

CHAPTER 7853
PUBLIC UTILITIES COMMISSION
CERTIFICATE OF NEED; PETROLEUM FACILITY
LARGE OIL AND LPG STORAGE FACILITIES,
LARGE PETROLEUM PIPELINES, AND OIL REFINERIES

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**LARGE OIL AND LPG STORAGE FACILITIES,
LARGE PETROLEUM PIPELINES, AND OIL REFINERIES**

7853.0010 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the following definitions shall apply.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Applicant.** "Applicant" means the person or persons submitting a certificate of need application.

Subp. 4. **Application.** "Application" means a document submitted by a person or persons to the commission for the purpose of obtaining a certificate of need, the contents of which are described in this chapter.

Subp. 5. **Barrel.** "Barrel" means that quantity of liquid that is equal to 42 gallons.

Subp. 6. **Btu.** "Btu" means British thermal unit, a common unit of energy measurement that is used in this chapter for comparative purposes.

Subp. 7. **Construction.** "Construction" means significant physical alteration of a site to install or enlarge a large energy facility, but not including activities incident to preliminary engineering or environmental studies.

Subp. 8. **Demand.** "Demand" means that quantity of a petroleum product from the applicant's facilities for which there are willing and able purchasers, or the burden placed upon the applicant's interim storage facilities and production processes resulting therefrom.

Subp. 9. **Forecast.** "Forecast" means a prediction of future demand for some specified time period.

Subp. 10. **Forecast years.** "Forecast years" means the 16-year period consisting of the year in which an application is filed plus the next 15 years.

Subp. 11. **Joint application.** "Joint application" means an application submitted to the commission by two or more persons.

Subp. 12. **Large LPG storage facility.** "Large LPG storage facility" means a facility on a single site designed for or capable of storing more than 100,000 gallons of liquefied petroleum gas (LPG).

Subp. 13. [Repealed, 26 SR 1438]

Subp. 14. **Large petroleum pipeline.** "Large petroleum pipeline" means a pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of crude petroleum or petroleum fuels or oil or their derivatives, or a pipeline for transporting synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota.

Subp. 15. **Liquefied petroleum gas; LPG.** "Liquefied petroleum gas" or "LPG" means synthetic gas, consisting mostly of hydrocarbons, stored or transported as a liquid.

Subp. 16. **Mbpd-mile.** "Mbpd-mile" means a descriptive unit used as a measure of the size of a pipeline, the quantity of which is determined by multiplying:

A. either the length in miles of the new (section of) pipeline in Minnesota, or 50 if the capacity expansion is achieved by adding power; and

B. the new or additional design capacity in thousand barrels per day (Mbpd), at a viscosity of 100 SSU/60 degrees Fahrenheit and a specific gravity of .88/60 degrees Fahrenheit.

If the pipeline capacity would be expanded by a combination of looping and adding power, the Mbpd-mile corresponding to each method of expansion shall be calculated and the sum of the two shall be the size of the pipeline.

Subp. 17. **Oil refinery.** "Oil refinery" means any facility on a single site that processes crude or synthetic crude oil for the purpose of separating it into marketable products.

Subp. 18. **Peak day.** "Peak day" means that day during a calendar year when the throughput is the greatest.

Subp. 19. **Peak demand.** "Peak demand" means the highest demand for a petroleum product occurring within a designated period of time.

Subp. 20. **Person.** "Person" means an individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or a government or governmental subdivision, unit, or agency other than a court of law.

Subp. 21. **Petroleum supplier.** "Petroleum supplier" means a petroleum refinery in the state and any entity engaged in transmission or wholesale distribution of more than 100,000 gallons of crude petroleum or petroleum fuels or oil or their derivatives or LPG annually in this state.

Subp. 22. **Substantially complete application.** "Substantially complete application" means an application that is deemed by the commission to be in substantial compliance with the informational requirements of this chapter.

Subp. 23. **Synthetic gas.** "Synthetic gas" means flammable gas created from gaseous liquid, or solid hydrocarbons, or other organic or inorganic matter. Synthetic gas shall include ethane, propane, butane, or their mixtures, whether extracted from gas streams lifted from oil and gas wells or produced at refineries or fuel conversion plants. It shall also include hydrogen or methane produced at conversion plants.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0020 PURPOSE OF RULES.

The purpose of this chapter is to specify the contents of applications for certificates of need and to specify criteria for assessment of need for large oil and LPG storage facilities, large petroleum pipelines, and oil refineries for petroleum suppliers pursuant to Minnesota Statutes, section 216B.243.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0030 SCOPE OF RULES.

Each petroleum supplier applying for a certificate of need for one of the following types of large energy facilities shall provide all information required by this chapter:

- A. a new large LPG storage facility;
- B. a new large petroleum pipeline facility;
- C. any project that, within a period of one year, would expand the LPG storage capacity of an existing LPG storage facility in excess of either 20 percent of capacity of 100,000 gallons, whichever is greater; and
- D. any project that, within a period of two years, would expand an existing large petroleum pipeline in excess of either 20 percent of its rated capacity or 10,000 barrels per day, whichever is greater.

Exception: any person who as of the effective date of this chapter has begun or has completed construction of a large energy facility is not subject to this chapter for that facility.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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CRITERIA FOR ASSESSMENT OF NEED**7853.0100 PURPOSE OF CRITERIA.**

The criteria for assessment of need will be used by the commission in the determination of the need for a proposed large energy facility pursuant to Minnesota Statutes, sections 216B.2421 and 216B.243. The factors listed under each of the criteria set forth in part 7853.0130 shall be evaluated to the extent that the commission deems them applicable and pertinent to each facility proposed pursuant to this chapter. The commission shall make a specific written finding with respect to each of the criteria.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; L 1987 c 312 art 1 s 10 subd 1*

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7853.0120 CONSIDERATION OF ALTERNATIVES.

The commission shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in part 7853.0130.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0130 CRITERIA.

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

A. the probable result of denial would adversely affect the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:

(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;

(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;

(3) the effects of the applicant's promotional practices that may have given rise to the increase in the energy demand, particularly promotional practices that have occurred since 1974;

(4) the ability of current facilities and planned facilities not requiring certificates of need, and to which the applicant has access, to meet the future demand; and

(5) the effect of the proposed facility, or a suitable modification of it, in making efficient use of resources;

B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record by parties or persons other than the applicant, considering:

(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;

(2) the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;

(3) the effect of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and

(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;

C. the consequences to society of granting the certificate of need are more favorable than the consequences of denying the certificate, considering:

(1) the relationship of the proposed facility, or a suitable modification of it, to overall state energy needs;

(2) the effect of the proposed facility, or a suitable modification of it, upon the natural and socioeconomic environments compared to the effect of not building the facility;

(3) the effects of the proposed facility or a suitable modification of it, in inducing future development; and

(4) socially beneficial uses of the output of the proposed facility, or a suitable modification of it, including its uses to protect or enhance environmental quality; and

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

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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APPLICATIONS FOR CERTIFICATES OF NEED

7853.0200 APPLICATION PROCEDURES AND TIMING.

Subpart 1. **Form and manner.** Each applicant for a certificate of need shall apply in a form and manner prescribed by the commission.

Subp. 2. **Copies, title, table of contents.** A minimum of seven bound copies and one unbound copy of the application shall be filed with the commission. The commission may require additional copies, not to exceed 50 copies total. All documents, forms, and schedules filed with the application shall be typed on 8-1/2 inch by 11 inch paper, except for blueprints, engineering drawings, maps, and similar materials. Each application shall contain a title page and a complete table of contents, which includes references to the applicable rules by the titles and numbers given in this chapter. The date of preparation and the applicant's name shall appear on the title page of the application, as well as on each document filed with the application.

Subp. 3. **Changes in application.** Subsequent to the filing of an application, any changes or corrections to the application shall comply with item B as to the number of copies and size of documents. In addition, each page of a change or correction to a previously filed page shall be marked with the word "REVISED" and with the date the revision was made. The original copy of the changes or corrections shall be filed with the administrative law judge, and the remaining copies shall be submitted to the commission.

Subp. 4. **Cover letter.** Each application for a certificate of need shall be accompanied by a cover letter signed by an authorized officer or agent of the applicant. The cover letter shall specify the type of facility for which a certificate of need is requested and the number of copies of the application filed.

Subp. 5. **Hearing.** An administrative law judge shall be assigned, and a public hearing shall be scheduled to commence, no later than 80 days after the receipt of the application, in accordance with the rules of procedure governing certificate of need filing, part 7829.2500, and the Office of Administrative Hearings' rules of contested case procedures, chapter 1400.

Subp. 6. **Decision.** A decision on an application for a certificate of need shall be made by the commission no later than six months from the receipt of the application, provided that the application as filed is substantially complete. Upon an affirmative showing by the applicant that an urgent need exists

for an early decision on the application, the application may be given priority consideration over other applications, except for other priority applications previously filed.

Subp. 7. **Incomplete applications.** The commission shall notify the applicant within 15 days of the receipt of an application if the application is not substantially complete. Upon such notification, the applicant may correct the deficiency and may resubmit the application. A decision shall be made upon the revised application within six months of the date of resubmission, assuming it is substantially complete.

Subp. 8. **Exemptions.** Prior to the submission of an application, a person shall be exempted from any data requirement of this chapter upon a written request to the commission for exemption from specified rules and a showing by that person in the request that the data requirement is unnecessary to determine the need for the proposed facility, or may be satisfied by submission of another document. A request for exemption must be filed at least 20 days prior to submission of an application. The commission shall respond in writing to each such request within 15 days of receipt including reasons for its decision. The commission shall file a statement of exemptions granted and reasons therefor prior to commencement of the hearing.

Subp. 9. **Denial.** When an application for a certificate of need is denied, the commission shall state the reasons for the denial.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; L 1984 c 640 s 32; 17 SR 1279; 26 SR 1438*

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7853.0210 FILING FEES AND PAYMENT SCHEDULE.

Subpart 1. **Fees.** The fee for processing an application shall be:

A. \$2,000 plus \$10 per 100,000 gallons of design storage capacity for a large LPG storage facility; or

B. \$5,000 plus \$1 for each mbpd-mile for a large petroleum pipeline;

plus such additional fees as are reasonably necessary for completion of the evaluation of need for the proposed facility.

In no event shall the total fee required of any applicant exceed \$50,000.

Subp. 2. **Schedule.** Fifty percent of the fee set according to subpart 1 shall accompany the application, and the balance shall be paid 90 days after submission of the application. The applicant shall be notified when any additional fees are due and shall pay them within 30 days of notification. The billing for such additional fees shall be accompanied by an itemized statement.

Subp. 3. **Payment required.** No certificate of need shall be issued unless all fees are paid in full.

Statutory Authority: *MS s 16A.1283; 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0220 CONTENTS OF APPLICATION.

Subpart 1. **Information required.** Each application for a certificate of need shall provide all information required by parts 7853.0230 to 7853.0260, plus additional information for specific types of facilities as indicated in subpart 4.

Subp. 2. **Joint application.** If the proposed application for a certificate of need is jointly submitted by two or more persons, then each such person, when specified in this chapter, shall submit the information required by this chapter.

Subp. 3. **Multiparty ownership and use.** Each application for a certificate of need for a facility that is owned and used by two or more persons shall be considered as a joint application for purposes of this chapter.

Subp. 4. **Additional information.** Additional information shall be provided for specific types of facilities as indicated:

- A. large LPG storage facility: refer to part 7853.0300; and
- B. large petroleum pipeline facility: refer to part 7853.0500.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0230 GENERAL INFORMATION SECTION.

Subpart 1. **Content of section.** Each application shall contain a general information section that shall include the following information:

- A. the applicant's complete name, address, telephone number, and standard industrial classification codes;
- B. the complete name, title, address, and telephone number of the official or agent to be contacted concerning the applicant's filing;
- C. a brief description of the nature of the applicant's business and of the products that are manufactured, produced, or processed, or of the services rendered;
- D. a brief description of the proposed facility, its complete address (if known) or general location, a brief description of its planned use, its estimated cost, its planned in service date, and its design capacity in gallons (LPG storage) or its maximum design throughput in barrels per day and its size in Mbpd-miles (petroleum pipeline);
- E. the total fee for the application as prescribed by part 7853.0210, and the amount of the fee submitted with the application; and
- F. the signatures and titles of the applicant's officers or executives authorized to sign the application, and the signature of the preparer of the application if prepared by an outside agent.

Subp. 2. **List of government authorities.** Each application shall contain a schedule in the general information section, which shall list all known federal, state, and local agencies or authorities with which the applicant must file for the proposed facility. The following information shall be included on the schedule:

- A. the names of all known federal, state, or local agencies or authorities with which the applicant must file;
- B. the title of each required permit or certificate issued by the authorities named in response to item A and needed by the applicant;
- C. for each permit or certificate listed in response to item B, the date an application was filed or the projected date of future application;
- D. for each permit or certificate listed in response to item B, the actual date a decision was made on the application, or the anticipated decision date; and
- E. for each permit or certificate listed in response to item B for which an application was filed, the disposition or status of the permit or certificate.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0240 NEED SUMMARY.

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

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0250 SUMMARY OF ADDITIONAL CONSIDERATIONS.

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

- A. socially beneficial uses of the output of the facility, including its uses to protect or enhance environmental quality;
- B. promotional activities that may have given rise to the demand for the facility; and
- C. the effects of the facility in inducing future development.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0260 CONSERVATION PROGRAMS.

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

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

- B. Has the applicant defined energy or conservation goals or objectives?
- C. What major energy efficiency or conservation programs has the applicant considered?
- D. What major accomplishments in energy efficiency or conservation have been made by the applicant within the past five years?
- E. What major energy efficiency or conservation programs will be implemented within the next five years?

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0270 OTHER DATA FILED WITH APPLICATION.

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

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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ADDITIONAL INFORMATION FOR LARGE LPG AND OIL STORAGE FACILITIES

7853.0300 LARGE LPG STORAGE FACILITY.

In addition to the data required by parts 7853.0230 to 7853.0260, each applicant for a large LPG storage facility shall provide the information required by parts 7853.0310 to 7853.0450, and optionally, part 7853.0270.

In a joint application, separate responses are required from each person for information required under parts 7853.0310, 7853.0320, and 7853.0340.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0310 HISTORICAL ENERGY DATA.

Each applicant for a large LPG storage facility shall provide the following information:

- A. the end of year total storage capacity at the site where the proposed facility will be located for each of the five years preceding the year of application;
- B. identification of the specific facilities in item A that are normally used to store the type of petroleum products that would be stored in the proposed facility; and

C. for the site where the proposed facility would be located, a list of the annual throughput in gallons for the five most recent calendar years for the type of petroleum products that would be stored in the proposed facility.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0320 FORECAST DATA.

Each applicant for a large LPG storage facility shall provide answers to the questions below, unless previously submitted to the agency pursuant to chapter 7610, in which case a copy of such submission may be incorporated into the application to satisfy the requirements of this rule.

A. What are the applicant's projected storage capacity requirements, during the next five years, for the type of petroleum products that would be stored in the proposed facility?

B. What impact, if any, would the proposed facility have upon the applicant's ability to manage its inventory and supply its customers during the next five years, compared to its current situation?

C. What impact, if any, would the proposed facility have upon the applicant's annual throughput or its ability to maintain current throughput levels during the next five years?

D. What specific assumptions are made by the applicant for the next five years concerning supply of the types of petroleum products that would be stored in the proposed facility?

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0330 DESCRIPTION OF PROPOSED FACILITY.

Each application for a large LPG storage facility must include the following information:

A. the purpose and planned use of the proposed storage facility, including its relationship to the facility that requires it;

B. a description of the proposed storage facility, including:

- (1) its design capacity in gallons;
- (2) the types of petroleum products to be stored;
- (3) the dimensions;
- (4) preliminary engineering drawings, blueprints, and specifications; and
- (5) the estimated cost of the proposed storage facility and its expected economic life;

C. the complete name and address of the engineer, if known, or (if designed by an outside agent) the firm, which designed the proposed storage facility;

D. the complete name and address, if known, of the contractor or firm that would construct the storage facility; and

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

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0340 ALTERNATIVES.

Each applicant for a large LPG storage facility shall respond to the following questions.

A. Are there any known restrictions or limitations on the availability of alternatives to the applicant's proposed storage facility?

B. Specifically, what other alternatives were examined? For each alternative examined provide the following information:

- (1) a description of the alternative;
- (2) when it was studied;
- (3) who performed the study;
- (4) why it was rejected; and
- (5) whether economics were considered, and to what extent.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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ENVIRONMENTAL DATA FOR LARGE LPG AND OIL STORAGE FACILITIES

7853.0400 INFORMATION REQUIRED.

When a certificate of need application is submitted for a large LPG storage facility on an existing LPG storage site, which site already has storage capacity of at least 100,000 gallons, a copy of an environmental assessment worksheet (EAW) may be submitted in lieu of specific answers to the requirements in parts 7853.0420 to 7853.0450. If permits for construction of the facility are required by other state agencies, a copy of each permit application, or the informational equivalent, shall also be submitted.

In all other cases, the applicant for a certificate of need for a large LPG storage facility shall provide environmental information for the proposed facility and for each alternative facility discussed in response to part 7853.0340. The applicant shall provide the information in the format given in parts 7853.0420 to 7853.0450 to the extent that the data is applicable and reasonably available.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

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7853.0410 WAIVER AND EXEMPTION.

The director may, upon a showing by the applicant, exempt the applicant from any or all of the requirements of parts 7853.0400 to 7853.0450. Such a showing shall conform to part 7853.0200, subpart 8, with respect to timing and content.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0420 LOCATION.

Subpart 1. **Land description.** If the specific location for the proposed (or alternative) facility is known, provide the county, township, range, and sections of that site. If a specific location has not been chosen, provide the county, township, range, and sections for each parcel of land that, in the opinion of the applicant, could serve as the site for the facility.

Subp. 2. **Description of environment.** For each site identified in response to subpart 1, list:

- A. the nature of the terrain at the site;
- B. the general soil type at the site;
- C. depth of groundwater at the site;
- D. the types of vegetation (including forest, brush, marsh, pasture, and cropland) on the site;
- E. the predominant types of land use (such as residential, forest, agricultural, commercial, and industrial) within one mile of the site;
- F. trunk highways, railroads, and airports within one mile of the site;
- G. lakes, streams, wetlands, or drainage ditches within one mile of the site, and any other lakes, streams, wetlands, drainage ditches, wells, or storm drains into which liquid contaminants could flow;
- H. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas within one mile of the site, as mapped on the inventory of significant resources by the State Planning Agency;
- I. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic, and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout streams, and designated trout lakes within one mile of the site, as mapped on the inventory of significant resources by the State Planning Agency; and
- J. national historic sites and landmarks, national monuments, national register historic districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other cultural resources within one mile of the site, as indicated by the Minnesota Historical Society.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0430 WASTEWATER, PROJECTED AIR EMISSIONS, AND NOISE SOURCES.

Subpart 1. **Point discharges to water.** "Point discharges to water" indicate the location, route, and final receiving waters for any discharge points. For each discharge point indicate the source, the amount, and the nature of the discharge (provide quantitative data if possible).

Subp. 2. **Area runoff.** "Area runoff" indicates the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

Subp. 3. **Point sources of airborne emissions.** "Point sources of airborne emissions" estimate the quantity of gaseous and particulate emissions that would occur during full operation from each emission source, and indicate the location and nature of the release point.

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

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

Published Electronically: *November 14, 2003*

7853.0440 POLLUTION CONTROL AND SAFEGUARDS EQUIPMENT.

Subpart 1. **Air pollution controls.** Indicate types of emission control devices and measures that would be used.

Subp. 2. **Water pollution controls.** Indicate types of water pollution control equipment and runoff control measures that would be used to comply with applicable state and federal rules, regulations, and statutes.

Subp. 3. **Leak, fire, and explosion safeguards.** Describe measures that would be taken to prevent leaks, fires, and explosions or to minimize the environmental impact of a leak, a fire, or an explosion.

Subp. 4. **Other safeguards and controls.** Indicate any other equipment or measures, including erosion control, that would be used to reduce impact of the facility. Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

Statutory Authority: *MS s 216B.08; 216B.243; 216C.10*

History: *L 1983 c 289 s 115; 26 SR 1438*

Published Electronically: *November 14, 2003*

7853.0450 INDUCED DEVELOPMENTS.

Subpart 1. **Vehicular traffic.** Estimate the amounts and types of vehicular traffic that would be generated by the facility due to construction activity and, later, operational needs.

Subp. 2. **Water use.** Indicate the amount of water that would be appropriated and the amount which would be consumed by the facility, the expected source of the water, and how the water would be used.

Subp. 3. **Agriculture.** Estimate the amount of agricultural land, including pasture land, that would be removed from agricultural use if the facility were constructed. Indicate known circumstances with regard to the facility that could lead to reduced productivity of surrounding agricultural land.

Subp. 4. **Relocation of persons.** Estimate the number of people that would have to relocate if the facility were constructed.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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ADDITIONAL INFORMATION FOR LARGE PETROLEUM PIPELINES

7853.0500 LARGE PETROLEUM PIPELINE FACILITY.

In addition to the data required by parts 7853.0230 to 7853.0260, each applicant for a certificate of need for a large petroleum pipeline facility shall provide the information required by parts 7853.0510 to 7853.0640.

In a joint application, separate responses are required from each person for information required by parts 7853.0510, 7853.0520, and 7853.0540.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

Published Electronically: *November 14, 2003*

7853.0510 HISTORICAL ENERGY DATA.

Subpart 1. **Products, usage, and suppliers.** For the geographical area to be served by the proposed facility, the applicant shall provide the following:

A. a list of the petroleum products by major categories (such as crude oil, gasoline, fuel oil, and so forth) transported or distributed by the applicant in that geographical area during the five most recent calendar years;

B. for each category listed in response to item A and for each of the five most recent calendar years, a list of the annual and peak day quantities transported or distributed in the appropriate units of measure;

C. a list of sources of supply of petroleum products for transportation or distribution during the five most recent calendar years, designated as either in-state or as out-of-state, the dates and durations of the contracts with the 25 largest suppliers or shippers, the categories of petroleum products and quantities involved, and for sources of crude oil, the geographical areas of origin of the crude oil; and

D. for each of the five most recent calendar years and for each category of petroleum product, the percentage of in-state delivery of the annual amounts given in response to item B.

Subp. 2. **Facilities; maps.** List each large oil or LPG storage facility location, gas plant, large pipeline facility, and oil refinery associated with the transportation or distribution of the categories of petroleum products named in response to subpart 1, item A. Provide maps that represent the locations and interconnections of these facilities.

Subp. 3. **Use of design capacity.** For each large energy facility or location listed in response to subpart 2, located in Minnesota and owned or operated by the applicant, provide the average percentage of use of its full design capacity during the summer season and during the winter season.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0520 FORECAST DATA.

For the geographical area to be served by the proposed facility, the applicant shall provide the following:

A. a list of the categories of petroleum products the applicant expects to transport or distribute in that geographical area during the first six forecast years, the 11th forecast year (the tenth year after the year of the application), and the 16th forecast year;

B. for each category of petroleum product listed in response to item A and for each of the first six forecast years, the 11th forecast year, and the 16th forecast year, a list of the annual and peak day quantities expected, using the appropriate units of measure;

C. a discussion of the methods, assumptions, and factors employed for purposes of estimation in response to items A and B;

D. a discussion of the effect on the forecast of possible changes in the key assumptions and key factors requested in item C; and

E. considering the forecast, a discussion of other facilities, if any, planned by the applicant to supply the forecast demand.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0530 DESCRIPTION OF PROPOSED FACILITY.

Subpart 1. **Design.** The applicant shall provide the following information pertaining to the design of the proposed construction of a large petroleum pipeline:

A. if known, the complete name and address of the engineer and firm to be responsible for the design;

B. the estimated tariffs, capital cost, annual operating and maintenance costs, and economic life;

C. a list of the categories of petroleum products the large pipeline is intended to transport;

D. its initial and ultimate design capacities in barrels per day, its diameter, length in Minnesota, maximum number of pumping stations in Minnesota, and nominal station spacing; and

E. engineering data, including the following:

(1) a pipeline system map showing the route, mileage, location of pumping stations, mainline valves, petroleum storage facilities, and interconnections;

(2) specifications for pipe (diameter, length, wall thickness, grade) and valves (diameter and American National Standards Institute rating) with the maximum allowable operating pressure for each;

(3) for the pumps, representative specifications including diameter, allowable maximum operating pressures, and maximum capacities; and

(4) for the prime movers, representative specifications including type, allowable maximum power capacity in horsepower, efficiency, allowable maximum and minimum operating temperatures, and energy requirement in Btu per barrel per mile of petroleum product pumped.

Subp. 2. **Construction.** The applicant shall provide the following information pertaining to the proposed construction of the facility:

- A. if known, the complete name and address of the company to be responsible for the construction;
- B. the proposed date for commencement of construction and the proposed in-service date; and
- C. an estimate of the in-service date if the construction were to be on a fully expedited basis.

Subp. 3. **Operation.** The applicant shall provide the following information pertaining to the operation of the proposed facility:

- A. the expected average percentage of use of the full design capacity of the proposed facility during each of the first five years of operation;
- B. the expected maximum operating pressure and capacity of the proposed facility at peak demand;
- C. the expected power requirement from the prime movers at each station at peak demand (in kilowatts, thousands of cubic feet per hour, or gallons per hour);
- D. a list of expected sources of supply or shippers of petroleum products for transportation during the first five calendar years of operation, designated either as in-state or as out-of-state, the expected dates and durations of the contracts with the 25 largest suppliers or shippers, the categories of petroleum products and quantities expected to be involved, and for sources of crude oil, the expected geographical areas of origin of the crude oil; and
- E. a list of expected recipients of transported petroleum products during the first five calendar years of operation, designated either as in-state or as out-of-state, the expected dates and durations of the contracts with the 25 largest recipients, and the categories of petroleum products and quantities expected to be involved.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0540 ALTERNATIVES.

The applicant shall provide information pertaining to the alternatives that have been considered, and the information shall be presented in the following format:

- A. a description of the alternative, including:
 - (1) a discussion of the design and the geographical area affected;
 - (2) an estimate of the in-service date;
 - (3) a discussion of the method of operation;

- (4) its cost;
- (5) its economic life; and
- (6) its reliability; and

B. a summary of the conclusions reached with respect to the alternative and the reasons for its rejection.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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ENVIRONMENTAL DATA FOR LARGE PETROLEUM PIPELINES

7853.0600 INFORMATION REQUIRED.

Each applicant shall provide environmental data for the proposed facility and for each alternative discussed in response to part 7853.0540, to the extent that such data is reasonably available. Environmental data for each pipeline considered shall conform to the format given in parts 7853.0600 to 7853.0640. Information for each of the other types of alternatives considered shall include:

A. a list of the natural and cultural resources, as given in part 7853.0610, subpart 2, items G to K, that would be directly impacted; and

B. a discussion of those applicable areas of environmental concern that are detailed in parts 7853.0620 to 7853.0640.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0610 LOCATION.

Subpart 1. **Land description.** If a particular route has been selected for the new (sections of) pipeline, indicate that route on an appropriate map. If no particular route has been selected, indicate on an appropriate map each possible route that has been given serious consideration.

Subp. 2. **Description of environment.** For each route identified in response to subpart 1, list:

- A. the names of cities or population centers through which the route passes;
- B. the number of miles of the route that pass through, respectively, federal lands, state lands, county or tax-forfeit lands, incorporated areas, and private land outside incorporated areas;
- C. the general soil types along the route and the approximate percentage of each;
- D. the general terrain along the route;
- E. the types of vegetation along the route (including forest, brush, marsh, pasture, and cropland) and the approximate percentage of each;
- F. the predominant types of land use along the route (such as residential, forest, agricultural, commercial, and industrial) and the approximate percentages of each;

G. the names of major lakes or streams and the number of wetlands of five acres or more through which the route passes, as well as any others into which liquid contaminant from the pipeline could flow;

H. trunk highways, railroads, and airports along the route;

I. national natural landmarks, national wilderness areas, national wildlife refuges, national wild and scenic rivers, national parks, national forests, national trails, and national waterfowl production areas through which the route passes, as mapped on the inventory of significant resources by the State Planning Agency;

J. state critical areas, state wildlife management areas, state scientific and natural areas, state wild, scenic, and recreational rivers, state parks, state scenic wayside parks, state recreational areas, state forests, state trails, state canoe and boating rivers, state zoo, designated trout lakes through which the route passes, as mapped on the inventory of significant resources by the State Planning Agency; and

K. national historic sites and landmarks, national monuments, national register historic districts, registered state historic or archaeological sites, state historical districts, sites listed on the National Register of Historic Places, and any other cultural resources through which the route passes, as indicated by the Minnesota Historical Society.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0620 WASTEWATER, AIR EMISSIONS, AND NOISE SOURCES.

Subpart 1. **Point discharges to water.** Indicate the location, route, and final receiving waters for any discharge points. For each discharge point indicate the source, the amount, and the nature of the discharge (provide quantitative data if possible).

Subp. 2. **Area runoff.** Indicate the area from which runoff may occur, potential sources of contamination in the area, and receiving waters for any runoff.

Subp. 3. **Point sources of airborne emissions.** Estimate the quantity of gaseous and particulate emissions that would occur during full operation of the pipeline from each emission source and indicate the location and nature of the release point.

Subp. 4. **Noise.** Indicate the maximum noise levels (in decibels, A scale) expected along the route. Also, indicate the expected maximum increase over ambient noise levels.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

Published Electronically: *November 14, 2003*

7853.0630 POLLUTION CONTROL AND SAFEGUARDS EQUIPMENT.

Subpart 1. **Air pollution controls.** Indicate types of emission control devices and dust control measures that would be used.

Subp. 2. **Water pollution controls.** Indicate types of pollution control equipment and runoff control measures that would be used to comply with applicable state and federal rules, regulations, and statutes.

Subp. 3. **Oil spill, fire, and explosion safeguards.** Describe measures that would be taken to prevent oil spills, fires, and explosions or to minimize the environmental impact of a spill, a fire, or of an explosion.

Subp. 4. **Other safeguards and controls.** Indicate any other equipment or measures, including erosion control, that would be used to reduce the impact of the pipeline. Indicate the types of environmental monitoring, if any, that are planned for the facility and describe relevant environmental monitoring data already collected.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0640 INDUCED DEVELOPMENTS.

Subpart 1. **Utility use.** Indicate the extent to which the facility would create or add to the need for expanded utilities or public services.

Subp. 2. **Water use.** Indicate the amount of water that would be appropriated for use in connection with the pipeline, the expected source of water, and the manner in which the water would be used.

Subp. 3. **Vehicular traffic.** Estimate the amounts and types of vehicular traffic that would be generated by the facility due to construction activity and, later, operational needs.

Subp. 4. **Agriculture.** Estimate the number of farms and the number of acres of cropland and pasture land that would be affected by construction of the pipeline. Indicate known circumstances with regard to the pipeline that would tend to reduce agricultural productivity along the route. Estimate the amount of excavation, backfilling, grading, soil compaction and soil mixture, and ditching to be done in farm fields. Estimate the number of drainage ditches to be impacted by the pipeline.

Subp. 5. **Relocation of persons.** Estimate the number of people that would have to relocate if the pipeline were constructed.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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7853.0780 [Repealed, 26 SR 1438]

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7853.0790 [Repealed, 26 SR 1438]

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MODIFICATIONS

7853.0800 CERTIFICATE OF NEED MODIFICATIONS.

Subpart 1. **Authority of commission.** Issuance of a certificate may be made contingent upon modifications required by the commission.

Subp. 2. **Changes not requiring recertification.** The following changes in a facility previously certified by the commission shall not require recertification:

A. capacity additions or subtractions of less than ten percent of the capacity approved by the commission;

B. pipeline length additions or subtractions of less than ten percent of the length approved by the commission; and

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

Subp. 3. **Procedure in case of other changes.** If an applicant determines that a change greater or other than those specified in subpart 2 is necessary or desirable, it shall inform the commission of the desired change, accompanied by a written statement detailing the reasons for the proposed change. The commission shall evaluate these reasons and within 45 days of receipt of the application notify the applicant whether the proposed change is acceptable without recertification.

Statutory Authority: *MS s 216B.08; 216B.2421; 216B.243; 216C.10*

History: *L 1983 c 289 s 115*

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