dwight S. Wagenius, Special Assistant Attorney General assigned to the Minnesota Energy Agency.

We may call one or more of the following expert witnesses to testify: David L. Jacobson, Chief Energy Facility Analyst, Minnesota Energy Agency; and Thomas E. Oland, Touche Ross & Co., consultant to the Certificate of Need Program. The named individuals played a substantial role in developing the proposed rules and will be available to testify in support of the need for each proposed rule.

We will be citing the following statutes: Minn. Stat. chapter 116H (especially, but not exclusively, section 116H.13); Minn. Stat. § 16A.128 (1974).

Dated: June 7, 1976

Richard A. Wallen

RICHARD A. WALLEN
Director, Certificate of Need Program
Minnesota Energy Agency

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612-296-5120

December 27, 1976

Mr. Duane Harves
Chief Hearing Examiner
State of Minnesota
Office of Hearing Examiners
Room 300
1745 University Avenue
Saint Paul, Minnesota 55104

Re: In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency, EA 901-981. Docket No. EA-76-004-WS.

Dear Mr. Harves:

The hearing examiner's report in subject proceeding was received by the Agency on November 17, 1976. The director proposes to adopt the rules as recommended by the hearing examiner with some small changes as set out in his Findings, Conclusions and Decision.

The complete hearing record including the rules as proposed, as revised and as adopted by the Agency are enclosed for your review pursuant to Minn. Stat. § 15.052 subd. 4 (Supp. 1975) and Minn. Reg HE 107.

Sincerely,

Dwight S. Wagenius

DWIGHT S. WAGENIUS
Special Assistant
Attorney General

DSW:skr
Enclosure

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA ENERGY AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA ENERGY AGENCY GOVERNING CONTENTS OF APPLICATIONS FOR CERTIFICATE OF NEED AND CRITERIA FOR ASSESSMENT OF NEED FOR LARGE COAL STORAGE FACILITIES FOR COAL SUPPLIERS AND COAL TRANSSHIPMENT FACILITIES.	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS.

A public hearing in the above-entitled matter was convened by Hearing Examiner William Seltzer of the Minnesota Office of Hearing Examiners at 9:30 a.m. on July 2, 1976, in the Veterans Service Building, St. Paul, Minnesota. Said hearing was continued and reconvened at 9:30 a.m. on July 16, 1976, at the Veterans Service Building, St. Paul, Minnesota. All interested persons, representatives of individuals or associations, and other interested groups present at the hearing had an opportunity to present evidence and question witnesses.

The Hearing Examiner, upon all records, files, evidence, arguments of counsel, and written comments filed before the close of the record, hereby makes and issues the following Findings of Fact, Conclusions and Recommendations.

FINDINGS OF FACT

1. That the Order for Hearing issued May 26, 1976, was in all respects proper in form, content, execution and filing.

2. That due, timely and adequate Notice of Hearing as ordered by the Minnesota Energy Agency (hereinafter sometimes referred to as "Agency") was properly served and filed on May 26, 1976. All other relevant substantive and procedural requirements of statute or rule have been complied with for the purposes of establishing jurisdiction of the subject matter to proceed to public hearing pursuant to statute.

3. That authority of the Energy Agency to promulgate the above-entitled proposed rules is contained in Minn. Stat. §116H.08(a) (1974). The Energy Agency adequately demonstrated its statutory rulemaking authority in its Notice of Hearing.

4. Minn. Stat. §116H.13 (1974) requires the Director of the Agency to promulgate assessment of need criteria to be used in the determination of need for large energy facilities. The Director is also given broad rulemaking authority in section 116H.08(a) (1974) to adopt the subject rules which are necessary to carry out the purposes of the Energy Agency Act, Chapter 116H.

No proposed large energy facility may be sited or constructed in Minnesota without the issuance of a certificate of need issued by the Agency Director. Minn. Stat. §116H.13, Subds. 2 (Supp. 1975), 3 (1974). Minn. Stat. §116H.02, Subd. 5 (Supp. 1975) defines "large energy facility" to include "any facility designed or capable of serving as a depot for coal transported into this state for use within the state or transshipment from the state....". Thus, the facilities subject to these proposed rules are clearly within the statutory definition of large energy facilities (i.e. large coal storage facilities for coal suppliers and coal transshipment facilities).

5. That the Agency submitted a proposed draft of the subject regulations prior to public hearings. [Energy Agency Exhibit No. 5]. After the public hearings, but before the close of the record, the Agency submitted a document entitled Energy Agency Staff Final Post-Hearing Statement which was received by the Office of the Hearing Examiner on August 5, 1976. That document included a final draft of proposed rules EA 901-981 which incorporated (1) the changes indicated on the Errata Sheet filed with the Hearing Examiner and accepted into evidence as Energy Agency Exhibit No. 4; and (2) changes suggested by the Agency Staff, and changes suggested by other interested parties which were agreed to by Agency staff. All proposed rules considered herein shall be the rules as appear in the above-mentioned revised regulations as submitted August 5, 1976, unless otherwise specifically noted.

6. That proposed EA 901 is reasonable and necessary to delineate the general purpose of the proposed rules. EA 901 is a short statement of introduction to the rules and the purpose of such proposed rules.

7. That proposed EA 902 is reasonable and necessary to specify those large energy facilities to which the proposed regulation is applicable.

The Agency's revision of EA 902(a) is substantially the same as the original proposal. The revision of EA 902(a) was made in response to comments of industry that the Agency more clearly state its position that a certificate of need is not required for expansion of an existing coal

storage or coal transshipment facility if such expansion of capacity or throughput is itself less than the size of a Coal Transshipment Facility or Large Coal Storage Facility as defined in Rules EA 904(e) and EA 904(l) respectively. On the other hand, the revision succinctly states the reasonable proposition that if expansion of an existing facility equals the capacity or throughput requirements that would otherwise require a certificate of need, such expansion is subject to the certificate of need process.

The Alter Company (a transshipment facility) through its submission to the record received by the Hearing Examiner August 5, 1976, raised the question of whether a transshipper, whose volume would increase by 500,000 tons of coal per year, because of a larger contract, has to go through the Certificate of Need Program even if there was to be absolutely no modification or addition to the existing facility. The answer is that if a transshipper expands in a manner that such expansion by itself would require applying for a certificate of need, such expansion is subject to the certificate of need process even though the expansion is part of an already-existing facility or operation.

It is specifically found that although proposed Rule EA 902 does not specifically exempt coal facilities used in conjunction with electric generating plants, such coal facilities are not subject to proposed chapter 900 rules. Such coal storage facilities used in conjunction with the generation of electricity are covered by Minn. Regs. EA 601 et seq. and proposed Minn. Regs. EA 801 et seq.

EA 902(b) reasonably exempts facilities which have begun or completed construction of a large coal storage facility or coal transshipment facility prior to the effective date of these rules.

8. That with the exception of rule EA 903(h), proposed EA 903 is reasonable and necessary to establish application procedures and in order to establish time frames appropriate to the procedural aspects and decision-making responsibilities of the parties involved.

Since the Agency has only six months to review and approve or deny an application for a certificate of need, proposed Rule EA 903 is important for the purposes of specifying the form and content of applications, that an adequate number of copies are filed, and that the application as filed is substantially complete. Proposed Rule EA 903(a) through

(g) accomplishes such appropriate application procedures.

That the Agency's revision of proposed Rule EA 903 by the addition of proposed EA 903(h) is reasonable acknowledgement on the part of the Agency of industry's request that, in certain situations, applicants be exempt from, or allowed to substitute submissions in satisfaction of, various data requirements. EA 903(h) is proposed in order to avoid unnecessary delay and costs. However, the language suggested in the Agency's revised proposal fails to delineate a procedure for specifying which data requirements (or particular rules) will be exempted. This situation can be corrected by adopting the following changes to the Agency's proposed Rule EA 903(h):

> (h) Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request for exemption from specified rules and a showing by that person in a written statement to the director that the data requirement (1) is unnecessary to determine the need for the proposed facility or (2) may be satisfied by submission of another document. A request for exemption ~~may~~ must be filed ~~no later than~~ at least 20 days prior to submission of an application. The director shall respond in writing to each request within 15 days of receipt including reasons for his decision. The director shall file a statement of exemption granted and reasons therefor prior to commencement of the hearing.

9. That proposed definitional rule EA 904 is reasonable and necessary for the purpose of defining those words and key terms which must necessarily have specific meaning for clear understanding of the proposed regulations. The definitions contained in EA 904(a) through (q) are sufficiently precise so as to avoid ambiguity and do not attribute definitions to the defined words that conflict with applicable statutory definitions.

Key definitions are "Coal Transshipment Facility" [EA 904(e)] and "Large Coal Storage Facility" [EA 904(l)]. The Agency derives its authority to require certificates of need for "large energy facilities" from Minn. Stat. §116H.07 (1974). These facilities are in turn defined in Minn. Stat. §116H.02, Subd. 5, to include:

> ...any facility designed or capable of serving as a depot for coal transported into this state for use within the state or transshipment from the state... (Emphasis added)

The Agency acknowledges at Page 3 in its Justification of Rules [EA Exhibit No. 5] that it was unable to find a definition of "depot" in other statutes or rules of other agencies. Therefore, for purposes of these rules, the Agency has selected the term "Large Coal Storage Facility" for Coal Suppliers as synonymous with "coal depot" and has defined "Large

Coal Storage Facility" in quantitative terms to be "a facility designed for or capable of storing 7,500 tons of coal, or a facility which is designed for an annual coal throughput in excess of 125,000 tons. In the definition, 7,500 tons of coal storage capacity is used and found to be reasonable because it approximates the BTU content of one million gallons of heavy oil, and the annual throughput of 125,000 tons of coal is used because it approximates the amount of coal a 50,000 kilowatt electric generating plant would use in one year at a fifty percent capacity factor, which are the minimum sizes of those types of facilities which fall within the definition of "large energy facility". The Agency has defined "coal transshipment facility" in quantitive terms to be a facility designed for or capable of transferring more than 300 tons of coal per hour or with an annual throughput of more than 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation. In this definition, an hourly transfer rate of 300 tons or an annual throughput of 500,000 tons is used because existing transshipment facilities within Minnesota equal or exceed these volumes.

Since the statute does not direclty define a "coal transshipment facility" or a "large coal storage facility" and since the definition of "coal depot" as appears in the Act is not quantitative, the implication is that the Legislature intended that the interpretation of "coal depot" to be within the Energy Agency's discretion. The Agency has therefore affixed its understanding of the term "coal depot" to other definitions as appear in EA 904.

10. That proposed Rule EA 905 is reasonable and necessary to specify certificate of need filing fees and payment schedules pursuant to Minn. Stat. §116H.13, Subd. 6 (1974).

The authority to assess fees for processing applications is set forth in Minn. Stat. §116H.13, Subd. 6 (1974). Subdivision 6 provides two general factors to be considered in establishing a fee schedule: (1) the size or output of the facility, and (2) the difficulty of assessment of need. The Agency's proposed filing fee and payment schedule is specifically and directly correlated with either output or capacity of the facilities regulated by the proposed regulations. Therefore, the first statutory criteria for assessing fees is specifically followed by the Agency's proposal. The second statutory criteria, that the fees be based on difficulty of assessment of need, is also met by the Agency's proposal. The Agency, in large part, established its fee schedule so as to collect

fees which approximate the Agency's costs of processing. In turn, such basis was originally calculated on the Agency's cost per man hour devoted to processing an application. It is specifically found that there is a direct correlation between man hours devoted to processing an application for a certificate of need and the statutory criteria of "difficulty of assessment of need".

Concern was expressed over the clause in proposed Rule EA 905 which would allow the Agency to collect additional fees beyond those imposed at the time of application. However, it is undisputedly clear that fees cannot exceed $50,000 in accordance with Minn. Stat. §116H.13, Subd. 6 (1974). Furthermore, it is the stated intent of the Agency to keep the Certificate of Need Program as streamlined as possible and to stay away from additional fee assessment. [See Energy Agency Staff Final Post-Hearing Statement at Page 9.] Additionally, Minn. Stat. §16A.128 (1974) indicates that fee schedules be set so that the total fees received approximate the amount appropriated by the Legislature, which implies that the Certificate of Need Program must be self-supporting. Thus, the cost of processing an application is estimated in order to determine the fee schedule. It logically follows that provision must be made for the collection of additional fees (which cannot exceed $50,000 total) in instances where the Agency's costs exceed the fees imposed at the time of application. If the Agency must exercise its option to charge additional fees as are reasonably necessary for the completion of the evaluation of need for the proposed facility, the Agency must submit an itemized statement to the Applicant.

11. That proposed Rule EA 911 (Criteria for Assessment of Need) is reasonable and necessary to establish by regulation criteria to be used by the Agency Director in his determination of the need for a proposed large energy facility. The Director of the Agency is mandated by statute to promulgate regulations which put forth criteria upon which he is to make an assessment of need. [Minn. Stat. §116H.13, Subd. 1 (Supp. 1975]. Proposed EA 911 satisfies the statutory mandate to promulgate such regulations.

Other rules in the chapter 900 series specify the specific data that an applicant must supply in order for the Director to have sufficient data and informational base upon which to apply the criteria specified in EA 911.

The Energy Agency Act also specifies criteria to be used by the Director in making his determination of need. It is specifically found that the Agency has authority to promulgate regulations establishing additional criteria to be used by the Director for his assessment of need. The Hearing Examiner rejects any contention that EA 911 should set forth the exact language of the statutory criteria so that there will be nothing lost between the legislative intent and an attempted rewording of that intent. It is specifically found that those statutory areas in the Energy Agency Act which must be evaluated by the Director in reviewing a certificate of need application are binding on the Director. However, since the Legislature also provided for the Agency to promulgate (by regulation) assessment of need criteria to be used in the determination of need, it is clear the Agency can promulgate regulations which supplement and expand upon the statutory criteria. The eight factors to be considered by the Director in his assessment of need which are listed in the Energy Agency Act [Minn. Stat. §116H.13, Subd. 3 (1974)] are not an exclusive list of factors and the Director must consider both the statutory factors and the assessment of need criteria as established by regulation in making his determination on the issuance of a certificate of need.

Proposed Rule EA 911 establishes four criteria upon which the Director must make an affirmative determination before a certificate of need may be granted. The first criterion in the proposed regulation provides the standard which the Director will use to measure the validity of an applicant's asserted need for a new facility when considering the probable result of a denial of the application. The second criterion requires the Director to evaluate possible alternatives for satisfying the energy demand. The third criterion requires the Director to determine if the consequences of granting the certificate of need outweigh the consequences of denying the certificate. The fourth criterion requires the Director to find that granting the certificate is consistent with the policies, rules and regulations of other state and federal agencies and local governments.

The Agency was convinced during the public hearing process that factors listed under each criterion may vary in their applicability from one large energy facility to another. As a result, proposed Rule EA 911 (a) has been appropriately amended by way of addition of language which

makes it clear to an applicant that in particular cases some of the factors will be more pertinent to need assessment than other factors. Thus, if it is clear that a factor should be given very little weight, or if the applicant can establish the fact that a particular factor bears little relationship to his particular application, the applicant would know that the absence of an affirmative case satisfying that factor would not be weighed negatively by the Director.

The change in the Agency's proposed Rule EA 911(b)(4) is a reasonable and proper reaction to industry comments which, in part, persuaded the Agency that industry should not have the burden of proving that the granting of a certificate of need is consistent with relevant rules and regulations of other federal, state and local agencies. Instead, any inconsistency with rules and regulations of other federal, state and local agencies will have to be demonstrated on the record. [See Minnesota Association of Commerce and Industry testimony (Tr. II 20) and Minn. Stat. §116H.13, Subd. 3(8) (1974)].

12. That proposed Rule EA 921 is reasonable and necessary for the purposes of delineating the contents of an application for a certificate of need.

This rule: (1) directs an applicant to other rules in the chapter 900 series which requires specific responses, (2) gives an applicant the option of supplying information in response to proposed Rule EA 971, (3) specifies that each joint applicant must, when required by rule, submit the information required by the appropriate rule, and (4) that each application for a certificate of need for a facility which is owned and used by two or more persons shall be considered as a joint application.

13. That proposed Rule EA 931 is reasonable and necessary for the purpose of informing an applicant of the general type of information required in an application for a certificate of need. In accordance with this rule, an applicant is required to supply such basic information as the applicant's name, title, a brief description of the nature of applicant's business and the description of the proposed facility, a brief description of the facility's planned use, the total fee for the application as prescribed by Rule EA 905 and the amount of fee submitted, and appropriate signature and title of the person who prepared the application and/or authorized to sign such application. Other similar general informational

requirements are set forth in EA 931.

Some adverse comment was made with respect to Rule EA 931(b) which requires an applicant to supply information listing known federal, state and local agencies and authorities with which the applicant must file for the proposed facility. However, such information is a reasonable requirement and will assist the Agency in making an appropriate decision within time schedules justified under the circumstances of each particular case.

14. That proposed Rule EA 932 (Need Summary) is reasonable and necessary for the purposes of allowing an applicant to summarize the major factors which, in applicant's opinion, justify the need for the proposed facility. Such written summary will also enable a reader of the application to quickly gain a general understanding of those factors regarded as most cogent by applicant without the reader having to review the entire application.

15. That proposed Rule EA 933 (Summary of Additional Considerations) is a reasonable and necessary data requirement for applicants which implements by regulation Minn. Stat. §116H.13, Subd. 3 (1974). Subdivision 3 requires the Director to consider and evaluate certain factors: (1) the promotional activities leading to the demand for the proposed facility, (2) socially beneficial uses of the output of the facility, (3) the effects of the facility in inducing future development. The Director cannot adequately evaluate these factors unless industry supplies the data and information required in EA 933. Such information is not required elsewhere in the proposed rules.

Issue was raised that EA 933 is not applicable to transshipment facilities since the information requested is outside the scope of a transshipper's knowledge. (Tr. 81) However, the Agency is required by statute to evaluate the requested data. The statute requirement cannot be ignored. The assertion made by transshippers is that much of the information requested is outside a transshipper's knowledge and relates to the concerns familiar to their suppliers or to their customers. Transshippers asserted that they have no knowledge concerning the operations of the coal shipper who is most probably a mine located in one of the western states; nor would a transshipper have information which concerns the facilities of their customer. A transshipper is basically a middleman.

However, the assertions made by the transshipment interests lost sight of the fact that the information to be supplied in an application for a certificate of need pertains to the applicant. Therefore, a transshipper is not expected to supply information or have knowledge concerning the operations of its customers or suppliers. It may very well be true that Rule EA 933 requests information which is not always applicable to coal transshippers. Accordingly, a coal transshipping applicant can appropriately indicate in the application that a particular data requirement is not applicable. If the Agency takes issue with such assertion on the part of an applicant, the Agency has an appropriate remedy. Furthermore, it is noted that Rule EA 911(a) provides that the factors listed under each of the various data requirements will be evaluated by the Director to the extent that the Director deems them applicable and pertinent to each facility proposed. Thus, responses indicating that a particular rule is not applicable to a particular applicant must be considered by the Director in accordance with Rule EA 911(a).

16. That proposed Rule EA 934 (Conservation Programs) is reasonable and necessary to implement and evaluate, by regulation, a system of evaluating the effects of existing or possible energy conservation programs prior to issuing a certificate of need. [Minn. Stat. §116H.13, Subd. 3 (1974)]. The required data supplied by an applicant under EA 934 will enable the Director to make the appropriate evaluation.

Again, there was concern expressed as to whether this rule should be applicable to coal transshipment facilities. The proposed rules provide an adequate remedy in instances where the applicability of a particular rule is questionable [i.e. proposed Rule EA 911(a)]. Furthermore, the energy efficiency of different types of handling facilities can vary and savings in the amount of energy used by alternate types of handling operations may become a valid consideration with regard to coal transshipment facilities. Obviously, a prime objective of the Agency is to seek and encourage energy conservation whenever possible.

17. That proposed Rule EA 941 (Historical Energy Data) is reasonable and necessary to require an applicant to supply information and data pertaining to historical experiences. Such data is necessary to aid the Director in his determination of whether to issue a certificate of need for a proposed large energy facility. Without such data, the Director would have no basis to analyze the accuracy of an applicant's forecast

of demand for the product, as required by Minn. Stat. §116H.13, Subd. 3 (1974).

The rule is divided into two subdivisions. Subdivision (a) applies to applicants who are planning to expand or replace an existing facility. Subdivision (b) applies to a new large coal storage facility or a new coal transshipment facility. The information required from the two types of applicants is significantly different.

Subdivision (a), (1) through (5), require the submission of data which describes an applicant's existing facility. Subdivision (a) (6) requires the submission of data on the source of coal processed by the existing facility during the five most recent years and the modes of transportation used to bring the coal into the facility. Subdivision (a) (7) requires the submission of information on the percentage of the existing facility's volume distributed within Minnesota service area for the five most recent years.

Subdivision (b)(1) requires submission of data for the five most recent years regarding the existing market for coal in the geographic service area of the proposed facility, the type of coal used and the types of coal users. The information on historical demand and use is necessary to judge the reasonableness of an applicant's forecast of demand, which is required by Rule EA 942. Subdivision (b)(2) and (3) require an applicant to provide data for the five most recent years on the existing distribution channels, including the names of the top ten distributors and the source of supply for coal which has been distributed.

The language change to proposed Rule EA 941(b) which now includes the word "new" in the first sentence of the proposed rule is reasonable and necessary. The word "new" is necessary to make it clear that EA 941 (b) only applies to new facilities as opposed to expansions of existing facilities. As the rule is now written, it is clear that subdivision (a) applies to existing facilities while subdivision (b) applies to new facilities.

The Minnesota Association of Commerce and Industry was of the opinion that summarized five-year data would suffice as well as the proposed year by year details while reducing the burden on an applicant. The Hearing Examiner finds that a year by year information basis is more thorough and will better enable the director to make an appropriate determination.

18. That proposed Rule EA 942 (Forecast Data) is reasonable and necessary in order for applicants to supply the Director with information needed in order to make a determination of whether to issue a certificate of need. Whereas the rules pertaining to Historical Energy Data require supplying the Director with information pertaining to an applicant's past business experience, the rules pertaining to Forecast Data require information pertaining to expected future business experience. Minn. Stat. §116H.13, Subd. 3 (1974) requires the Director to evaluate the accuracy of an applicant's long range energy demand forecasts. Without EA 942, the Director could not follow the statutory mandate. It is found that all of the data requirements in proposed Rule EA 942 are meaningful and will assist the Director in making his determination of need.

Again, the transshippers assert that Rule EA 942 requires information that is not available to the transshipper. Such assertion may, in large part, be true. However, the appropriate remedy is for the transshipper to indicate in its application that the particular rule or subparts are not applicable. A transshipper making application for a certificate of need is not held responsible for supplying information which pertains to its customers or suppliers. It is true, as asserted by transshippers, that they ordinarily have no knowledge of the energy conservation efforts or the methods of the coal shipper; nor would a transshipper have information as to why a storage facility or customer needs such coal in their operation or what environmental controls are utilized or necessary in the particular business and operations of a transshipper's customer. However, a transshipper is not held responsible to supply information outside the activities of the facility for which application is being made.

19. That proposed Rule EA 943 (Description of Proposed Facility) is reasonable and necessary to describe the purpose, planned use and description of a proposed facility. Such data must be supplied by an applicant as a necessary element for the Director to make an adequate assessment of whether to issue a certificate of need.

EA 943 is designed to supply the Director with information pertaining to the following: the purpose and planned uses of the facility; the description of the facility including its design, dimensions and preliminary drawings; the names and addresses of independent contractors used to design and construct the facility; the estimated cost and life of the

facility; the facility's capacity; the approximate planned date for beginning construction and the planned in-service date; the description of potential future expansions; and, a flow chart. This information and other similar types of information and data which must be supplied pursuant to EA 943 are factors which must be considered by the Director.

Additionally, EA 943 requires the submission of information on the equipment and facilities which would be used to control any emissions and to recover accidental spills. This information is needed to gain an understanding of the specific equipment which will be used to mitigate adverse environmental effects of the proposed facility and is necessary to further describe the facility and its anticipated use.

EA 943 as currently proposed changes subdivision (b)(3)(III) so as to read "preliminary drawings" instead of "engineering drawings". That change is reasonable and necessary to avoid the necessity of an applicant having to prepare detailed engineering drawings prior to knowing whether the proposed facility will be certified.

20. That proposed Rule EA 944 (Alternatives) is reasonable and necessary to enable the Director to meet the statutory requirement that he consider possible alternatives to the proposed facility in his assessment of need. [Minn. Stat. §116H.13, Subd. 3 (1974)].

The information to be supplied in accordance with EA 944 includes the following: the applicant's opinion of the impact, if any, of not building a proposed facility; discussion of alternative sizes which were considered for the facility; and a discussion by the applicant of the various sites considered for the proposed facility and to provide data on any known restrictions on specific sites, limitations on distance from the proposed site to the major market area or waterways, and the reasons alternative sites were rejected.

21. That many objections were raised to proposed Rule EA 945 which pertains to Environmental Data.

One objection to proposed EA 945 was the allegation that the Agency originally proposed two alternate rules significantly different without expressing a preference as between the alternate rules. Therefore, it was charged that the Agency failed to make "an affirmative presentation of facts establishing the need for and the reasonableness of the proposed rule" as required by Minn. Stat. §15.0412. The Hearing Examiner finds

that such argument lacks merit. The mere fact that the Agency proposed two alternative environmental data rules without expressing a preference for either one at the onset of the public hearing process does not automatically lead to the conclusion that there was a failure to make an affirmative presentation as required by section 15.0412. Agencies must be allowed to propose alternate regulations and rules during the public hearing process if they so desire. In fact, such a procedure benefits all parties concerned by providing viable alternatives upon which final decisions can be made after a review of all relevant testimony and submissions.

Another objection posed against Rule EA 945 is that the type of environmental information requested by the Rule is beyond the scope contemplated by statute. The Hearing Examiner finds that the Agency has the statutory authority to require the environmental data required in EA 945. In Minn. Stat. §116H.13, Subd. 7, the legislature provided that the issuance or denial of certificates of need shall be the "sole and exclusive prerogative" of the Director of the Agency and such determinations shall be binding upon all other state departments. The sole exception is that prior to, or within ten days after, a final decision by the Agency, the Environmental Quality Council may delay implementation of a decision for a period of 45 days within which it may reverse or modify the decision for the reasons set forth in section 116D.04, Subd. 9. Therefore, if the Director issues a certificate of need, a substantial step has been taken toward the installation of a large energy facility. The Director's decision is binding on all other state agencies so that at the certificate of need stage, practically speaking, a substantial binding step has been taken toward the installation of a large energy facility which could conceiveably have a major adverse impact upon the environment of the State of Minnesota. Since the line environmental agencies such as the Department of Natural Resources, Pollution Control Agency and even the Environmental Quality Council do not have broad base authority to override the decision of the Energy Agency, it is only logical to inject environmental considerations into the certificate of need process. Otherwise, if environmental considerations are not taken into account at the certificate of need stage, other agencies may be left with the dubious task of deciding where to site an environmentally detrimental facility. The issue of whether a large energy facility is needed and the issue of environmental impacts of a large

energy facility should not be considered in separate vacuums. "Need" should be weighed against or take into consideration possible adverse environmental effects. Determinations in the energy field are thoroughly entwined with impact upon our environment. Minnesota Statutes Section 116H.13, Subd. 7, requires "other state agencies authorized to issue permits for siting, construction or operation of a large energy facility" to "present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need." It has already been stated that line environmental agencies do not have broad base authority to overrule the Energy Agency's decision to issue a certificate of need. Therefore, statute provides for the expertise of other agencies (i.e. PCA, DNR, etc.) to come into play at the need stage. Since the "other state agencies" which are required to participate in the need process have expertise in various areas of environmental matters, it is concluded by the Hearing Examiner that such participation is intended to be along the lines of their particular areas of expertise. In order for meaningful participation, such "other state agencies" must have a data base supplied by an applicant upon which to make their respective expert assessments so as to appropriately present their position. It should be noted here that both the Department of Natural Resources and the Pollution Control Agency support the inclusion of Energy Agency regulations which require environmental data (see submission to the record received by the Hearing Examiner August 4, 1976, and August 5, 1976, respectively). Thus the requirement to supply environmental information to the Energy Agency will not only directly assist the Director of the Energy Agency in making his determination of need, but, will assist other state agencies in formulating a position which must be presented at the certificate of need process.

The Minnesota Environmental Policy Act adds additional support to the Finding that the Energy Agency has authority to require environmental data and that the Director should consider environmental criteria in his determination of need. The Environmental Policy Act requires <u>all</u> departments and agencies (including the Energy Agency) to do the following:

> Utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on man's environment [Minn. Stat. §116D.03, Subd. 2(b)(1)].

> Identify and develop methods and procedures that will ensure that environmental ammenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations [Minn. Stat. §116D.03, Subd. 2(c)].
>
> Recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. [Minn. Stat. §116D.03, Subd. 2(e)].

It is specifically found that the above-mentioned portions of the Minnesota Environmental Policy Act apply to the Minnesota Energy Agency. It is also Found that contrary to industry's allegations, there is no conflict as between the above-cited mandates of the Environmental Policy Act and the fact that the Director of the Energy Agency has "sole and exclusive prerogative" regarding the issuance or denial of a certificate of need. Certainly, the Director's exclusive prerogative to exercise "sole discretion" can be exercised while still attaining compliance with the above-stated portions of the Minnesota Environmental Policy Act. Simply stated, the mandates of the Environmental Policy Act take nothing away from the prerogatives of the Director of the Energy Agency unless one interprets the language in the Energy Agency Act to grant the Director with unbridled discretion.

Further statutory support for the Agency's contention that it has authority to require environmental data is found in the Energy Agency Act at Section 116H.01 (1976) which states that the present rapid growth in the demand for energy will result, in part, in threats to the state's environmental quality and that: "the state must ensure consideration of... environmental protection in planning for large energy facilities....". Furthermore, Minnesota Statutes Section 116H.13, Subd. 3(5-8) (1974) requires the Director to evaluate certain factors in making his assessment of need. The factors listed in this portion of the Minnesota Energy Act are inseparable from factors having a direct bearing upon the environment.

It is specifically found by the Hearing Examiner that the Director of the Energy Agency is required to evaluate environmental considerations when making his determination of need. Indeed, in assessing need, the Director is required to evaluate "the policies, rules and regulations of other state and federal agencies and local governments". There is no

stated statutory exemption from environmental policies, rules or regulations of other state and federal agencies. Therefore, the fact that the Director must consider other policies, rules and regulations (which include environmental considerations) results in the conclusion that issues of environmental concern are fused with the determination of need for large energy facility.

It was asserted that in 1976, the legislature clearly prohibited the preparation of environmental impact statements and environmental reports in the certificate of need process. The contention was then made that proposed Rule EA 945 will require the collection and evaluation of much of the same data required in an environmental impact statement in fact if not in name. The 1976 legislative action referred to appeared in a particular deficit appropriation as follows:

> It is the intent of the legislature that environmental impact statements shall not be prepared in conjunction with the certificate on need process defined in Minnesota Statutes 1974, Section 116H.13, and the sums appropriated by this Section shall not be expended for environmental reports of any kind. [Journal of the House, 107th day, page 6550 at 6558; Journal of the Senate, 107th day, page 5829 at 5836.]

The original House Bill was substantially different than the Bill finally passed. The House Bill stated that no Energy Agency funding could be used to prepare environmental reports and that the Agency was exempt from compliance with the EIS section of the Minnesota Environmental Policy Act. The language of the deficit appropriation finally adopted by the legislature rejected such limitation. Thus, the Hearing Examiner finds that the legislative language in the deficit appropriation is clear than environmental impact statements shall not be prepared in conjunction with the certificate of need process. However, by stating that [only] that particular deficit appropriation shall not be used for "environmental reports of any kind", it is evident that the legislature acknowledges the propriety of some form of "environmental reports" at the certificate of need stage with the exception that that particular appropriation shall not be used for such reports. Furthermore, the Hearing Examiner does not decide the issue of whether proposed Rule EA 945 is to be considered as an "environmental report" or merely a data gathering tool.

It is specifically noted that some of the information required in proposed Rule EA 945 may not be applicable to each applicant. For example,

a coal transshipment facility may not necessarily be able to supply all of the data required under EA 945 because the information may be outside of the perview of the operation of the facility itself. Thus, proposed Rule EA 945 should only pertain to information that can reasonably be expected to be within the particular knowledge of an applicant and only so far as the information relates to the operations of the applicant and without considerations of an applicant's suppliers or customers. The Agency did not establish the reasonableness of any interpretation of proposed Rule EA 945 which would require an applicant to supply data or information concerning other facilities even though such other facilities may be a source of supply or a customer of a particular applicant. It is presumed that if any portion of proposed Rule EA 945 (or any other proposed rule) is inapplicable to a particular applicant, the applicant may so indicate. If the Agency takes issue with such response, approriate remedies are available.

The Hearing Examiner finds that the Energy Agency has statutory authority to adopt rules requiring environmental data from applicants for a certificate of need. The Hearing Examiner also finds that proposed Rule EA 945 is reasonable and necessary to establish a regulatory scheme for the collection of environmental data which is necessary for the Director to use in his determination of need and necessary for the purposes of supplying a data base to other state agencies so that such other agencies can comply with their statutory duty to meaningfully participate in the public hearing process prior to the issuance or denial of a certificate of need.

The new proposed Rule EA 945 (a) has been appropriately restructured to facilitate information gathering by the applicant. The new subdivisions (b) through (d) of proposed Rule EA 945 largely represent a reorganiztion of the environmental data section submitted by the Pollution Control Agency and received by the Hearing Examiner August 5, 1976. A section entitled "agriculture" has been inserted in subdivision (d) to highlight concerns of the Department of Agriculture. Proposed Rule EA 946 has been appropriately dropped from the rules because the information sought by it will be collected as a result of inclusion of the revision of proposed Rule EA 945.

22. That proposed Rule EA 971 (Other Data Filed With The Application) is reasonable and necessary to enable an applicant to present any additional data which has not been specifically requested. The rule gives an applicant the option to insert additional explanatory or persuasive information.

23. That proposed Rule EA 981(Certificate of Need Modifications) is reasonable and necessary to allow the Director to exercise the options which result from his consideration of statutory and regulatory criteria. The Director may issue a certificate of need contingent upon modifications.

Further, the rule is needed to require that the Director justify each denial of a certificate of need application and further specifies criteria with regard to whether or not recertification is necessary.

24. That industry's assertion that the Energy Agency failed to meet the jurisdictional requirements for rule adoption and made no timely affirmative showing as to the reasonableness of the proposed rules, is without merit. There has been no demonstration of any prejudice or harm suffered by industry because the Agency introduced its Statement of Evidence at the time of the public hearing rather than prior thereto. The Statement of Evidence was introduced July 2, 1976, at the time of the public hearing. The public hearing was continued to July 16, 1976. Thereafter, the record of the proceedings remained open for twenty days. Industry had adequate time to review the Agency's Statement of Evidence, and to prepare its response thereto.

The Energy Agency's Statement of Need is sufficient and adequate.

The sole purpose for the requirement of submitting a prepared Statement of Evidence prior to the hearing date is to allow interested persons an adequate opportunity to prepare their response to the Agency's evidence. (See records of public hearings on Rules of the Office of Hearing Examiners.) In this case, the Agency agreed to a recess and reconvening of the hearing in order to allow such persons a full opportunity to prepare their response. Thus, no prejudice can be shown in this case, and the Rules should not be rejected on such basis.

25. That some of the changes suggested by industry during the public hearing process and prior to the close of the record have been adopted by the Agency and are embodied in the proposed Rules as finally

submitted before the close of the record. Such action represents the true intent of a give-and-take process whereby proposed regulations are subject to public scrutiny, suggestion and comment.

The proposed chapter 900 rules as finally proposed by the Agency and submitted to the Hearing Examiner on August 5, 1976, are found to be substantially the same as the Agency's original proposal as Noticed for Hearing. Furthermore, the changes suggested herein by the Hearing Examiner do not represent a substantial change from the original proposal as Noticed for Hearing.

CONCLUSIONS

A. That the Minnesota Energy Agency duly acquired and now has jurisdiction over the subject proceeding.

B. That all relevant legal and procedural requirements of statute and regulation have been properly complied with.

C. That the Minnesota Energy Agency has statutory authority to promulgate and adopt the subject rules and regulations.

D. That the proposed rules and regulations are reasonable and necessary for the purposes of establishing the necessary data base and assessment of need criteria to be used by the Minnesota Energy Agency and its Director in making the determination of whether to issue a certificate of need. Furthermore, the proposed rules and regulations are reasonable and necessary to supply the requisite data base for other state agencies which are required by statute to participate in the certificate of need process.

E. That in proposing the language changes suggested by this Hearing Examiner in the Findings of Fact and reviewing the finally proposed rules and regulations as compared to the originally proposed rules and regulations which were noticed for public hearing, consideration was given to Minn. Reg. HE 108 which sets forth the criteria necessary to determine whether a rule, as finally adopted, is substantially different from the rule as originally proposed. In the event that it is determined that a substantial change has been made, the proposing agency must either withdraw the proposed final rule or reconvene the rule hearing. This Hearing Examiner concludes that the amendments, additions and language changes suggested by the Hearing Examiner and those made by the Minnesota Energy Agency will not result in a substantial change from the originally proposed rules and regulations.

RECOMMENDATIONS

IT IS HEREBY RESPECTFULLY RECOMMENDED: that the Minnnesota Energy Agency adopt the proposed chapter 900 rules as finally revised and submitted by the Minnesota Energy Agency and with the language changes suggested by the Hearing Examiner in the Findings of Fact.

Dated this 17 day
of November, 1976.

William Seltzer

WILLIAM SELTZER
Hearing Examiner

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transshipment Facilities, EA 901-981.	Docket No. EA-76-004-WS ORDER ADOPTING RULES

The above-entitled matter came on for hearing before William E. Seltzer of the Minnesota Office of Hearing Examiners for the Director of the Minnesota Energy Agency at 9:30 a.m. on July 2, 1976, in Conference Room A of the Veterans Service Building, Saint Paul, Minnesota and, in a continuation of the hearing, on July 16, 1976, at 9:30 a.m. in Conference Room A of the Veterans Service Building, Saint Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (Supp. 1975) 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 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 and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minn. Regs. EA 901-981 are adopted this 23rd day of December, 1976, pursuant to authority vested in me by Minn. Stat. § 116H.08(a) (1974).

STATE OF MINNESOTA
MINNESOTA ENERGY AGENCY

John P. Millhone
Director

STATE OF MINNESOTA

MINNESOTA ENERGY AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Energy Agency Governing Contents of Applications for Certificates of Need and Criteria for Assessment of Need for Large Coal Storage Facilities for Coal Suppliers and Coal Transshipment Facilities, EA 901-981.	Docket No. EA-76-004-WS DIRECTOR'S FINDINGS OF FACT, CONCLUSIONS AND DECISION

The hearing in the above-captioned matter was ordered on May 26, 1976, and was convened for the Minnesota Energy Agency (hereinafter "Agency") by Hearing Examiner William E. Seltzer of the Minnesota Office of Hearing Examiners at 9:30 a.m. on July 2, 1976, in Conference Room A of the Veterans Service Building, Saint Paul, Minnesota, and was continued and reconvened at 9:30 a.m. on July 16, 1976, in the same room.

The hearing examiner made and issued his Findings of Fact, Conclusions and Recommendations to the Agency on November 17, 1976. The hearing examiner recommended to the Agency that it adopt the Agency's revised proposed rules incorporating the language changes suggested by the hearing examiner.

The director of the Agency, upon the record certified to him by the hearing examiner and the Findings, Conclusions and Recommendations made by the hearing examiner, hereby makes and issues the following Findings of Fact, Conclusions and Decision.

FINDINGS OF FACT

1. In general, the hearing examiner did a reasonable, thorough and excellent job of presenting his Findings in the above-captioned matter. The hearing examiner's Findings 1-7 and 9-25 are hereby adopted as the Findings of the director.

2. The director agrees with the substance of the hearing examiner's Finding No. 8 with respect to proposed rule EA 903 H. However, the director believes the following language better expresses the intent of the findings than

that proposed by the hearing examiner:

> H. Prior to the submission of an application, a person may be exempted from any data requirement of these rules upon a written request to the director for exemption from specified rules and a showing by that person in ~~a written statement to the director~~ the request that the data requirement 1) is unnecessary to determine the need for the proposed facility or 2) may be satisfied by submission of another document. A request for exemption ~~may~~ must be filed ~~no later than~~ at least 20 days prior to submission of an application. The director shall respond in writing to each such request within 15 days of receipt including reasons for his decision. The director shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

With this minor revision, hearing examiner's Finding 8 is also adopted as a Finding of the director.

3. It is the opinion of the director that one additional change is necessary in the rules to avoid duplication. EA 943 C and EA 945 C of the revised proposed rules both address the issue of environmental safeguards which would be provided if the proposed facility were constructed. Therefore, the director believes that revised proposed rule EA 945 C should be replaced in its entirety by the following:

> C. Pollution Control and Safeguards Equipment
>
> 1. Pollution Control Equipment and Measures. Indicate any pollution control equipment and measures, in addition to those provided in response to rule EA 943 C, that would be used to reduce the impact of the facility.
>
> 2. Environmental Monitoring. Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

The effect of this change is to require the same information from the applicant but not to require that information twice with respect to the proposed facility. The director believes it is important to obtain information about any environmental safeguards for the alternatives discussed by the applicant in response to rule EA 944. Therefore, it is necessary that some reference to environmental safeguards be retained in rule EA 945.

4. Certain other very minor changes have been made to the revised proposed rules. The bulk of those changes consist of the renumbering of rules to conform to the outline form suggested in Minn. Reg. RGSTR 6 D. Also, the references in rules to other portions of the rules have been clarified. The few other changes are typographical, spelling, grammatical, word usage, or order changes made solely for clarification.

CONCLUSIONS

The director concurs with the Conclusions made by the hearing examiner and hereby adopts them. The director's minor changes and additions to the hearing examiner's Findings, as described above, fall within the sense of the hearing examiner's Conclusion E.

DECISION

The director accepts the recommendation of the hearing examiner to adopt the revised proposed rules and in a separate Order adopts rules EA 901-981, incorporating the hearing examiner's changes as modified by the changes indicated in the director's Findings. A copy of rules EA 901-981, as adopted, is attached.

Dated: December 23, 1976

John P. Millhone
Director