

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

48

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

the Pollution Control Agency
(Agency or Board)

Regulation No. WPC 36 (new)

Subject: Disposal System Permit Program

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

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

APR 10 1974 4:00 pm

BY Eda Staudenmaier EJ
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 4-10-74

Rev. 9-72

PCA Ex 1
11/22/73, RCA

PCA 1

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

County of Hennepin

In the Matter of the Proposed Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

ORDER FOR HEARING

Pursuant to its powers and duties under Minnesota Statutes, Chapters 115 and 116, as amended, the Agency deems it necessary to receive and review testimony and evidence bearing upon the proposed regulation Chapter 36, WPC 36, for administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs.

NOW, THEREFORE, IT IS ORDERED this 25 day of October, 1973, that a public hearing on the above-entitled matter be held beginning at 9:00 a.m. on November 27, 1973, in Room D of the Veteran's Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

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

Grant J. Merritt
Executive Director

Dated: November 19, 1973

PCA 2

PCA Ex 2
11/27/73 RKH

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, GRANT J. MERRITT, do hereby certify that I am Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution concerning the authority to call a hearing in the Matter of the Proposed Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs, at a meeting of the Board of the Minnesota Pollution Control Agency, duly and properly called and held on the 11th day of June, 1973; that a quorum was present at said meeting; that a majority of those present voted for the Resolution that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

Resolved, that Grant J. Merritt, Executive Director of the Minnesota Pollution Control Agency, be and he hereby is granted the authority and is directed to call a hearing for the purpose of adopting proposed WPC 36, entitled, "Rules for Administration of the National Pollutant Discharge Elimination System (NPDES)" permit program to comply with changes in state law and with rules, guidelines, and regulations of the EPA promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, as well as perform any and all acts incidental thereto, including but not limited to, signing an order for hearing, sending a notice of hearing to all interested parties and acting as or appointing a hearing officer.

In witness whereof, I have hereunto subscribed by name this 21st day of November, 1973.

John J. Merritt

Grant J. Merritt, Executive Director
Minnesota Pollution Control Agency

STATE OF MINNESOTA POLLUTION CONTROL AGENCY

COUNTY OF HENNEPIN

In the Matter of the Proposed Regulation,
Chapter 36, WPC 36, for Administration
of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System
Permit Programs

NOTICE OF HEARING

PLEASE TAKE NOTICE, that a public hearing will be held by the Minnesota Pollution Control Agency pursuant to its authority under Minnesota Statutes, Chapters 115 and 116, as amended, for the purpose of receiving and considering testimony and evidence bearing upon the proposed regulation Chapter 36, WPC 36, for administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs. The proposed regulation applies in general to the following: (a) submission and evaluation of NPDES and disposal system permit applications; (b) establishment of terms and conditions of NPDES and disposal system permits; (c) establishment of monitoring, recording and reporting requirements for NPDES and disposal system permits; (d) issuance and denial of NPDES and disposal system permits; (e) modification, suspension and revocation of NPDES and disposal system permits; and (f) reissuance of NPDES and disposal system permits.

The hearing will be convened at 9:00 a.m. on November 27, 1973 in Room D of the Veteran's Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, and continue until all interested persons have had an opportunity to be heard.

Copies of the proposed regulation will be mailed upon request and will be available for review by interested persons during normal business hours in the offices of the Agency.

It is requested that persons or representatives of governmental or other groups who intend to participate in the hearing notify the Agency of this intention by November 20, 1973. Testimony or other evidence to be submitted for consideration by the Agency may be presented at the hearing either orally or in writing. Statements may be mailed to the Agency, but must be received no later than 20 days after the hearing has been adjourned for entry into the record. For additional information or for requests to schedule testimony, please contact Mr. Ralph Sellers of the Agency staff by mail at 717 Delaware Street S.E., Minneapolis, Minnesota 55440, or by telephone 612-296-5546.

John J. Olin for

Grant J. Merritt
Executive Director

Dated: October 18, 1973

PCA 5

P.C.A. Ex. 5
11/27/73 ICR.H.

STATE OF MINNESOTA)

COUNTY OF HENNEPIN)

AFFIDAVIT

Ralph L. Sellers, being sworn on oath deposes and says:

1) That he is an employee of the Minnesota Pollution Control Agency, State of Minnesota.

2) That on the 24th day of October, 1973 he delivered to the Procurement Office of the Department of Administration, State of Minnesota, the attached list of official county newspapers and sufficient copies of the Notice of Hearing for WPC-36 for the purpose of legal publication of the Notice.

Further affiant sayeth not.

Ralph L Sellers

Subscribed and sworn to before me
this 21st day of November, 1973.

Lila Holmdahl

LILA HOLMDAHL
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. 31, 1976

Newspapers for Legal Publication of Notice
for WPC-36

Bemidji Daily Pioneer, Bemidji, Minnesota 56601

Minneapolis Star and Tribune, Minneapolis, Minnesota 55415

Brainerd Daily Dispatch, Brainerd, Minnesota 56401

Marshall Messenger, Marshall, Minnesota 56258

Rochester Daily Post, Rochester, Minnesota 55901

Fergus Falls Daily Journal, Fergus Falls, Minnesota 56537

Duluth Herald, Duluth, Minnesota 55800

St. Cloud Daily Times, St. Cloud, Minnesota 56301

Mankato Free Press, Mankato, Minnesota 56001

St. Paul Dispatch, St. Paul, Minnesota 55100

PCA 4

P.C.A. Ex. 4
11/29/73 RKH

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY
AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
ss
County of Hennepin)

Ralph Sellers being duly sworn deposes and says:

1. That he is an employee of the Pollution Control Agency of the state of Minnesota.

2. That on the 4th day of October, 1973, 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 M.S. 15.0412.

3. That on the 4th day of October, 1970, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Ralph Sellers

Subscribed and sworn to before me
this 19th day of October, 1974
at Minneapolis, Minnesota.

Lila Holmdahl

LILA HOLMDAHL
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. 31, 1976

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of the Proposed Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

AFFIDAVIT OF MAILING

Margaret Ann Bixby, being first duly sworn, deposes and says:

That on the 25th day of October, 1973, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses on the attached list.

Margaret Ann Bixby

Subscribed and sworn to before me this 26th day of October, 1973.

Lila Holmdahl

LILA HOLMDAHL
Notary Public, Hennepin County, Minn.
My Commission Expires Oct. 31, 1976

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Adoption of Proposed Water Pollution Control Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

STATEMENT OF NEED

The above-captioned regulation is a new regulation and not an amendment to any existing water pollution control regulation of the Minnesota Pollution Control Agency.

The need to adopt the above-captioned regulation arises for the following reasons:

1. The State of Minnesota, by the Minnesota Pollution Control Agency, desires to administer within its jurisdiction the National Pollutant Discharge Elimination System (NPDES) permit program that was established by Congress under the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. § 1251, et seq.). The above-captioned regulation is necessary to meet in part the requirements imposed by the Administrator of the United States Environmental Protection Agency for approval of Minnesota's administration of the NPDES permit program.

2. A need exists to establish a standard procedure for the administrative processing of NPDES permits and state disposal system permits.

3. A need exists for the Minnesota Pollution Control Agency to properly carry out the requirements of Minnesota Statutes Chapters 115 and 116, as amended. The promulgation of the above-captioned regulation supplements and is pursuant to such statutory authority.

Dated this 19th day of March, 1974.

MINNESOTA POLLUTION CONTROL AGENCY

Harold D. Field, Jr.

HAROLD D. FIELD, JR.
Chairman, Minnesota Pollution
Control Agency

Grant J. Merritt

GRANT J. MERRITT
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Adoption of Proposed Water Pollution Control Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

FINDINGS OF FACT

The above-captioned regulation came on for hearing before the Minnesota Pollution Control Agency on the 27th day of November, 1973, at 9:00 a.m. in Room D of the Veterans Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, after proper notice, pursuant to Minnesota Statutes § 115.05 (1971), 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, and having considered all of the testimony, and all of the evidence adduced and upon the records, files and proceedings herein, the Agency finds the following:

1. Congress established the National Pollutant Discharge Elimination System (hereinafter NPDES) under Section 402 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. § 1251, et seq. (hereinafter the Act).

2. The Administrator of the United States Environmental Protection Agency (hereinafter the Administrator) was given authority under Section 402(a)(1) and (2) of the Act to issue permits for the discharge of any pollutant, or combination of pollutants, upon the condition that such discharge will meet the requirements of the Act, including such other conditions on data and information collection, reporting, and such other requirements the Administrator deems appropriate.

3. The Administrator pursuant to Section 402(b) of the Act determines whether a state has the capability of administering a NPDES permit program which will carry out the objectives of the Act. Upon determination of such capability the Adminstrator authorizes a state to issue NPDES permits for discharges into navigable waters within the jurisdiction of such state.

4. The State of Minnesota, by the Minnesota Pollution Control Agency (hereinafter the Agency), desires to administer within its jurisdiction the NPDES permit program for discharges into its navigable waters.

5. The Agency's proposed regulation WPC 36 is an important part of the program plan of the State of Minnesota designed to demonstrate to the Administrator its capability to issue NPDES permits.

6. There will be approximately 1,400 NPDES permits issued to dischargers in the State of Minnesota.

7. A state disposal system permit is required for all discharges of pollutants to the waters of the state and for the construction and operation of any disposal system or treatment works.

8. The Agency's administration of the NPDES permit program and the state disposal system permit program require standard procedures for orderly and efficient handling of the volume of permit applications reviewed and considered by the Agency.

Dated this 19th day of March, 1974.

MINNESOTA POLLUTION CONTROL AGENCY

Harold D. Field Jr.

HAROLD D. FIELD, JR.
Chairman, Minnesota Pollution Control Agency

Grant J. Merritt

GRANT J. MERRITT
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Adoption of Proposed Water Pollution Control Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

CERTIFICATE OF BOARD'S ADOPTION OF RULES RESOLUTION

I, Harold D. Field, Jr., do hereby certify that I am Chairman, of the Minnesota Pollution Control Agency Board, duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board of the Minnesota Pollution Control Agency, duly and properly called and held on the 19th day of March, 1974; that a quorum was present at said meeting; that a majority of the Agency Board members voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the proposed water pollution control regulation, Chapter 36, WPC 36, relating to the administration of the National Pollutant Discharge Elimination System (NPDES) and state disposal permit programs be and hereby is approved and adopted, pursuant to authority vested in the Minnesota Pollution Control Agency by Minnesota Statutes, Chapters 115 and 116 as amended, and that Harold D. Field, Jr., Chairman of the Agency Board, and Grant J. Merritt,

Executive Director of the Agency, be and hereby are authorized to sign the Findings of Fact, Statement of Need, and Order Adopting Minnesota Regulation WPC 36.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25 day of March, 1974.

Harold D. Field, Jr.
HAROLD D. FIELD, JR.
Chairman

MINNESOTA POLLUTION CONTROL AGENCY

Attest: Marion E. Watson

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of Adoption of Proposed Water Pollution Control Regulation, Chapter 36, WPC 36, for Administration of the National Pollutant Discharge Elimination System (NPDES) and State Disposal System Permit Programs

ORDER ADOPTING REGULATION

The above-captioned regulation came on for hearing before the Minnesota Pollution Control Agency on the 27th day of November, 1973, at 9:00 a.m. in Room D of the Veterans Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, after proper notice, pursuant to Minnesota Statutes § 115.05 (1971), 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 considered all the testimony, and all of the evidence adduced and upon the records, files and proceedings herein, the applicable statutory authority and regulations, and having confirmed the need for the above-captioned regulation,

NOW, THEREFORE, IT IS ORDERED that the regulation identified as Minnesota Regulation WPC 36 is adopted this 19th day of March, 1974, pursuant to authority vested in

the Minnesota Pollution Control Agency by Minnesota Statutes Chapters 115 and 116 as amended.

MINNESOTA POLLUTION CONTROL AGENCY

Harold D. Field, Jr.

HAROLD D. FIELD, JR.
Chairman, Minnesota Pollution Control Agency

Grant J. Merritt

GRANT J. MERRITT
Executive Director

Final copy adopted by Agency
19/74

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STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

PROPOSED CHAPTER THIRTY SIX: WPC 36

REGULATION FOR ADMINISTRATION OF THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) AND STATE DISPOSAL SYSTEM PERMIT PROGRAMS

WPC 36. (a) PURPOSE. This regulation is hereby adopted and promulgated by the Agency to implement the provisions of Minnesota Statutes, Chapters 115 and 116, as amended, by instituting a permit program in accordance with the National Pollutant Discharge Elimination System (NPDES) and by providing for the processing of disposal system permits required pursuant to Minnesota Statutes, Section 115.07. The NPDES has been initiated by the Federal Congress through the enactment of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500). This regulation applies in general to the following:

(1) submission and evaluation of NPDES and disposal system permit applications;

(2) establishment of terms and conditions of NPDES and disposal system permits;

(3) establishment of monitoring, recording and reporting requirements for NPDES and disposal system permits;

(4) issuance and denial of NPDES and disposal system permits;

(5) modification, suspension and revocation of NPDES and disposal system permits; and

(6) reissuance of NPDES and disposal system permits.

The promulgation of this regulation, which supplements Minnesota Statutes, Chapters 115 and 116, as amended, is essential for the State of Minnesota, upon approval by the United States Environmental Protection Agency, to exercise its authority to issue permits for discharges of pollutants under the NPDES pursuant to Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500). The Minnesota Pollution Control Agency (MPCA) is the state agency designated by the State to administer this program. Except as otherwise specifically provided herein, this regulation shall apply with equal force to NPDES permits and to state disposal system permits.

(b) DEFINITIONS. The terms "person," "water pollution," "sewage," "industrial wastes," "other wastes," "pollutants," "toxic pollutant," "discharge," "treatment works," "disposal system," "point source," "waters of the state," "municipality," "standards," "schedules of compliance," "director," as well as any other pertinent terms for which definitions are given in Minnesota Statutes, Chapters 115 and 116, as amended, shall have the meanings ascribed to them. The terms specified below shall have the following meanings therein ascribed to them:

(1) "ACT" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.

(2) "ADMINISTRATOR" means the Administrator of the United States Environmental Protection Agency.

(3) "AGENCY" means the Minnesota Pollution Control Agency, as constituted pursuant to Minnesota Statutes, Section 116.02, subd. 1.

(4) "DISPOSAL SYSTEM PERMIT" or "STATE DISPOSAL SYSTEM PERMIT" means any permit or equivalent document, including any terms, conditions and requirements, issued by the Agency pursuant to Minnesota Statutes, Chapters 115 and 116 for disposal systems, as defined in Section 115.01, Subdivision 8.

(5) "EPA" means the United States Environmental Protection Agency.

(6) "NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)" means the national system for the issuance of permits under Section 402 of the Act and includes any state program which has been approved by the Administrator, in whole or in part, pursuant to Section 402 of the Act.

(7) "NPDES FORM" means any issued NPDES permit and any uniform national form developed for use in the NPDES and prescribed in regulations promulgated by the Administrator, including the Refuse Act applications, the NPDES application and the NPDES reporting forms.

(8) "NPDES PERMIT" means any permit or equivalent document or requirements issued by the Agency after enactment of the Federal Water Pollution Control Act Amendments of 1972, for the purpose of regulating the

discharge of sewage, industrial wastes, or other wastes under the authority of Section 402 of the Act.

(9) "PERMIT APPLICATION" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for application for an NPDES permit or state forms for application for a state disposal system permit, or Refuse Act application.

(10) "REFUSE ACT" means Section 13 of the River and Harbor Act of March 3, 1899.

(11) "REFUSE ACT APPLICATION" means the application for a permit under the Refuse Act prior to enactment of the Act.

(12) "REGIONAL ADMINISTRATOR" means the EPA Regional Administrator for the region in which Minnesota is located (now Region V).

(13) "REPORTING FORM" means the uniform national forms (including subsequent additions, revisions, or modifications duly promulgated by the Administrator pursuant to the Act) for reporting data and information pursuant to monitoring and other conditions of NPDES permits, or state forms for reporting data and information pursuant to monitoring and other conditions of state disposal system or NPDES permits.

Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and commonly accepted professional usage.

(c) SEVERABILITY. If any provision of this regulation or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions of the regulation or application of any other part of this regulation which can be given effect without application of the invalid provision. To this end, the provisions of all sections, subsections, or subdivisions herein and the various applications thereof are declared to be severable.

(d) SCOPE.

(1) Applicable Procedure. This regulation shall govern the procedure for the issuance of NPDES permits and state disposal system permits. To the extent of any inconsistency between the provisions of this regulation and the Agency's Rules of Procedure, MPCA 1-13, this regulation shall control. Otherwise, the provisions of this regulation and the Rules of Procedure, MPCA 1-13, shall be construed to complement each other.

(2) Request for Agency Appearance. An applicant, any affected state or interstate agency, the Regional Administrator or any other interested person may request at any time during the period a permit application is under review and consideration by the Director that a permit application be

an item on the agenda of a regular or special meeting of the Agency. The request shall be made in writing to the Director at least fourteen (14) days prior to a regular or special meeting. The Director may determine whether or not to place a permit application item on the agenda pursuant to a request. The Director shall advise the Agency of all such items he decides not to place on the agenda. The Director shall mail a copy of the regular or special meeting agenda to the person making a request. If the requested item has been placed on the agenda, the person who made the request shall be permitted to appear before the Agency pursuant to Agency Rules of Procedure, MPCA 13.

(e) APPLICATION FOR PERMITS.

(1) Application for Existing Disposal Systems.

(aa) NPDES Permit Application. Any person presently discharging sewage, industrial waste or other wastes to the waters of the state shall submit a NPDES permit application in accordance with this subsection regardless of whether or not the discharge is in compliance with regulations or standards of

the Agency, an outstanding order, variance, or state disposal system permit from the Agency, or stipulation agreement with the Agency. In addition, the following shall be construed to be a NPDES permit application:

(i) The applicant has filed a complete Refuse Act application prior to the enactment of the Act; or

(ii) The applicant has filed a complete NPDES application no later than 60 days following receipt by the applicant of notice from the Director that the applicant's previously filed Refuse Act Application is deficient as not to have satisfied the NPDES filing requirements.

(bb) Application for State Disposal System Permit for Facilities. The Director may require that application be made for a state disposal system permit for an existing disposal system, and may require that any applicable information regarding said disposal system be submitted for review pursuant to Minnesota laws and regulations.

(2) Application for New Disposal Systems.

(aa) NPDES Permit Application. Any person proposing a disposal system from which sewage,

industrial wastes, or other wastes are or may be discharged to waters of the state, where the discharge is to commence after the effective date of this regulation, shall file a complete NPDES application at least 180 days before such discharge is to commence. If the applicant has filed a complete Refuse Act application prior to the enactment of the Act, such application shall be construed to be a NPDES permit application.

(bb) State Disposal System Permit Application for Facilities. A preliminary engineering report on the proposed disposal system and pollutants, and, unless waived in writing by the Director, a state disposal system permit application for the facilities shall be submitted to the Director. Final construction plans and specifications for the disposal system shall be submitted to the Director for review, and a state disposal system permit for the facilities issued by the Director and approved by the Agency prior to solicitation of any construction bids or construction of any part of the disposal system, unless the Director has, in writing, waived such requirements for good cause, and if requested in writing by the applicant.

(3) Application and Reporting Forms. NPDES application and reporting data shall be submitted on the forms prescribed by the Administrator. State disposal system permit application forms and reporting data forms shall be submitted on forms prescribed for the NPDES by the Administrator, except as such forms are waived in writing, altered or supplemented by the Director.

(4) Forms, Signatories. Any form, including but not limited to NPDES forms, submitted to the Agency shall be signed as follows:

(aa) In the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative or agent, if such representative or agent is responsible for the overall operation of the disposal system or point source from which the discharge originates.

(bb) In the case of a partnership, by a general partner.

(cc) In the case of a sole proprietorship, by the proprietor.

(dd) In the case of a municipal, state or other public disposal system, by either a principal executive officer, ranking elected official, or other duly authorized employee.

(5) NPDES Permits; Application Exemptions. Those persons not required to apply for an NPDES permit under the Act or EPA NPDES Regulations shall not be required to apply for NPDES permits hereunder. The absence of any requirement with respect to NPDES permits shall not be construed as a waiver of the requirement to obtain a state disposal system permit pursuant to this regulation.

(6) State Disposal System Permit Applications.

(aa) No person shall construct, install or operate a disposal system, or any part thereof, until an application for a state disposal system permit and plans and specifications therefor have been submitted to the Director, and a permit for such disposal system has been issued by the Director and approved by the Agency. The Director may, in writing, waive the submission of such plans and specifications, and issue a permit subject to the approval of the Agency.

(bb) If upon application for a NPDES permit, the Director determines that a NPDES permit is not required by the Act or EPA regulations, but determines a state disposal system permit is required by Minnesota law or regulations, he may proceed to process the NPDES application as an application for a state disposal system permit in accordance with this regulation or

may require additional information to complete the application.

(cc) No person shall make any change, addition to or extension of any existing disposal system or point source, or part thereof, to effect any facility expansion, production increase, or process modification which results in new or increased discharges of pollutants, or operate such system or point source, or part thereof as changed, added to, or extended until a state disposal system permit application and plans and specifications therefor shall have been submitted to and have been approved in writing by the Agency. The Agency may waive in writing the submission of plans and specifications.

(7) Multiple Sources. In the event that a person discharges pollutants from more than one point source, a separate application shall be filed by the person for each point source discharge. A single application may be filed for multiple outfalls discharging from a single point source if approved by the Director.

(f) REVIEW OF PERMIT APPLICATIONS.

(1) Completeness. All permit applications shall be reviewed for completeness by the Director. If the application is incomplete or otherwise deficient, the Director shall promptly advise the applicant of such incompleteness

or deficiency. Further processing of the application may be suspended until the applicant has supplied the necessary information or otherwise corrected the deficiency. A permit shall not be issued by the Director and approved by the Agency until an application is complete.

(2) Completeness; Special Cases.

(aa) In the event that an applicant for a permit proposes to construct, install or operate a disposal system with a discharge to waters of the state which will serve residential dwelling units but will not be served by a municipally owned and operated treatment works, the Director may require the applicant to provide any or all of the following:

(i) A construction bond, assuring the Agency that the treatment works proposed to be constructed by the applicant pursuant to the requested permit shall in fact be constructed in accordance with the plans and specifications therefor, as approved by the Agency, and in accordance with applicable Agency permits, stipulation agreements, orders, standards, regulations and requirements;

(ii) A performance bond, assuring the Agency or a municipality willing to accept the responsibility for operation and maintenance of the

treatment works that in the event of a violation of a NPDES or a state disposal system permit conditions or the failure by the permittee to provide adequate operation and maintenance of the disposal system, funds will be available to carry on the operation of the works for an interim period until the violation or failure is corrected;

(iii) A resolution, stipulation agreement, or other contractual commitment satisfactory to the Agency that a municipality having jurisdiction over the applicant's premises shall assume the responsibility for operation and maintenance of the applicant's disposal system in the event of a violation of a NPDES or a state disposal system permit conditions or the permittee's failure in its obligation to provide adequate operation and maintenance of said disposal system necessary to comply with applicable Agency permits, stipulation agreements, orders, standards, regulations and requirements;

(iv) A joint application for a permit by both the person constructing, installing or operating a disposal system serving residential dwelling units and a municipality having jurisdiction over such person's premises.

(bb) Upon review of an application, the Director or the Agency may determine that the application is incomplete or deficient for failure to include any of the items described in (i), (ii), (iii), and (iv) above.

(cc) In the event that an applicant for a permit subject to the requirements of Section (f)(2)(aa) does not provide an adequate level of treatment for pollutants conveyed by such a disposal system or unsatisfactory progress is being made toward providing such level of treatment, or the treatment works to which such sewer system is connected do not otherwise conform with Minnesota laws or Agency regulations, standards, orders, permits, stipulation agreements, variances or other applicable requirements, the Director or the Agency may determine said application for permit to be deficient or incomplete.

(g) PERMITS; TENTATIVE DETERMINATIONS AND DRAFT PERMITS.

(1) Preparation of Preliminary Determinations. The Director shall make preliminary determinations regarding a completed NPDES or state disposal system permit application prior to the issuance of public notice, pursuant to this regulation, of the application. These preliminary determinations shall include a proposed determination to issue or deny a NPDES permit or a state disposal system permit for the discharge described in the application.

(2) Determination to Issue Permit; Additional Determinations Required. If the proposed determination is to issue a state disposal system permit or a NPDES permit the following additional determinations shall be made:

(aa) Proposed effluent limitations shall be delineated for the constituents proposed to be limited.

(bb) A proposed schedule of compliance, if necessary, for meeting the proposed effluent limitations including interim dates and requirements.

(cc) A description of any other proposed restrictions or other conditions determined necessary by the Director or the Agency, pursuant to Minnesota laws and regulations, the Act or EPA regulations, including but not limited to, pretreatment and toxic limitation requirements for discharges into publicly-owned treatment works.

(3) Draft Permit. The Director shall prepare a draft permit based upon the preliminary determinations made pursuant to this section for a NPDES or a state disposal system permit application. The draft permit shall be mailed to the applicant and in the case of a NPDES permit, to the Regional Administrator prior to public notice of the application.

(h) PUBLIC NOTICE OF PERMIT APPLICATION AND PRELIMINARY DETERMINATIONS.

(1) Circulation of the Public Notice. The Director shall prepare and issue a public notice of a completed application for a NPDES permit. The Director may issue a public notice of a completed application for a state disposal system permit. The notice shall be circulated within the geographical area of the proposed discharge. The geographical area shall at minimum include the county in which the discharge will be made. The area may be expanded by the Director or the Agency as deemed appropriate. The Director or the Agency shall circulate the notice in one or more of the following ways:

(aa) Posting of the notice in the post office or public libraries, buildings, places, etc., located within the designated geographical area.

(bb) Posting of the notice at or nearby the entrance to the applicant's premises which are located near the proposed discharge point.

(cc) Publishing the notice in one or more newspapers of general circulation in the designated geographical area of the applicant, or if appropriate, in an applicable periodical.

(2) Availability of the Public Notice.

(aa) The Director shall mail a copy of the public notice of the permit application to the permit applicant, interested persons upon request, and those on the mailing list pursuant to Section (i)(3) and to any other interested persons deemed by the Director to have a potential interest in the permit application or those who may be adversely affected.

(bb) The Director shall make available a copy of the notice at the main Agency office and at the appropriate Agency district office.

(cc) The Director shall list the permit applications in which public notice has been issued as information items on the agenda of each regular Agency meeting.

(3) Public Notice; Contents and Information. The public notice of a state disposal system permit or a NPDES permit application shall include:

(aa) The address and telephone number of the main Agency office and the Agency district office nearest to the geographical location of the applicant.

(bb) The name and address of the applicant.

(cc) A concise description of the applicant's activities and operations which result in the discharge identified in the permit application.

(dd) The name of the waterway to which the discharge is proposed to be made, including the location of the proposed or existing discharge identified in the application.

(ee) A statement of the preliminary determination to issue or deny the permit for the discharge identified in the application.

(ff) A concise description of the procedures for the formulation of final determinations, including information on the comment period pursuant to subsection (4) of this section, and petitioning for a public hearing, pursuant to Section (k)(1).

(gg) The address and telephone numbers of the Agency office or offices where more information on the application may be obtained or where fact sheets, if prepared, or copies of the draft permit prepared pursuant to Section (f)(3), or any other applicable forms may be inspected or copied.

(hh) A statement that a copy of the fact sheet or draft permit will be mailed to any interested person upon written request.

(ii) The date of issuance of the public notice in which the 30-day comment period commences and terminates.

(jj) A statement regarding the duration of the proposed permit.

(4) Public Notice; Comment Period for Interested Persons.

(aa) Any interested person, including the applicant for the permit under consideration, may within 30-days following the date of issuance of the public notice pursuant to this Section submit in

writing comments on the application or determinations, or both, to the Agency. The time for public comment may be extended by the Director if he determines that such extension of time is necessary to facilitate additional public comment.

(bb) All comments submitted in writing by interested persons or the applicant during the comment period shall be retained and considered in the formulation of final determinations concerning the permit application.

(i) FACT SHEETS ON PERMITS; APPLICATIONS.

(1) Fact Sheets; Availability; Preparation.

(aa) The Director shall prepare and make available a fact sheet for each state disposal system or NPDES permit application which identifies a proposed discharge of 500,000 gallons or more for any day of the year with respect to the application described in the public notice, which shall contain information specified in subsection (2) of this section.

(bb) The Director may prepare a fact sheet for any application for discharge of less than 500,000 gallons for any day of the year, if he deems the discharge to be of such importance as to warrant additional information for public comment.

(cc) A copy of the fact sheet shall be available at the main Agency office and at the Agency district office nearest to the geographical location of the applicant. Any person may request a copy of the fact sheet. Upon receipt of such a request, the Agency shall mail a copy thereof to such person.

(2) Fact Sheets; Contents and Information. The fact sheet shall contain, but not be limited to, the following information:

(aa) A sketch or detailed description of the location of the proposed discharge described in the permit application.

(bb) A quantitative description of the proposed discharge including, but not limited to, its rate or frequency of average daily flow; its summer and winter temperatures in degrees centigrade, if the discharge is a thermal discharge subject to limitation under the Act, its average daily discharge in pounds per day of any pollutants or other constituents subject to limitation under Minnesota Statutes, Chapters 115 and 116, or the Act, or regulations promulgated thereunder.

(cc) The preliminary determinations made by the Director on the permit application pursuant to Section (f).

(dd) A concise citation of the effluent limitations and standards to be applied to the proposed discharge, and the water quality standards and uses for which the receiving waters have been classified.

(ee) A description of the procedures used by the Director to formulate final determinations on the application and proposed discharge including the 30-day comment period on the public notice, procedures for requesting a public hearing on the application pursuant to this regulation and other procedures to facilitate public comment and preparation in the formulation of final determinations.

(ff) A concise statement regarding the environmental policy considerations and requirements prescribed in Minnesota Statutes Section 116D that are or may be applicable to the proposed discharge.

(3) Public Notices and Fact Sheets; Mailing Lists.

(aa) Any interested person who desires to receive copies of all public notices on a state disposal system or a NPDES permit application for all proposed discharges or those in specific counties of the state as identified in this Section may request that his name be placed on a mailing list of the Agency for such information. Such a request shall be made in writing to

the Director and shall be renewed annually. After 30 days written notification to renew a request, failure to renew the request shall be just cause for the Director to remove a name from the mailing list.

(bb) The written request of any interested person to the Director shall clearly identify the name of the person, the person's address, and the designated county or counties of the state for which public notice of permit applications is requested.

(4) Public Notices and Fact Sheets; Notices to Other Governmental Agencies.

(aa) Upon receipt of an application for a NPDES permit which identifies a proposed discharge into interstate or international waters and upon a determination by the Director that such proposed discharge may affect the quality of the waters of any other state or country, the Director shall notify the appropriate state, interstate agency, or Canadian provincial agency, and the International Joint Commission of the proposed discharge and shall transmit a copy of the public notice and fact sheet on the application thereto. Upon request of the state, interstate agency, or Canadian provincial agency and the International Joint Commission, the Director shall also transmit a copy of the application and the draft permit prepared pursuant to Section (f).

(bb) A state, interstate agency, or Canadian provincial agency and the International Joint Commission

notified by the Director pursuant to this section shall have 30 days from the date of such notification in which to comment on the proposed discharge and, if desired, may submit in writing to the Director its views and recommendations. The comments and recommendations submitted by another state, interstate agency, or Canadian provincial agency and the International Joint Commission may be incorporated into the NPDES permit if determined necessary and desirable by the Director or the Agency. If such comments and recommendations are not incorporated into the NPDES permit, notification and reasons therefor shall be given in writing to the Regional Administrator and the state or interstate agency, or Canadian provincial agency and the International Joint Commission. The Director shall provide opportunity for public hearing if requested by the Regional Administrator, the state or interstate agency or the International Joint Commission.

(cc) When a public notice on a NPDES permit application for discharge into navigable waters is posted or published, the Director shall transmit a copy of the notice and fact sheet thereon to the appropriate District Engineer of the United States Army Corps of Engineers for the proposed discharge identified therein. If such discharge is a minor discharge and the Corps of Engineers has waived receipt of notice, the above shall not apply to such discharge.

(dd) If requested in writing thereby, the Director shall mail a copy of a public notice, draft permit or fact sheet for an application for a NPDES or a state disposal system permit, to any other federal, state or local agency or affected Canadian provincial or federal agencies. The provisions of subdivision (bb) of this subsection with regard to opportunity for comment and public hearings shall apply to such federal, state or local agencies or Canadian provincial agencies or the International Joint Commission.

(j) PUBLIC ACCESS TO PERMIT APPLICATION FORMS AND AGENCY FILES AND RECORDS; CONFIDENTIALITY.

(1) Public Inspection and Copying. A copy of a state disposal system or NPDES permit application, public notice, fact sheet, draft permit, final permit after issuance, and other forms relating thereto, including written public comment thereon and other reports, files and information relating to the application not classified as confidential information by the Director pursuant to Minnesota Statutes, Section 116.075 shall be available for public inspection and copying during normal business hours at the main Agency office. Documents may be inspected between 8:30 a.m. and 11:30 a.m. and between 1:00 p.m. and 4:00 p.m., each Monday through Friday, except holidays. Documents may be copied, subject to reasonable requirements of the Agency staff, at a reasonable charge per copy sheet. Copies of the public notice, fact sheet and draft permit shall be available for

review and inspection in an appropriate Agency district office in the geographical area of the applicant.

(2) Confidential Information. The Director, upon certification of the affected person and upon the Director's written concurrence that information contained on any NPDES or state form, except effluent data, or information within the files and records of the Agency would, if available for public inspection or copying, divulge processes or methods of production entitled to protection as trade secrets of the applicant, may label such information as confidential, and shall so notify the Regional Administrator. Information labeled by the Director as confidential, unless otherwise determined by the Regional Administrator, shall not be made available to the public for inspection or copying pursuant to this section, except that such information shall be made available at any time to the Regional Administrator upon written request therefor for EPA's use under the NPDES program. Notwithstanding the foregoing, the Agency may disclose any information, whether or not otherwise considered confidential, which it is obligated to disclose in order to comply with Minnesota and federal laws and regulations, to the extent and for the purposes of such required disclosure.

(k) PUBLIC HEARINGS ON PERMIT APPLICATIONS.

(1) Petition for and Determination of Need for Public Hearing. An applicant, any affected state or interstate agency, the Regional Administrator or any other interested person may, within the 30 day comment period or other applicable comment period provided after issuance of a public notice pursuant to Section (h), file a petition with the Director for a public hearing on an application for a state disposal system or NPDES permit. Any petition for a public hearing shall indicate the reason or reasons why a hearing is requested, the interest in or relationship of the petitioner to the application or proposed discharge identified therein, and specifically indicate which portion or portions of the application or other NPDES form or information constitutes necessity for such public hearing. If the Agency determines that there is sufficient public interest in an application for a public hearing, it shall direct the scheduling of a hearing thereon. Instances of doubt shall be resolved in favor of holding a hearing.

(2) Scheduling of Hearings and Notice. A public hearing shall be scheduled in the geographical area of the proposed discharge, and shall be noticed at least 30 days prior to the hearing in the same manner as the public notice on an application pursuant to Section (h) and as otherwise provided by law or stipulation. The notice of public hearing shall be published in at least one (1) newspaper of general circulation in the geographical area of the proposed discharge identified on the permit application, and shall be mailed to any person or group upon request.

(3) Combined Hearings. The Agency, in its discretion, may hold a single public hearing on related groups of permit applications.

(4) Public Hearing Notice Contents. A notice by the Director of a public hearing on an application or applications shall contain in addition to the time and place of the hearing:

(aa) The address and telephone number of the main Agency office and the appropriate district office;

(bb) The name and address of the applicant or applicants whose application or applications will be considered at the public hearing;

(cc) The name of the waterway or waterways to which a proposed discharge, as identified on the application or applications, will be made and a concise description of the location on the waterway of such discharge;

(dd) Reference to the public notice posted and published for the application or applications, including the identification numbers and dates of issuance thereof;

(ee) A brief statement of the purpose of the public hearing;

(ff) A concise description of the issue or issues which have been identified by the petitioners requesting the public hearing;

(gg) The address or addresses of Agency offices where interested persons may inspect or obtain copies of a draft permit, fact sheet or other applicable forms or other reports, files or information relating to an application or applications subject to public hearing, which have not been labeled confidential by the Director pursuant to Section (i);

(hh) A concise description of the nature of the public hearing and the issues to be heard, with reference to rules and procedures to be followed.

(l) TERMS AND CONDITIONS OF PERMITS

(l) Effluent Standards and Limitations. Whenever applicable, a permit issued pursuant to this regulation shall contain terms and conditions deemed necessary to insure compliance with at least the following effluent standards and limitations:

(aa) Effluent limitations for publicly-owned treatment works and other point source discharges promulgated by the Administrator pursuant to Sections 301 and 302 of the Act.

(bb) Standards of performance promulgated by the Administrator for new sources within the categories defined pursuant to Section 306 of the Act.

(cc) Pretreatment standards or effluent limitations or prohibitions promulgated by the Administrator pursuant to Section 307 of the Act.

(dd) Any other limitation or requirement to insure compliance with the Act and regulations thereunder.

(ee) Any other more stringent limitation deemed necessary by the Director or the Agency to meet applicable standards established pursuant to Minnesota Statutes, Chapters 115 or 116 or regulations or standards promulgated pursuant thereto, or other Minnesota and federal laws and regulations.

(2) Consistency with Water Quality Standards. When a permit contains additional effluent limitations related to applicable water quality standards, the Director shall prepare a waste load allocation survey insuring that the discharge authorized by the issued permit is consistent with such applicable water quality standards. When a state disposal system or NPDES permit is issued which contains any effluent standards or other limitations as set forth in accordance with subsection (1) of this section the Director shall verify that the discharge authorized by the issued permit will not violate applicable water quality standards or that a variance therefrom has been authorized consistent with the Act and Minnesota Statutes, Chapters 115 and 116.

(3) Requirements to Comply with Plans. The Director or the Agency may impose any further requirements under the terms and conditions of a state disposal system or NPDES permit to comply with an areawide waste treatment management plan, or amendments thereto, prepared pursuant to Section 208(b) of the Act.

(4) Interim Requirements. The Director or the Agency may impose any standard, limitation or conditions within a state or NPDES permit to assure compliance with Minnesota Statutes, Chapters 115 and 116, and with the Act, prior to

promulgation of regulations by the Administrator relating to applicable effluent standards or limitations or standards of performance set forth in accordance with subsection (1) of this section.

(5) Discharges from Vessels.

(aa) If a NPDES permit is issued pursuant to Minnesota laws and regulations for the discharge of pollutants from a vessel other than wastes exempted by Section (e), the permit shall contain requirements in accordance with and subject to the applicable regulations promulgated by the secretary of the federal department in which the United States Coast Guard is operating, which establish specifications for transportation, handling, carriage, storage and stowage of such pollutants.

(bb) The Director, subject to Agency approval, shall issue a NPDES permit for the discharge of wastes from a vessel only when such permit is in conformance with the provisions of all applicable provisions of state law.

(6) Other Limitations and Requirements.

(aa) The Director, when issuing a state disposal system permit or a NPDES permit pursuant to Minnesota laws and regulations,

shall specify therein, where applicable, average and maximum daily quantitative limitations for the level of pollutants in terms of weight, and, where appropriate, average or maximum concentration and volume limits for the wastes in the discharge authorized by the issued permit.

(bb) All discharges authorized by a permit shall be consistent with the terms and conditions of such permit.

(cc) Any facility expansion, production increases, process modifications, changes in discharge volume, or other changes in operations or conditions by the permittee which may result in new or increased discharges of pollutants shall be reported to the Director by submission of a new application for a state disposal system or a NPDES permit pursuant to Section (e).

(dd) The permittee shall permit any authorized Agency representative to enter upon any property, public or private, at any reasonable time, to have access to and copy any applicable records, to inspect process facilities, disposal systems, treatment works, monitoring methods or equipment therefor, and to sample any effluent of a discharge authorized by a permit and otherwise to obtain necessary information

relevant to the permitted discharges.

(ee) The permittee shall comply with Minnesota Regulation WWOB 1, administered by the Water Supply and Wastewater Operator Board of Certification, and other applicable laws, regulations and policies relating to the operation or maintenance of disposal systems. The Agency may impose, and the permittee shall comply with, a requirement that the permittee provide a certified wastewater operator in responsible charge of the disposal system subject to the permit in question, who possesses the qualifications required for operators of disposal systems, equivalent to those listed in Minnesota Regulation WWOB 1, given the size and class of facility and method of treatment. The permittee shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed to achieve compliance with the terms and conditions of a permit.

(ff) Prior to the issuance of a state disposal system permit or a NPDES permit for a discharge from a publicly-owned disposal system, the permittee shall provide the Director with assurance satisfactory to the Agency that the Director shall be notified of:

(i) Any new introduction of pollutants into such disposal system from a new source.

(ii) Any new introduction of pollutants into such disposal systems from a person subject to limitations and conditions prescribed by Section 301 of the Act.

(iii) Any substantial change in the volume or character of wastewater constituents being introduced into such disposal system at the time of issuance of a permit.

(gg) The storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any water of the state is prohibited.

(hh) The permit may be modified, suspended, or revoked in whole or in part during its term for cause in accordance with applicable laws and regulations, including, but not limited to, the following:

(i) Violation of any terms or conditions of the permit.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(ii) If the permit is for a discharge from a publicly owned treatment works, the permittee shall require any industrial user of such treatment works to comply with the requirements of Sections 204(B), 307, and 308 of the Act. As a means of insuring such compliance, the permittee shall require of each industrial user, subject to the requirements of Section 307 of the Act, to file periodic reports (over intervals not to exceed 9 months) of progress towards full compliance with Section 307 requirements. A copy of such reports shall be forwarded to the Director by the permittee.

(jj) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the NPDES permit the Director shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and in accordance with applicable laws and regulations.

(7) Schedules of Compliance.

(aa) A person issued a state disposal system permit or NPDES permit pursuant to Section (o) who is not in compliance with applicable

effluent standards and limitations or other requirements specified therein at the time the permit is issued, shall be required to achieve compliance within a period of time as set forth in the permit with such effluent standards and limitations, with water quality standards, or with specified requirements or conditions, whichever is applicable. The permit shall require compliance in the shortest reasonable period of time.

(bb) If the schedule for compliance specified in a state disposal system permit or a NPDES permit exceeds nine months, such schedule shall provide for interim dates for achievement of compliance with certain applicable terms and conditions of the permit. The time interval between interim dates specified in the permit shall not exceed nine months and, to the extent practicable, shall fall on the last day of March, June, September, or December. The Director of the Agency may require periodic progress reports to assure continued compliance with applicable

laws and regulations and the permit.

(8) Compliance Reports by Dischargers. Within 14 days after an interim date of compliance or the final date of compliance specified in a state disposal system permit or NPDES permit, a permittee shall provide the Director with a written report of his compliance or non-compliance with the requirements or conditions specified to be completed by the discharger by that date. A report by a permittee of non-compliance shall include the reasons and the steps being taken to correct such non-compliance. Failure to submit such written report to the Director shall be deemed just cause for the Agency to revoke the permit or pursue enforcement action against the discharger pursuant to Minnesota laws and regulations.

(m) DURATION OF PERMITS. NPDES permits issued and renewed pursuant to Minnesota Statutes, Chapters 115 and 116 and this regulation shall have a fixed term which shall not exceed five years. State disposal system permits issued pursuant to Minnesota Statues, Chapters 115 and 116 and this regulation may also be limited to a fixed term, but such term may exceed five years. The Director may issue, with Agency approval, state disposal system permits for an indefinite period.

(n) PERMIT MONITORING: RECORDING AND REPORTING REQUIREMENTS WITH RESPECT TO PERMITTEES AND USERS OF PUBLICLY OWNED DISPOSAL SYSTEMS.

(1) Monitoring Requirements.

(aa) The Director or the Agency shall impose necessary monitoring requirements in any state disposal system or any NPDES permit.

In requiring such monitoring, the Director or the Agency may specify the type of monitoring required and the installation, use and maintenance of any monitoring equipment or methods including, where appropriate, biological monitoring methods, to be employed therefor.

(bb) A discharge authorized by a NPDES permit which is not a minor discharge in accordance with regulations promulgated under the Act, and which the Regional Administrator, by written request to the Director, requires to be monitored or which contains wastewater constituents for which an effluent standard or limitation has been established by the Administrator pursuant to Section 307(a) of the Act, shall be monitored by the permittee and users of publicly owned disposal systems at intervals sufficiently frequent to yield data which reasonably characterize the nature of the discharge of the monitored flow or effluent, including, but not limited to the following:

(i) The flow of the discharge in gallons per day or other volumes as required by the Director or the Agency.

(ii) Pollutants subject to reductions or elimination under the terms and conditions of the

permit.

(iii) Specific pollutants which are determined by the Director or the Agency to have a significant effect on the quality of the water of the state.

(iv) Pollutants specified as subject to monitoring by the Administrator in regulations promulgated pursuant to the Act.

(v) Any other specific pollutants which the Regional Administrator, the Director or the Agency may, in writing request to be monitored.

(vi) The frequency that a discharge is required to be monitored pursuant to this section shall be specified in a state disposal system permit or NPDES permit when issued, except that the Director or the Agency may, at any time, when deemed necessary, require additional monitoring by notification in writing to the permittee or said user.

(2) Monitoring Plan. A permittee or said user shall submit a monitoring plan within 45 days after date of issuance of a permit to the Director for approval, unless such monitoring requirements are described in the permit. The monitoring plan shall include, but is not limited to the following:

(aa) A description of the monitoring equipment;

(bb) The monitoring methods including, where appropriate, biological monitoring methods;

(cc) The type of samples;

(dd) Sampling procedure or manner and analysis of samples;

(ee) Location and interval of sampling; and

(ff) Such other information as the Director or the Agency may reasonably require of the permittee or said user.

(3) Recording and Reporting.

(aa) A permittee or said user required to monitor a wastewater discharge pursuant to this section shall maintain records of all information resulting from such monitoring, including, but not limited to:

(i) The date, exact place and time of sampling;

(ii) The dates analyses were performed;

(iii) The person who performed the analyses;

(iv) The analytical techniques, procedures or methods used; and

(v) The results of such analysis.

All records and results of monitoring activities and results, including all original strip chart recordings for continuous monitoring instrumentation, and calibration and maintenance records shall be retained for a

minimum of three years by the permittee unless otherwise required or extended by the Director.

(bb) The Director may require a permittee or said user to periodically report the results of all monitoring activities undertaken by him on an appropriate reporting form of the type specified by the Director. The Director shall notify the permittee of the frequency of such reporting, but in no case shall such frequency be less than at least once in a period of one year. In addition to the NPDES reporting form, the Director may require submission of such other information as he determines to be necessary.

(cc) The Director, upon written request of the Regional Administrator, shall transmit thereto any reporting form or other monitoring information required by this regulation.

(o) PERMITS: DETERMINATIONS, ISSUANCE OR DENIAL OF PERMITS.

(1) Prohibited Discharges. A permit shall not be issued to a person proposing any of the following discharges:

(aa) A discharge containing a radiological, chemical or biological warfare agent or a high-level radioactive waste.

(bb) A discharge of a character which, as

determined by the Secretary of the Army acting through the chief of engineers of the U. S. Army Corps of Engineers would substantially impair anchorage or navigation, or both.

(cc) A discharge to which the Regional Administrator objects in writing to the Director pursuant to Section (d), until the conditions and effluent limitations and standards are set for such discharge to the satisfaction of the Regional Administrator, and compliance with the Act and the federal regulations is likewise to the Regional Administrator's satisfaction.

(dd) A point source discharge in conflict with an approved areawide waste treatment management plan, or amendments thereto, prepared pursuant to Section 208(b) of the Act.

(2) Final Determinations. Following review and consideration of tentative determinations or modifications of the proposed permit made pursuant to Section (g), comments on the proposed permit received by the Director from the Regional Administrator pursuant to Section (e), comments received from the interested persons and the applicant during the 30-day comment period following public notice of the permit application as provided by Section (h), other applicable recommendations or determinations and, if applicable, review and consideration of

the public hearing record on an application pursuant to Section (k), the Director shall make a final determination and recommendation regarding the issuance of a permit which then shall be subject to the approval of the Agency.

The Director may issue a permit to an applicant, prior to a final decision of the Agency, but it shall be a conditional issuance pending final approval of the Agency. The Director shall properly schedule on the agenda of an Agency meeting all permits subject to approval by the Agency. The Director shall promptly notify the permittee of the Agency's final decision regarding the issuance of the permit.

In making it's final decision on a permit application, the Agency shall be satisfied that the conditions of a state disposal system permit or a NPDES permit proposed to be issued shall comply with an areawide waste treatment management plan prepared pursuant to Section 208(b) of the Act where applicable and any other requirements of the Act, Minnesota laws and all regulations and standards promulgated pursuant to the Act and such laws.

(3) NPDES Permit Equivalent to State Permit. A NPDES permit issued by the Director and approved by the Agency pursuant to Minnesota law and this regulation may constitute and be equivalent to a state disposal system permit in all cases where such permit is issued for discharges to the waters of the state.

(p) PERMITS: TRANSMITTAL TO ENVIRONMENTAL PROTECTION AGENCY.

The Director shall transmit a copy of an Agency approved NPDES permit to the Regional Administrator concurrent with the transmittal thereof to the applicant. If a permit is denied, written notice thereof and the reasons therefor shall be transmitted by the Director to the Regional Administrator and to the applicant.

(q) NON-COMPLIANCE LISTS.

Transmittal to Regional Administrator; Public Availability. The Director shall prepare and submit to the Regional Administrator on or before the last day of the months of February, May, August, or November, a list of all dischargers holding NPDES permits which have submitted a report pursuant to subsection (8) of section (k) showing non-compliance with requirements set forth by the Agency to be met on interim dates or on the final date of compliance specified in the permit, and those which have not filed a timely report. Such non-compliance lists shall be available to the public at the main Agency office for inspection and copying and at the appropriate district office for inspection and copying and shall contain the following information:

(1) The name and address of each non-complying permittee;

(2) A concise description of the nature of non-compliance;

(3) A description of proposed actions to be taken by the Agency or the permittee to correct such instance of non-compliance; and

(4) Any other information deemed necessary by the Agency or the Director to explain or mitigate an instance of non-compliance.

(r) REVIEW AND REISSUANCE OF STATE DISPOSAL SYSTEM AND NPDES PERMITS: REQUESTS AND FILING REQUIREMENTS.

(1) Requests for Reissuance of Permits. At least 180 days prior to the expiration date of a state disposal system permit or NPDES permit issued to a person pursuant to Minnesota Statutes, Chapters 115 and 116 and this regulation, a person who wishes to continue discharging to waters of the state shall submit a written request to the Director for reissuance of a state disposal system permit or a NPDES permit consistent with and under the Act, and Minnesota Statutes, Chapters 115 and 116, whichever is applicable.

(2) Conditions for Reissuance. After receipt of a written request for reissuance of a state disposal system permit or a NPDES permit by a permittee, the Director before reissuing a permit shall review the request with particular reference to whether or not:

(aa) The permittee is in compliance with or has substantially complied with the terms, conditions, requirements, and schedules of compliance of the expiring state disposal system permit or a NPDES permit.

(bb) The Agency has up-to-date information on the permittee's production levels, waste treatment

practices and the nature, content and frequency of the permittee's discharge. Such information shall be made available to the Director through the submission of new NPDES forms by the permittee or by means of monitoring records or reports submitted thereto pursuant to section (m), or other means.

(cc) That the discharge is consistent with applicable effluent standards and limitations, water quality standards, and other legally applicable requirements including any additions to, or revisions or modifications of such effluent standards and limitations, water quality standards, or other legally applicable requirements during the term of the permit.

(3) Public Notices and Participation Procedures. The Director shall follow the public notice and public participation procedures specified in Sections (g), (h), (j), and (k), before any state disposal system permit or NPDES permit is reissued pursuant to this regulation.

(4) Transmittal to Regional Administrator. A copy of a reissued NPDES permit approved by the Agency shall be transmitted to the Regional Administrator with any other appropriate NPDES forms or other applicable information relating thereto.

(s) MODIFICATION, SUSPENSION AND REVOCATION OF PERMITS.

(1) Grounds for Modification, Suspension or Revocation. The Agency may, after opportunity for public hearing and as

otherwise required under this regulation or Minnesota law, modify, suspend or revoke any term or condition of a permit, including a schedule of compliance, or the permit in its entirety, upon its finding that:

(aa) There is a change in any condition that requires a temporary or permanent reduction or elimination of a permitted discharge or constituent thereof.

(bb) The Administrator promulgates a regulation prescribing a restriction or prohibition of a pollutant which is not covered by the terms and conditions of a permit or if the regulation is more stringent than any limitation imposed on a pollutant in a permit.

(cc) A modification of the terms and conditions of a permit for a time schedule therein is necessary because of an act of God, strike, flood, material shortage, or other conditions over which the permittee has little or no control, provided that the Regional Administrator does not object in writing within 45 days following receipt of notice thereof from the Director.

(dd) There has been a violation of Minnesota law.

(ee) There has been a violation of a regulation, standard, order, permit, variance, stipulation

agreement or compliance schedule pertaining to the discharge or disposal system subject to the permit.

(ff) There has been a violation of the Act or any regulation or guidelines promulgated pursuant thereto;

(gg) There has been a violation of any federal or state law or regulation or municipal ordinance pertaining to the discharge or disposal system subject to the permit;

(hh) There has been a violation of any pretreatment requirement imposed by the Agency or the Regional Administrator;

(ii) There has been misrepresentation or omission of significant facts upon which the permit was based;

(jj) Other just cause exists for such action.

(2) Notice to Regional Administrator. The Regional Administrator shall be notified of any change in status or condition of a permit by the Director and shall have an opportunity to object in writing thereto within 45 days after notification. If the Regional Administrator objects, the modification shall not be included in the NPDES permit.

(3) Notice to Permittee. A permittee who is affected by a modification or revocation of a permit by the Agency shall be notified at least 90 days in advance of the effective date of such modification, or revocation, and, upon petition

therefor, shall have a hearing thereon pursuant to Minnesota Statutes, Chapters 115 and 116, and the regulations of the Agency; provided that this section shall in no way limit the Agency's authority to institute an emergency order or such injunctive or other legal or equitable relief pursuant to Minnesota Statutes, Chapters 115 or 116, as amended.

(t) NOTIFICATION OF VIOLATIONS. The Agency shall notify the Regional Administrator of all violations of this regulation, other applicable regulations, a valid permit or Minnesota Statutes, Chapter 115, or as it applies to water pollution, Chapter 116, and of the manner in which the Agency proposes to correct or require the correction of such violations.

(u) WAIVERS.

(1) Waiver Period. Non-withstanding any other provision of this regulation and in accordance with either subsection (2) or subsection (3) of this section, any point source of a discharge having a thermal component and having been modified after the enactment of this regulation to meet existing effluent and water quality limitations, which limitations will assure protection and propagation of a balanced, indigenous population of fish and wildlife in and on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the thermal component of its discharge during a ten-year period beginning on the date of completion of new source construction or

beginning on the date of completion of modifications, or during the period of depreciation or amortization of such facility for the purposes of Section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever periods ends first. Upon the termination of said period, such new sources shall comply with all provisions of this and other applicable regulations.

(2) Standards of Performance for New Sources. Pursuant to Section 306(d) and upon adoption by the Agency of procedures of performance for new sources, approved by the Administrator for applying and enforcing standards, the Agency may grant a waiver for the period specified in subsection (1) of this section from any more stringent standard for any point source to meet all applicable standards of performance for new sources, consistent with and pursuant to the provisions of Section 306(d) of the Act. Such standard of performance for a new source is one which takes into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any non-water quality impact and energy requirements and encompasses those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the Agency determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives,

including where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants the construction of which is commenced after promulgation of regulations by the EPA prescribing standards of performance which apply to such sources. Construction shall encompass any placement, assemble, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises.

(3) Effluent Limitations for Heat Components of Discharge. Whenever the owner or operator of any point source, after opportunity for public hearing, can demonstrate to the satisfaction of the Agency that any effluent limitation proposed for the control of the heat component of any discharge from such sources will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on the body of water into which the discharge is to be made, the Agency may impose and, thereafter, modify or terminate, an effluent limitation for such plant, with respect to the heat component of such discharge (taking into account the interaction of such heat component with other pollutants) that will assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on that body

of water. For any point source the construction of which is thereafter commenced, and which, as modified, meets applicable effluent and water quality limitations, which limitations will assure protection and propagation of a balanced indigenous population of fish and wildlife in or on the water into which the discharge is made, the Agency shall have adequate authority to grant and, thereafter, modify or terminate, a waiver for the period specified in subsection (1) from a more stringent limitation with respect to the thermal component of such discharge.

(4) Best Available Technology Requirement. The Agency may modify, in its discretion, any requirement or limitation based upon best available technology with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing satisfactory to the Agency by the owner or operator of such point source that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants.

(5) Disposal System Permit Applications. Notwithstanding any provision of this regulation to the contrary, unless the Director or the Agency determines that there is sufficient public interest in an application, an application for a state disposal system permit which is not subject to the requirements of NPDES and does not have a flow of more than 50,000 gallons

per day on any day, shall not be subject to the procedural requirements of Sections (f), (g), (h), or (j) of this regulation.

(6) Sewer System Extension Permit Applications. Notwithstanding any provisions of this regulation to the contrary, unless the Director or the Agency determines that there is sufficient public interest in an application, an application for a state disposal system permit for a sewer system extension which does not constitute a point source shall not be subject to the procedural requirements of Sections (f), (g), (h), or (j) of this regulation.

APPROVED AS TO FORM AND LEGALITY
4-10 1974
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 10 1974 - 3:45 pm
Arlen I. Erdahl
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 10 1974 4:00 pm
BY Eda Staudenmaier
AUTH. SIGNATURE