

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our file # 558 CA

Joannie

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 11-9-79 DUE DATE 11-29-79
Joannie 11/19

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓

2. Rules as Proposed ✓

3. Certificate of Board's Authorizing Resolution, where applicable ✓

4. a Order for Hearing ✓
b. ✓

5. a Notice of Hearing ✓ note need for 2nd hearing per attached letter and HE rept.
Sufficiency? full definition of lobbyist not included
b Notice Sufficiency ✓ same as above

6. a Secretary of State's List ✓ (one copy only)
b ✓

7. a Certificate of Acquisition of Secretary of State's List ✓
b ✓

8. a Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
b ✓

9. a Affidavit of Mailing ✓
At least 30 days prior to hearing ✓
b. ✓

10. a Publication in State Register ✓
At least 30 days prior to hearing NO
b. ✓

11. Statement of Need and Evidence. ✓ NO

12. Hearing Examiner's Report ✓ Rehearing HE rpt ✓

13. Agency's Findings of Fact ✓

14. Certificate of Board's Resolution Adopting Rules, where applicable ✓

15. Order Adopting ✓

16. Report of Chief Hearing Examiner ✓

17. Order Approving Incorporation by Reference, where applicable N/A

18. Certificate of Compliance with Rulemaking Procedures _____

19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓

20. Petition by Public, where applicable N/A

5c Notice of Rescheduling of Hearing No. 2 ✓
6c ✓ 7c ✓ 8c ✓ 9c ✓ 10c ✓ 30 days ✓

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JOAN ANDERSON GROWE
Secretary of State
180 S.O.B.

DATE: 11/6/81

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: POLLUTION CONTROL AGENCY RULE
6 MCAR § 4.0039 EMERGENCY EPISODES

Attached are copies of a letter, an affidavit, and a corrected Table 4 explaining a discrepancy in Table 4 between what was officially adopted by the agency and what was filed with your office.

I have examined our file regarding this rule adoption and find that the rule on file in your office should include the material set forth in the affidavit. Therefore, this office approves the substitution of the corrected Table 4 for the incorrect one attached to the rule that is in your file.

JSA/cae

Encs.

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

November 4, 1981

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

Jerry Anderson
Special Assistant Attorney General
530 State Office Building
St. Paul, MN 55155

Re: 6 MCAR §4.0039, "Emergency Episodes"

Dear Mr. Anderson:

As you know, the Office of Revisor of Statutes is in the process of publishing agency rules. As a part of this process the Office of the Revisor has discovered a discrepancy between the text of Table Four of 6 MCAR §4.0039, "Emergency Episodes" as it appears in the MCAR codification and as it appears in the copy of the rule on file in the Office of the Secretary of State.

In checking our files we have determined that the copy of the rule on file with the Office of the Secretary of State does contain an error in the text of Table Four.

Enclosed is an affidavit of the Executive Director of the Minnesota Pollution Control Agency stating the nature of the discrepancy and attaching a true and correct copy of the Table Four as adopted by the Agency. I would appreciate it if you could arrange with the Office of the Secretary of State for correction of the official copy of the rule by substituting the correct text in place of the incorrect text of Table Four.

Very truly yours,

Jocelyn F. Olson

Jocelyn F. Olson
Special Assistant
Attorney General

RECEIVED
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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

JFO:jh

Attachment

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ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF
LOUIS J. BREIMHURST

Louis J. Breimhurst, being duly sworn, deposes and states as follows:

1. That he is the Executive Director of the Minnesota Pollution Control Agency (Agency).

2. That in this capacity he is the custodian of the Agency files concerning the adoption of 6 MCAR §4.0039, "Emergency Episodes."

3. That on October 23, 1979, the Agency adopted 6 MCAR §4.0039 and that notice of the adoption of the rule was published at 4 S.R. 1273 (February 11, 1980).

4. That a copy of 6 MCAR §4.0039 was filed with the Office of the Secretary of State on December 7, 1979.

5. That he has compared the text of Table Four of the rule as it was adopted by the Agency with the text of Table Four as it appears in the copy of the rule on file with the Office of the Secretary of State.

6. That there is an error in the table as it appears in the copy on file with the Office of the Secretary of State. Specifically, a portion of Item 1.a. in the Secretary of State's copy reads as follows:

AIR POLLUTION WARNING	EMERGENCY
a. Maximum reduction by diverting electric power generation to facilities outside of the Emergency Area.	

That portion of the rule as adopted by the Agency correctly reads:

AIR POLLUTION WARNING	EMERGENCY
a. Maximum reduction by utilization of fuel which results in and the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of the the Emergency Area.

7. That the attached Table Four is a true and correct copy of Table Four of 6 MCAR §4.0039 as it was adopted by the Agency on October 23, 1979.

LOUIS J. BREIMHURST
Executive Director
Minnesota Pollution Control Agency

Subscribed and sworn to before me this 4th day of November, 1981.

Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 28, 1985

TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of of Emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 4 Continued

	b. Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides ~~particles, gases, vapors or malodorous substances~~.	b. Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides. ~~particles, gases, vapors or malodorous substances~~.	b. Elimination of air contaminants from trade waste disposal processes which emit nitrogen oxides. ~~particles, gases, vapors or malodorous substances~~.
	c. Reduction of nitrogen oxide producing heat load demands for processing consistent with continuing plant operations.	c. Reduction of nitrogen oxide producing heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of nitrogen oxide producing heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands ~~for pumping~~ consistent with continuing operations.	a. Reduction of power demands ~~for pumping~~ consistent with continuing operations.	a. Maximum reduction by reducting power demands to absolute necessities consistent with personnel safety and preventing equipment damage.
		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burring of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

6 MCAR § 4.0039 Emergency Episodes

A. Applicability. This rule applies to any owner or operator of any emission facility having allowable emissions of <u>any</u> air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within the State of Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the Director.

B. Definitions. As used in this rule, the following words shall have the meaning defined herein:

1. "Air pollutant" means particulate matter, sulfur dioxide, nitrogen oxides, ~~photochemical oxidants~~, <u>ozone,</u> carbon monoxide or nonmethane hydrocarbons.

2. "Allowable emission" means the emission rate calculated using the maximum rated capacity of the ~~source~~, <u>emission facility,</u> unless the ~~source~~ <u>emission facility</u> is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance set forth in Agency rules or the standard set forth in the permit, whichever is more stringent.

3. "Alert level" means the concentration of pollutants, as specified in paragraph C., at which first stage control actions are to be taken.

4. "Declaration" means the formal public notification of an episode made by the Director.

5. "Director" means the Executive Director of the Minnesota Pollution Control Agency or the Director's designee.

6. "Emergency level" means that concentration of pollutants, as specified in paragraph C., at which third stage control actions are to be taken.

7. "Episode" means that period of time during which ambient air concentrations of air pollutants equal or exceed the alert level and meteorological conditions are such that the air pollutant concentrations can be expected to persist or to increase in the absence of control actions.

8. "Significant harm level" means that concentration of pollutants, as specified in paragraph C., at which fourth stage control actions are to be taken.

9. "Warning level" means that concentration of pollutants, as specified in paragraph C., at which second stage control actions are to be taken.

C. Episode levels. The level at which the Director shall

declare an air pollutant alert, warning, emergency or significant harm episode ~~shall be declared~~ shall be determined by Table 1.

D. Episode declaration.

1. An air pollution alert shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the alert level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the alert level for 12 or more hours or, in the case of ~~photochemical oxidants~~, ozone, to recur the following day at the same or higher levels unless control actions are taken.

2. An air pollution warning shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the warning level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the warning level for 12 or more hours or, in the case of ~~photochemical oxidants~~, ozone, to recur the following day at the same or higher levels unless control actions are taken. An air pollution warning shall also be declared by the Director when the Director finds that the alert level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

3. An air pollution emergency shall be declared by the Director when the concentration of any air pollutant has reached the emergency level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the emergency level for 12 or more hours or, in the case of ~~photochemical oxidants~~, ozone, to recur the following day at the same or higher levels unless control actions are taken. An air pollution emergency shall also be declared by the Director when the Director finds that the warning level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

4. An air pollution significant harm episode shall be declared by the Director when the concentration of any air pollutant has reached the significant harm level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the significant harm level for 12 or more hours or, in the case of ~~photochemical oxidants~~, ozone, to recur the following day at the same or higher levels unless control actions are taken.

5. The geographical area subject to episode levels of any air pollutant shall be delineated to the extent feasible and shall be identified in the Director's declaration.

6. The Director shall terminate the episode by declaration when:

a. The measured air pollutant concentrations no longer satisfy the criteria specified in paragraph C.; and

b. The meteorological conditions indicate that there will not be a recurrence of episode levels of air pollutants within 24 hours if control actions are reduced or eliminated.

E. Control Actions.

1. Notwithstanding the provisions of other rules or of any installation permit, operating permit, stipulation agreement, variances, or order of the Agency, all persons shall, upon notification by the Director or the Director's designee, comply with episode control directives issued by the Director.

2. Control directives issued to any owner or operator of an emission facility shall be based on the emission reduction plan submitted to the Director pursuant to paragraph E. 3; provided, however, that in the event that no emission reduction plan has been approved for such facility, the episode control directives shall be based upon the emission reduction objectives set forth at paragraph E. 4.

3. The owner or operator of each emission facility located within the State having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date of this rule submit to the Director an episode emission reduction plan to be implemented at the facility in the event of a declaration by the Director of an air pollution episode. The plan shall be consistent with the emission reduction objectives set forth in paragraph E. 4. and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the Director. If the Director finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the Director.

4. For the purposes of this rule, emission reduction objectives shall be as indicated in Tables 2 through 6. In the event of episode levels of both particulate matter and sulfur dioxide the Director shall direct coal fired electric power generating facilities which pollutant is to be reduced at each facility.

5. During the time that an air pollution episode declaration is in effect and has not been terminated, the owner or operator of any emission facility who has been directed to implement any portion of the facility's emission reduction plan shall allow the Agency, or any authorized employee or agent of the Agency, when authorized by law and upon the presentation of proper credentials to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations pertaining to the operation of the emission facilities and the control equipment. The owner or operator shall make available on the premises to such Agency employee a copy of the episode emission reduction plan for the emission facility and shall, upon request of the Agency employee, demonstrate that the control directives issued to the owner or operator are being implemented.

F. Emergency powers.

Nothing in this rule shall be interpreted to preempt the Agency's emergency powers as provided in Minnesota Statutes 116.11 (1978) or to preclude appropriate actions from being taken by the Agency to protect the public health.

TABLE 1

	SO_2 24 Hr. Avg.	Part. 24 Hr. Avg.	CO 8 Hr. Avg.	NO_2 24 Hr. Avg.	NO_2 1 Hr. Avg.	Ozone ~~Oxicont~~ 1 Hr. Avg.	SO_2 X Part. ug/m^3 X ug/m^3 24 Hr. x 24 Hr.
ALERT	300 ppb 800 ug/m^3	375 ug/m^3	15 ppm 17 mg/m^3	150 ppb 282 ug/m^3	600 ppb 1130 ug/m^3	200 ppb 400 ug/m^3	65 x 10^3
WARNING	600 ppb 1600 ug/m^3	625 ug/m^3	30 ppm 34 mg/m^3	300 ppb 565 ug/m^3	1200 ppb 2260 ug/m^3	400 ppb 800 ug/m^3	261 x 10^3
EMERGENCY	800 ppb 2100 ug/m^3	875 ug/m^3	40 ppm 46 mg/m^3	400 ppb 750 ug/m^3	1600 ppb 3000 ug/m^3	500 ppb 1000 ug/m^3	393 x 10^3
SIGN. HARM	1000 ppb 2620 ug/m^3	1000 ug/m^3	50 ppm 57.5 mg/m^3	500 ppb 938 ug/m^3	2000 ppb 3750 ug/m^3	600 ppb 1200 ug/m^3	490 x 10^3

TABLE 2

EMISSION REDUCTION OBJECTIVES FOR PARTICULATE MATTER

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Reduction of steam load demands consistent with continuing plant operations.	c. Reduction of steam load demands consistent with continuing plant operations.	c. Taking the action called for in the emergency plan.
		d. Making ready for use a plan of action to be taken if an emergency develops.	

TABLE 2 Continued

3. A - Manufacturing, processing, and mining industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, ~~gases, vapors or malodorous substances~~.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, ~~gases, vapors or malodorous substances~~.	b. Elimination of air contaminants from trade waste disposal processes which emits particles, ~~gases, vapors or malodorous substances~~.
	c. Reduction of particulate producing heat load demands for processing consistent with continuing plant operations.	c. Reduction of particulate producing heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of particulate producing heat load demands for processing.
4. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 3

EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having the lowest available sulflur content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	b. Taking the action called for in the emergency plan.
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 3 Continued

b. Maximum reduction by deferring trade waste disposal operations which emit ~~particles, gases, vapors or malodorous substances~~. sulfur dioxide.	b. Maximum reduction by deferring trade waste disposal operations which emit ~~particles, gases, vapors or malodorous substances~~. sulfur dioxide.	b. Elimination of air contaminants from trade waste disposal processes which emit ~~particles, gases, vapors or malodorous substances~~. sulfur dioxide.
c. Reduction of sulfur dioxide producing heat load demands for processing consistent with continuing plant operations.	c. Reduction of sulfur dioxide producing heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of sulfur dioxide producing load demands for processing.

TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of of Emergency Area.	
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 4 Continued

	b. Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides ~~particles, gases, vapors or malodorous substances~~.	b. Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides. ~~particles, gases, vapors or malodorous substances~~.	b. Elimination of air contaminants from trade waste disposal processes which emit nitrogen oxides. ~~particles, gases, vapors or malodorous substances~~.
	c. Reduction of nitrogen oxide producing heat load demands for processing consistent with continuing plant operations.	c. Reduction of nitrogen oxide producing heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of nitrogen oxide producing heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands ~~for pumping~~ consistent with continuing operations.	a. Reduction of power demands ~~for pumping~~ consistent with continuing operations.	a. Maximum reduction by reducting power demands to absolute necessities consistent with personnel safety and preventing equipment damage.
		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burring of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 5

EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
3. A - Manufacturing and processing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allid operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
4. Mobile sources.	a. Voluntary reduction in unnecesarry vehicle use in response to Agency advisory.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.	a. Maximum reduction by banning vehicle use except for emergencies.

TABLE 6

EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE

EMISSION FACILITY ~~SOURCE OF AIR CONTAMINATION~~	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. A - Manufacturing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without injury to persons or damage to equipment.
2. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
3. Mobile Sources.	a. Voluntary reduction in unnecessary vehicle use in response to Agency advisory.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.	a. Maximum reduction by banning vehicle use except for emergencies.

APPROVED AS TO FORM AND LEGALITY

DEC 07 1979, 19__

WARREN SPANNAUS, ATTORNEY GENERAL

BY Joanne Huberler

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC - 7 1979
Joan Anderson Growe
Secretary of State
1:35 PM

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Pollution Control Agency on the 23rd day of October, 1979, in the Board Room of the Agency offices, 1935 West County Road B-2, Roseville, Minnesota 55113, following receipt of the Report of the Hearing Examiner and after making such Report available to the public for more than five working days prior to the meeting of the Board. The hearing upon which the Report of the Hearing Examiner is based was held after proper notice, in accordance with the requirements of Minn. Stat. §15.0412, subd. 4 (1978), was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

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

NOW THEREFORE, IT IS ORDERED that the attached rules identified as Minn. Rule APC 39, or 6 MCAR §4.0039 are adopted this 23rd day of October, 1979, pursuant to the authority vested in the Agency by Minn. Stat. §116.07, subd. 4 (1978).

MINNESOTA POLLUTION CONTROL AGENCY

DATED: October 30, 1979

Art Engelbrecht
Chairman

DATED: October 30, 1979

Terry Hoffman
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for hearing before the Minnesota Pollution Control Agency Board on the 23rd day of October, 1979, in the Board Room of the Agency offices, 1935 West County Road B2, Roseville, Minnesota, 55113, following receipt of the Report of the Hearing Examiner on Rehearing (hereinafter "Rehearing Report") dated September 11, 1979, and after making such Rehearing Report available to the public for more than five working days prior to the meeting of the Board. The hearing upon which the Rehearing Report is based was held after proper notice required by Minn. Stat. §15.0412 subd. 4 (1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose. The Rehearing Report incorporates by reference the Report of the Hearing Examiner (hereinafter "Original Report") dated May 30, 1979.

After affording all 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, the Agency hereby accepts and adopts the Findings of Facts and Conclusions of the Hearing Examiner and incorporates them herein by reference with the following amendments thereto:

FINDINGS OF FACT

1. Finding No. 8 of the Original Report shall be amended to delete the last sentence, which states: "Such a change in applicability of the rules would be substantial and require additional hearings." The following shall be added as the last sentence: "The Agency has considered this suggestion and has determined this change to be unnecessary and undesirable.

2. The fifth paragraph of Finding No. 9 on page 4 of the Original Report shall be amended to delete the last sentence, which states: "Whether the addition of a definition of 'source' would constitute a significant change is a matter which cannot be determined at this time." The following shall be added as the last sentence: "As noted in Finding No. 9(b) of the Rehearing Report, the Agency desires to change all 'source' references to 'emission facility' in order to clarify the rule."

3. The sixth paragraph of Finding No. 9 on page 4 of the Original Report shall be amended to delete the last sentence, which states: "Both the foregoing suggestions are reasonable and merit the careful consideration of the Agency and its determination of the final rules to be adopted." The following shall be added as the last sentence: "The Agency has considered the foregoing suggestions and has determined these changes to be unnecessary."

4. The third paragraph of Finding No. 13 of the Original Report shall be amended to delete the second and third sentences, which state: "The Examiner believes that the proposed paragraph

E.1 is intended to accomplish that which is suggested by MACI and is not unreasonable, but that the alternative language proposed by MACI more clearly and effectively attains the desired goal. Such language is considered by the Examiner to be clarifying and not a substantial change from the original proposal." The following shall be added in place thereof: "The Agency finds that the proposed paragraph E.1 is reasonable and that the change suggested by MACI is unnecessary."

5. The second paragraph of Finding No. 15 of the Original Report shall be amended to delete the second sentence, which states: "The Examiner is not convinced by evidence in the record that such provision is practicable because such generating facilities are unlikely to have an alternative fuel readily available for use." The third sentence shall be amended to delete the word "however."

6. Finding No. 9(c) of the Rehearing Report shall be amended to add the following sentence: "Subsequent to the Hearing, the Agency noted that in Table 4, Section 3.c. the phrase "reduction of heat load demands" should be amended to state "reduction of nitrogen oxide producing heat load demands" in order to clarify the rule and to make this section consistent with the changes discussed above.

7. An additional Finding No. 12 shall be added to the Rehearing Report, which shall state: "The Agency wishes to amend the title of Table 2 to read 'Emission Reduction Objectives for

Particulate Matter.' This change is for clarification purposes, does not affect the substance of the rule and is not substantial."

MINNESOTA POLLUTION CONTROL AGENCY

Art Engelbrecht, Chairman

Terry Hoffman, Executive Director

Dated: October 30, 1979

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ADDRESS REPLY TO:
OFFICE OF THE ATTORNEY GENERAL
MINNESOTA POLLUTION CONTROL AGENCY
1935 W. COUNTY ROAD B2
ROSEVILLE, MINNESOTA 55113
(612) 296-7342

November 8, 1979

Lee Sheehy
Special Assistant Attorney General
Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes, File No. 79-005-MG

Dear Mr. Sheehy:

The above-captioned rule is enclosed for your review as to form and legality. The original hearing record as well as copies of several documents in connection with the rule are hereby transmitted to you.

Two days of hearing were held with regard to this rule. The first day of hearing was held on April 17, 1979 and the Report of the Hearing Examiner was issued. The Hearing Examiner found that publication of the Notice of Hearing preceeded the hearing by only 29 days. The hearing was subsequently renoticed and an additional day of hearing was held on August 8, 1979.

Enclosed are the following:

1. Rules as Adopted (3 copies)

2. Rules as Proposed (3 copies)

3. Certificate of Board's Authorizing Resolution (3 copies)

4. Order for Hearing (first day of hearing) dated March 15, 1979 (3 copies)

5. Order for Hearing (second day of hearing) dated June 12, 1979 (3 copies)

6. Notice of Hearing (first day of hearing) dated February 28, 1979 (3 copies)

7. Notice of Hearing (second day of hearing) dated June 12, 1979 (3 copies)

8. Notice of Rescheduling of Hearing, dated July 2, 1979 (3 copies)

9. Secretary of State's List for first day of hearing (original enclosed in hearing record)

10. Secretary of State's List for second day of hearing (original enclosed in hearing record)

11. Secretary of State's List used for Notice of Rescheduling Hearing (original enclosed in hearing record)

12. Three (3) copies of the following in connection with the March 15, 1979 mailing of Notice of Hearing:

a. Affidavit of Receipt of Secretary of State's List
b. Certificate of Delivery of Secretary of State's List
c. Affidavit of Mailing

13. Three (3) copies of the following in connection with the June 22, 1979 mailing of Notice of Hearing:

a. Affidavit of Receipt of Secretary of State's List
b. Certificate of Delivery of Secretary of State's List
c. Affidavit of Mailing

14. Three (3) copies of the following in connection with the July 2, 1979 mailing of the Notice of Rescheduling of Hearing:

a. Affidavit of Receipt of Secretary of State's List
b. Certificate of Delivery of Secretary of State's List
c. Affidavit of Mailing

15. Publication in State Register of Notice of Hearing at 3 S.R. 1758 (March 19, 1979) (copy enclosed in hearing record)

16. Publication in State Register of Notice of Hearing at 3 S.R. 2295 (July 2, 1979) (copy enclosed in hearing record)

17. Publication in State Register of Notice of Rescheduling of Hearing at 4 S.R. 47 (July 16, 1979) (copy enclosed in hearing record)

18. Statement of Need and Reasonableness (3 copies)

19. Hearing Examiner's Report (copy of May , 1979 Report of Hearing Examiner is attached) (3 copies)

20. Agency's Findings of Fact and Conclusions (3 copies)

21. Certificate of Board's Resolution Adopting Rules (original and 2 copies)

22. Order Adopting Rules (3 copies)

23. Report of Chief Hearing Examiner (3 copies)

24. Certificate of Compliance with Rulemaking Procedures (original and 2 copies)

25. Notice of Intent to Solicit Outside Opinion (3 copies)

Unless otherwise noted, the original document entered into the record of each of the above-listed documents is enclosed in the hearing record.

If you have any questions concerning these rules, please feel free to contact me.

Sincerely,

Jocelyn F. Olson

Jocelyn F. Olson
Special Assistant
Attorney General

JFO/bm

Enclosure

ADMIN 1900 (Rev. 1/78) Our File No: 558 STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : JOCELYN F. OLSON
Special Assistant
Attorney General

DATE: December 10, 1979

FROM : Joanne E. Hinderaker JEH
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes, File No. 79-005-MG

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JEH:mb

Enclosure

cc: Duane Harves
Marshall Whitlock

DRAFT

Final plse

ATTORNEY GENERAL

FILE #558

November 29, 1979

JOANNE E. HINDERAKER
Special Assistant
Attorney General

296-4692

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes, File No. 79-005-MG

In a telephone conversation with Jocelyn Olson, Special Assistant Attorney General on November 28, 1979, I advised her of the following "defects" in the adopted rules text:

1. Based upon the Hearing Examiner's Report on Rehearing at Finding 9(b), it appears that the agency intended to change the term "source" to "emission facility" in APC 39 B.2. While the first reference to the term "source" in the rule has been changed in the adopted text, the second reference therein has not been changed.

2. Based upon Agency Finding No. 6, it appears that the agency intended to amend the phrase "reduction of heat load demands" in Table 4, Section 3.C. to state "reduction of nitrogen oxide producing heat load demands", however this change is not evidenced in the adopted rule text.

3. Similarly, based upon Agency Finding No. 7, it appears that the agency intended to amend the title of Table 2 to read "Emission Reduction Objectives for Particulate Matter." However this change has not been made in the adopted rule text.

4. Although it is not a fatal defect, Rule APC 39 should be labeled in the MCAR citation format. Also in Table 3, Section 3.a. under "Air Pollution Emergency" the word "ceasisng" should read "ceasing".

Ms. Olson stated that these oversights in the rules would be corrected by the agency. I informed her that the Chief Hearing Examiner routinely requires the resubmission of any rules that are changed subsequent to his review. She talked to Mr. Harves on November 29, 1979

and informed him of the nature of the changes. His office then determined that a resubmission would not be required, and orally informed her of this determination on November 29, 1979.

Ms. Olson informed me on November 29, 1979 that the corrected text of the adopted rules would not be received by this office for filing with the Secretary of State's office on November 29, 1979, which is the final day in our 20-day review period. I will approve and file the corrected rules upon receipt by this office, which will be after the 20-day review period has elapsed.

JEH/bw

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Adoption of Minn. Rule APC 39
Governing Air Pollution Control
Requirements During Air Pollution
Episodes

No. 79-005-MG

CERTIFICATE OF COMPLIANCE
WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn Furtwangler Olson, 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, all rulemaking required by statute and rule procedures have been followed.

Jocelyn Furtwangler Olson

Jocelyn Furtwangler Olson
Special Assistant
Attorney General

Dated: November 6, 1979

ADMIN 1000 (REV. 4/77)

STATE OF MINNESOTA

DEPARTMENT Attorney General-MPCA

Office Memorandum

TO : Joanne Hinderaker
Division of Administration

DATE: 12/4/79

FROM : Jocelyn F. Olson
Special Assistant
Attorney General

PHONE: 7343

SUBJECT: Correction of oversights on Rule as Adopted, 6 MCAR §4.0039 (Docket No. PCA-005-MG)

Attached are three (3) corrected copies of 6 MCAR §4.0039 as adopted by the Minnesota Pollution Control Agency. Please note that the following revisions have been made to these copies:

1. Title: the MCAR cite 6 MCAR §4.0039 has been added to the title of the Rule.

2. Section B.2: the word "source" in line 3 of the Rule has been changed to "emission facility" as approved in the Findings of Fact of the Agency.

3. Title of Table 2: The title has been amended to add the word "MATTER" after "PARTICULATE", as approved in the Findings of Fact of the Agency.

4. Table 3, Section 3, Column a under "Air Pollution Emergency": a typographical error has been corrected in the word "ceasing".

5. Table 4, Section 3, Column C under the "Alert Warning", and "Emergency" headings: the words "nitrogen oxide-producing" has been added before the term "heat load", as approved by the Findings of Fact of the Agency.

I have contacted the Chief Hearing Examiner, Mr. Harves, concerning these changes, and he has authorized me to state that he does not wish to review the Rules again as to these changes before they are approved by the Attorney General.

If you have any questions, please give me a call.

cc: Duane Harves

RECEIVED
DEC 06 1979
ADMINISTRATIVE AGENCIES

Our File No. 558

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : FILE

DATE: November 29, 1979

FROM : JOANNE E. HINDERAKER JEH
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes, File No. 79-005-MG

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1. Based upon the Hearing Examiner's Report on Rehearing at Finding 9(b), it appears that the agency intended to change the term "source" to "emission facility" in APC 39 B.2. While the first reference to the term "source" in the rule has been changed in the adopted text, the second reference therein has not been changed.

2. Based upon Agency Finding No. 6, it appears that the agency intended to amend the phrase "reduction of heat load demands" in Table 4, Section 3.C. to state "reduction of nitrogen oxide producing heat load demands,", however this change is not evidenced in the adopted rule text.

3. Similarly, based upon Agency Finding No. 7, it appears that the agency intended to amend the title of Table 2 to read "Emission Reduction Objectives for Particulate Matter." However this change has not been made in the adopted rule text.

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and informed him of the nature of the changes. His office then determined that a resubmission would not be required, and orally informed her of this determination on November 29, 1979.

Ms. Olson informed me on November 29, 1979 that the corrected text of the adopted rules would not be received by this office for filing with the Secretary of State's Office on November 29, 1979, which is the final day in our 20-day review period. I will approve and file the corrected rules upon receipt by this office, which will be after the 20-day review period has elapsed.

JEH/bw

MPCA Exhibit 3

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Tuesday, April 17, 1979, commencing at 1:00 p.m., and reconvening at 7:00 p.m. on the same day and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where

possible and present a single statement in behalf of such interests.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The proposed rules, if adopted, will establish criteria and procedures for the declaration by the Executive Director of the Minnesota Pollution Control Agency of air pollution episodes during which air pollutant emission reduction strategies will be required to be implemented by major air pollutant sources in the geographic area affected by the episode. The proposed rules, if adopted will require operators of sources of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of 250 tons or more per year to submit air pollution episode control plans which, upon the declaration of an episode and notice to the source, will be required to be implemented during an episode.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. §116.07 subd. 4 (1978).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County

Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

NOTICE IS HEREBY GIVEN that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within

five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Terry Hoffman
Executive Director
Minnesota Pollution Control Agency

Dated: 2-28-79

MPCA Exh.6.t C

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Adoption of Minn. Rule APC 39
Governing Air Pollution Control
Requirements During Air Pollution
Episodes

No. 79-005-MG

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Tuesday, July 31, 1979, commencing at 9:30 a.m., and continuing untill all persons have had an opportunity to be heard.

Hearings have been previously held on this matter on Tuesday, April 17, 1979, in the Board Room of the Minnesota Pollution Control Agency and public comment was received on the proposed rules through and including April 30, 1979. The proposed rules have been published at 3 S.R. 1758-1765 (March 19, 1979). The purpose of the July 31, 1979, hearing is to correct a technical defect in publication of the Notice of Hearing in connection with the April 17 hearing. Specifically, the notice appeared in the State Register for 29 days prior to the date of the April 17 hearing instead of 30 days as required by Minn. Stat. §15.0412 subd. 4 (1978).

The Agency intends at this hearing to reintroduce the entire record created in connection with the April 17 hearing, including all comments, oral and written, submitted by members of the public. All interested or affected persons will have an opportunity to

participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The proposed rules, if adopted, will establish criteria and procedures for the declaration by the Executive Director of the Minnesota Pollution Control Agency of air pollution episodes during which air pollutant emission reduction strategies will be required to be implemented by major air pollutant sources in the geographic area affected by the episode. The proposed rules, if adopted will require operators of sources of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of 250 tons or more per

year to submit air pollution episode control plans which, upon the declaration of an episode and notice to the source, will be required to be implemented during an episode.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. §116.07 subd. 4 (1978).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

NOTICE IS HEREBY GIVEN that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the

Hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Terry Hoffman
Executive Director
Minnesota Pollution Control Agency

Dated: June 12, 1979

MPCA Exhibit G

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

NOTICE OF RESCHEDULING OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter scheduled for Tuesday, July 31, at 9:30 a.m., in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, notice of which was published at 3 S.R. 2295 (July 2, 1979), is hereby rescheduled. The hearing will be held on Wednesday, August 8, 1979, at 9:30 a.m. in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota. Questions concerning this matter should be directed to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota (612/296-7740).

Terry Hoffman
Executive Director

Dated: July 2, 1979

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes.

REPORT OF THE HEARING EXAMINER ON REHEARING

The above-entitled matter came on for hearing on August 8, 1979, in Roseville before Myron S. Greenberg, Hearing Examiner assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15 to determine whether proposed rules governing air pollution control requirements during air pollution episodes should be adopted.

The following persons appeared for the Minnesota Pollution Control Agency ("PCA" or "Agency"): Douglas Benson, Brad Meckham, Greg Foley, Gary Eckhart and Dennis Becker, all of the Division of Air Quality; and Jocelyn F. Olson, Special Assistant Attorney General.

Three persons attending the hearing signed the hearing register. The hearing continued until all interested persons and all interested groups had an opportunity to be heard.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the PCA Board shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Agency on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Agency will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Examiner makes the following:

FINDINGS OF FACT

1. On June 11, 1979, the Agency filed the following documents with the Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

(d) A Statement of the number of persons expected to attend the hearing and estimated length of Agency's presentation.

2. On June 22, 1979, the Agency mailed the Notice of Hearing and proposed rules to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice and to all state agencies, political subdivisions, and other interested entities.

3. On June 27, 1979, the Agency filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list and affected governmental agencies.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

4. On July 2, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 2295. The Notice set the hearing date for July 31, 1979.

5. On July 3, 1979, the Agency mailed a Notice of Rescheduling of Hearing to the same group of people noted in Finding 2, above. The hearing was rescheduled for August 8, 1979.

6. On July 16, 1979, the Notice of Rescheduling of Hearing was published at 4 State Register 47 and Errata in the proposed rules was published at 4 State Register 55-57.

7. The record remained open through August 17, 1979, for the receipt of written comments and statements. No public comments were received following the hearing. The Agency timely submitted a post-hearing comment.

8. On April 17, 1979, the initial hearing regarding these rules was held. On May 30, 1979, the undersigned issued a Report which concluded that notice for the initial hearing was insufficient. Because the rules proposed in the instant hearing are identical with those proposed in the initial hearing, and because the record in the instant hearing contains the entire record of the initial hearing (with minimal supplementation), the Examiner adopts and incorporates the attached Report dated May 30, 1979, as part of his Findings in the instant proceeding.

9. In its presentation at the rehearing, the Agency indicated its desire and intent to make some minor modifications in the proposed rules. The following desired modifications were discussed at the initial hearing and were addressed in the initial Report of the Hearing Examiner:

(a) In APC 39 A. and D.1., insert the word "any" to indicate that the rule applies to any emission facility having 250 or more tons per year of any single air pollutant (as opposed to an aggregate of 250 tons of all air pollutants). (See, MPCA Exhibit J, pp. 1-2; Report, Finding 8)

(b) In APC 39 B.2. and the headings of Tables 2 through 6, the term "source" or "source of air contamination" is changed to "emission facility". This change removes any doubt regarding what facilities are affected by the rule because the term "emission facility" is defined in Minn. Rule APC 2. (See MPCA Exhibit J, p. 2; Report, Finding 9)

(c) In Table 2, Section 3.c., the phrase "processing continuing plant operations" will be replaced by the phrase "processing consistent with continuing plant operations." Such change adds clarity to the rules by establishing a uniformity with other related provisions of the rules. (See, MPCA Exhibit J, p. 3; Report, Finding 15) In that same section of Table 2, the Agency is changing the language indicating the steps to be taken to meet the emission reduction objective to read "reduction of particulate producing heat load demands." This clarifies that it is necessary to make reductions only in those operations which produce particulate. (Ibid.) A similar clarification is made in Table 3, Section 3.c. wherein the appropriate language would read "reduction of sulfur dioxide producing heat load demands." (Ibid.)

(d) In Table 4, Section 4.a., the phrase "for pumping" is deleted to increase the clarity of the rule. (MPCA Exhibit J, p. 5; Report, Finding 15)

10. Two additional minor changes were suggested by the Agency during the instant proceeding (but not during the initial hearing) to clarify and/or simplify the proposed rules:

(a) In Table 1, the heading for the column intended to show the product (by multiplication) of sulfur dioxide and particulate is currently "SO_2Part.". That heading has apparently caused some confusion in that it has been taken to mean one pollutant rather than the product of the concentrations of sulfur dioxide and particulate matter. To clarify that it is the product of those two components which is the subject of the column, the heading of that column would be insignificantly changed to read: "SO_2 X Part.". (MPCA Exhibit J, pp. 2-3)

(b) Changes are suggested regarding references to "gases, vapors or malodorous substances" in Table 2, Section 3.b. and Table 3, Section 3.b. As indicated in MPCA Exhibit J:

> Table 2, section 3.b. contains references to potential pollutants which are irrelevant to the emission of particulates. Thus it is unnecessary to include references to "gases, vapors or malodorous substances." The Staff recommends that Table 2, section 3.b. be amended to delete these references and to read as follows under both the "alert" and "warning" columns:
>
> > Maximum reduction by deferring trade waste disposal operations which emit particles.
>
> The emergency column of Table 2, section 3.b. should be amended to read as follows:
>
> > Elimination of air contaminants from trade waste disposal processes which emit particles.

Table 3, section 3.b. also contains references to "gases, vapors or malodorous substances," which are irrelevant to abatement of sulfur dioxide in the event of an SO_2 episode. Thus the Staff recommends that the "alert" and "warning" columns of Table 3, section 3.b. should be amended to read as follows:

> Maximum reduction by deferring trade waste disposal operations which emit sulfur dioxide.

Similarly, the "emergency" column of Table 3, section 3.b. should be amended to read as follows:

> Elimination of air contaminants from trade waste disposal processes which emit sulfur dioxide.

(MPCA Exhibit J, pp. 4-5)

In its post-hearing submission, the Agency further indicated that reference to "gases, vapors, or malodorous substances, in Table 4, Section 3.b. "is irrelevant to the emission of nitrogen oxides and therefore it is recommended that this reference be deleted for the alert, warning, and emergency columns respectively:

> Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides.
>
> Maximum reduction by deferring trade waste disposal operations which emit nitrogen oxides.
>
> Elimination of air contaminants from trade waste disposal operations which emit nitrogen oxides."

(Post-hearing Agency Letter, dated August 14, 1979)

For the reasons set forth above, the suggested changes are considered reasonable, necessary and not substantial.

11. The Metalcasters of Minnesota suggested that APC 39 specify an exemption for facilities which emit less pollutants than allowable under APC 5. (Tr. 12-13) The Examiner finds this unnecessary in that such "exemption" may be had from the Agency by either submitting a control plan or by requesting the "addition of a permit condition to their operating permit to limit their allowable emissions below the 250 tons per year allowable level and thereby avoid the application of the rule." (Tr. 16)

Based on the foregoing, the Hearing Examiner makes the following:

CONCLUSIONS

1. The Minnesota Pollution Control Agency and the Office of Hearing Examiners duly acquired and have jurisdiction in the instant matter.

2. Due, timely and adequate legal notice of the hearing was served and published by the Agency. All the procedural requirements of statute and rule have been fulfilled.

3. The Agency has demonstrated its statutory authority to adopt the proposed rules.

4. Except as noted in the Report of the Hearing Examiner in the initial proceeding, attached hereto, the Agency has demonstrated that the proposed rules are necessary and reasonable.

Based on the foregoing, the Examiner makes the following:

RECOMMENDATION

The Hearing Examiner recommends that the proposed rule be modified as suggested in the Findings, and that so modified, they be adopted.

Dated: September 11, 1979.

Myron S. Greenberg

MYRON S. GREENBERG
Hearing Examiner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing on April 17, 1979, in Saint Paul before Myron S. Greenberg, Hearing Examiner assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15, to determine whether proposed rules governing air pollution control requirements during air pollution episodes should be adopted.

The following persons appeared for the Minnesota Pollution Control Agency ("PCA" or "Agency"): Douglas Benson, Brad Meckham, Greg Foley, Gary Eckhart and Dennis Becker, all of the Division of Air Quality; Jocelyn F. Olson, Special Assistant Attorney General; Ed Klappenbach, of the U.S. Environmental Protection Agency, also participated with the Agency.

Six persons attending the hearing signed the hearing register. The hearing continued until all interested persons and all interested groups had an opportunity to be heard.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the PCA Board shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Agency on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Agency will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On February 28, 1979, the Agency filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On March 19, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1758.

2. On March 15, 1979, the Agency mailed the Notice of Hearing and proposed rules to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice and to all state agencies, political subdivisions, and other interested entities.

4. On March 23, 1979, the Agency filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list and affected governmental agencies.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through April 30, 1979, for the receipt of written comments and statements. Six public comments were received following the hearing.

Statutory Authority

6. The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. Sec. 116.07, subd. 4 (1978). The first paragraph of that law states:

> Subd. 4. Regulations and standards. Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind regulations and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such regulation or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, regulations or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

That broad statutory power allows the PCA to promulgate the legislative rules which are the subject matter of the instant proceeding.

Need and Reasonableness of the Proposed Rules

7. Unless otherwise stated herein, all rules proposed by the Agency are found to be reasonable and necessary for the reasons set forth in the Statement

of Need. (PCA Exhibit No. 8)

8. APC 39 A. establishes the applicability of the rules to facilities having allowable emissions of air pollutants of 250 or more tons per year. As proposed, the rule has broad applicability. During the hearing, it was suggested by a power suppliers representative that the term "nonattainment" be inserted before "areas". Such addition would have the affect of limiting the rules' applicability and is, therefore, deemed to be an unnecessary change (even though such nonattainment areas may not be subject to certain federal regulations comparable to these proposed rules). (T. 20, 25)

The use of a standard of 250 tons per year in the rules is consistent with federal regulations and "is adequate to protect the public for purposes of air quality episodes." (T. 51, 48-51) It is noted that the instant rules cover what are known as "criteria pollutants" while other "hazardous pollutants" are covered by the Clean Air Act and "toxic pollutants" are covered under different regulations.

As proposed, APC 39 A. makes the rules applicable to emitting facilities having 250 tons or more of any or all the various pollutants noted in the rule. Metal Casters of Minnesota ("MCM") suggested:

> That PCA's intent was that this rule apply to those facilities with emissions of 250 or more tons per year of any one air pollutant. Referencing any one of the air pollutants defined in Section B.1. of the proposed rule would be consistent with the definition of "major stationary source" in the federal Prevention of Significant Deterioration Regulations [40 C.F.R., Sec. 52.21, 2(b)] and with the definition of "major source" in the federal Emission Offset Regulations (40 C.F.R., Part 51, Appendix S). (MCM letter of April 30, 1979, item 3)

There having been no discussion of MCM's suggestion during the hearing, the Examiner finds that the rule, as proposed, is reasonable. Should the PCA decide to change the rule to either accept or more clearly reject MCM's interpretation, it is unlikely that such change would be substantial.

Another suggestion of MCM would also limit the applicability of the rules:

> If there are emission facilities within an episode area which either have not yet come into compliance with state and federal standards or which are not in compliance at the time of the episode due to equipment breakdown or some other cause, we believe that those facilities should be required to reduce emissions by cutting back production prior to requiring those facilities which are complying to curtail production. This policy should be explicit in the proposed rule. (MCM letter, item 10)

Such a change in applicability of the rules would be substantial and require additional hearings.

9. As proposed, the definitions contained in APC 39 B. are generally reasonable and are necessary to clarify the meaning of words and phrases used in the rules which are not defined in Minn. Rule APC 2 or otherwise. At the hearing, the Agency noted its intent to change the terms "photochemical oxidants" and "oxidant" to "ozone" wherever the prior terms are found, to wit: In B.1., D. 1., D.2., D.3., and D.4. Such change clarifies the rule by making it more specific in that ozone "is the chemical compound for which

monitoring and analysis has been and will be conducted by the Agency." (T. 13)

For clarification purposes, the Agency may also add a sentence to APC 39 B. specifying that unless otherwise defined, terms used in the instant rules would have the definitions signed by APC 2 or Minn. Stat. Sec. 116.06. (T. 47)

The suggestion that the definition of "episode" should include a reference to some association with a National Weather Service Atmospheric Stagnation Advisory is found to be neither reasonable nor necessary. (T. 20; see also, MCM letter, item 7) According to Agency Staff personnel, experience indicates that such change would not enhance the enforceability or applicability of the rules. (T. 24-25) Further, it is possible to have an air pollution episode without a stagnation advisory, thus any tie-in to such stagnation advisory would unduly restrict the rules. (T. 23) The definition and references to "episode", as found in B.7., D.1., D.2., D.3. and D.4. are found to be reasonable and necessary as proposed.

MCM noted its assumption that it was the PCA's intent to have the definition of "allowable emissions" found in APC 39 B.2. apply to facilities whose actual emissions are 250 tons or more per year (as opposed to 250 tons of allowable emissions). (MCM letter, item 2) Nothing in the hearing record supports MCM's interpretation and, therefore, a change in the definition to substitute "actual" for "allowable" is unwarranted.

In the definition of "allowable emissions" in B.2., however, MCM correctly observes that the rules do not contain a definition of "source". (MCM letter, item 1) The applicability section of the proposed rule refers to "emission facility" which is defined in Minn. Rule APC 2. It is not clear whether "source" is intended to be same as "emission facility". MCM's suggestion that the rule be clarified has merit. Whether the addition of a definition of "source" would constitute a significant change is a matter which cannot be determined at this time.

It was suggested by Ford Motor Company that references to "paragraph C" which appear in the definitions of alert level (B.3.), emergency level (B.6.), significant harm level (B.8.) and warning level (B.9.) be eliminated and the phrase "Table 1" be substituted. This will allow the Agency to delete paragraph C of the proposed rules, reduce the length of the rules, and result in some simplification. (Ford letter, April 18, 1979) At the same time, it is suggested that the definition of "significant harm level" found in B.8. and all references to significant harm levels found in the rules be deleted because there are no fourth stage control actions specified anywhere in the rules to correspond with such level. (Ibid.) Both the foregoing suggestions are reasonable and merit the careful consideration of the Agency and its determination of the final rules to be adopted.

10. If the suggestions proffered by Ford Motor Company, as indicated in the preceding Finding, are adopted by the Agency, APC 39 C. will be eliminated. That would, of course, necessitate a renumbering of subsequent rules.

If, however, the proposed paragraph C is maintained, the Examiner finds that the grammatical change suggested by the Agency during the hearing, be substituted for the language originally proposed. Thus, the rule would read:

> C. Episode levels. The level at which the director shall declare an air pollution alert, warning, emergency or significant harm level shall be determined by Table 1.

(T. 12; Testimony of Douglas Benson)

The last column of Table 1 was criticized as being "unduly restrictive" in the standards set for sulfur dioxide particulate. (Industrial Health Engineering Associates letter, April 16, 1979, item 1) The Examiner is unable to determine from the record whether the criticism is meritorious, but notes that the standard is identical to the federal regulation, thus having a presumption of reasonableness.

11. In APC 39 D.1., the Agency agreed to add the word "any" in the phrase "the concentration of any air pollutant" for purposes of consistency with other portions of paragraph D. (T. 15-16)

The primary concern expressed during the hearing and in comments regarding paragraph D, was addressed to D.5. Various suggestions were made to change the rule to require the director to be more specific in delineating the geographical area in which an episode occurs and which sources must implement curtailment procedures during an episode. (T. 28-30, 33; MCM letter, item 8; MACI letter of April 27, 1979, page 1) The Examiner finds that such suggestions are unnecessary because identification of specific polluters and specification of which sources must curtail activities is accomplished by the director's notification under APC 39 E.1. (T. 31-32)

An additional suggestion regarding paragraph D.5. would change that rule to specify the basis upon which the Agency Director would decide which sources are probable causes of the episode. (T. 34) The Examiner does not believe such change is necessary. As the rules are now proposed, the director is charged with the responsibility to identify and stop polluters during an episode; specification of bases for making such decisions would only limit the director's ability to identify polluters. It appears to the Examiner that the related suggestion of tabulating "likely" polluters in various geographic areas would serve to formalize something that would better be handled on a more informal basis. Instead of tabulating likely polluters of specific geographic areas given varied meteorological conditions, identification of such polluters could as easily be done on a case-by-case basis given (a) knowledge of all industry and plants in a geographic area (with the type of emissions likely from their operations) and (b) coordination of such information with meteorological data particular to a given episode situation. No matter what type of a system is used, every time there is an episode, there will be a necessity for judgment being exercised by the director. As pointed out by Mr. Eckhart, ". . . when you get down to an alert, situations aren't always the same as they would be having tabularized." Tabularization, for example, would not take account of problems caused by source malfunction or abnormal weather conditions. Such a system might also narrow the courses

of action available to the director, a situation which is not particularly desirable. (T. 39)

As Ms. Olson pointed out, "regarding specific monitoring techniques and determination of an episode might appear eventually in the state implementation plan as the emergency episode plan. This rule is a portion of that plan which makes the entire scheme enforceable but it does not necessarily constitute everything that will eventually appear in the state implementation plan." (T. 38) Thus, the suggestions indicated above may, in fact, eventually be a part of the state implementation plan required by the Clean Air Act of 1970, as amended in 1977.

12. Ford Motor Company observed that the automatic elevating of episode declarations after concentrations have existed for 48 hours, even though the next highest episode level has not been reached is "an entirely arbitrary requirement without regard to air quality or any other conditions which may exist." (Ford letter) The recommendation that the last sentence of paragraphs B.2. and D.3. be deleted as reasonable because "the levels shown in table one of the regulation are sufficient criteria for determining the various episode stages." (Ibid.) Notwithstanding the reasonableness of Ford's suggestion, its implementation is not considered absolutely necessary and, in fact, the rule as proposed is not unreasonable and is supported by the record. (See, PCA Exhibit No. 8, p. 21)

13. Various suggestions were proposed during the hearing for changing the control actions proposed in APC 39 E. The most significant such change was suggested by Joseph Wolf, an environmental scientist with Northern States Power who represented the Minnesota-Wisconsin Power Suppliers Group. The change Mr. Wolf suggested to paragraph E.1. would make the PCA rule more closely follow the federal rule set out at 40 C.F.R. Sec. 51.16(d) with regard to notification of pollutant emitters. (T. 18-19) The Examiner finds such change unnecessary as the proposed rules allow the director to pinpoint a source of pollution as much as possible under the terms of paragraphs D.5. and E.1. (T. 24)

Mr. Wolf further suggests that the rules provide for an atmospheric modeling to determine major pollution sources. (T. 10-20) As pointed out above in the discussion of changes proposed to paragraph D.5., (see, Finding of Fact No. 11, supra), such modeling system or tabularization is both difficult to implement and its utility is very uncertain. Further, utilization of atmospheric modeling would cause particular problems in large metropolitan areas where identification of polluters would be more difficult. (T. 21-23)

The suggestion by MACI to limit those who must comply with control directives to those sources which are actually polluting is both reasonable and necessary. (MACI letter, pp. 1-2) The Examiner believes that the proposed paragraph E.1. is intended to accomplish that which is suggested by MACI and is not unreasonable, but that the alternative language proposed by MACI more clearly and effectively attains the desired goal. Such language is considered by the Examiner to be clarifying and not a substantial change from the original proposal.

14. APC 39 E.3. requires submission of a plan to take control action for pollutants which may be emitted from a facility. (T. 45) During the course of the hearing, the Agency indicated that a letter from an emitting facility stating that the objectives contained in Tables 2 through 6 of APC 39 will be met by that facility suffices to meet the requirements of a control action plan such as is required to be submitted under paragraph E.3. (T. 43-44) With that understanding, the suggestions by MACI and MCM to establish guidelines outlining the factors on which the Agency will base its review and approval of any episode controlled plan submitted appear to be unnecessary. (See, MACI letter, p. 2 and MCM letter, item 9) Given the same consideration, an extension of time allowed to prepare such plans from 90 days to 180 days does not appear to be necessary and would only delay implementation of the plan. (See, Ford letter)

It was also suggested that episode emission reduction plans or control action plans not be required of facilities in attainment areas which would not effect the ambient air quality in nonattainment areas. (Hormel letter, April 19, 1979) As indicated in Finding of Fact No. 8, above, regarding the applicability of the proposed rules, such a change would limit the rules' applicability and, therefore, is found to be unnecessary.

15. APC 39 E.4. references Tables 2 through 6 of the rules which establish the emission reduction objectives at the various levels of an air pollution episode. Increasingly stringent degrees of pollution/emission restrictions are imposed under the alert, warning and emergency situations. Rather than impose the most stringent objectives (with associated control actions) at the first sign of an air pollution episode, lesser actions are specified to avoid the imposition of unnecessarily hard economic burdens. (T. 57-58).

In Tables 2 and 3, parts 1a and 2a (in both tables) require generating facilities to switch from one fuel to another during an episode. The Examiner is not convinced by evidence in the record that such provision is practicable because such generating facilities are unlikely to have an alternative fuel readily available for use. Since it is possible, however, that such provision may assist in reducing air pollution during an episode, it is reasonable and necessary for the Department to require the use of the lowest pollution level fuel. (T. 55-57)

MCM observes that section 3b of Table 2 could result in greater pollution during an episode if incorrectly applied by the PCA. (MCM letter, item 6) Deferring disposal of trade wastes during an episode, according to MCM, "would necessitate the waste being stockpiled in an open area on the plant site. This stockpiling may result in greater particulate emissions than if the waste had been directly trucked (as a covered load) to a landfill." (Ibid.) MCM suggests that section 3b of Table 2 be interpreted to mean that trade waste disposal operations need not be deferred if such deferment does not reduce emissions and that the PCA recognized this in its review and approval of episode control plans submitted by Minnesota's foundries.

MCM also points out that Table 2, section 3c, under the "alert" and "warning" columns, reference is made to "processing continuing plant operations". Comparable sections in Tables 3 and 4 use the phrase "for processing consistent with continuing plant operations". The Statement of Need indicates no particular reason for the difference in terminology. The Examiner agrees, therefore, with MCM's recommendation that the wording from Tables 3 and 4 replace "processing continuing plant operations" in Table 2 for purposes of clarity. (MCM letter, item 5)

A general criticism of Tables 2 through 6 was that the emission reduction objectives are too vague. (MCM letter, item 4; Industrial Health Engineering Associates letter, April 16, 1979, items 2 through 6) Some suggestions for various wording changes were offered, but such changes were not supported by any reasons as to why the objectives should be made more or less stringent than originally proposed. (That is not to say that the suggestions are unreasonable.) The Examiner notes, however, that specifying the particular type of air contaminant which is the subject matter of the specific objective in each of the various parts of the tables is unnecessary because each table bears a title clearly indicating the type of pollutant the objectives are designed to curtail. (See, Industrial Health letter, items 2 through 6)

A good suggestion offered by Industrial Health Engineering Associates is that item 3c in Tables 2 and 3 should be changed to specify the type of heat load demands to be reduced, to wit: Change Table 2, 3c to "reduction of particulate producing heat load demands; and change Table 3, 3c to "reduction of heat load demands causing sulfur oxide emissions . . . ." (Ibid., items 2 and 3) These suggestions appear to be reasonable and necessary to clarify the steps to be taken to meet the stated objectives.

Table 4, section 4 is unclear in the meaning of the requirement to reduce power demands for pumping. Industrial Health Engineering Associates points out that it is reasonable:

> . . . that emissions from stationary internal combustion engines would be of significance in an air pollution episode regardless of the application of the power from the engine. It would seem to be more appropriate to eliminate the words "for pumping" so as to make the requirement more general; and to provide for exemptions of any particular stationary engines which are of greater significance to health safety and protection of equipment.

(Industrial Health letter, item 4) The elimination of the words "for pumping" is, in fact, more consistent with the justification offered in the Agency's Statement of Need than the limitation imposed by maintaining those words. (See, Statement of Need, page 41)

Table 5 was changed during the hearing by adding a fourth line after those originally proposed. The additional line would address "mobile sources" under the first column and continue with objectives identical to those listed for mobile sources under Table 6. (T. 13-14) Such addition is considered reasonable and necessary to further reduce hydrocarbons during pollution episodes, and is supported by MACI. (MACI letter, pp. 2-3)

A minor corrective change was also noted during the hearing: That of reversing the columnar headings for air pollution emergency and air pollution warning as they appear in the State Register for Tables 5 and 6. Such transposition was apparently a clerical error. (T. 14)

Based upon the foregoing, the Hearing Examiner makes the following:

CONCLUSIONS

1. Minn. Stat. Sec. 15.0412, subd. 4, requires that notice of a rules hearing be published in the State Register at least 30 days prior to the hearing. In the instant matter, such notice was published 29 days prior to the hearing. (See, Minn. Stat. Sec. 645.15 regarding computation of time) It is clearly unfortunate that the legal notice was not timely; but it is equally clear that such notice falls short of the statutory requirement. Since (a) no complaints were made about inadequate notice, (b) no interested or affected participants in the hearing process raised a question of adequate notice, and (c) notice was timely mailed to the Secretary of State's list, it is unlikely that anyone interested in the rules was not given enough forewarning of the hearing and time to prepare to participate.

All other procedural requirements of statute and rule have been fulfilled.

2. The Department has demonstrated its statutory authority to adopt the proposed rules.

3. Except as noted in the Findings, the Department has demonstrated that the proposed rules are necessary and reasonable.

4. The recommendations made by the Examiner in the Findings are not intended to in any way preclude the Agency from making its own nonsubstantial changes or improvements to the rules.

RECOMMENDATION

The Hearing Examiner recommends that the proposed rules be modified as suggested in the Findings, and that so modified, they be adopted.

Dated: May 30, 1979.

Myron S. Greenberg

MYRON S. GREENBERG
State Hearing Examiner

PCA-79-005-MG
Rehearing

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

SUSAN WOJCIK, being first duly sworn, deposes and says that on the 11th day of September, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Hearing Examiner On Rehearing

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Susan Wojcik

Subscribed and sworn to before me this
11th day of September, 1979.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

Ms. Jocelyn F. Olson
Special Assistant
Attorney General
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

MPCA Exhibit 4
Proposed

Emergency Episodes

A. Applicability. This rule applies to any owner or operator of any emission facility having allowable emissions of air pollutants of 250 or more tons per year located within or having air pollutant emissions affecting any area within the State of Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the Director.

B. Definitions. As used in this rule, the following words shall have the meaning defined herein:

1. "Air pollutant" means particulate matter, sulfur dioxide, nitrogen oxides, photochemical oxidants, carbon monoxide or nonmethane hydrocarbons.

2. "Allowable emission" means the emission rate calculated using the maximum rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance set forth in Agency rules or the standard set forth in the permit, whichever is more stringent.

3. "Alert level" means the concentration of pollutants, as specified in paragraph C., at which first stage control actions are to be taken.

4. "Declaration" means the formal public notification of an episode made by the Director.

5. "Director" means the Executive Director of the Minnesota Pollution Control Agency or the Director's designee.

6. "Emergency level" means that concentration of pollutants, as specified in paragraph C., at which third stage control actions are to be taken.

7. "Episode" means that period of time during which ambient air concentrations of air pollutants equal or exceed the alert level and meteorological conditions are such that the air pollutant concentrations can be expected to persist or to increase in the absence of control actions.

8. "Significant harm level" means that concentration of pollutants, as specified in paragraph C., at which fourth stage control actions are to be taken.

9. "Warning level" means that concentration of pollutants, as specified in paragraph C., at which second stage control actions are to be taken.

C. Episode levels. The level at which an air pollutant alert, warning, emergency or significant harm episode shall be declared shall be determined by Table 1.

D. Episode declaration.

1. An air pollution alert shall be declared by the Director when the Director finds that the concentration of air pollutant has reached the alert level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the alert level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

2. An air pollution warning shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the warning level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the warning level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution warning shall also be declared by the Director when the Director finds that the alert level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

TABLE 1

	SO_2 24 Hr. Avg.	Part. 24 Hr. Avg.	CO 8 Hr. Avg.	NO_2 24 Hr. Avg.	NO_2 1 Hr. Avg.	Oxidant 1 Hr. Avg.	SO_2 Part. ug/m^3 X ug/m^3 24 Hr. x 24 Hr.
ALERT	300 ppb 800 ug/m^3	375 ug/m^3	15 ppm 17 mg/m^3	150 ppb 282 ug/m^3	600 ppb 1130 ug/m^3	200 ppb 400 ug/m^3	65 x 10^3
WARNING	600 ppb 1600 ug/m^3	625 ug/m^3	30 ppm 34 mg/m^3	300 ppb 565 ug/m^3	1200 ppb 2260 ug/m^3	400 ppb 800 ug/m^3	261 x 10^3
EMERGENCY	800 ppb 2100 ug/m^3	875 ug/m^3	40 ppm 46 mg/m^3	400 ppb 750 ug/m^3	1600 ppb 3000 ug/m^3	500 ppb 1000 ug/m^3	393 x 10^3
SIGN. HARM	1000 ppb 2620 ug/m^3	1000 ug/m^3	50 ppm 57.5mg/m^3	500 ppb 938 ug/m^3	2000 ppb 3750 ug/m^3	600 ppb 1200 ug/m^3	490 x 10^3

3. An air pollution emergency shall be declared by the Director when the concentration of any air pollutant has reached the emergency level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the emergency level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution emergency shall also be declared by the Director when the Director finds that the warning level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

4. An air pollution significant harm episode shall be declared by the Director when the concentration of any air pollutant has reached the significant harm level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the significant harm level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

5. The geographical area subject to episode levels of any air pollutant shall be delineated to the extent feasible and shall be identified in the Director's declaration.

6. The Director shall terminate the episode by declaration when:

a. The measured air pollutant concentrations no longer satisfy the criteria specified in paragraph C.; and

b. The meteorological conditions indicate that there will not be a recurrence of episode levels of air pollutants within 24 hours if control actions are reduced or eliminated.

E. Control Actions.

1. Notwithstanding the provisions of other rules or of any installation permit, operating permit, stipulation agreement, variances, or order of the Agency, all persons shall, upon notification by the Director or the Director's designee, comply with episode control directives issued by the Director.

2. Control directives issued to any owner or operator of an emission facility shall be based on the emission reduction plan submitted to the Director pursuant to paragraph E. 3; provided, however, that in the event that no emission reduction plan has been approved for such facility, the episode control directives shall be based upon the emission reduction objectives set forth at paragraph E. 4.

3. The owner or operator of each emission facility located within the State having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date of this rule submit to the Director an episode emission reduction plan to be implemented at the facility in the event of a declaration by the Director of an air pollution episode. The plan shall be consistent with the emission reduction objectives set forth in paragraph E. 4. and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the Director. If the Director finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the Director.

4. For the purposes of this rule, emission reduction objectives shall be as indicated in Tables 2 through 6. In the event of episode levels of both particulate matter and sulfur dioxide the Director shall direct coal fired electric power generating facilities which pollutant is to be reduced at each facility.

TABLE 2

EMISSION REDUCTION OBJECTIVES FOR PARTICULATE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Warning. Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Reduction of steam load demands consistent with continuing plant operations	c. Reduction of steam load demands consistent with continuing plant operations.	c. Taking the action called for in the emergency plan.
		d. Making ready for use a plan of action to be taken if an emergency develops.	

3.	A - Manufacturing, processing, and mining industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacuring operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
		b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminnants from trade waste disposal processes which emits particles, gases, vapors or malodorous substances.
		c. Reduction of heat load demands for processing continuing plant operations.	c. Reduction of heat load demands for processing continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4.	Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
		b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 3

EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
	b. Substantial reduction by diverting electric power generation to facilites outside of Alert Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having the lowest available sulfur content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	b. Taking the action called for in the emergency plan.
		c. Making ready for use a plan of action to be taken if an emergency develops.	

TABLE 3
Continued

3. A - Manufacturing and processing industries AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal process which emit particles, gases, vapors or or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.

TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of of Emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A - Manufacturing and processing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 4
Continued

	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage.
		b. Maximum reduction by utilization of fuels or power source which resultsin the formation of less air contaminants.	b. Maximum reduction by utilizaof fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 5

EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
3. A - Manufacturing and processing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

TABLE 6

EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. A - Manufacturing industries. AND B - Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without injury to persons or damage to equipment.
2. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
3. Mobile Sources	a. Voluntary reduction in unnecessary vehicle use in response to Agency advisory.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.	a. Maximum reduction by banning vehicle use except for emergencies.

5. During the time that an air pollution episode declaration is in effect and has not been terminated, the owner or operator of any emission facility who has been directed to implement any portion of the facility's emission reduction plan shall allow the Agency, or any authorized employee or agent of the Agency, when authorized by law and upon the presentation of proper credentials to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations pertaining to the operation of the emission facilities and the control equipment. The owner or operator shall make available on the premises to such Agency employee a copy of the episode emission reduction plan for the emission facility and shall, upon request of the Agency employee, demonstrate that the control directives issued to the owner or operator are being implemented.

F. Emergency powers.

Nothing in this rule shall be interpreted to preempt the Agency's emergency powers as provided in Minnesota Statutes 116.11 (1978) or to preclude appropriate actions from being taken by the Agency to protect the public health.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Housing Finance Agency

Notice of Intent to Solicit Outside Opinion for Rules Governing Housing Programs for Urban American Indians

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the Agency in preparing to propose the adoption of rules governing housing programs for urban Native Americans. These rules are authorized by Laws of 1978, ch. 670.

To facilitate the gathering of information, informational meetings will be held at various locations throughout the state. The first such meeting will be held in Duluth, Minnesota at the American Indian Fellowship Association, 8 East Second Street, on June 15, 1978 at 4:00 p.m. Any interested persons may submit data or reviews on this subject in writing or orally at this meeting.

Written material may also be submitted to:

May Hutchinson
Minnesota Housing Finance Agency
200 Nalpak Building
333 Sibley Street
St. Paul, MN. 55101

Any written material received shall become a part of the hearing record in the event rules governing the subject matter are promulgated.

James J. Solem
Executive Director

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposed Changes to the Existing State Air Quality Implementation Plan

Notice is hereby given that the Minnesota Pollution Control Agency will be revising its existing State Air Quality Implementation Plan to achieve National Ambient Air Quality Standards. The revisions to the plan will require new regulations to be developed and some existing regulations may be amended.

The Pollution Control Agency is interested in soliciting comments on the adequacy of the existing State Implementation Plan and suggestions for improvements.

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

Edward M. Wiik, Director
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-7358.

Any written material received by the Agency shall become part of the hearing record during adoption or revision of regulations.

Department of Human Rights

Settlement Agreements and Predetermination Agreements for the Period Beginning May 1, 1978 and Ending June 2, 1978

Settlement Agreements

In addition to specific remedies, standard agreements reached prior to a hearing contain the following stipulations:

1. The agreement does not constitute an admission by the respondent of a violation of Minn. Stat. ch. 363.

MPCA Exhibit 1

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Terry Hoffman, do certify that I am the Executive Director of the Minnesota Pollution Control Agency, an Agency duly authorized under the laws of the State of Minnesota, and that the following resolution was adopted at a meeting of the Agency properly called on the 30th day of January, 1979, that a quorum was present at said meeting; that the resolution is set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the MPCA hereby authorizes a public hearing to be held concerning the attached proposed rules of the MPCA relating to air pollution emergency episode control plans.
>
> BE IT FURTHER RESOLVED, that the Agency hereby authorizes the Executive Director to perform on its behalf any and all acts incidental to the holding of the hearing, including, but not limited to, signing the order for hearing and the notice of hearing.

IT WITNESS WHEREOF, I have hereunto subscribed my name this 2nd day of March, 1979.

Terry Hoffman
Executive Director

Subscribed and sworn to before
me this 2nd day of March, 1979:

MARY E. WYATT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 24, 1983

Mary E. Wyatt
Notary Public

MPCA Exhibit 2

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, on Tuesday, April 17, 1979, commencing at 1:00 p.m. and reconvening at 7:00 p.m. on the same day. This hearing shall continue 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 for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Terry Hoffman
Executive Director

Dated: March 15, 1979

MPCA Exhibit B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Adoption of Minn. Rule APC 39
Governing Air Pollution Control
Requirements During Air Pollution
Episodes

No. 79-005-MG

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, on Tuesday, July 31, 1979, 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 for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Terry Hoffman
Executive Director

Dated: June 12, 1979

MPCA Exhibit 7b

STATE OF MINNESOTA

COUNTY OF RAMSEY

RECEIVED
MAR 23 1979
OFFICE OF HEARING EXAMINERS

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

AFFIDAVIT OF RECEIPT OF SECRETARY OF STATE'S LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Douglas M. Benson, being duly sworn on oath deposes and says:

1. That he is an employee of the Air Quality Division, Minnesota Pollution Control Agency, State of Minnesota

2. That on the 14 day of March, 1979, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412.

3. That on the 14 day of March, 1979, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

FURTHER AFFIANT SAYETH NOT.

Douglas M. Benson

Subscribed and sworn to before me this 14th day of March, 1979:

Susan M. Paurus
Notary Public

SUSAN M. PAURUS
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Comm. Expires Dec. 3, 1982

MPCA Exhibit 7a

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

CERTIFICATE OF DELIVERY OF SECRETARY OF STATE'S LIST a

I hereby certify that the attached 584 labels and 13 sheets constitute the complete list of persons, associations, and other interested groups who as of 9:25 o'clock AM, this 14th day of March, 1979, have requested pursuant to Minn. Stat. §15.0412 subd. 4 (1978) 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.

SECRETARY OF STATE

JOAN ANDERSON GROWE

Joan Anderson Growe

By Donna Scott

MPCA Exhibit 7c

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

J. K. Whited, being first duly sworn, hereby deposes and says that in the City of Roseville, county and state aforesaid, on the 15th day of March, 1979, she served the foregoing Notice of Hearing by depositing in the United States mail at said City of Roseville, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists, including the Secretary of State's list.

J. K. Whited

Subscribed and sworn to before me this 15th day of March, 1979:

Lila Holmdahl
Notary Public

LILA HOLMDAHL
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 1, 1983

MPCA Exhibit D

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

AFFIDAVIT OF RECEIPT OF SECRETARY OF STATE'S LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Douglas M. Benson, being duly sworn on oath deposes and says:

1. That he is an employee of the Air Quality Division, Minnesota Pollution Control Agency, State of Minnesota

2. That on the 22 day of June, 1979, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412.

3. That on the 22 day of June, 1979, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

FURTHER AFFIANT SAYETH NOT.

Douglas M. Benson

Subscribed and sworn to before me this 22nd day of June, 1979:

Deborah L. McMahon
Notary Public

DEBORAH L McMAHON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov 27 1982

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

No. 79-005-MG

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

CERTIFICATE OF DELIVERY OF SECRETARY OF STATE'S LIST

I hereby certify that the attached 25 labels and 14 sheets constitute the complete list of persons, associations, and other interested groups who as of 8:00 o'clock AM, this 22nd day of June, 1979, have requested pursuant to Minn. Stat. §15.0412 subd. 4 (1978) that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules.

SECRETARY OF STATE

JOAN ANDERSON GROWE

By _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 22 1979
Joan Anderson Growe
Secretary of State

Subscribed and sworn before me this 22nd day of June, 1979

Virginia Daniels

VIRGINIA DANIELS
Notary Public, Ramsey Co. Mn.
MY COMMISSION EXPIRES
June 21, 1980

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

RUTH M. GROSS, being first duly sworn, hereby deposes and says that in the City of Roseville, county and state aforesaid, on the 22 day of JUNE, 1979, she served the foregoing "Notice of Hearing," by depositing in the United States mail at said City of Roseville, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists, including the Secretary of State's list.

Ruth M. Gross

RUTH M. GROSS

Subscribed and sworn to before me this 22nd day of June, 1979:

MARY E. WYATT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 24, 1983

Mary E. Wyatt

Notary Public

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of Proposed
Minn. Rules APC 33, 6 MCAR
§4.0033, Standards of Performance
for Coal Handling Facilities,
and APC 40, 6 MCAR §4.0040,
Fugitive Emissions Within
Designated Areas

No. PCA-79-012-HK

NOTICE OF HEARING

AFFIDAVIT OF RECEIPT OF
SECRETARY OF STATE'S LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

KEITH H. NESS, being duly sworn on oath deposes and says:

1. That he is an employee of the Air Quality Division, Minnesota Pollution Control Agency, State of Minnesota

2. That on the 2nd day of July, 1979, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412.

3. That on the 2nd day of July, 1979, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

FURTHER AFFIANT SAYETH NOT.

Keith H. Ness

Subscribed and sworn to before me
this 5th day of July, 1979:

Deborah L. McMahon
Notary Public

DEBORAH L McMAHON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov 27 1982

STATE OF MINNESOTA
COUNTY OF RAMSEY

C

CERTIFICATE

In the matter of the Proposed Adoption of Rules of AIR Quality Division Governing APC-33 and APC-40

I hereby certify that the attached 324 labels 12 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:30 o'clock A .M, this 2nd day of July, 1979, have requested pursuant to M.S. 1976, 15.21 Sub 4, 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.

Secretary of State

Joan Anderson Growe

By Donna M. Peck

MPCA Exhibit H

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

No. 79-005-MG

AFFIDAVIT OF MAILING

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Miss Ruth M. Gross, being first duly sworn, hereby deposes and says that in the City of Roseville, county and state aforesaid, on the 3rd day of July, 1979, s/he served the foregoing "Notice of Rescheduling of Hearing," by depositing in the United States mail at said City of Roseville, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists, including the Secretary of State's list.

Ruth M. Gross

RUTH M. GROSS

Subscribed and sworn to before me this 5th day of July, 1979:

Deborah L McMahon

Notary Public

DEBORAH L McMAHON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov 27 1982

MPCA Exhibit E

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Public Hearings on Agency Rules

July 9-13, 1979

Date	Agency & Rule Matter	Time & Place
July 12	Dept. of Agriculture Disposal of Refuse from Transport Involved in Foreign Commerce	2:00 p.m., St. Louis County Courthouse, Duluth, MN

Pollution Control Agency

Proposed Rule Governing Air Pollution Control Requirements During Air Pollution Episodes

Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Tuesday, July 31, 1979, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

Hearings have been previously held on this matter on Tuesday, April 17, 1979, in the Board Room of the Minnesota Pollution Control Agency and public comment was received on the proposed rules through and including April 30, 1979. The proposed rules have been published at 3 S.R. 1758-1765 (March 19, 1979). The purpose of the July 31, 1979, hearing is to correct a technical defect in publication of the Notice of Hearing in connection with the April 17 hearing. Specifically, the notice appeared in the *State Register* for 29 days prior to the date of the April 17 hearing instead of 30 days as required by Minn. Stat. § 15.0412, subd. 4 (1978).

The Agency intends at this hearing to reintroduce the entire record created in connection with the April 17 hearing, including all comments, oral and written, submitted by members of the public. All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Notice: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The proposed rules, if adopted, will establish criteria and procedures for the declaration by the Executive Director of the Minnesota Pollution Control Agency of air pollution episodes during which air pollutant emission reduction strategies will be required to be implemented by major air pollutant sources in the geographic area affected by the episode. The proposed rules, if adopted, will require operators of sources of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of 250 tons or more per year to submit air pollution episode control plans which, upon the declaration of an episode and notice to the source, will be required to be implemented during an episode.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 116.07, subd. 4 (1978).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

June 12, 1979

Terry Hoffman
Executive Director

Rule as Proposed

6 MCAR § 4.0039 Emergency episodes.

A. Applicability. This rule applies to any owner or operator of any emission facility having allowable emissions of air pollutants of 250 or more tons per year located within or having air pollutant emissions affecting any area within the State of Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the Director.

B. Definitions. As used in this rule, the following words shall have the meaning defined herein:

1. "Air pollutant" means particulate matter, sulfur dioxide, nitrogen oxides, photochemical oxidants, carbon monoxide or nonmethane hydrocarbons.

2. "Allowable emission" means the emission rate calculated using the maximum rate capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance set forth in Agency rules or the standard set forth in the permit, whichever is more stringent.

3. "Alert level" means the concentration of pollutants, as specified in paragraph C., at which first stage control actions are to be taken.

4. "Declaration" means the formal public notification of an episode made by the Director.

5. "Director" means the Executive Director of the Minnesota Pollution Control Agency or the Director's designee.

6. "Emergency level" means that concentration of pollutants, as specified in paragraph C., at which third stage control actions are to be taken.

7. "Episode" means that period of time during which ambient air concentrations of air pollutants equal or exceed the alert level and meteorological conditions are such that the air pollutant concentrations can be expected to persist or to increase in the absence of control actions.

8. "Significant harm level" means that concentration of pollutants, as specified in paragraph C., at which fourth stage control actions are to be taken.

9. "Warning level" means that concentration of pollutants, as specified in paragraph C., at which second stage control actions are to be taken.

C. Episode levels. The level at which an air pollutant alert, warning, emergency or significant harm episode shall be declared shall be determined by Table 1.

D. Episode declaration.

1. An air pollution alert shall be declared by the Director when the Director finds that the concentration of air pollutant has reached the alert level at any monitoring site

and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the alert level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

2. An air pollution warning shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the warning level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the warning level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution warning shall also be declared by the Director when the Director finds that the alert level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

	SO_2 24 Hr. Avg.	Part. 24 Hr. Avg.	CO 8 Hr. Avg.	NO_2 24 Hr. Avg.	NO_2 1 Hr. Avg.	Oxidant 1 Hr. Avg.	SO_2 Part. $\mu g/m^3 \times \mu g/m^3$ 24 Hr. × 24 Hr.
ALERT	300 ppb 800 $\mu g/m^3$	375 $\mu g/m^3$	15 ppm 17 mg/m^3	150 ppb 282 $\mu g/m^3$	600 ppb 1130 $\mu g/m^3$	200 ppb 400 $\mu g/m^3$	65×10^3
WARNING	600 ppb 1600 $\mu g/m^3$	625 $\mu g/m^3$	30 ppm 34 mg/m^3	300 ppb 565 $\mu g/m^3$	1200 ppb 2260 $\mu g/m^3$	400 ppb 800 $\mu g/m^3$	261×10^3
EMERGENCY	800 ppb 2100 $\mu g/m^3$	875 $\mu g/m^3$	40 ppm 46 mg/m^3	400 ppb 750 $\mu g/m^3$	1600 ppb 3000 $\mu g/m^3$	500 ppb 1000 $\mu g/m^3$	$393 + 10^3$
SIGN. HARM	1000 ppb 2620 $\mu g/m^3$	1000 $\mu g/m^3$	50 ppm 57.5 mg/m^3	500 ppb 938 $\mu g/m^3$	2000 ppb 3750 $\mu g/m^3$	600 ppb 1200 $\mu g/m^3$	490×10^3

3. An air pollution emergency shall be declared by the Director when the concentration of any air pollutant has reached the emergency level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the emergency level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution emergency shall also be declared by the Director when the Director finds that the warning level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

4. An air pollution significant harm episode shall be declared by the Director when the concentration of any air pollutant has reached the significant harm level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the significant harm level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

5. The geographical area subject to episode levels of any air pollutant shall be delineated to the extent feasible and shall be identified in the Director's declaration.

6. The Director shall terminate the episode by declaration when:

a. The measured air pollutant concentrations no longer satisfy the criteria specified in paragraph C.; and

b. The meteorological conditions indicate that there will not be a recurrence of episode levels of air pollutants within 24 hours if control actions are reduced or eliminated.

E. Control Actions.

1. Notwithstanding the provisions of other rules or of any installation permit, operating permit, stipulation agreement, variances, or order of the Agency, all persons shall, upon notification by the Director or the Director's designee, comply with episodes control directives issued by the Director.

2. Control directives issued to any owner or operator of an emission facility shall be based on the emission reduction plan submitted to the Director pursuant to paragraph E.3.; provided, however, that in the event that no emission reduction plan has been approved for such facility, the episode control directives shall be based upon the emission reduction objectives set forth at paragraph E.4.

3. The owner or operator of each emission facility located within the State having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date of this rule submit to the Director an episode emission reduction plan to be implemented at the facility in the event of a declaration by the Director of an air pollution

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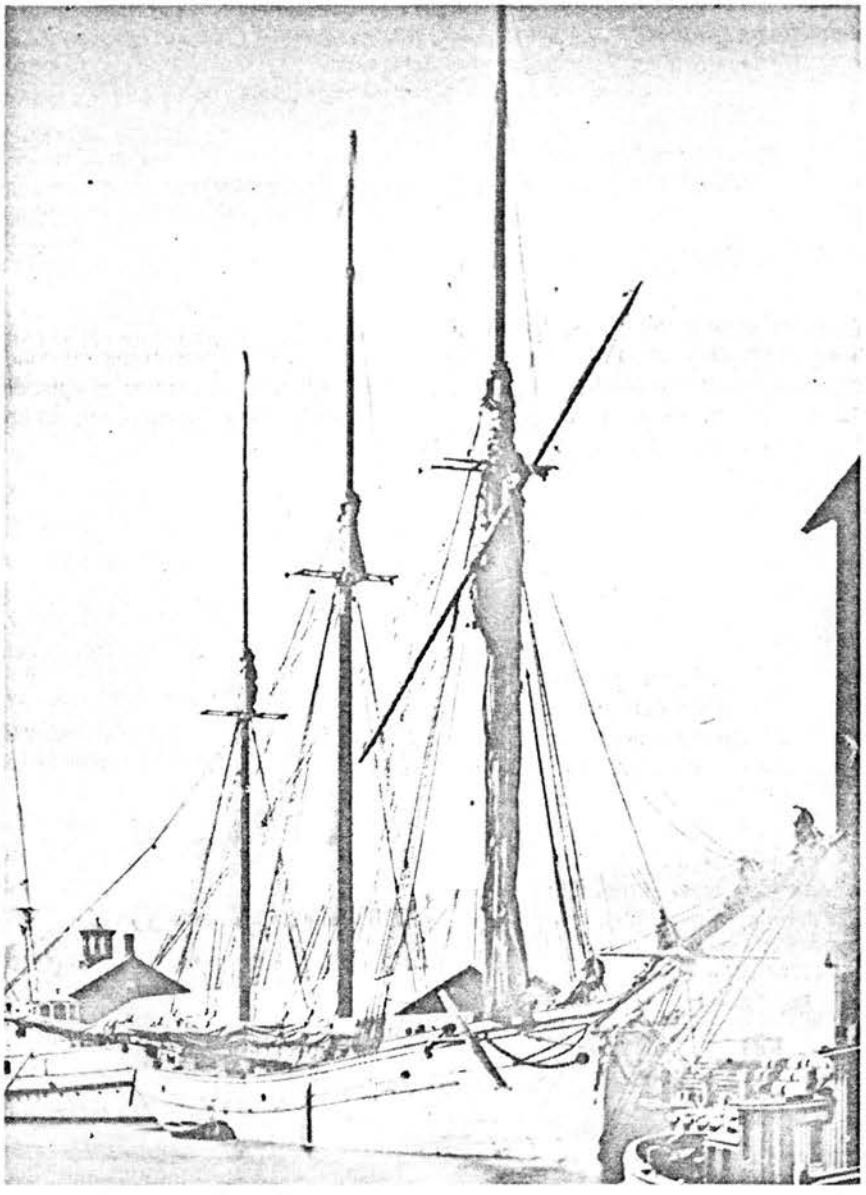
episode. The plan shall be consistent with the emission reduction objectives set forth in paragraph E.4. and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the Director. If the Director finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the Director.

4. For the purposes of this rule, emission reduction objectives shall be as indicated in Tables 2 through 6. In the event of episode levels of both particulate matter and sulfur dioxide the Director shall direct coal fired electric power generating facilities which pollutant is to be reduced at each facility.



These wooden sailing schooners carried the first cargoes of iron ore from the Minnesota range mines to the lower lake ports during the 1880s. Loading and unloading was done with wheelbarrows. (Photograph courtesy of the Minnesota Historical Society)

TABLE 2

EMISSION REDUCTION OBJECTIVES FOR PARTICULATE MATTER

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by utilization of fuels having lowest available ash content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.	b. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Reduction of steam load demands consistent with continuing plant operations.	c. Reduction of steam load demands consistent with continuing plant operations.	c. Taking the action called for in the emergency plan.

TABLE 3

EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having lowest available sulfur content.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content.	a. Maximum reduction by utilization of fuels having the lowest available sulfur content.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	b. Taking the action called for in the emergency plan.
		c. Making ready for use a plan of action to be taken if an emergency develops.	

3. A — Manufacturing, processing, and mining industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emits particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing continuing plant operations.	c. Reduction of heat load demands for processing continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.

3. A — Manufacturing and processing industries AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal process which emit particles, gases, vapors, or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.

TABLE 5
EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage.

Note Errata

		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

TABLE 6

EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. A — Manufacturing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without injury to persons or damage to equipment.
2. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
3. Mobile Sources	a. Voluntary reduction in unnecessary vehicle use in response to Agency advisory.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.	a. Maximum reduction by banning vehicle use except for emergencies.

5. During the time that an air pollution episode declaration is in effect and has not been terminated, the owner or operator of any emission facility who has been directed to implement any portion of the facility's emission reduction plan shall allow the Agency, or any authorized employee or agent of the Agency, when authorized by law and upon the presentation of proper credentials to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations pertaining to the operation of the emission facilities and the control equipment. The owner or operator shall make available on the premises to such Agency employee a copy of the episode emission reduction plan for the emission facility and shall, upon request of the Agency employee, demonstrate that the control directives issued to the owner or operator are being implemented.

F. Emergency powers.

Nothing in this rule shall be interpreted to preempt the Agency's emergency powers as provided in Minn. Stat. § 116.11 (1978) or to preclude appropriate actions from being taken by the Agency to protect the public health.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Corrections Health Care Unit

Notice of Request for Proposals for Consultant Services Contracts

Notice is hereby given that the Minnesota Department of Corrections is seeking the services of a qualified Environmental Health and Safety Consultant to conduct comprehensive environmental health and safety surveys at the Minnesota State Prison at Stillwater, and the State Training School at Red Wing. Following completion of these surveys, the Consultant will present the Department of Corrections with reports noting deficiencies at each institution, and making recommendations for corrections of such deficiencies. The estimated cost of the contract will not exceed $3,500. All inquiries should be directed to Howard L. Johnson, Health Care Administrator, Department of Corrections, 430 Metro Square Building, St. Paul 55101. Written proposals must be submitted no later than July 23, 1979.

Department of Education Special and Compensatory Education Division

Notice of Availability of Contract for Training of American Indian Educators in the Skills of Evaluation and Research

The Minnesota Department of Education will be accepting proposals to provide post-baccalaureate training in evaluation and research for 20-25 American Indian educators. It is anticipated that training activities will be designed around several intensive workshop seminars with individualized assistance available throughout the academic year. It is further anticipated that American Indian bicultural projects will serve as field sites for evaluation experiences.

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MPCA Exhibit 5 (a)

Pollution Control Agency Air Quality Division

Proposed Rule Governing Air Pollution Control Requirements During Air Pollution Episodes

Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Tuesday, April 17, 1979, commencing at 1:00 p.m., and reconvening at 7:00 p.m. on the same day and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Notice: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

The proposed rules, if adopted, will establish criteria and procedures for the declaration by the Executive Director of the Minnesota Pollution Control Agency of air pollution episodes during which air pollutant emission reduction strategies will be required to be implemented by major air pollutant sources in the geographic area affected by the episode. The proposed rules, if adopted, will require operators of sources of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of 250 tons or more per year to submit air pollution episode control plans which, upon the declaration of an episode and notice to the source, will be required to be implemented during an episode.

The Agency's authority to promulgate the proposed rule is contained in Minn. Stat. § 116.07, subd. 4 (1978).

Copies of the proposed rule are now available and one free copy may be obtained by writing to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

February 28, 1979

Terry Hoffman
Executive Director

Rules as Proposed (all new material)

6 MCAR § 4.0039 Emergency episodes.

A. Applicability. This rule applies to any owner or operator of any emission facility having allowable emis-

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sions of air pollutants of 250 or more tons per year located within or having air pollutant emissions affecting any area within the State of Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the Director.

B. Definitions. As used in this rule, the following words shall have the meaning defined herein:

1. "Air pollutant" means particulate matter, sulfur dioxide, nitrogen oxides, photochemical oxidants, carbon monoxide or nonmethane hydrocarbons.

2. "Allowable emission" means the emission rate calculated using the maximum rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance set forth in Agency rules or the standard set forth in the permit, whichever is more stringent.

3. "Alert level" means the concentration of pollutants, as specified in paragraph C., at which first stage control actions are to be taken.

4. "Declaration" means the formal public notification of an episode made by the Director.

5. "Director" means the Executive Director of the Minnesota Pollution Control Agency or the Director's designee.

6. "Emergency level" means that concentration of pollutants, as specified in paragraph C., at which third stage control actions are to be taken.

7. "Episode" means that period of time during which ambient air concentrations of air pollutants equal or exceed the alert level and meteorological conditions are such that the air pollutant concentrations can be expected to persist or to increase in the absence of control actions.

8. "Significant harm level" means that concentration of pollutants, as specified in paragraph C., at which fourth stage control actions are to be taken.

9. "Warning level" means that concentration of pollutants, as specified in paragraph C., at which second stage control actions are to be taken.

C. Episode levels. The level at which an air pollutant alert, warning, emergency or significant harm episode shall be declared shall be determined by Table 1.

D. Episode declaration.

1. An air pollution alert shall be declared by the Director when the Director finds that the concentration of air pollutant has reached the alert level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the alert level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

2. An air pollution warning shall be declared by the Director when the Director finds that the concentration of any air pollutant has reached the warning level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the warning level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution warning shall also be declared by the Director when the Director finds that the alert level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

TABLE 1

	SO_2 24 Hr. Avg.	Part. 24 Hr. Avg.	CO 8 Hr. Avg.	NO_2 24 Hr. Avg.	NO_2 1 Hr. Avg.	Oxidant 1 Hr. Avg.	SO_2 Part. $\mu g/m^3 \times \mu g/m^3$ 24 Hr. × 24 Hr.
ALERT	300 ppb 800 $\mu g/m^3$	375 $\mu g/m^3$	15 ppm 17 mg/m^3	150 ppb 282 $\mu g/m^3$	600 ppb 1130 $\mu g/m^3$	200 ppb 400 $\mu g/m^3$	65×10^3
WARNING	600 ppb 1600 $\mu g/m^3$	625 $\mu g/m^3$	30 ppm 34 mg/m^3	300 ppb 565 $\mu g/m^3$	1200 ppb 2260 $\mu g/m^3$	400 ppb 800 $\mu g/m^3$	261×10^3
EMERGENCY	800 ppb 2100 $\mu g/m^3$	875 $\mu g/m^3$	40 ppm 46 mg/m^3	400 ppb 750 $\mu g/m^3$	1600 ppb 3000 $\mu g/m^3$	500 ppb 1000 $\mu g/m^3$	393×10^3
SIGN. HARM	1000 ppb 2620 $\mu g/m^3$	1000 $\mu g/m^3$	50 ppm 57.5 mg/m^3	500 ppb 938 $\mu g/m^3$	2000 ppb 3750 $\mu g/m^3$	600 ppb 1200 $\mu g/m^3$	490×10^3

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3. An air pollution emergency shall be declared by the Director when the concentration of any air pollutant has reached the emergency level at any monitoring site and meteorological conditions are such that the air pollutant concentration can be expected to remain at, or exceed, the emergency level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken. An air pollution emergency shall also be declared by the Director when the Director finds that the warning level concentrations for any air pollutant have persisted in the area for 48 hours and are expected to continue for the subsequent 12 hours.

4. An air pollution significant harm episode shall be declared by the Director when the concentration of any air pollutant has reached the significant harm level at any monitoring site and meteorological conditions are such that the air pollutant concentrations can be expected to remain at, or exceed, the significant harm level for 12 or more hours or, in the case of photochemical oxidants, to recur the following day at the same or higher levels unless control actions are taken.

5. The geographical area subject to episode levels of any air pollutant shall be delineated to the extent feasible and shall be identified in the Director's declaration.

6. The Director shall terminate the episode by declaration when:

a. The measured air pollutant concentrations no longer satisfy the criteria specified in paragraph C.; and

b. The meteorological conditions indicate that there will not be a recurrence of episode levels of air pollutants within 24 hours if control actions are reduced or eliminated.

E. Control actions.

1. Notwithstanding the provisions of other rules or of any installation permit, operating permit, stipulation agreement, variances, or order of the Agency, all persons shall, upon notification by the Director or the Director's designee, comply with episode control directives issued by the Director.

2. Control directives issued to any owner or operator of an emission facility shall be based on the emission reduction plan submitted to the Director pursuant to paragraph E.3.; provided, however, that in the event that no emission reduction plan has been approved for such facility, the episode control directives shall be based upon the emission reduction objectives set forth at paragraph E.4.

3. The owner or operator of each emission facility located within the State having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date of this rule submit to the Director an episode emission reduction plan to be implemented at the facility in the event of a declaration by the Director of an air pollution episode. The plan shall be consistent with the emission reduction objectives set forth in paragraph E.4. and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the Director. If the Director finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the Director.

4. For the purposes of this rule, emission reduction objectives shall be as indicated in Tables 2 through 6. In the event of episode levels of both particulate matter and sulfur dioxide the Director shall direct coal fired electric power generating facilities which pollutant is to be reduced at each facility.

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TABLE 2

EMISSION REDUCTION OBJECTIVES FOR PARTICULATE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	a. Maximum reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of WarningArea.	a. Maximum reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Reduction of steam load demands consistent with continuing plant operations	a. Maximum reduction by utilization of fuels having lowest available ash content. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Reduction of steam load demands consistent with continuing plant operations. d. Making ready for use a plan of action to be taken if an emergency develops.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage. b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the emergency plan.
3. A — Manufacturing, processing, and mining industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing continuing plant operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing continuing plant operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air contaminants from trade waste disposal processes which emits particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing.

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4. Refuse disposal operations.	a. Maximum reduction by prevention of open burning. b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.

TABLE 3

EMISSION REDUCTION OBJECTIVES FOR SULFUR OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Coal or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content. b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	a. Maximum reduction by utilization of fuels having lowest available sulfur content. b. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.	a. Maximum reduction by utilization of fuels having lowest available sulfur content. b. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal or oil-fired process steam genreating facilities.	a. Substantial reduction by utilization of fuels having lowest available sulfur content. b. Reduction of steam load demands consistent with continuing plant operations.	a. Maximum reduction by utilization of fuels having the lowest available sulfur content. b. Reduction of steam load demands consistent with continuing plant operations. c. Making ready for use a plan of action to be taken if an emergency develops.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage. b. Taking the action called for in the emergency plan.
3. A — Manufacturing and processing industries AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air contaminants from trade waste disposal process which emit particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing.

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TABLE 4
EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant. b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant. b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant. b. Reduction of steam load demands consistent with continuing plant operations.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant. b. Reduction of steam load demands consistent with continuing plant operations. c. Making ready for use a plan of action to be taken if an emergency develops.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases vapors or malodorous substances. c. Reduction of heat load demands for processing consistent with continuing plant operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Reduction of power demands for pumping consistent with continuing operations. b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage. b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.

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5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning. b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.	a. Maximum reduction by prevention of open burning. b. Complete elimination of the use of incinerators.

TABLE 5

EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION EMERGENCY	AIR POLLUTION WARNING
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.

TABLE 6

EMISSION REDUCTION OBJECTIVES FOR CARBON MONOXIDE

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION EMERGENCY	AIR POLLUTION WARNING
a. A — Manufacturing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without injury to persons or damage to equipment.	Maximum reduction of air contaminants from manufacturing operataions by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.
2. Refuse disposal operations.	a. Maximum reduction of air con tion of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
3. Mobile Sources	a. Voluntary reduction in unnecessary vehicle use in response to Agency advisory.	a. Maximum reduction by banning vehicle use except for emergencies.	a. Voluntary reduction in vehicle use through increased use of public transport, car pools, and van pools.

5. During the time that an air pollution episode declaration is in effect and has not been terminated, the owner or operator of any emission facility who has been directed to implement any portion of the facility's emission reduction plan shall allow the Agency, or any authorized employee or agent of the Agency, when authorized by law and upon the presentation of proper credentials to enter upon the property of the owner or operator for the purpose of obtaining information or examining records or conducting surveys or investigations pertaining to the operation of the emission facilities and the control equipment. The owner or operator shall make available on the premises to such Agency employee a copy of the episode emission reduction plan for the emission facility and shall, upon request of the Agency employee, demonstrate that the control directives issued to the owner or operator are being implemented.

F. Emergency powers.

Nothing in this rule shall be interpreted to preempt the Agency's emergency powers as provided in Minn. Stat. § 116.11 (1978) or to preclude appropriate actions from being taken by the Agency to protect the public health.

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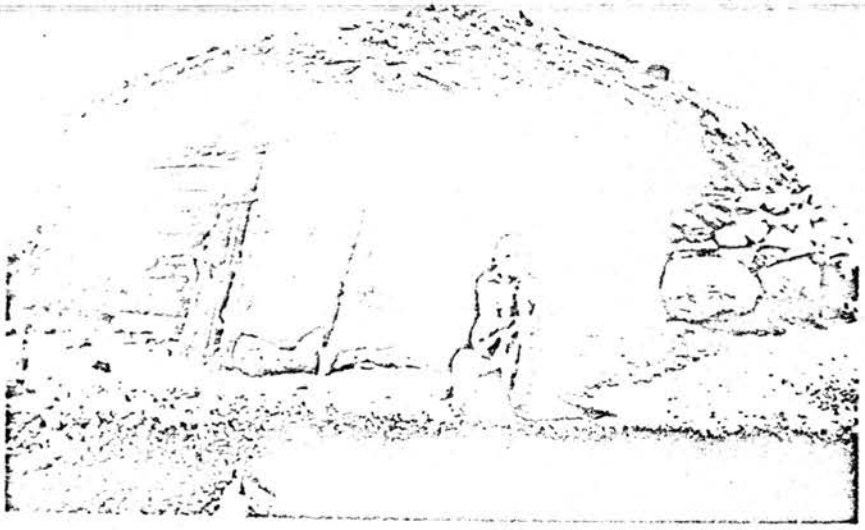

Sod houses, like this one built in the 1870s by Norwegian settlers near Madison in Lac qui Parle County, were warm in winter and cool in summer. Since few trees grew on the prairies of western Minnesota, the pioneers there built houses and sheds by cutting the thick sod into rectangular pieces and laying them like large bricks. Sometimes sod huts were built half underground or dug into the side of a hill for protection against the winter blizzards. (Courtesy of Lac qui Parle County Historical Society)

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MPCA Exhibit I

RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Housing Finance Agency

Adoption and Extension of Temporary Rules Governing the Urban Indian Housing Program

The temporary rules for the Urban Indian Housing Program, 12 MCAR § § 3.150 to 3.157, are extended until the earlier of July 1, 1980 or the date on which permanent rules are adopted, pursuant to a Resolution of the Board of the Agency adopted pursuant to Laws of 1979, ch. 327, § 5. The rules were published at *State Register*, Volume 3, Number 15, pp. 726-778 (3 S.R. 726), with amendments published at *State Register*, Volume 3, Number 32, pp. 1557-1558 (3 S.R. 1557).

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Pollution Control Agency

Proposed Rule Governing Air Pollution Control Requirements During Air Pollution Episodes

Notice of Rescheduling of Hearing

Notice is hereby given that rule hearings in the above-entitled matter scheduled for Tuesday, July 31, at 9:30 a.m., in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, notice of which was published at 3 S.R. 2295 (July 2, 1979), is hereby rescheduled. The hearing will be held on Wednesday, August 8, 1979, at 9:30 a.m. in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota. Questions concerning this matter should be directed to Mr. Douglas Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota (612/296-7740).

July 2, 1979

Terry Hoffman
Executive Director

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MPCA Exh.6.t F

ure to present any evidence relating to the compensability of employee's claim.

Reversed and remanded. Kelly, J.

48647/74 Cy I. Kaster, Appellant, vs. Independent School District No. 625. Ramsey County.

Where a defendant-employer, who utilized a subjective interviewing process devoid of procedural safeguards to select applicants for promotion, repeatedly failed to promote plaintiff, who was Jewish, despite his outstanding qualifications, an inference of discrimination was raised establishing a prima facie case.

Because defendant did not rebut the prima facie case by demonstrating any evidence of a legitimate non-discriminatory purpose for his actions, plaintiff's burden was satisfied and defendant was liable for damages under Minn. St. § 363.03.

Reversed and remanded for determination of appropriate relief in accordance with Minn. St. § 363.14. Kelly, J. Took no part, Todd, J.

48621/135 State of Minnesota vs. Alberto Rosillo, Appellant. Faribault County.

Jury instruction of duress defense properly required that defendant reasonably be in fear of immediate death.

Affirmed. Kelly, J.

48434/285 State of Minnesota vs. Frederick A. Armell, Appellant. Washington County.

Evidence that defendant committed aggravated robbery was not, as defendant contends, legally insufficient.

Trial court, in sentencing defendant who was convicted of escape and several other crimes committed after his escape was complete, did not violate Minn. St. § 609.035 in sentencing defendant for the escape conviction or for a burglary conviction and two convictions for aggravated robbery but court did not violate statute.

Affirmed. Per Curiam.

49081/293 Edna Morgan, widow of James R. Morgan, deceased, Relator, vs. State of Minnesota, University of Minnesota (self-insured). Workers Compensation Court of Appeals.

The denial of dependency compensation is affirmed because review of the record establishes that claimant did not sustain her burden of proving a causal relationship between the deceased employee's exposure to asbestos during his work and his death.

Affirmed. Per Curiam.

48692/295 State of Minnesota vs. Andre Billy Bryant, Appellant. Hennepin County.

The trial court's questioning of two jurors out of defendant's presence was, if error, nonprejudicial.

Since the record does not show any request by defendant for submission of either third-degree murder or first-degree manslaughter, we must assume that no request was made, and we therefore conclude that defendant impliedly waived any right to have these offenses submitted.

Evidence on issue of intent to kill was not, as defendant contends, legally insufficient.

Affirmed. Per Curiam.

Errata

Tables 4 and 5 of Pollution Control Agency proposed rules 6 MCAR § 4.0039 Emergency episodes appearing at 3 S.R. 2300-2302 were incorrectly printed. Following is their correction.

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TABLE 4

EMISSION REDUCTION OBJECTIVES FOR NITROGEN OXIDES

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Steam-electric power generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
	b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.	b. Maximum reduction by diverting electric power generation facilities outside of Warning Area.	
2. Process steam generating facilities.	a. Substantial reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by utilization of fuel which results in the formation of less air contaminant.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Reduction of steam load demands consistent with continuing plant operations.	b. Reduction of steam load demands consistent with continuing plant operations.	
		c. Making ready for use a plan of action to be taken if an emergency develops.	
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal process which emit particles, gases, vapors, or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.
4. Stationary internal combustion engines.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Reduction of power demands for pumping consistent with continuing operations.	a. Maximum reduction by reducing power demands to absolute necessities consistent with personnel safety and preventing equipment damage.
		b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.	b. Maximum reduction by utilization of fuels or power source which results in the formation of less air contaminants.
5. Refuse disposal operations.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.	a. Maximum reduction by prevention of open burning.
	b. Substantial reduction by limiting burning of refuse in incinerators to the hours between 12:00 noon and 4:00 p.m.	b. Complete elimination of the use of incinerators.	b. Complete elimination of the use of incinerators.

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TABLE 5
EMISSION REDUCTION OBJECTIVES FOR HYDROCARBONS

SOURCE OF AIR CONTAMINATION	AIR POLLUTION ALERT	AIR POLLUTION WARNING	AIR POLLUTION EMERGENCY
1. Petroleum products storage and distribution.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
2. Surface coating and preparation.	a. Substantial reduction of air contaminants by curtailing, postponing, or deferring transfer operations.	a. Maximum reduction of air contaminants by assuming reasonable economic hardship by postponing transfer operations.	a. Elimination of air contaminants by curtailing, postponing, or deferring transfer operations to the extent possible without causing damage to equipment.
3. A — Manufacturing and processing industries. AND B — Other persons required by this rule to prepare standby plans.	a. Substantial reduction of air contaminants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and allied operations.	a. Elimination of air contaminants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Maximum reduction by deferring trade waste disposal operations which emit particles, gases, vapors or malodorous substances.	b. Elimination of air contaminants from trade waste disposal processes which emit particles, gases, vapors or malodorous substances.
	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Reduction of heat load demands for processing consistent with continuing plant operations.	c. Maximum reduction of heat load demands for processing.

CERTIFICATE OF
BOARD'S RESOLUTION
ADOPTING RULES

I, Terry Hoffman, do certify that I am the Executive Director of the Minnesota Pollution Control Agency, an Agency duly authorized under the laws of the State of Minnesota, and that the following resolution was adopted at a meeting of the Agency properly called on the 30th day of October, 1979, that a quorum was present at said meeting; that the resolution is set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Pollution Control Agency adopts the Minnesota Pollution Control Agency Staff's proposed Findings of Fact and Conclusions and Order Adopting Rules attached hereto concerning APC 39, Emergency Episodes.

BE IT FURTHER RESOLVED, that the Chairman and Executive Director are hereby authorized to execute the Findings of Fact and Conclusions and Order Adopting Rules on behalf of the Agency.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 7th day of November, 1979.

TERRY HOFFMAN
Executive Director

Subscribed and sworn to before me
this 7th day of November, 1979:

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept. 30, 1981

Notary Public

MPCA Exhibit 8

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption of Minn. Rule APC 39 Governing Air Pollution Control Requirements During Air Pollution Episodes

No. 79-005-MG

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The subject of this hearing is the proposed adoption by the Minnesota Pollution Control Agency (hereinafter "Agency") of Minn. Rule APC 39, entitled "Emergency Episodes." The above rules are not amendments to any existing rules of the Agency. These rules are proposed for adoption pursuant to Minn. Stat. §116.07 subd. 4 (1978), which authorizes the Agency to adopt regulations for the prevention, abatement, or control of air pollution.

The proposed Minn. Rule APC 39 will, if adopted, apply to any person who owns or operates a source of sulfur dioxide, particulate matter, carbon monoxide, nitrogen oxides, or nonmethane hydrocarbons having allowable emissions of at least 250 tons per year. An affected person will be required to submit an air pollution episode control plan that is specific to the source(s) owned or operated by that person. Upon a formal public declaration and notice to the source by the Executive Director of an air pollution episode within an identified area, these source

specific control plans will be required to be implemented by sources located in that area. The overall purpose of this rule is to prevent ambient pollution concentrations from reaching levels that would cause imminent and substantial endangerment to the health of persons.

This document constitutes the Statement of Need and Reasonableness prepared by the Agency in support of the proposed rules.

NEED FOR THE RULES

The need to adopt the proposed Emergency Episodes rules arises from the requirements of federal law and the need for the Agency to enforce its plan designed to achieve national ambient air quality standards.

The Clean Air Act of 1970, 42 U.S.C. §7401 et. seq., as amended by the Clean Air Act Amendments of 1977, P.L. 95-95 (hereinafter "Clean Air Act"), requires that each State submit to the Administrator of the United States Environmental Protection Agency (hereinafter "EPA") a plan which provides for implementation, maintenance, and enforcement of national primary ambient air standards. Clean Air Act §110. Such a plan, known as the "state implementation plan," was adopted by the Agency and approved by the Administrator of EPA in 1972. The state implementation plan, or "SIP," is currently in the process of being revised as a result of requirements of the 1977 amendments to the Clean Air Act.

As a part of its SIP the State is required by 110(a)(2)(F)(v) of the Clean Air Act to adopt adequate "contingency plans" to implement authority comparable to EPA's authority set forth in §303 of the Clean Air Act. 1/ Section 303 of Clean Air Act addresses the situation where air pollutant concentrations reach levels such that in "imminent and substantial danger to health of persons" is present. The Agency's authority comparable to the Administrator's authority is found in Minn. Stat. §116.11 (1978).

EPA has interpreted the term "contingency plans" in adoption of its rules, 40 C.F.R. Part 51, "Requirements for Preparation, Adoption, and Submittal of Implementation Plans." Section 51.16 of those rules, entitled "Prevention of Air Pollution Emergency Episodes," requires every state implementation plan to include a contingency plan including, as a minimum, provisions for taking any emission control actions necessary to prevent ambient pollutant concentrations from reaching levels that would cause imminent and substantial endangerment to the health of persons, which levels are specified at §51.16(a). Section 51.16 has been recently amended in respects that do not affect the provisions of

1/ Section 303 of the Clean Air Act authorizes the Administrator of EPA, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial danger to health of persons, to bring suit or to issue orders to stop the emission of air pollutants contributing to the problem. The Agency has similar authority under Minn. Stat. 116.11 (1978), which authorizes it to order without notice or hearing the immediate discontinuance of pollution which poses an imminent and substantial danger to the health and welfare of the people of the State. The statute also authorizes the attorney general to bring an action in district court for a temporary restraining order to abate such pollution.

the proposed rule (44 Fed. Reg. 16911, March 20, 1979). Appendix L to Part 51 sets forth "Example Regulations for Prevention of Air Pollution Emergency Episodes," which example regulations serve as guidance to States in the adoption of adequate contingency plans. As a part of its SIP adopted by the Agency and approved by EPA in 1972, the Agency adopted a plan in accordance with the requirements of 40 C.F.R. §51.16. Chapter 5 of Minnesota's SIP, entitled "Emergency Episode Authority and Procedures" defines episode levels, sets forth episode communication procedures and describes control actions needed to be taken by industry to reduce air pollutant levels. However, actual experience since 1972 in the implementation of this plan has shown that, as a practical matter, it is unenforceable in its present form. Without industry's cooperation in following the plan, there is very little that can be done in the short time frame involved in an air pollution episode to force industry's compliance. Obtaining a court order or convening the Agency's nine-member citizen board in order to obtain issuance of an Agency order to the noncomplying source are both too time-consuming to effectively respond to the problem. Since there is no rule in effect having the force and effect of law to which industry must conform, there are at this time no "teeth" in that portion of the plan that must be implemented by air pollutant sources. The proposed rules are needed both as a means to require industry's compliance with the plan and as a vehicle for administrative flexibility, since under the rules an actual air pollutant episode can be handled entirely by the Agency's

Executive Director and the Agency staff without a need to convene the Agency Board or to go to court. 2/

REASONABLENESS OF THE RULES

In support of the reasonableness of proposed Minn. Rule APC 39 the Agency intends to introduce the following documentation into evidence:

1. Proposed Minn. Rule APC 39.
2. Minn Stat. §116.07 Subd. 4 (1978).
3. Clean Air Act §110.
4. Clean Air Act §302.
5. Minn. Stat. §116.11 (1978).
6. 40 C.F.R. §51.16.
7. 44 Fed. Reg. 16911 (March 20, 1979).
8. 40 C.F.R. Part 51 Appendix L.
9. Implementation Plan, Minnesota Pollution Control Agency, Chapter 5 (pp. 143-178).
10. Memorandum from Edward M. Wiik to Agency Board, dated February 14, 1972 "Report on Air Pollution Alert - February 10-11, 1972."

2/ Of course, even if rules are in effect it is still possible that in some cases air pollutant sources will refuse to comply with the proposed rules if adopted. In that event, however, the noncomplying source is subject to all the sanctions, civil and criminal, available to the Agency under Minn. Stat. §115.071 (1978). Such sanctions provide incentive to affected industries to comply with the rules.

11. Agency Board Agenda item, dated February 16, 1978, concerning a January 28, 1978 air pollution alert for sulfur dioxide in the Pine Bend area.

12. Letter from Gerald F. Regan, EPA, to Edward M. Wiik, concerning EPA regulations requiring the inclusion of contingency plans in Minnesota's SIP.

The Agency intends to call as its expert witness Mr. Douglas Benson, Environmental Planner, Division of Air Quality, Minnesota Pollution Control Agency, who will present the affirmative presentation of the Agency as to the reasonableness of the provisions of proposed Minn. Rule APC 39. Mr. Benson's testimony is as follows:

A. Applicability. This rule applies to sources having at least 250 tons per year of allowable emissions because limiting applicability of the rules to this size source ensures that the affected sources, regardless of the type of their pollutant emissions, come within the definition of "major" sources under EPA's recently amended rules concerning prevention of significant deterioration of air quality, 40 C.F.R. §52.21(b)(ii) (43 Fed. Reg. 26403, June 19, 1978) (hereinafter "PSD rules") and under 40 C.F.R. Part 51 Appendix S, EPA's recently amended rules concerning preconstruction review of stationary sources, entitled "Emission Offset Interpretative Ruling" (44 Fed. Reg. 3274, January 16, 1979) (hereinafter "Emission Offset rules"). It is reasonable to restrict the applicability of these rules to major sources of air pollutants because major sources are more likely than minor sources to be responsible for air pollutant episodes.

Requiring control actions by major sources during an episode has the most potential to reduce emissions below episode levels and has the least potential to impose economic hardship.

P. Definitions. These definitions are necessary to clarify the meaning of words and phrases used in the rules which are not defined in Minn. Rule APC 2 or which have a special meaning for the purposes of this rule.

The definition of "air pollutant" limits the application of this rule to sources of specific air contaminants. It is reasonable to include particulate matter, sulfur dioxide, nitrogen oxides, photochemical oxidants, carbon monoxide, and nonmethane hydrocarbons in this rule because they are air contaminants within the meaning of Minn. Rule APC 1(c) for which "primary" air quality standards have been established by the Agency. Minn. Rule APC 1(a) states: "The 'primary' air quality standards are levels of air pollutants above which, on the basis of present knowledge, health hazards or impairment may be produced." Federal primary ambient air quality standards have also been established for these air contaminants in 40 C.F.R. Part 50. It is reasonable to include these specific air contaminants for the further reason that 40 C.F.R. §51.16 requires each state implementation plan to include, as a minimum, contingency plans which address episode levels of the following pollutants: sulfur dioxide, particulate matter, sulfur dioxide combined with particulate matter, carbon monoxide, photochemical oxidants, and nitrogen dioxide. Therefore, the Agency is

required by federal law to address these air contaminants in its emergency episode rules.

The definition of "allowable emission" is reasonable because it is consistent with EPA's definition of this term in both the PSD rules 40 C.F.R. §52.21(b)(19) (43 Fed. Reg. 26405, June 19, 1978) and the Emission Offset rules, 40 C.F.R. Part 51 Appendix S II.A.6 (44 Fed. Reg. 3282, January 16, 1979).

It is reasonable to include the definition of "alert level" as a clarifying cross reference to Table 1 under paragraph C.

It is reasonable to define "declaration" as the formal public notification of an episode because the public needs to be informed of the existence of a episode before corrective actions may be taken by the public.

"Director" is defined in a manner consistent with Minn. Rule APC 2 except that the Director's designee is authorized to perform duties on the Director's behalf. This is reasonable because it is not possible for one person to perform all the duties entailed by the implementation of this rule.

It is reasonable to include the definition of "emergency level" as a clarifying cross reference to Table 1 under paragraph C.

It is reasonable to include the definition of "episode" to clarify that the conditions which necessitate control actions include not only certain pollutant concentration levels but also meteorological conditions which are not allowing pollutants to disperse.

It is reasonable to include the definition of "significant harm level" as a clarifying cross reference to Table 1 under paragraph C.

It is reasonable to include the definition of "warning level" as a clarifying cross reference to Table 1 under paragraph C.

C. Episode levels. As provided in paragraph D, "Episode declaration," the determination that an air pollution episode exists depends upon both air pollutant concentrations and meteorology. This paragraph and Table 1 are necessary to specify the air pollutant concentration criteria by which an episode is to be declared.

The overall intent of the rules is to prevent ambient pollution concentrations from reaching levels that would cause imminent and substantial endangerment to the health of persons. Although the enforcement of emission limitations imposed upon sources by other Agency air pollution rules is designed to keep Minnesota's ambient air quality within the primary, health-related ambient air quality standards of Minn. Rule APC 1, it is possible for circumstances to exist such that air pollutant emissions build up due to poor dispersion as a result of adverse meteorological conditions to the point where dangerous levels would eventually be reached. All of the episode levels set forth on Table 1 exceed primary ambient air quality standards and therefore present a health hazard even at criteria levels which

are beneath the significant harm level. The episode criteria are intended to protect the public from such acute, high level exposures.

The approach taken by EPA in its "Example Regulations for Prevention of Air Pollution Emergency Episodes," 40 C.F.R. Part 51 Appendix L (hereinafter "Example Regulations) and in these rules is a four-step approach designed to identify rising air pollutant concentrations and to initiate reasonable emission control actions in response in order to lower the concentrations before they reach a dangerous level. EPA's Example Regulations suggest that three episode criteria levels be established which are beneath significant harm levels at which minor source controls are required, designated as alert, warning and emergency levels. The four-step approach is reasonable because it requires sources to take less serious control actions while pollutant levels are relatively low, keeping the economic impacts at a minimum, rather than requiring major control actions after air quality has been allowed to deteriorate to significant harm levels. If these initial steps are not sufficient to bring pollutant concentrations down progressively more serious control actions are then required by declaring progressively more serious air pollution episodes.

The selection of the criteria listed in Table 1 is based on the requirements of 40 C.F.R. § 51.16(a) and upon EPA's Example Regulations. Section 51.16(a) specifies the concentrations which could cause significant harm to health, which concentrations are included in Table 1. The concentrations specified in Table 1 for

alert, warning and emergency episodes match EPA's Example Regulations with minor, and justifiable, exceptions which are discussed below. Table 1, like the federal Example Regulations, specifies concentrations as weight of air pollutant per volume of air and as volume of air pollutant per volume of air. These are equivalent concentrations measured by different methods.

The Agency believes it is reasonable to follow the suggested Example Regulations in setting its episode criteria levels for several reasons. First, the Example Regulations were adopted by EPA as a result of a rulemaking proceeding held during the early 1970's, which subjected these example regulations to national notice and public comment. Second, the Agency included in its original SIP an emergency episode plan with episode level criteria which do not difer substantially from the proposed rule. At the time of the adoption of the SIP, the emergency episode plan was subjected to statewide notice and public comment. It has remained as a part of Minnesota's SIP for over seven years without creating significant problems either for industry or the Agency insofar as the episode criteria are concerned.

As previously indicated, the proposed rules devote from the Example Regulations in certain minor respects. Sections 1.1(b); (c) and (d) of the Example Regulations relating to alert, warning and emergency levels all contain under "SO_2 and particulate combined" a criterion "COH's equal to 0.2". The term COH means "coefficient of haze." This criterion has been omitted from proposed APC 39 because the Agency's present monitoring system does not include monitoring for coefficient of haze.

Without such monitoring there would be no basis for declaring an episode based on coefficient of haze. Furthermore, it is more precise to measure particulate matter as weight per volume of air than as coefficient of haze. Therefore, this measurement method is retained in Table 1.

Table 1 includes only an eight-hour average concentration for carbon monoxide whereas the federal rule includes eight-hour, four-hour, and one-hour average concentration criteria for declaring carbon monoxide episodes. There are two reasons for this. First, the Agency's monitoring system employs "sliding" eight-hour data analysis for carbon monoxide. For example, eight-hour data is available from noon to 8 pm, from 1 pm to 9 pm, from 2 pm to 10 pm, etc. Thus, the one-hour and four-hour analyses are unnecessary because this "sliding" eight-hour analysis is available every hour and provides more information than the shorter time periods. Second, the ambient standards for carbon monoxide are based on eight-hour and one-hour concentrations and the Agency monitoring is designed to provide data on these time periods and not on four-hour time periods.

The third respect in which Table 1 deviates from the Example Regulations is that Table 1 contains a different alert level for oxidants than the Example Regulations. The difference will be discussed in connection with the oxidant alert level criterion.

With the above exceptions, the criteria set forth in Table 1 follow the episode levels set forth at 40 C.F.R. §51.16(a) and in the Example Regulations and are reasonable for the reasons set forth hereinabove. In addition, the Agency believes the criteria are reasonable on an individual basis.

Declaring an alert episode for sulfur dioxide concentrations of 300 parts per billion or 800 micrograms per cubic meter as a 24-hour maximum concentration is reasonable because this is slightly more than double the primary or health-related National Ambient Air Quality Standards for sulfur dioxide (see 40 C.F.R. §50.5) as a 24-hour maximum concentration and therefore a finding that such pollutant levels have been reached justifies requiring control action to be taken to protect public health.

Declaring an alert episode for particulate matter concentrations of 375 micrograms per cubic meter as a 24-hour average is reasonable because this concentration is slightly less than one and one-half times the primary or health-related National Ambient Air Quality Standard for particulate matter (see 40 C.F.R. §50.6) as a 24-hour maximum concentration and therefore a finding that this pollutant level has been reached justifies requiring control action to be taken to protect public health.

Declaring an alert episode for carbon monoxide concentrations of 15 parts per million or 17 milligrams per cubic meter as an 8-hour average is reasonable because this concentration is slightly more than one and one-half times the primary or health-related National Ambient Air Quality Standard for carbon

monoxide (see 40 C.F.R. § 50.8) as an 8-hour maximum concentration and therefore a finding that this pollutant level has been reached justifies requiring control action to be taken to protect public health.

Declaring an alert episode for nitrogen dioxide concentrations of 150 parts per billion or 282 micrograms per cubic meter as a 24-hour average or of 600 parts per billion or 1,130 micrograms per cubic meter as a 1-hour average is reasonable because these concentrations are three times and twelve times the primary or health-related National Ambient Air Quality Standard for nitrogen dioxide (see 40 C.F.R. § 50.11) as a maximum annual arithmetic mean. Although there is presently no National Ambient Air Quality Standard for short term exposure to nitrogen dioxide, the EPA is presently developing such a standard, which the Agency expects EPA to propose by October 1979. The proposal is expected to be 250 parts per million as a 1-hour maximum, in which case the alert level proposed in APC 39 would be almost two and on-half times the primary or health-related National Ambient Air Quality Standard for nitrogen dioxide as a 1-hour maximum concentration. Therefore, a finding that this pollutant level has been reached justifies requiring that control action be taken to protect public health.

Declaring an alert episode for oxidant concentration of 200 parts per billion or 400 micrograms per cubic meters as a 1-hour average is reasonable because this concentration is more than one and one-half times the revised primary or health-related National Ambient Air Quality Standard for oxidants (see 44 Fed. Reg. 8202,

February 8, 1979) as a 1-hour maximum and therefore, a finding that this pollutant level has been reached justifies requiring control action to be taken to protect public health. This alert level is the only level in Table 1 which differs from the levels specified in the Example Regulations. These documents specify an alert level of 100 parts per billion or 200 micrograms per cubic meter as a 1-hour average because both were written prior to revision of the National Ambient Air Quality Standard from 80 parts per billion to 120 parts per billion. The alert level for oxidants specified in Table 1 takes this revision into account.

Declaring an alert episode for the product of sulfur dioxide concentration times particulate matter concentration at 65,000 3/ is reasonable because, these air pollutants are believed by EPA and by the Agency to be synergistic, that is, to enhance each other's adverse health effects when in combination with each other. A finding that this combined pollutant level has been reached justifies requiring control action to be taken at concentrations lower than the individual ambient standard for each pollutant when both are present.

Declaring a warning episode for sulfur dioxide concentrations of 800 parts per billion or 1,600 micrograms per cubic meter as a 24-hour average is reasonable because this is double the alert level. If ambient air concentrations reached this level, it would clearly indicate that control actions taken

3/ The product of sulfur dioxide and particulate is expressed by a numerical value without units. The reason for this is the fact that multiplying units expressed in micrograms per cubic meter (ug/m^3 X ug/m^3) yields ug^2/m^6 which is a physically meaningless term.

in response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for particulate matter concentrations of 625 micrograms per cubic meter as a 24-hour average is reasonable because this is one and two-thirds times the alert level. If ambient air concentrations reached this level, it would clearly indicate that control actions taken in response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for particulate matter concentrations of 625 micrograms per cubic meter as a 24-hour average is reasonable because this is one and two-thirds times the alert level. If ambient air concentrations reached this level, it would clearly indicate that control actions taken in response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for carbon monoxide concentrations of 30 parts per million or 34 milligrams per cubic meter as an 8-hour average is reasonable because this is double the alert level. If ambient air concentrations reached this level, it would clearly indicate that control actions taken in

response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for nitrogen dioxide concentrations of 300 parts per billion or 565 micrograms per cubic meter as a 24-hour average or of 1,200 parts per billion or 2,260 micrograms per cubic meter is reasonable because these concentrations are double the alert levels. If ambient air concentrations reached this level, it would clearly indicate that control actions taken in response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for oxidant concentrations of 400 parts per billion or 800 micrograms per cubic meter as a 1-hour average is reasonable because this concentration is double the alert level. If ambient air concentrations reached this level, it would clearly indicate that control actions taken in response to declaration of an alert episode were not adequate to abate the pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring a warning episode for the product of sulfur dioxide and particulate matter concentrations of 261,000 is reasonable because this is slightly more than four times the alert level. If ambient air concentrations reached this level, it

would clearly indicate that control actions taken in response to declaration of an alert level were not adequate to abate pollution or to protect public health. Thus, declaration of a higher level episode requiring more serious control action is justified.

Declaring an emergency episode for sulfur dioxide concentrations of 800 parts per billion or 2,100 micrograms per cubic meter as a 24-hour average is reasonable because this concentration is one-third higher than the warning level and is four-fifths of the significant harm level. If ambient air pollution reaches this level, it is clear that previous control actions were not adequate to abate pollution or to protect public health. Declaration of a higher episode level requiring more serious control action is therefore justified.

Declaring an emergency episode for carbon monoxide concentrations of 40 parts per million or 46 milligrams per cubic meter as an 8-hour average is reasonable because this is one-third more than the warning level and four-fifths of the significant harm level. If ambient air pollution reaches this level, it is clear that previous control actions were not adequate to abate pollution or to protect public health. Declaration of a higher episode level requiring more serious control action is therefore justified.

Declaring an emergency episode for nitrogen dioxide concentrations of 400 parts per billion or 750 micrograms per cubic meter is a 24-hour average or 1,600 parts per billion or 3,000 micrograms per cubic meter as a 1-hour average is

reasonable because these are one-third higher than the warning levels and are four-fifths of the significant harm levels. If ambient air pollution reaches this level, it is clear that previous control actions were not adequate to abate pollution or to protect public health. Declaration of a higher episode level requiring more serious control action is therefore justified.

Declaring an emergency episode for oxidant concentrations of 500 parts per billion or 1,000 micrograms per cubic meter is reasonable because this is one-fourth higher than the warning level and is five-sixths of the significant harm level. If ambient air pollution reaches this level, it is clear that previous control actions failed to abate pollution or to protect public health. Declaration of a higher episode level requiring more serious control action is therefore justified.

Declaring an emergency episode for the product of sulfur dioxide concentrations and particulate matter concentrations of 393,000 is reasonable because this is about one-third higher than the warning level and is about four-fifths of the significant harm level. If ambient air pollution reaches this level, it is clear that previous control actions failed to abate pollution or to protect public health. Declaration of a higher episode level requiring more serious control action is therefore justified.

All of the significant harm levels specified on Table 1 (1,000 ppb or 2,620 ug/m^3 as a 24-hour average for sulfur dioxide; 1,000 ug/m^3 as a 24-hour average for particulate matter; 50 ppm or 57.5 mg/m^3 as an 8-hour average for carbon monoxide; 500 ppb or 938 ug/m^3 as a 24 hour average for nitrogen dioxide;

2,000 ppb or 3750 ug/m^3 as a one hour average for nitrogen dioxide; 600 ppb or 1200 ug/m^3 as a one hour average for oxidant; and 490,000 ug/m^3 for combined sulfur dioxide and particulate as a 24-hour average) have been determined by EPA in 40 C.F.R. 51.16(a) to constitute ambient pollutant concentrations which could cause significant harm to the health of persons. Therefore, it is reasonable to declare a significant harm episode at these concentrations which would require sources to take ficant control actions to abate pollution to protect public health.

D. Episode declaration. This paragraph is necessary to specify how and when an episode is to be declared. As mentioned under discussion of the need for the rules, it is too time consuming to obtain a court order or to convene the Agency's nine-member citizen board to make an effective response to a staff finding that air pollution episode levels have been reached. It is, therefore, reasonable to authorize the Director to declare episodes and require that responsive control actions be taken by sources. The provision that meteorological conditions must be found to be such that the episode level can be expected to remain at, or exceed, the episode level for 12 or more hours is reasonable because it balances two opposing concerns. A shorter time period might result in imposition of the control action requirements when favorable meteorology would dissipate the pollutant concentration levels before control

actions could have an impact on ambient pollutant levels. On the other hand, a longer time period might result in undue delay in abatement when favorable meteorology is not forthcoming.

The provision for declaration of an oxidant episode on the basis of a recurrence of episode levels on the following day rather than on 12 hours' persistence is necessary because such oxidants are formed by reactions requiring sunlight. An oxidant episode is thus a daytime phenomenon.

The provision for elevating episode declarations after the concentrations have persisted for 48 hours and are expected to continue for at least another 12 hours is reasonable because 48 hours is sufficient time for control actions to be taken and to take effect. If the episode is expected to persist in spite of such control actions, then more vigorous control actions are necessary to abate the air pollutant concentrations.

It is reasonable to identify the geographical area subject to episode levels and notify the public as to the affected area because the public needs to have the information in order to take action to protect itself against exposure to the outdoor air having abnormally high pollutant concentrations.

It is reasonable to terminate an episode and allow the cessation of responsive control actions when the episode criteria are no longer met or when meteorological conditions are allowing pollutants to disperse so as to eliminate the danger.

F. Control actions. This paragraph is necessary to describe the procedure to be followed by the Agency after declaration of an episode and the requirements upon air pollutant

sources to be prepared to respond to Agency control directives in the event of an episode declaration. A discussion of the reasonableness of the approach taken in paragraph E requires a brief summary of the operation of the rule. Paragraph E.2. requires the owners and operators of affected sources to submit to the Agency an episode emission reduction plan which sets forth the control actions which such operator will be required to implement in the event that an episode is declared in the area where the source is located. Tables 2 through 6 set forth the general outlines of what the plan must contain. However, it is up to the operator of individual sources to determine the precise control actions that need to be taken at that source. For example, in the event of a particulate alert episode, the operator of a coal fired electric generation plant must decide what operations at the plant must be modified in order to achieve the "utilization of fuels having lowest available ash content" requirement of Table 2. Once the plan is approved by the Director it serves as the basis for the control directives issued to individual pollutant sources located in the geographical area affected by the source. If an operator defaults on the requirement to submit a plan, then the Director is authorized to issue control directives based on the applicable portions of Tables 2 through 6. Owners and operators of air pollutant sources are required by paragraph E. 1 to comply with such directives.

It is reasonable to require sources to reduce pollutant emissions during an episode because the occurrence of an episode indicates that other rules, permits, etc., have not been effective to prevent the build-up of high air pollutant levels under unfavorable meteorological conditions. It is reasonable to leave the specific nature of required control actions to the discretion of the Director in the form of control directives because there will be many variables involved in the solution to an episode which will need to be evaluated on an individual basis. Because episodes must be evaluated on a case-by-case basis, the Director needs to be able to tailor the solution to the problem by indicating which sources should activate their emission reduction plans.

It is reasonable to indicate the general content of emission reduction plans because the Agency has expertise in air pollution control and has been able to indicate in this rule what generally needs to be done in the event of an air pollution episode. Allowing the source operators to fashion an individual plan leaves to the discretion, within reason, of the source operator the actual implementation of pollutant emission reduction in such a manner as to minimize adverse economic impacts on the source. Allowing the source owner or operator to prepare these plans is reasonable because the owner or operator is the most qualified person to prepare a specific plan of action for the individual facility. Requiring facilities to prepare a plan of action in the event of an episode is reasonable for the further reason that notification to the source to implement control directives

requires a prompt response by the source operator which may necessitate advance preparation by the facilities. The control action plans required for sources may be as simple as a letter stating that the objectives in Tables 2 through 6 will be met or may be as detailed as the owner or operator desires, provided that control actions for all pollutants for which the source is a major emitter are described for each episode level. Thus the cost of developing a source-specific episode control action plan depends on how detailed the operator chooses to make his plan. If the operator fails to take the opportunity to customize his emission reduction plant, it is reasonable to hold him to the general requirements of Tables 2 through 6, since control of an episode cannot be effective without control actions by major sources of pollutants.

Tables 2 through 6 are reasonable in that emission reduction objectives take into account the general types of sources, their potentials for taking control actions, the emissions which are to be controlled, and the severity of episodes. These emission reduction objectives are consistent with EPA's Example Regulations except that Table 6 (Emission Reduction Objectives for Carbon Monoxide) includes mobile sources. This is reasonable because mobile sources in aggregate comprise the major source of carbon monoxide. No emission reduction objectives are set forth for significant harm episode levels because these levels are set so high that they could only be reached in Minnesota by an extraordinary combination of meteorology and emissions. Accordingly, the control actions to be taken in addition to those

of the emergency levels will have to be tailored to the specific circumstances and are left to the expertise of the Director.

In Table 2, "Emission Reduction Objectives for Particulate," the objectives are specified for four groups of sources. This grouping is reasonable because each group has different possibilities for reducing emissions and, therefore, the control actions will vary between groups.

It is reasonable to require coal or oil-fired electric power generating facilities to substantially reduce particulate emissions during an alert episode by using fuel having the lowest available ash content because these facilities are typically very large emission sources which would not suffer undue hardship because of this requirement. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion emission reduction plans so as to minimize economic impacts. It is also reasonable to require these facilities to make maximum use of midday atmospheric turbulence during an alert for boiler lancing and soot blowing because such turbulence will help disperse emissions from these operations. Requiring substantial reduction in particulate emissions during an alert episode by diverting power generation to facilties outside of the alert area is reasonable because these facilities are typcially interconnected by power lines and such diversion is routinely done during maintenance or to minimize costs. Again, "substantial reduction" provides the facilities with leeway to fashion emission reduction plans so as to minimize economic impacts.

It is reasonable to require coal or oil-fired electric power generating facilities to make maximum reduction of particulate emissions during a warning episode by using fuel having the lowest available ash content and by diverting power generation to facilities outside the warning area because the fact that air quality has deteriorated from the alert to the warning level indicates that a greater degree of emission reduction is needed to bring pollutant concentrations down to safe levels. It is reasonable to require continued maximum use of midday atmospheric turbulence for boiler lancing and soot blowing because this is no more than is required at the alert level.

It is reasonable to require coal or oil-fired electric power generating facilities to make maximum reductions in particulate emissions during an emergency episode, to make maximum use of midday atmospheric turbulence for boiler lancing and soot blowing, and to make maximum reduction in particulate emissions by diverting electric power generation to facilities outside the emergency area because these requirements are no more than are required at the warning level. It is reasonable not to require greater reduction than these maximums because the only option remaining is to require shut-down of the facilities. Such shut-downs would have severe effects not only on the facilities but on the public which depends on these facilities for electric power.

It is reasonable to require coal or oil-fired process steam generating facilities to substantially reduce particulate emissions during an alert episode by using fuels having the

lowest available ash content because there are a large number of such facilities which are major sources and therefore, have a large impact on air quality. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion emission reduction plans so as to minimize economic impacts. It is also reasonable to require these facilities to make maximum use of midday atmospheric turbulence during an alert for boiler lancing and soot blowing because such turbulence will help disperse emissions from these operations. Requiring reduction of steam load demands consistent with continuing plant operations is reasonable because reduction of load demands will result in less fuel combustion and, therefore, less emission while not shutting down the plant. Again, the lack of a specific reduction requirement provides leeway for sources fashion emission reduction plans so as to minimize economic impacts.

It is reasonable to require coal or oil-fired process steam generating facilities to maximize reduction of particulate emissions during a warning episode by using fuels having the lowest available ash content because the fact that air quality has deteriorated from the alert to the warning level indicates that a greater degree of emission reduction is needed to bring pollutant concentrations down to safe levels. Requiring maximum use of midday atmospheric turbulence for boiler lancing and soot blowing and reduction of steam load demands consistent with continuing plant operations during a warning is reasonable because these are no more than are required at the alert level.

It is reasonable not to require greater emission reduction than these requirements entail because plant shut-downs having severe economic consequences might be necessary to accomplish further emission reduction. It is reasonable to require the operator of the facility to make ready for use a plan of action to be taken if an emergency eipisode developes because if air pollutant concentrations are still rising above the warning level, immediate actions will be necessary to reduce air pollutant concentrations if an emergency episode is declared, which actions may take advance preparation.

It is reasonable to require coal or oil-fired process steam generating facilities to maximize a particulate emission reduction during an emergency episode by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage because this avoids severe economic hardship and may allow plants to continue at least partial operation. It is also reasonable to require continued maximum use of midday atmospheric turbulence for boiler lancing and soot blowing because such turbulence will help disperse emissions from these operations.

It is reasonable to require manufacturing, processing and mining industries and other persons affected by this rule to substantially reduce particulate emissions during an alert episode by curtailing, postponing, or deferring production and allied operations because there are a large number of such facilities which are major sources and therefore have a large impact on air quality. Requiring "substantial reduction" rather

than a specific amount of reduction provides sources with leeway fashion an emission reduction plans which will minimize economic impacts. It is also reasonable to require these sources to maximize emission reduction by deferring trade waste disposal operations that generate emissions because such operations may be relatively "dirty", are typically at or near ground level and therefore close to people, and are frequently not immediately necessary to continue plant operation. Requiring reduction of heat load demands is reasonable because such reduction will result in less fuel combustion and, therefore, less emission while not shutting down the plant. Again, the lack of a specific reduction requirement provides leeway for sources to fashion an emission reduction plan which will minimize economic impacts.

It is reasonable to require manufacturing, processing, and mining industries and other persons affected by this rule to maximize reduction of particulate emissions during a warning episode by, if necessary, assuming reasonable economic hardship by postponing production and allied operations because the fact that air quality has continued to deteriorate to warning levels after the implementation of control actions in response to the alert level indicates that further emission reduction is necessary to bring air pollutant concentrations down to safe levels. "Reasonable economic hardship" is by definition reasonable and provides the owner or operator leeway in fashioning an emission reduction plan to minimize economic impact. It is also reasonable to require these sources to continue to maximize emission reduction by deferring trade waste

disposal operations that generate emissions and to reduce heat load demands because these actions are no more than are required at the alert level.

It is reasonable to require manufacturing, processing, and mining industries and other persons affected by this rule to eliminate particulate emissions during an emergency episode by ceasing, curtailing, postponing, or deferring production to the extent possible without causing injury to persons or damage to equipment because this avoids injury and severe economic hardship and may allow plants to continue partial operation of non-polluting operations. Requiring elimination of particulate emissions from trade waste disposal operations is reasonable because decreased production resulting from the above requirements will reduce or eliminate trade waste to be disposed. It is also reasonable to require sources to maximize reduction of heat load demands because this is consistent with decreased production.

It is reasonable to require refuse disposal operations to maximize reduction of particulate emissions during an alert by prevention of open burning because open burning typically involves very inefficient combustion which results in relatively large amounts of air pollutants at or near ground level and therefore close to people. It is also reasonable to require substantial reduction of emissions by limiting use of incinerators to midday because this takes advantage of atmospheric turbulence during this time period. It is reasonable not to require shut-down of incinerators during an alert because

incinerators result in much more efficient combustion than does open burning and large incinerators are equipped with air pollution control equipment.

It is reasonable to require refuse disposal operations to eliminate incinerator use during a warning episode because emissions will be reduced with relatively little adverse economic impact expected from delaying disposal of refuse. It is also reasonable to require continued maximum emission reduction by prevention of open burning because this is no more than is required during an alert.

It is reasonable to require refuse disposal operations to continue prevention of open burning and elimination of incinerator use during an emergency episode because economic impacts should be minimal and no further emission reduction possibilities are available to this type of source.

In Table 3, "Emission Reduction Objectives for Sulfur Oxides," the objectives are specified for the same groups of sources as in Table 2 except for refuse disposal operations. This is reasonable because the amount of sulfur present in refuse is so minute that such disposal operations are never a major source of sulfur dioxide emissions. The groups which are included in this table are commonly major sources of sulfur dioxide and the grouping is appropriate because each group has different possibilities for reducing emissions; therefore the control action requirements vary between groups.

It is reasonable to require coal or oil-fired electric power generating facilities to substantially reduce sulfur oxide

emissions during an alert episode by using fuel having the lowest available sulfur content because these facilities are typcially very large emission sources which would not suffer undue hardship because of this requirement. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion an emission reduction plan which would minimize economic impacts. It is also reasonable to require these facilities to substantially reduce emissions by diverting electric power generation to facilities outside of the alert area because these facilities are typically interconnected by power lines and such diversion is routinely done during maintenance or to minimize costs.

It is reasonable to require coal or oil-fired electric power generating facilities to maximize emission reduction during a warning episode by using fuels having the lowest available sulfur content and to require maximum emission reduction by diverting power generation to facilities outside the warning area because the fact that air quality has deteriorated from the alert to the warning level in spite of previous control actions indicates that furtner emission reductions are needed.

It is reasonable to require coal or oil-fired electric power generating facilities to continue maximum reduction in sulfur dioxide emissions during an emergency episode by using lowest sulfur fuel and by diverting electric power generation to facilities outside the emergency area because these requirements are no more than are required at the warning level. It is reasonable not to require greater reduction than these maximums

because the only option remaining is to require shut-down of the facilities. Such shut downs would have severe effects not only on the facilities but also on the public which depends on these facilities for electric power.

It is reasonable to require coal or oil-fired process steam generating facilities to substantially reduce sulfur dioxide emissions during an alert episode by using fuel having the lowest available sulfur content because there are a large number of such facilities which are major sources and therefore have a large impact on air quality. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion an emission reduction plan which would minimize economic impacts. It is also reasonable to require reduction of steam load demands consistent with continuing plant operations because reduction of load demands will result in less fuel combustion and therefore less emission while not shutting down the plant. Again, the lack of a specific reduction requirement provides leeway for sources to fashion an emission reduction plan which would minimize economic impacts.

It is reasonable to require coal or oil-fired process steam generating facilities to maximize emission reduction during a sulfur dioxide warning episode by using lowest sulfur content fuel because the fact that air quality has deteriorated from the alert level to the warning level indicates that further emission reduction is needed. Requiring reduction of steam load demands consistent with continuing plant operation during a warning episode is reasonable because this is no more than is required at

the alert level. It is reasonable not to require greater emission reduction than these requirements entail because plant shut-downs might be necessary to accomplish further emission reduction. Requiring facilities to prepare a plan of action to be taken if an emergency episode develops is reasonable because the emergency level approaches immediate and pronounced hazard to public health and, therefore, justifies requiring prompt action which may necessitate advance preparation by the facilities. Also, the owner or operator is most qualified to prepare such a source-specific plan of action.

It is reasonable to require coal or oil-fired process steam generating facilities to maximize sulfur dioxide emission reduction during an emergency episode by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage because this avoids severe economic hardship and may allow plants to continue at least partial operation. Requiring facilities to implement the plan of action prepared during the warning episode is reasonable because the owner or operator should have prepared said plan to minimize economic impacts while maximizing emission reduction since further air quality deterioration to significant harm levels might result in complete shut-down of the plant.

It is reasonable to require manufacturing and processing industries and other persons affected by this rule to substantially reduce particulate emissions during an alert by curtailing, postponing, or deferring production and allied operations because there are a large number of such facilities

which are major sources and therefore have a large impact on air quality. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion an emission reduction plan which would minimize economic impacts. It is also reasonable to require these sources to maximize emission reduction by deferring trade waste disposal that generate sulfur dioxide emissions because such operations may be relatively "dirty," are typically at or near ground level and therefore close to people, and are frequently not necessary to continue plant operation. Requiring reduction of heat load demands is reasonable because such reduction will result in less fuel combustion and, therefore, less emission while not shutting down the plant. Again, the lack of a specific reduction requirement provides leeway for sources to fashion an emission reduction plan which would minimize economic impacts.

It is reasonable to require manufacturing and processing industries and other persons affected by this rule to maximize reduction of sulfur dioxide emissions during a warning episode by, if necessary, assuming reasonable economic hardship by postponing production and allied operations because the fact that air quality has deteriorated from alert levels to warning levels indicates that further emission reduction is needed to reduce air pollutant concentrations to safe levels. "Reasonable economic hardship" is by definition reasonable and provides the owner or operator leeway in operating facilities to reduce emissions. It is also reasonable to require these sources to continue maximizing emission reduction by deferring trade waste disposal

operations that generate emissions and to reduce heat load demands because these actions are no more than are required at the alert level.

It is reasonable to require manufacturing and processing industries and other affected persons to eliminate sulfur dioxide emissions during emergency episodes by ceasing, curtailing, postponing, or deferring production to the extent possible without causing injury to persons or damage to equipment because this avoids injury and severe economic hardship and may allow plants to continue partial operation of nonpolluting operations. Requiring elimination of sulfur dioxide emissions from trade waste disposal operations is reasonable because decreased production resulting from the above requirements will reduce or eliminate trade wastes to be disposed. It is also reasonable to require sources to maximize reduction of heat load demands because this is consistent with decreased production.

In Table 4, "Emission Reduction Objectives for Nitrogen Oxides," the control objectives are specified for the same groups of sources as in Table 2 except that stationary internal combustion engines have control objectives separate from the other groups into which such engines would fall for other pollutants. This is appropriate because such engines are particular sources of nitrogen oxides.

It is reasonable to require steam-electric power generating facilities to substantially reduce nitrogen oxides emission during an alert episode by using fuel which results in the formation of less pollutant because these facilities are

typically very large emission sources which would not suffer hardship because of this requirement. Requiring "substantial reduction" rather than a specific amount provides sources with leeway to fashion an emission reduction plan which would minimize economic impacts. It is also reasonable to require these facilities to substantially reduce emissions by diverting electric power generation to facilities outside of the alert area because these facilities are typically interconnected by power lines and such diversion is routinely done during maintenance or to minimize costs.

It is reasonable to require steam-electric power generating facilities to maximize emission reduction during a warning episode by using fuel that results in the formation of less pollutant and by diverting power generation to facilities outside the warning episode area because the fact that air quality has deteriorated from alert levels to warning levels indicates that additional emission reduction is required in order to reduce pollutant concentrations to safe levels.

It is reasonable to require steam-electric power generating facilities to continue to maximize emission reduction during an emergency episode by diverting electric power generation to facilities outside the emergency episode area because this is the most effective means of reducing nitrogen oxide emissions in the emergency episode area from this type of source, and these actions are no more than are required at the warning level.

It is reasonable to require process steam generating facilities to substantially reduce nitrogen oxide emissions

during an alert by using fuel that results in formation of less pollutant because there are a large number of such sources which are major sources and therefore have a large impact on air quality. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion an emission reduction plan which would minimize economic impacts. It is also reasonable to require reduction of steam load demands consistent with continuing plant operations because reduction of load demands will result in formation of less pollutant [illegible] not shutting down the plant. Again, the lack of a specific reduction requirement provides leeway for sources to fashion an emission reduction plan which would minimize economic impacts.

It is reasonable to require process steam generating facilities to maximize emission reduction during a nitrogen dioxide warning episode by using fuel which results in formation of less pollutant because the fact that air quality has deteriorated to warning levels indicates that additional emission reduction is necessary. Requiring reduction of steam load demands consistent with continuing plant operations during a warning is reasonable because this is no more than is required at the alert level. It is reasonable not to require greater emission reduction than these requirements entail because plant shut-downs might be necessary to accomplish further emission reduction. Requiring facilities to prepare a plan of action to be taken if an emergency episode develops is reasonable because the emergency level approaches immediate and pronounced hazard to

public health and therefore justifies requiring prompt action which may necessitate advance preparation by the source. Also, the owner or operator is most qualified to prepare such a source-specific plan of action.

It is reasonable to require process steam generating facilities to maximize emission reduction during an emergency episode by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage because this avoids severe economic hardship and may allow plants to continue at least partial operation.

It is reasonable to require manufacturing and processing industries and other affected persons to substantially reduce emissions during an alert episode by curtailing, postponing, or deferring production and allied operations because there are a large number of such facilities which are major sources and therefore have a large impact on air quality. Requiring "substantial reduction" rather than a specific amount of reduction provides sources with leeway to fashion an emission reduction plan which will minimize economic impacts. It is also reasonable to require these sources to maximize emission reduction by deferring trade waste disposal that generate nitrogen dioxide emissions because such operations may be relatively "dirty," are typically at or near ground level and therefore, close to people, and are frequently not necessary to continue plant operation. Requiring reduction of heat load demands is reasonable because such reduction will result in formation of less pollutant while not shutting down the plant.

It is reasonable to require manufacturing and processing industries and other affected persons to maximize reduction of nitrogen dioxide emissions during a warning episode by, if necessary, assuming reasonable economic hardship by postponing production and allied operations because the fact that air quality has deteriorated to warning levels indicates that additional emission reduction is necessary to bring pollutant concentrations down to safe levels. "Reasonable economic hardship" is by definition reasonable and provides the owner or operator leeway in operating facilities to reduce emissions. It is also reasonable to require these sources to continue maximizing emission reduction by deferring trade waste disposal operations that generate emissions and to reduce heat load demands because these are no more than are required at the alert level.

It is reasonable to require manufacturing and processing industries and other affected persons to eliminate nitrogen dioxide emissions during emergency episodes by ceasing, curtailing, postponing, or deferring production to the extent possible without causing injury to persons or damage to equipment because this avoids injury and severe economic hardship and may allow plants to continue partial operation of nonpolluting operations. It is also reasonable to require elimination of sulfur dioxide emissions from trade waste disposal because decreased production will reduce or eliminate trade wastes to be

disposed. Requiring sources to maximize reduction of heat load demands is reasonable because this is consistent with decreased production.

It is reasonable to require stationary internal combustion engines to reduce power demands consistent with continuing operations during an alert episode because such engines are particular sources of nitrogen oxides and because this requirement poses no significant economic impact.

It is reasonable to require stationary internal combustion engines to continue reduction of power demands during a nitrogen oxide warning episode because this is no more than is required at the alert level. It is also reasonable to require maximum emission reduction by using fuel or power which results in the formation of less pollutant because the air quality has deteriorated from the alert level to the warning level in spite of previous control actions which indicates that further emission reductions are necessary.

It is reasonable to require maximum emission reduction during an emergency episode by reducing power demands to absolute necessities consistent with personnel safety and prevention of damage to equipment because this avoids injury and severe economic hardship. It is also reasonable to require continued maximum emission reduction by using fuel or power which results in the formation of less pollutant because this is no more than is required at the warning level.

It is reasonable to require refuse disposal operations to reduce emissions during an alert episode by prevention of open

burning and by limiting use of incinerators to midday because the former is an inefficient form of combustion and the latter takes advantage of atmospheric turbulence.

It is reasonable to require refuse disposal operations to continue reduction of emissions by prevention of open burning and by elimination of incinerator use during an emergency episode because no further reduction options exist for this type of source.

In Table 5, "Emission Reduction Objectives for Hydrocarbons," control objectives are set forth for three groups of sources. This is reasonable because these groups each have different possibilities for reducing hydrocarbon emissions and therefore the control actions will vary between these groups.

It is reasonable to require petroleum products storage and distribution facilities to substantially reduce hydrocarbon emissions during an alert episode by curtailing, postponing, or deferring transfer operations because these are typically large facilities and these operations are particular sources of hydrocarbon emissions. Requiring "substantial reduction" provides the owner or operator with leeway to fashion an emission reduction plan which will minimize economic impacts.

It is reasonable to require petroleum products storage and distribution facilities to maximize reduction of hydrocarbon emissions by assuming reasonable economic hardship by postponing transfer operations during a warning episode because the fact that air quality has deteriorated from the alert level to the warning level in spite of previous control actions indicates that

further emission reduction is necessary to reduce air pollutant concentrations to safe levels.

Requiring petroleum products storage and distribution facilities to eliminate hydrocarbon emissions by deferring transfer operations to the extent possible without causing damage to equipment during an emergency episode is reasonable because this avoids severe economic hardship and justified because air quality has deteriorated from the warning level to the emergency level in spite of previous control actions.

It is reasonable to require surface coating and preparation facilities to substantially reduce hydrocarbon emissions by deferring operations during an alert because there are a large number of such facilities which therefore have a significant impact on air quality.

Requiring surface coating and preparation facilities to maximize reduction of hydrocarbon emissions by assuming reasonable economic hardship by deferring operations during a warning episode is reasonable because the fact that air quality has deteriorated from the alert level to the warning level in spite of previous control actions indicates that further emission reduction is necessary to reduce pollutant concentrations to safe levels.

It is reasonable to require surface coating and preparation facilities to eliminate hydrocarbon emissions by deferring operations to the extent possible without causing damage to equipment during an emergency episode because this avoids severe

economic hardship and because air quality has deteriorated from warning levels in spite of previous control actions.

It is reasonable to require manufacturing and processing industries and other affected persons to substantially reduce hydrocarbon emissions during an alert by deferring operations because there are a wide variety of such facilities that emit hydrocarbons and therefore have a significant impact on air quality.

Requiring manufacturing and processing industries and other affected persons to maximize reduction of hydrocarbon emissions during a warning episode by assuming reasonable economic hardship by postponing operations is reasonable because the fact that air quality has deteriorated from the alert to the warning level in spite of previous control action indicates that further emission reduction is necessary to reduce pollutant concentrations to safe level.

It is reasonable to require that manufacturing and processing industries and other affected persons eliminate hydrocarbon emissions by deferring operations to the extent possible during an emergency episode without causing injury to persons or damage to equipment because this avoids injury and severe economic impacts and because air quality has deteriorated from warning levels in spite of previous control actions.

Requesting voluntary reduction in carbon monoxide emissions from mobile sources during an alert by reducing unnecessary travel is reasonable because such sources in aggregate are a very large source of carbon monoxide emissions and therefore have a

large impact on air quality. This control objective is recognized as a voluntary control measure on the part of the general public because enforcement would be difficult due to the large number of motor vehicles on the road at any given time.

It is reasonable to request reduction in carbon monoxide emissions from mobile sources during a warning episode and to promote use of public transport and vehicle pools because the fact that air quality has deteriorated from the alert level to the warning level in spite of previous control actions indicates that further emission reduction is necessary. Again, enforcement would be difficult so this is a voluntary control objective.

Requiring maximum reduction in carbon monoxide emissions from mobile sources during an emergency episode by banning vehicle use except for emergencies is reasonable because air quality has deteriorated from the alert and warning levels in spite of previous control actions. Enforcement of this requirement, while still difficult, is justifiable by the risk to public health as a result of high air pollutant concentrations.

Paragraph E.5 is necessary to enable the Agency to enforce this rule as to sources to whom control directives have been issued by the Director. It is reasonable to require that the owner or operator of affected facilities allow Agency personnel to verify compliance with this rule in order to ensure that affected sources are accomplishing required emission reductions in an effort to reduce ambient air pollutant concentrations to protect public health. This provision is also reasonable in that it is consistent with Minn. Stat. §116.091 (1978) authorizing

Agency personnel to examine records pertaining to the operation of air pollutant sources and to enter upon property for the purpose of conducting investigations.

Paragraph F. Emergency powers. This paragraph is reasonable in that it clarifies for the public that this rule does not, indeed cannot, amend the Agency's statutory authority to exercise its emergency powers under Minn. Stat. § 116.11 (1978).

The Agency believes that the requirements of this rule are reasonable because, based on past experience, the incidence of air pollution episodes is low. Therefore the necessity to impose control directives should be minimal and thus the existence of the rule will not impose undue economic hardship on the affected persons. Since the original SIP and its Emergency Episode Plan were adopted in 1972, only three alerts have been declared by the Agency, these being:

1. Combined sulfur dioxide, particulate matter, and carbon monoxide alert in the Twin Cities metropolitan area in February 1978;

2. Carbon monoxide alert in St. Cloud in January 1977; and

3. Sulfur dioxide alert in Pine Bend in February 1978.

In addition, there have been air pollution advisories issued by the Agency, such as the photochemical oxidant advisory issued in July, 1977, for Central and Southeastern Minnesota. On yet other occasions, the Agency took no action in response to elevated ambient pollutant levels because favorable meteorology was imminent. In sum, air pollution levels are occasionally reached which justify the requirements of this rule but these

levels are not reached so frequently as to cause economic hardship through implementation of the control requirements imposed through this rule.

Dated: March 23, 1979

Terry Hoffman
Executive Director

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA POLLUTION CONTROL AGENCY

IN THE MATTER OF THE PROPOSED)
ADOPTION OF MINN. RULE APC 39)
GOVERNING AIR POLLUTION CONTROL)
REQUIREMENTS DURING AIR POLLU-)
TION EPISODES.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on August 8, 1979, before Myron S. Greenberg, 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 Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Pollution Control Agency on September 11, 1979; and

WHEREAS, the Pollution Control Agency has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Pollution Control Agency has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 and 9 MCAR § 2.110; 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 Pollution Control Agency has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Pollution Control Agency has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 15th day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Housing Finance Agency

Notice of Intent to Solicit Outside Opinion for Rules Governing Housing Programs for Urban American Indians

Notice is hereby given that the Minnesota Housing Finance Agency is seeking information or opinions from sources outside the Agency in preparing to propose the adoption of rules governing housing programs for urban Native Americans. These rules are authorized by Laws of 1978, ch. 670.

To facilitate the gathering of information, informational meetings will be held at various locations throughout the state. The first such meeting will be held in Duluth, Minnesota at the American Indian Fellowship Association, 8 East Second Street, on June 15, 1978 at 4:00 p.m. Any interested persons may submit data or reviews on this subject in writing or orally at this meeting.

Written material may also be submitted to:

May Hutchinson
Minnesota Housing Finance Agency
200 Nalpak Building
333 Sibley Street
St. Paul, MN. 55101

Any written material received shall become a part of the hearing record in the event rules governing the subject matter are promulgated.

James J. Solem
Executive Director

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposed Changes to the Existing State Air Quality Implementation Plan

Notice is hereby given that the Minnesota Pollution Control Agency will be revising its existing State Air Quality Implementation Plan to achieve National Ambient Air Quality Standards. The revisions to the plan will require new regulations to be developed and some existing regulations may be amended.

The Pollution Control Agency is interested in soliciting comments on the adequacy of the existing State Implementation Plan and suggestions for improvements.

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

Edward M. Wiik, Director
Division of Air Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-7358.

Any written material received by the Agency shall become part of the hearing record during adoption or revision of regulations.

Department of Human Rights

Settlement Agreements and Predetermination Agreements for the Period Beginning May 1, 1978 and Ending June 2, 1978

Settlement Agreements

In addition to specific remedies, standard agreements reached prior to a hearing contain the following stipulations:

1. The agreement does not constitute an admission by the respondent of a violation of Minn. Stat. ch. 363.