

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

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

June 29, 1983

RECEIVED
JUL 5 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Ted Martinez
Office of the Attorney General
Administration Building
St. Paul, Minnesota 55155

Re: Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

Dear Mr. Martinez:

On June 28, 1983, the Minnesota Pollution Control Agency adopted amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013. The Agency is now submitting to you for approval the adopted rule amendments. Accompanying this letter is the record of the rulemaking hearing, which was held on May 20, 1983.

Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Order Adopting Amendments to Rules (two copies).

3. Certificate of Agency's Resolution Adopting Amendments to Rules.

4. Notice of Intent to Solicit Outside Opinion (6 S.R. 1654, March 29, 1982).

5. Affidavit of Jay M. Heffern indicating that there were no written comments received by the Agency pursuant to the publication of the Notice of Intent to Solicit Outside Opinion.

6. Order for Hearing.

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Hearing as mailed.

9. Notice of Hearing as published at 7 S.R. 1510, April 18, 1983).

10. Affidavit of Mailing of Notice of Hearing.

11. Certificate concerning mailing list.

12. Rule amendments as proposed.

13. Hearing Examiner's Report.

14. Findings of Fact and Conclusions.

15. Statement of Need and Reasonableness.

16. Statement of Compliance with Rulemaking Procedures.

15. Affidavit Concerning Notice of Submission to the Attorney General.

In accordance with the most recent amendments to Minn. Stat. ch. 14, I assume that you will forward a copy of the rules to the Revisor of Statutes.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Our File No. 401

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-5-83
DATE FOR REVIEW 7-18
DATE DUE 7-25

Adopted w/a hearing ✓
Adopted w/o hearing _____
Temporary rule _____

Approved 7/25 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7/25 Revisor approved _____ disapproved _____

_____ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 6.28.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 3.29.82

✓ Order for rulemaking
5.20.83 date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4.13.83 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
4.18.83 At least 30/~~20~~ days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report 5/31/83

N/A Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)
see HE report

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General
see affidavit

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Sandra S. Gardebring, Executive Director

Attn: JOCELYN F. OLSON
Special Assistant Attorney General

DATE: July 25, 1983

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

TAM

PHONE: 296-4692

SUBJECT: Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013.

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

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

1. Affixation of stamps of the Attorney General and Secretary of State;

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

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

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

Encs.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Minnesota Pollution Control Agency

Adopted Amendments to Agency Procedural Rules

Rules as Adopted

6 MCAR S 4.3003 Duty of candor.

In all formal or informal negotiations, communications, proceedings, and other dealings between any person and any member, employee, or agent of the agency, it shall be the duty of each person and each member, employee, or agent of the agency to act in good faith and with complete truthfulness, accuracy, disclosure, and candor.

6 MCAR S 4.3005 Agency meetings.

A.-L. [Unchanged.]

M. Decisions at open meetings. All regular and special meetings of the agency shall be open to the public, and all decisions of the agency shall be made at such meetings.

N.-Q. [Unchanged.]

6 MCAR S 4.3010 Contested case hearings.

A.-D. [Unchanged.]

E. Ex parte communication. During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following conditions:

1. if the communication is in writing, copies of the communication must have been sent to all parties to the matter and to all other agency members; or

2. if the communication is oral, it must take place at a public meeting after reasonable notice of the time and place of the meeting has been given to all parties and to all other agency members.

E.-H. [Reletter as F.-I.]

6 MCAR S 4.3013 Confidential information.

A. Certification. In order to certify records, information, or objects for the confidential use of the agency, an owner, operator, or other person qualified by law, shall submit to the director a written statement setting forth those statutory grounds that require the agency to keep the records, information, or objects confidential. Any certification of records or information that applies to water pollution sources must be approved by the director. These records and information shall not be released unless the director denies the certification request. Whenever the director denies a certification request, the director shall notify the certifier of the denial at least three working days prior to making the records or information available to the public. The certifier may withdraw the records or information if such an option is available to him.

B. Filing. All certified records, information, or objects must be appropriately identified and segregated at the offices of the agency.

C. Agency use. Certified records, information, and objects, when approved by the director if required, are only for the confidential use of the agency. However, confidential information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air, and land resources so long as these analyses or summaries do not identify any owner or operator who has so certified.

D. Release authorization. Confidential information may be released when the agency is specifically authorized to do so by statute.

E. Denial of request. Certified records or information that apply to water pollution sources may be released if the director denies the certification request. The provisions of A. apply to this release.

F. Federal law. Regardless of whether records or information are certified confidential, the agency may disclose

any information which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure. Whenever the agency is required to release certified information pursuant to federal law, the director shall notify the certifier of this requirement at least three working days prior to making the records or information available to the public. The certifier may withdraw this information if such an option is available.

G. Use in contested case hearings. Confidential information that is relevant to a matter for which a contested case hearing is being held and which has been made a part of the record, may be considered by the agency in reaching a decision on the matter, but must not be released to the public unless the agency is required by statute to release it. When the agency is required by statute to release the information at the public hearing, the person who certified the information may withdraw the information, but the information shall not be considered by the agency or the hearing examiner in reaching a decision or recommendation on the matter. Whenever confidential information is considered by the agency or a hearing examiner in reaching a decision or recommendation on a matter, that fact must be so stated on the record.

APPROVED AS TO LEGALITY

July 25 19 83

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Ted A. Mathews
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 26 1983
Joan Anderson Growe
Secretary of State

2:45 PM

Rules as Proposed

6 MCAR S 4.3003 Duty of candor.

In all formal or informal negotiations, communications, proceedings, and other dealings between any person and any member, employee, or agent of the agency, it shall be the duty of each person and each member, employee, or agent of the agency to act in good faith and with complete truthfulness, accuracy, disclosure, and candor. ~~Any violation of the aforesaid duty shall be cause for imposition of sanctions as provided in MPCA 11.~~

6 MCAR S 4.3005 Agency meetings.

A.-L. [Unchanged.]

M. Decisions at open meetings. All regular and special meetings of the agency shall be open to the public, and all decisions of the agency shall be made at such meetings; ~~provided, however, that if the chairman, or in his absence, the vice-chairman, determines that the exigencies of time and circumstances warrant, then an agency decision may be made by telephone poll, or other appropriate means. The unavailability of any agency member shall not postpone the making of the decision. If, pursuant to the poll, a majority of all members of the agency cast an identical vote, the decision of the majority shall be an agency decision. In the event that an agency decision is made by telephone poll, or other appropriate means, such decision shall be subject to confirmation at the next agency meeting.~~

N.-Q. [Unchanged.]

6 MCAR S 4.3010 Contested case hearings.

A.-D. [Unchanged.]

E. Ex parte communication. During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:
MVH

conditions:

1. if the communication is in writing, copies of the communication must have been sent to all parties to the matter and to all other agency members; or

2. if the communication is oral, it must take place at a public meeting after reasonable notice of the time and place of the meeting has been given to all parties and to all other agency members.

E.-H. [Reletter as F.-I.]

6 MCAR S 4.3013 Confidential information.

~~(1)~~ A. Certification. In order to certify records, information, or objects for the confidential use of the agency, an owner ~~or~~, operator, or other person qualified by law, shall submit to the director a written statement setting forth those statutory grounds that require the agency to keep the records, information, or objects confidential. Any certification of records or information that applies to water pollution sources must be approved by the director. These records and information shall not be released unless the director denies the certification request. Whenever the director denies a certification request, the director shall notify the certifier of the denial at least three working days prior to making the records or information available to the public. The certifier may withdraw the records or information if such an option is available to him.

~~(2)~~ B. Filing. All certified records, information, or objects must be appropriately identified and segregated at the offices of the agency.

~~(3)~~ C. Agency use. Certified records, information, and objects, when approved by the director if required, are only for the confidential use of the agency. However, confidential information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air, and land resources so long as these analyses or summaries do not identify any owner or operator who has so certified.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~(4)~~ D. Release authorization. Confidential information may be released when the agency is specifically authorized to do so by ~~the person who certified the records, information, or objects~~ statute.

~~(5)~~ E. Denial of request. Certified records or information that apply to water pollution sources may be released if the director denies the certification request. The provisions of ~~(1)~~ A. apply to this release.

~~(6)~~ F. Federal law. Regardless of whether records or information are certified confidential, the agency may disclose any information which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure. Whenever the agency is required to release certified information pursuant to federal law, ~~he~~ the director shall notify the certifier of this requirement at least three working days prior to making the records or information available to the public. The certifier may withdraw this information if such an option is available.

~~(7)~~ G. Use in contested case hearings. Confidential information that is relevant to a matter for which a ~~public~~ contested case hearing is being held and which has been made a part of the record, may be considered by the agency in reaching a decision on the matter, but must not be released to the public unless the agency is required by statute to release it. When the agency is required by statute to release the information at the public hearing, the person who certified the information may withdraw the information, but the information shall not be considered by the agency or the hearing ~~officer~~ examiner in reaching a decision or recommendation on the matter. Whenever confidential information is considered by the agency or a hearing ~~officer~~ examiner in reaching a decision or recommendation on a matter, that fact must be so stated on the record.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD328

Agency: Pollution Control Agency

Division:

Agency Contact: Dave Christopherson

Rule Numbers: 6 MCAR SS 4.3003; 4.3005; 4.3010; 4.3013

Title: Proposed Rules Governing Procedures Before the Agency

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: March 17, 1983

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Hearing Examiner Allan Klein on the 20th day of May, 1983, at 9:30 a.m. in the Board Room of the Minnesota Pollution Control Agency (Agency), 1935 West County Road B2, Roseville, Minnesota, after proper notice required by Minn. Stat. §14.14 (1982) was served upon all persons, associations, and other interested groups registered with the Agency for that purpose.

After affording all interested persons the opportunity to present written and oral data, statements and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rule amendments,

NOW, THEREFORE, IT IS ORDERED this 28th day of June, 1983, that the attached amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013 are adopted this 28th day of June, 1983, pursuant to the authority vested in the Agency by Minn. Stat. §116.07, subd. 3 (1982).

MINNESOTA POLLUTION CONTROL AGENCY

Cynthia C Jepsen For
VIRGIL HERRICK
Chairman

Sandra Gardebring
SANDRA S. GARDEBRING
Executive Director

Department of Health

Notice of Revised Application by City of Oakdale for Expansion of Primary Service Area

As of March 29, a revised application was submitted by the City of Oakdale with the Department of Health for an expansion of its primary service area to include a base of operations located at Oakdale Fire Department, 6279-50th Street North, Oakdale, Minnesota 55109. The application is considered complete. A notice of application was previously published in the *State Register* on January 18th.

This notice is given pursuant to Minnesota Statutes § 144.802 (1979), which requires that the Commissioner of Health publish the notice in the *State Register* at the applicant's expense, and in a newspaper in the municipality in which the service will be provided, or if no newspaper is published in the municipality, or if the service would be provided in more than one municipality, in a newspaper published at the county seat of the county or counties in which the service would be provided. Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 300 Metro Square Building, Seventh & Robert Streets, St. Paul, Minnesota 55101, before the close of business on April 28th, 1982.

After a public hearing has been held in the municipality in which the service is to be located, the Metropolitan Health Board shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Metropolitan Health Board shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the Metropolitan Health Boards recommendations, the Commissioner of Health shall grant or deny the license to this appliçant.

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Concerning Proposed Amendments to the Minnesota Pollution Control Agency's Rules of Procedure

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is considering amending its Rules of Procedure, PCA 1-13.

All interested or affected persons or groups may submit data or views on the proposed amendments. Statement of information and comment may be made orally or in writing. Comments and information concerning the proposed amendments should be directed to:

Jay M. Heffern
Deputy Executive Director
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 296-7303

All written material received by the agency will become part of the record of any proceeding commenced by the agency to promulgate the rules.

Department of Public Welfare
Income Maintenance Bureau

Notice of Intent to Solicit Outside Opinion on Rule Governing Aid to Families with Dependent Children

Notice is hereby given that the Minnesota Department of Public Welfare is considering proposed amendments to DPW Rule 44 (12 MCAR § 2.004), Aid to Families with Dependent Children. The Aid to Families with Dependent Children program provides cash assistance to qualified families whose resources are not sufficient to meet their needs for food, shelter, clothing, and other essential items.

The amendments being considered by the department include:

a) changes needed to bring the rule into compliance with new federal and state laws and federal regulations;

MPCA EXHIBIT 4

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

ORDER FOR HEARING

IT IS ORDERED this 11th day of April, 1983, that a public hearing on the proposed rule amendments captioned above be held in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113, on Friday, May 20, 1983, commencing at 9:30 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

MINNESOTA POLLUTION
CONTROL AGENCY

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

MPCA EXHIBIT 3

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Sandra S. Gardebring, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that a resolution was adopted at a meeting of the Agency properly called and held on the 22nd day of February, 1983; that a quorum was present at said meeting; that a majority of the Agency voted in favor of the resolution; that the resolution is set forth in the minutes of said meeting and has not been rescinded or modified; and that the resolution states, in relevant part, as follows:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby withdraws the proposed amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010 E., and 4.3013 as published at 7 S.R. 312 (September 13, 1982) and as corrected in the errata at 7 S.R. 506 (October 4, 1982) and proposes the attached amendments to those rules.
>
> BE IT FURTHER RESOLVED, that the Executive Director of the Minnesota Pollution Control Agency is hereby directed to call a hearing for the purpose of adopting the attached amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010 E., and 4.3013, a portion of the Agency's procedural rules, and to perform any and all acts incidental thereto, including without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Agency's representative at all hearings.
>
> BE IT FURTHER RESOLVED, that prior to publishing the proposed rules in the State Register, the Executive Director is authorized to make any form changes in the rules that the

Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required in Minn. Stat. §14.07, Subd. 2 (1982).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11 th day of March, 1983.

Sandra Gardebring
SANDRA S. GARDEBRING
Executive Director

Subscribed and sworn to before me this 11 th day of March, 1983.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

NOTICE OF HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) withdraws the proposed amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010 E., and 4.3013 as published at page 312 of the September 13, 1982, State Register (7 S.R. 312) and as corrected in the Errata published at page 506 of the October 4, 1982, State Register (7 S.R. 506).

Notice is hereby given that the Agency intends to adopt newly proposed amendments to the above-listed rules. A public hearing will be held pursuant to Minn. Stat. §§14.05 - 14.20 (1982), in the above-entitled matter in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, on Friday, May 20, 1983, commencing at 9:30 a.m. The hearing will be continued on subsequent days if necessary at the same location until all persons or representatives have had an opportunity to be heard concerning the adoption of the proposed rule amendments captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The hearing will be conducted by Ms. Phyllis Reha, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7611, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota.

Amendments to the above-captioned rules were first proposed by the Agency as a part of a rulemaking proceeding, held pursuant to Minn. Stat. §§14.21 - 14.28 (1982) without a public hearing, to amend the Agency's procedural rules Minn. Rules MPCA 1-4 and 6-13. See State Register, Volume 7, Number 11, pages 312-320, September 13, 1982, as corrected in the Errata published at State Register, Volume 7, Number 14, Page 506, October 4, 1982. During the public comment period the Agency received more than seven requests for public hearing on the amendments proposed to 6 MCAR §4.3003, 4.3005 M., and 4.3013. On October 26, 1982, the Agency adopted a resolution to hold a rulemaking hearing on the amendments proposed to those three rules and the amendment proposed as 6 MCAR §4.3010 E. The Agency's resolution also adopted the remainder of the amendments, notice of adoption of which was published at State Register, Volume 7, Number 25, pages 957-959, December 20, 1982, and which became effective on December 28, 1982.

On February 22, 1983, the Agency withdrew the amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010 E., and 4.3013 and proposed new amendments to those same rules. The amendments which are the subject of this hearing are the new amendments.

The proposed amendments, if adopted, would:

1. Delete the last sentence of 6 MCAR 4.3003, which contains a cross reference to a rule which has been repealed;

2. Change the word "chairman" to "chairperson" in 6 MCAR §4.3005 M., and delete the provisions of the rules allowing the making of decisions by telephone poll.

3. Add a provision to the rule relating to contested case hearings (6 MCAR §4.3010) which prohibits ex parte communications with Agency members during the pendency of a contested case hearing.

4. Make minor stylistic and clarifying changes to 6 MCAR §4.3013. The amendments also extend the required notice period from three calendar days to three working days where the Director intends to release to the public information which was 1) requested to be certified as confidential, or 2) certified as confidential but required to be released by federal law.

One free copy of the newly proposed rule amendments may be obtained by contacting David Christopherson, Minnesota Pollution Control Agency, Roseville, Minnesota 55113, telephone (612) 296-7711.

The Agency's authority to promulgate the proposed rule amendments is contained in Minn. Stat. §116.07, subd. 3 (1982).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Agency offices and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying the need for and reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. The Statement of Need and Reasonableness may also be obtained by contacting David Christopherson at the address and telephone number stated above.

This proceeding is governed by Minn. Stat. §§14.05 - 14.20 (1982) and by the rules of the Office of Administrative Hearings, 9 MCAR §§2.101-2.113, and by other applicable requirements of state law. The hearing will be conducted so all interested persons will have an opportunity to participate. Any person having questions concerning the proceeding may telephone or write to the Hearing Examiner.

Upon completion of the hearing, the record will remain open for five working days, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. Any person may submit written statements to the Hearing Examiner during this period.

Please be advised that the proposed rule amendments are subject to change as a result of the rule hearing process. The Agency urges those who are interested to any extent in the proposed rule, including those who support the rule as proposed, to participate in the rule hearing process.

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

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. §10A.01 (1982) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with pubic officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for

the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

Dated: MARCH 11, 1983

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

John Caflisch, being duly sworn, deposes and says:

That on the 13th day of April, 1983, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Hearing by depositing in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

John H. Caflisch

Subscribed and sworn to before me this 13th day of April, 1983.

Margaret Frank
Notary Public

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

MPCA HEARING NOTIFICATION
MAILING LIST
PAGE 1

PAUL DENEKA
INNEGASCO
DR LAB & ENVIRON PRGMS
6161 GOLDEN VALLEY RD
MPLS MN 55422 1

LAKE SUPERIOR
INDUSTRIAL BUREAU
828 FIRST NATIONAL BANK
DULUTH MN 55802 1

U OF M PHYSICAL PLANT DEPT
ATTN ROBERT SILVAGNI
200 SHOPS BLDG
319 15TH AVE SE
MPLS MN 55455 1

MN RETAIL MERCHANTS ASSOC
ATTN JOHN E VAN DOORN, PR
180 METRO SQUARE BLDG
ST PAUL MN 55101

N S P LAW DEPT
ATTN JOSEPH D BIZZANO JR
414 NICOLLET MALL
MPLS MN 55401 1

GENERAL MILLS INC
ATTN J W HAUN
P O BOX 1113
MPLS MN 55440 1

IOWA DEPT ENVIRON QUALITY
ATTN STEVEN N WILLIAMS
HENRY A WALLACE BLDG
DES MOINES IA 50319 1

ORTHERN STATES POWER CO
TTN G V WELK MANAGER
EG COMPLIANCE AND SERV
14 NICOLLET MALL
PLS MN 55401 1

HESSIAN MCKASY & SODERBERG
ATTN MR JOHN A KNAPP
1500 MIDWEST PLAZA BLDG
MPLS MN 55402 1

MPIRG
ATTN KENNETH PETERSON
2412 UNIVERSITY AVE SE
MPLS MN 55414 1

MN MULTI HOUSING ASSOC
ATTN JOHN G HORNER
3100 W LAKE ST
MPLS MN 55416 1

MN ASSOC HEALTH CARE FAC
ATTN RICK CARTER
2850 METRO DRIVE SUITE 429
MPLS MN 55420 1

MPIRG
ATTN JAMES MILLER
2412 UNIVERSITY AVE SE
MPLS MN 55414 1

HOLMES & GRAVEN
ATTN LARRY M WERTHEIM
470 PILLSBURY CENTER
MINNEAPOLIS MN 55402 1

PETERSON POPOVICH KNUTSON
& FLYNN LAW OFFICE
ATTN PETER S POPOVICH
345 CEDAR BLDG SUITE 800
ST PAUL MN 55101 1

GEO A HORMEL & CO
ATTN KEVIN C JONES
BOX 800
AUSTIN MN 55912 1

POTLATCH CORPORATION
ATTN MR ARCHIE D CHELSETH
BOX 510
CLOQUET MN 55720 1

JONES HAUGH & SMITH INC
515 SOUTH WASHINGTON
ALBERT LEA MN 56007 1

ASHLAND PETROLEUM COMPANY
ATTN RICHARD HETLAND
P O BOX 9
ST PAUL PARK MN 55071 1

ANOKA CO COMM HEALTH &
SOCIAL SERV DEPT
ATTN GERTRUDE M JAMES
COURTHOUSE 4TH FL
ANOKA MN 55303 1

WILLIAM MITCHELL COLLEGE
OF LAW
ATTN PROF MARCIA GELPE
875 SUMMIT AVE
ST PAUL MN 55102 1

BLANDIN PAPER COMPANY
ATTN W J LICKE
115 FIRST STREET SW
GRAND RAPIDS MN 55744 1

FEDERAL STATE REPORTS INC
ATTN STATE REG DIV
1203 LEESBURG PIKE
SUITE 1201
FALLS CHURCH VA 22041 1

COLOR-AD PACKAGING INC
ATTN MICHAEL S KECKEISEN
3600 ALABAMA AVE
MPLS MN 55416 1

ROBERT S BURK
4344 IDS CENTER
MINNEAPOLIS MN 55402 1

LAKE MINNETONKA CONS DIST
402 E LAKE ST
WAYZATA MN 55391 1

THE SHERWIN-WILLIAMS CO
ATTN D A COHAGAN
101 PROSPECT AVE NW
CLEVELAND OH 44115 1

METRO CLEAN AIR COMMITTEE
1829 PORTLAND AVENUE
MINNEAPOLIS MN 55404 1

rbara L. Hughes P
naging Director
. Lung Ass'n Ramsey Cty
4 Portland Ave.
. Paul, MN 55102 1

DAVID MARQUETTE
MARSH & McLENNAN
1500 NORTH STAR CENTER
MPLS MN 55402 1

CONWED
ATTN K J POWELL
444 CEDAR STREET
P O BOX 43237

LYNDA WEIS
326 BRIMHALL
ST PAUL MN 55105

MN MOTOR TRANSPORT ASSOC
ATTN JAMES N DENN
1821 UNIVERSITY RM 134N
ST PAUL MN 55104 2

MAC ARTHUR CO
2400 WYCLIFF STREET
ST PAUL MN 55114 2

JNITED POWER ASSOC
ATTN REYNOLD S RAHKO
PROJECTS COORD DIVISION
ELK RIVER MN 55330 2

THE PILLSBURY COMPANY
ATTN CARL A SMITH
608 2ND AVE SOUTH
MPLS MN 55402 2

INDUST HEALTH ENG ASSOC I
ATTN KNOWLTON J CAPLAN
P O BOX 9342
MPLS MN 55440 2

COMM HEALTH SERV BRD
ATTN BRUCE T ROWE
325 LAKE AVENUE S SUITE 604
DULUTH MN 55802 2

CITY OF WINONA
ATTN ROBERT J BOLLANT
4TH & LAFAYETTE ST
WINONA MN 55987 2

MOSS FLAHERTY CLARKSON &
FLETCHER LAW OFFICES
1200 PILLSBURY CENTER
200 SO 6TH STREET
MPLS MN 55402 2

L P O D LAW OFFICES
ATTN JOHN E DRAWZ
1100 FIRST NAT BANK BLDG
MPLS MN 55402 2

ASSOC OF MN COUNTIES-
ATTN JAMES C SHIPMAN
2305 FORD PARKWAY
ST PAUL MN 55116 2

DAKOTA COUNTY ATTORNEY
ROBERT F CAROLAN
1560 HIGHWAY 55
HASTINGS MN 55033 2

SHELDAHL
ATTN DAVID MILLER
I HWY 3
NORTHFIELD MN 55057 2

OLSON GUNN & SERAN LTD
ATTN WAYNE H OLSON ESQ
315 PEAVEY BLDG
730 SECOND AVE SOUTH
MPLS MN 55402 2

AM CRYSTAL SUGAR CO
ATTN MR I V FORDYCE
101 NO THIRD ST
MOORHEAD MN 56560 2

IN RAILROADS ASSOC
ATTN GORDON FORBES
303 HANOVER BLDG
380 CEDAR ST
ST PAUL MN 55101 2

PAUL J HUBER LTD
1821 UNIVERSITY AVE
ST PAUL MN 55104 2

JOHN AULBACH II 2 LT.MSC
DEPT OF ARMY
US ARMY ENV HYGIENE AGENCY
FITZSIMONS ARMY MED CENTER
AURORA CO 80045 2

Dave Kolbert, Chairman
MN COUN TROUT UNLIMITED
675 E. River Road
Rochester, MN 55901 2

IBM CORPORATION
ATTN J P HARMON
DEPT 713/BLDG 658-D
ROCHESTER MN 55901 2

EPA REGION V
ATTN KATHY BROWN
230 S DEARBORN ST
CHICAGO IL 60604 2

MN PETROLEUM COUNCIL
ATTN WILLIAM HADDELAND
1200 NORTHERN FEDERAL BLDG
ST PAUL MN 55102 2

FEDERAL-STATE REPORTS INC
ATTN BONNIE M SPENCER
5203 LEESBURG PIKE #1201
BAILEYS CROSSROADS
FALLS CHURCH VA 22041 2

MINNEAPOLIS TRIBUNE
ATTN BOB FRANKLIN
425 PORTLAND AVE
MPLS MN 55488 2

OLTON & MENK INC
ATTN THOMAS A ROUSHAR
15 N FRONT ST
MANKATO MN 56001 2

MS SHAILLA REGNIER
R R 1 BOX 419
STEWARTVILLE MN 55976 2

PICKANDS MATHER & CO
ATTN T J MATTHEW
1100 SUPERIOR AVE NE
CLEVELAND OH 44114 2

TOM CASEY
CHAMBER OF COMMERCE
212 1st AVE S.W.
ROCHESTER MN 55901 2

STEVEN LEBEAU
623 SO 9th ST APT 6
MPLS MN 55404

MS MARY STANTON
STAFF ASSOC/LEGISLATIVE
STATE UNIVERSITY SYSTEM
407 CAPITOL SQUARE BLDG
550 CEDAR STREET

ICKANDS MATHER & CO
TTN CHUCK HOFFMAN
00 WEST SUPERIOR ST
UITE 811
ULUTH MN 55802 3

DOUGLAS HILDRE
NORTHERN ORDINANCE DIV.
FMC CORP.
4800 E RIVER ROAD
MINNEAPOLIS MN 55421 3

MN CHAPTER OF ABC
ATTN DONALD E MONTGOMERY
6300 WALKER ST SUITE 109
MPLS MN 55416 3

NORTH STAR STEEL CO
ATTN MR R A GARVEY
1678 RED TOCK TD
P O BOX 43189 3
ST PAUL MN 55164

COOPERATIVE POWER ASSOC
ATTN WILLIAM KAUL
14615 LONE OAK ROAD
EDEN PRAIRIE MN 55344 3

ROBT J PUGLEASA CO INC
ATTN GENE A BROWN
61 BEDFORD ST SE
MPLS MN 55414 3

MINNKOTA POWER COOP INC
ATTN LOREN L JOHNSON
BOX 1318
GRAND FORKS MN 58201 3

DAVID BRASLAU ASSOCIATES
2829 UNIVERSITY AVE SE
SUITE 342
MINNEAPOLIS MN 55414 3

PERRY GRUBB ASSOC INC
ATTN CHARLES R SINGER
771 HARDING ST NE
MPLS MN 55413 3

DULUTH MISSABE & IRON
RANGE RAILWAY CO
210 MISSABE BLDG
DULUTH MN 55802 3

CONWED
ATTN GEORGE A LEONE
444 CEDAR ST
PO BOX 43237
ST PAUL MN 55164-0237 3

LAW OFFICES
ATTN DONALD B CRASSWELLER
1000 ALWORTH BUILDING
DULUTH MN 55802 3

MR HENRY CHISHOLM
OGLEBAY NORTON CO
P O BOX 6508
CLEVELAND OHIO 44101 3

MANAGER
ENVIR. PLANNING
ROOM 807
TRANSPORTATION BLDG
ST PAUL MN 55155 3

THOMAS M POLT
ATTORNEY AT LAW
MCCARTHY BLDG
EYOTA MN 55934 3

ROBERT E ISAKSON
CONSULTING ENGINEERS
DIVERSIFIED INC
P O BOX J 3
OSSEO MN 55369

RAMSEY CO ENVIR HEALTH
ATTN DOUGLAS WOOD
1910 W CO RD B
ROSEVILLE MN 55113 3

BURLINGTON NORTHERN INC
ATTN J D GIALLOMBARDO
176 EAST FIFTH ST RM 1280
ST PAUL MN 55101
3

GEORGE MASTOR
LEGAL DIVISION
MINNESOTA GAS CO
300 PEAVEY BLDG
MINNEAPOLIS MN 55402 3

KRIS ANNE MONTEITH
SF&A REPORTING SERVICES
1101 15TH ST NW
WASHINGTON DC 20005 3

RICE COUNTY PLANNING OFF
610 NW 20TH STREET
PO BOX 40
FARIBAULT MN 55021 3

DAMES & MOORE
ATTN GEORGE NICHOLAS
1550 NORTHWEST HIGHWAY
PARK RIDGE ILL 60068
3

UNITED POWER ASSOC
ATTN MICHAEL V OBRIEN
ENVIRONMENTAL & LAND DIV
ELK RIVER MN 55330 3

CALC
ATTN PAM BARBOUR
122 W FRANKLIN AVE RM 302
MINNEAPOLIS MN 55404 3

STEVE LOUCKS
EMT
ROOM 137
1935 W COUNTY RD B2
ROSEVILLE MN 55113 3

MIKE SHOTLAND REP
513 1ST AVE E APT 16
WEST FARGO ND 58078
3

HEALTH & SOCIAL SERVICES
ATTN ROBERT HUTCHISON
COURTHOUSE-4TH FLOOR
ANOKA MN 55303 3

MRS R SCHOENBORN
CORPORATE LIBRARIAN
THERMO-KING
314 W 90TH STREET
MINNEAPOLIS MN 55420 3

PRESIDENT
INTERSTATE POWER CO
1000 MAIN ST
DUBUQUE IA 52001 4

PHILLIPS LEGIS. SERVICES
459 RICE ST
ST PAUL MN 55103 4

DAVID GURNEY
ENVIR. HEALTH ENGIN.
DAKOTA CNTY GOV. CENTER
1560 HWY 55
HASTINGS MN 55033 4

D H G & G ATTORNEYS AT LAW
ATTN JOHN HERMAN
TEN SOUTH FIFTH ST
SUITE 930
MPLS MN 55401 4

MIDLAND GLASS COMPANY INC
ATTN R J BARTO
P O BOX 69 SHAK
SHAKOPEE MN 55379 4

BURLINGTON NORTHERN
LAW DEPARTMENT
176 EAST FIFTH STREET
ST PAUL MN 55101 4

WOLVERTON ENGINEERING CO
847 40TH AVENUE NE
COLUMBIA HTS MN 55421 4

DAIRYLAND POWER COOP
ATTN THOMAS A STELLIS
P O BOX 817
2615 EAST AVENUE S
LA CROSSE WI 54601 4

ROCHESTER PUBLIC UTILITIES
ATTN JOSEPH HENSEL
506 FIRST AVENUE NE
BOX 6057
ROCHESTER MN 55901 4

SARGENT & LUNDY ENGINEERS
55 EAST MONROE STREET
CHICAGO IL 60603 4

HENNINGSON DURHAM & RICH.
POWER AND ENERGY DIV.
ATTN DALE MCMICHAEL
300 PARKDALE 1 BLDG
5401 GAMBLE DRIVE
MPLS MN 55416 4

LAND O LAKES
ATTN JAMES A BOSCH
4001 LEXINGTON AVE N
ARDEN HILLS MN 55112 4

INTERNATIONAL ECO SOCIETY
ATTN R J F KRAMER
1471 BARCLAY STREET
ST PAUL MN 55106 4

DELANEY THOMPSON & SOLUM
ATTN ERIC W INGVALDSON
700 GALAXY BLDG
330 SECOND AVE SOUTH
MPLS MN 55401 4

CONRAD M FREDIN
ATTORNEY AT LAW
811 FIRST NAT BANK BLDG
DULUTH MN 55802 4

U OF M ATTN ROBERT SNYDER
248 CLASSROOM OFFICE BLDG
1994 BUFORD AVE
ST PAUL MN 55108 4

KSTP AM RADIO
ATTN J B ECKERT
3415 UNIVERSITY AVE
ST PAUL MN 55114 4

KOPPERS COMPANY INC
ATTN JORDAN M DERN
1201 KOPPERS BUILDING
PITTSBURGH PA 15219 4

THE ISAAK WALTON LEAGUE
OF AMERICA INCORPORATED
3255 HENNEPIN AVE S # 109
MINNEAPOLIS MN 55408 4

DORSEY & WHITNEY
ATTN BECKY A COMSTOCK
2200 FIRST BANK PLACE EAS
MINNEAPOLIS MN 55402 4

BETTY SIMS
2149 GOODRICH AVE
ST PAUL MN 55105 4

ENVIRONMENTAL TASK FORCE
1346 CONNECTICUT AVE NW
SUITE 730
WASHINGTON DC 20036 4

WM MITCHELL COLLEGE OF LAW
ATTN RENEE BELOY
875 SUMMIT AVE
ST PAUL MN 55105 4

REGION NINE DEVELP COMM
ATTN LYNNETTE REINEKE WIES
410 S 5TH ST P O BOX 3367
MANKATO MN 56001 4

MN NEWSPAPER ASSOC
845 6TH ST SUITE 400
MPLS MN 55402 4

LIBBIE HENDERSON
305 LAFOND AVE
ST PAUL MN 55103 4

ICASI
ATTN REID MINER
ENTRAL LAKE ST REG CE
ESTERN MICHIGAN UNIVERSITY
ALAMAZOO MI 49008 5

BLACK & VEATCH/MICHIGAN
ATTN ENVIRONMENTAL SPECIAL
200 RENAISSANCE CE # 1220
DETROIT MI 48243
5

KFIL RADIO
ATTN ERNIE HAIN
P O BOX 377
PRESTON MN 55965 5

TENNECO INC
ATTN B J WHITLEY CEP
1100 MILAM BLDG
HOUSTON TX 77001
5

STEARNS COUNTY PLAN DEPT
ATTN KENNETH HOPKE
BOX 604
ST CLOUD MN 56301 5

FINANCE AND COMMERCE
THE DAILY BUSINESS NEWS
615 SOUTH 7TH STREET
MPLS MN 55415 5

MOTORCYCLE INDUSTRY COUNCI
1235 JEFFERSON DAVIS HWY
SUITE 1410
ARLINGTON VA 22202
5

AGRI-GROWTH COUNCIL
TN PATRICIA KLOCKE
50 METRO DRIVE SUITE 725
INNEAPOLIS MN 55420
5

HAMLINE U LAW SCHOOL
PUBLIC INTEREST CLINIC
ATTN BARBARA JOHNSON
ST PAUL MN 55104
5

TECH SALES CO
ATTN DON REGER
311 WEST 44TH STREET
MPLS MN 55409 5

ELLSWORTH HARPOLE
1906 THIRD AVE S APT 35
MINNEAPOLIS MN 55404
5

ENVIR ENG & POLLUTION
CONTROL/3M: 21-2W-06
DAVID M BENFORADO PE
P O BOX 33331
ST PAUL MN 55133 5

LANDIN WOOD PRODUCTS CO
TTN CURT R FIRMAN
AFERBOARD PLANT SITE BOX N
RAND RAPIDS MN 55744
5

ST PETER
VALLEYNEWS
210 WEST BROADWAY
ST PETER MN 56082 5

COOPERATIVE POWER ASSOC
ATTN SCOTT SCHULER
14615 LONE OAK ROAD
EDEN PRAIRIE MN 55344
5

RUCE E BENSON
ONING OFFICER
OURTHOUSE
ARLSON MN 55718 5

KEVIN HOFSTAD
1323 E 22ND ST #101
MPLS MN 55404
5

BARBARA JOHNSON
1636 TAYLOR AVE
ST PAUL MN 55104
5

EWS EDITOR
EGISTER-MIRROR
1414 SOO LINE BLDG
PLS MN 55402
5

PILLSBURY CO
ATTN DENTON SCHNEIDER
608 2ND AVE S
MPLS MN 55402
5

ANN [illegible]
[illegible]
ST PAUL MN 55104
5

LITTON INDUSTRIES
ATTN NATALIE GAUTE
P O BOX 9461
MPLS MN 55420
5

EN KADLER
62 HOLLY AVE
T PAUL MN 55104
6

ADGER SAFE ENERGY ALLI
OX 68
JRAND WI 54736
6

E GRAMMER
110 E 4TH AVE
IBBING MN 55746
6

L KURKI
904 W 3RD ST
JLUTH MN 55806
6

ASSN OF MN COUNTIES
SUITE 300
555 PARK STREET
ST. PAUL, MN 55103
6

AMLINE U SCHOOL OF LAW
JBLIC INTEREST LD
OVOCACY CLINIC
T PAUL MN 55104
6

FORREST SEYMOUR
4537 33rd AVE SO
MPLS MN 55406
6

ELSON FRENCH
15 E 26TH ST
PLS MN 55406
6

RON WALLACE
1790 DAYTON AVE.
ST. PAUL MN 55104
6

[illegible]
17 [illegible] ST
T PAUL MN 5510[illegible]
returned
6

GREG LARSON
MN ENV QUALITY BOARD
550 CEDAR STREET
ST PAUL MN 55101
6

THE MINNESOTA PROJECT
ATTN LONI KEMP
618 E 22ND ST
MPLS MN 55404
6

BROEKER HARTFELDT HEDGES &
GRANT ATTORNEY AT LAW
ATTN JOHN M BROEKER
2850 METRO DRIVE SUITE 800
MPLS MN 55420
6

CITY OF BROOKLYN CENTER
ATTN PATTY PAGE
6301 SHINGLE CREEK PKWY
BROOKLYN CE MN 55430
6

POPHAM HAIK LAW FIRM
ATTN G ROBERT JOHNSON
4344 IDS CENTER
MPLS MN 55402
6

HARDIA RIEKE
2100 28TH AVE S
MPLS MN 55406
6

A B SCHAEFER JR
14900 61ST ST N
STILLWATER MN 55082
6

ROBERT LOCKYEAR
14900 61ST ST N
STILLWATER MN 55082
6

M NEAL [illegible]
14900 61ST ST N
STILLWATER MN 55082
6

PAUL BRANDT
14900 61ST ST N
STILLWATER MN 55082
6

B. J. WHITLEY, JR.
1100 MILAM BLDG.
P. O. BOX 2511
HOUSTON, TX 77001
6

JACQUELYNE FARM
385 W CO RD B2
ROSEVILLE MN 55113
6

ENVIRONMENTAL ENGINEERING
& POLLUTION CONTROL/3M
ATTN THOMAS ZOSEL
P O BOX 33331
ST PAUL MN 55133
6

MOBIL OIL
ATTN PETE GATES
P O BOX 66568
AMF O'HARE IL 60666
6

DORSEY LAW FIRM
ATTN PHIL CHEN
2300 1ST NATL BANK BLDG
MPLS MN 55402
6

INDUSTRIAL FABRICATORS CO
P O BOX 1561
JACKSON TN 38301
6

LIBRARY, MINISTRY OF ENV.
PARLIAMENT BLDG
VICTORIA, BRITISH CO.V8V1X
CANADA

EDWIN H [illegible]
3920 [illegible]
MPLS MN 55406
6

FRUNDT FRUI[illegible]
117 WEST [illegible]
BLUE EARTH MN 56013
6

RELIANCE [illegible]
ATTN PAUL H [illegible]
ROBINSON [illegible]
4730 [illegible]
LOUISVILLE KY 40235

MPCA HEARING NOTIFICATION
MAILING LIST
PAGE 7

PULP & PAPER
ATTN PAULA IRONS
500 HOWARD ST
SAN FRANCISCO CA 94105
7

C.W. BERGSTROM
DIV. CHIEF ENGINEER
AMOCO PIPELINE CO.
2200 S. MAIN ST.
LOMBARD IL 60148
7

PI INC
TTN TERRY WOLD
366 ROSE PLACE
T PAUL MN 55113
7

HE HEALTH CENTRAL SYSTEM
TTN DONALD G ROBIDA
01 BROOKDALE TOWERS
810 FIFTY SEVENTH AVE N
PLS MN 55430
7

CENEX
ATTN RALPH SCHLETTY
BOX 43089
ST PAUL MN 55164
7

BOISE CASCADE CORPORATION
ATTN MR RUSS SUMMER
ENVIRONMENTAL ENGINEER
INTERNATIONAL FALLS MN
56649
7

PA REGION V
TTN DAVE ULLRICH
30 S DEARBORN ST
HICAGO IL 60604
7

AMES & MOORE
TTN LARRY ARNEN
550 NW HWY
ARK RIDGE IL 60068
7

GOULD INC
PORTABLE BATTERY DIVISION
ATTN DOUGLAS ROBAHM
931 VANDALIA ST
ST PAUL MN 55114
7

CLEAR AIR CLEAR WATER
STEVE CHAPMAN
BOX 8597
WHITE BEAR LAKE MN 55110
7

RICHARD L BUTLER
2600 PARKWOOD DR APT 218
BURNSVILLE MN 55337
7

PICKANDS MATHER & CO
ATTN THOMAS W HAYES
SUITE 811-200 W SUPERIOR ST
DULUTH MN 55802
7

BENDIX
ENVIR & PROCESS INST DIV
P O DRAWER 831
LEWISBURG W VA 24901
7

PAUL WEIR CO
ATTN MARY VACULA
20 NORTH WACKER DR
CHICAGO IL 60606
7

ST PAUL PUBLIC HEALTH
ATTN DR PAUL J COX
555 CEDAR ST
ST PAUL MN 55101
7

FEDERAL-STATE REPORTS INC
ATTN LOU O'BOYLE
5203 LEESBURG PIKE #1201
BAILEYS CROSSROADS
FALLS CHURCH VA 22041
7

OFFICE OF ADMIN HEARINGS
ATTN SAM RUHLE
400 SUMMIT BANK BLDG
310 S FOURTH AVE
MPLS MN 55415
7

MICHAEL HENNEN
4608 ALDRICH AVE S
MPLS MN 55409
7

SHELL ENGINEERING & ASSOC
1804 VANDIVER DRIVE
PO BOX 548
COLUMBIA MO 65205
7

E I DU PONT DE NEMOURS CO
ATTN DAVID T MODI
LEGAL DEPT (D7082)
1007 MARKET STREET
WILMINGTON DE 19898
7

UNION CARBIDE CORP
ATTN C E VAN DEK
OLD RIDGEBURY RD
DANBURY CT 06820
7

LEAGUE OF MINNESOTA CITIES
ATTN DON SLATER
183 UNIVERSITY AVE EAST
ST PAUL MN 55101
7

CITIZENS FOR BETTER ENVIR
ATTN CAROLE BARTH
127 7TH ST N
SUITE 204
MPLS MN 55403
7

ERM-NORTH CENTRAL INC
ATTN SUSAN HOGLUND
200 SOUTH PROSPECT AVE
PARK RIDGE IL 60068
7

ENVIR RESEARCH GROUP
ATTN SALES & MARKETING
PO BOX 70006
135 STATE ST
ST PAUL MN 55107
7

M & M PROTECT CONSULTANTS
ATTN WM R HOYT
1500 NORTH STAR CENTER
MPLS MN 55402
7

MINNESOTA FARMERS UNION
ATTN MARK McAFEE
1717 UNIVERSITY
ST PAUL MN 55104
7

MN CONSERVATION FED
DIANE KELLY
4354 HARRIET AVE SO
MPLS MN 55409
7

SECURE OUR SOCIETY INC
ATTN LESLIE DAVIS
2124 LOWER ST PENNIS RD
ST PAUL MN 55116
7

VAN HOVEN CO INC
ATTN ED VAN HOVEN JR
BOX 56
SO ST PAUL MN 55075
7

NATL RENDERERS ASSO INC
ATTN WILLIAM H PROKOP
2250 EAST DEVON AVE
DES PLAINES IL 60018
7

DAVID H. FASS
HEMATOLOGY [illegible]
MAYO CLINIC [illegible]
ROCHESTER MN 55901

PCA HEARING NOTIFICATION
AILING LIST
NTER OFFICE

EPT OF EDUCATION
TTN FREDRIK M CHRISTIANSEN
M 911 CAPITOL SQ BLDG
T PAUL MN 55101

EPT OF ECONOMIC DVLPMT
TTN KENT E EKLUND
80 CEDAR ST
T PAUL MN 55101

EPT OF ECONOMIC DVLPMT
TTN RICHARD C BUSKE
80 CEDAR ST
T PAUL MN 55101

EPT OF ECONOMIC DVLPMT
TTN CHARLES SCHAFFER
80 CEDAR ST
T PAUL MN 55101

N DEPT OF HEALTH
TTN MARGARET SANDBERG
OMMUNITY DEVELOPMENT
17 DELAWARE ST SE
PLS MN 55440

WATER RESOURCES BOARD
555 WABASHA RM 206
ST. PAUL MN 55102

LEGISLATIVE COMM TO
REVIEW ADMIN RULES
ATTN KATHLEEN LUISE
RM 430
STATE OFFICE BLDG

N DEPT ECONOMIC SECURITY
TTN F JAMES REBAK RMD
90 AM CO 150 E KELLOGG
T PAUL MN 55101

OFF OF LEGISLATIVE AUDITOR
ATTN ALLAN BAUMGARTEN
PROGRAM EVALUATION SPEC
122 VETERANS SERV BLDG
ST PAUL MN 55155

LEGISLATIVE COMM ON
WASTE MANAGEMENT
ATTN SUE ROBERTSON
B-46
STATE CAPITOL

ATTORNEY GENERAL'S OFFICE
ANTITRUST DIVISION
2ND FLOOR FORD BLDG
117 UNIVERSITY AVE

DEPT OF AGRICULTURE
AGRONOMY SERVICES
ATTN GARY BRAUN
90 W PLATO BLVD
ST PAUL MN 55107

MEEB CENTRAL OFFICE
ATTN RAY QUINN
BOX 5 CENTENNIAL BLDG
ST PAUL MN

SENATE COUNCIL OFFICE
ATTN ALAN WILLIAMS
RM 480
STATE OFFICE BLDG
ST PAUL MN 55155

BRD OF ARCH ENG LAND SURV
AND LANDSCAPE ARCHITECTURE
ATTN LOWELL E TORSETH
500 METRO SQUARE
ST PAUL MN 55101

MN DEPT OF HEALTH
ATTN JAMES WISNOWSKI
717 Delaware St. SE
MPLS MN 55440

SCIENCE & TECH OFFICE
ATTN JOE
RM 49 STATE OFFICE BLDG
ST PAUL MN 55155

WATER PLANNING BOARD
RM 600 AMERICAN CTR BLDG
150 E. KELLOGG BLVD.

METROPOLITAN COUNCIL
ATTN JOHN T HOEFT
300 METRO SQ BLDG
7TH ST & ROBERT ST
ST PAUL MN 55101

PRESS/MN GOVT REPORT
ATTN JEAN DAWSON
RM B12 CAPITOL BLDG
ST PAUL MN 55155

MPCA HEARING NOTIFICATION
MAILING LIST
AIR QUALITY REQUESTS

NSP
ATTN ED SCHENTZEL
REGULATORY LIAISON
414 NICOLLET MALL
MPLS MN 55401 AQ

DAIRYLAND POWER COOP
ATTN ERIC HENNEN
PO BOX 817
2615 EAST AVE SO
LA CROSSE WI 54601 AQ

METRO AIRPORTS COMM
ATTN DIR OF OPERATIONS
6040 28TH AVE S
MPLS MN 55450 AQ

KIBCOR ENGINEERING CO
ATTN BERNARD TRENDA
3424 WOODDALE AVE
MPLS MN 55416 AQ

WINONA DAILY NEWS
ATTN DON STUART
101 N FRANKLIN
WINONA MN 55987 OLMSTED WINONA COUNTIES

IOWA DEPT ENVIR QUALITY
ATTN CHARLES MILLER
9TH & GRAND
DE MOINES IA 50319 AQ

CVB ENGINEERING
ATTN THOMAS STERN
5176 OLSON MEM HWY
GOLDEN VALLEY MN 55422 AQ

INTERN MINERAL & CHEM CORP
ENVIR & SAFETY OPERATIONS
121 E HANLEY ST
TUNDELEIN IL 60060 AQ

W PULP & PAPER
ATTN HEIDI SCHULTZ
155 116TH AVE NE SUITE 266
BELLEVUE WA 98004 AQ

CORBIN S KIDDER
442 SUMMIT AVE APT #2
ST PAUL MN 55102 AQ

BARBARA KNAPP
9508 BRUNSWICK CIRCLE
BLOOMINGTON MN 55438 AQ & ACID RAIN

VAN HOVEN CO INC
ATTN ED VAN HOVEN JR
BOX 56
SO ST PAUL MN 55075 AQ

NATIONAL RENDERERS ASSO INC
ATTN WILLIAM H PROKOP
2250 EAST DEVON AVE
DES PLAINES IL 60018 AQ

ADH & SEALANT COUNCIL
1600 N WILSON BLVD
SUITE 910
ARLINGTON VA 22209 AQ

IPCA HEARING NOTIFICATION
AILING LIST
ATER QUALITY REQUESTS

TEVEN BUCHANAN
IPLS AUDUBON
552 ALDRICH AVE S
IPLS MN 55409 WQ

DAVID MARQUETTE
MARSH & McLENNAN
1500 NORTHSTAR CENTER
MPLS, MN 55402

IETRO AIRPORTS COMM
ATTN DIR OF OPERATIONS
040 28TH AVE S
IPLS MN 55450
WQ

CRDC
19 SOUTH LAKE STREET
ORA MN 55051 WQ

INONA DAILY NEWS
ATTN DON STUART
01 N FRANKLIN
INONA MN 55987

OLMSTED
WINONA
COUNTIES

OHN NORDENSEN
907 18TH AVE S
IPLS MN 55417 WQ

HEMFIX INC
ATTN H HUDSON BUZBEE
675 AIRLINE HWY
O BOX 1572
ENNER LA 70063 WQ

NFORMATION NEWS SERVICE
54 NATIONAL PRESS BLDG
ASHINGTON DC 20045 WQ

NIVERSITY OF MN
ATTN LASZLO PULOP
IR OF PHYSICAL PLANNING
03 MORRILL HALL
IPLS MN 55455 WQ

NION OIL COMPANY OF CA
ATTN DIANE DUNCAN
O BOX 7600
OS ANGELES CA 90051 WQ

ARBARA KNAPP
1508 BRUNSWICK CIRCLE
LOOMINGTON MN 55438

ACID RAIN

MAILING LIST
SOLID & HAZ WASTE REQUESTS

CHAIRMAN OF FAIRMONT AREA
CHAMBER OF COMMERCE
19 DOWNTOWN PLAZA
FAIRMONT MN 56031
SW

CRDC
119 SOUTH LAKE STREET
MORA MN 55051
SHW

WINONA DAILY NEWS
ATTN DON STUART
101 N FRANKLIN
WINONA MN 55987
OLMSTED
WINONA
COUNTIES

REGORY WERSAL
841 WAYZATA BLVD
PLS MN 55426
HAZ W

IDWESTERN GAS TRANS CO
TTN MICHAEL CATT
O BOX 2511
OUSTON TX 77001
HAZ W

HEMFIX INC
TTN H HUDSON BUZBEE
675 AIRLINE HWY
O BOX 1572
ENNER LA 70063
SHW

B SCHAEFER JR
HAIRMAN WASHINGTON CO
OARD OF COMMISSIONERS
4900 61ST ST NO
TILLWATER MN 55082
HAZ W

OBERT LOCKYEAR
LANNING COORDINATOR
4900 61ST ST N
TILLWATER MN 55082
HAZ W

AUL BRANDT
NVIRONMENTAL SERV TECH
4900 61ST ST N
TILLWATER MN 55082
HAZ W

NEAL ERDAHL
OUNTY ADMINISTRATOR
4900 61ST ST N
TILLWATER MN 55082
HAZ W

MARY AYEDE
1201 N BIRCHLAKE BLVD
WHITE BEAR LK MN 55110
SHW

ENVIR HYDROLOGY CORP
PO BOX 14701 UNIV STATION
3036 UNIVERSITY AVE SE
MPLS MN 55414
HAZ W

PORTAGE SANITARY LANDFILL
AUTHORITY
CRANE LAKE MN 55725
SHW

ROBB KUNZIG
HAZARDOUS MATERIALS
PO BOX 535
CAMBRIDGE MA 02238
SHW

WRIGHT CHEMICAL CO
ATTN PATRICK REILLY
10740 RIVERVIEW PLACE
COON RAPIDS MN 55433
HAZ W

UNIVERSITY OF MN
ATTN LASZLO FULOP
DIR OF PHYSICAL PLANNING
503 MORRILL HALL
MPLS MN 55455
SHW

ERIKA SITZ
IZAAK WALTON LEAGUE
6521 154TH LANE NW
RAMSEY MN 55303
SHW

DAVID MARQUETTE
MARSH & MCLENNAN
1500 NORTHSTAR CENTER
MPLS, MN 55402

Thomas Gilshannon
292 Cherokee Ave.
St. Paul, MN 55107

Reid Johnson
WCCO TV
50 S. 9th St.
Minneapolis, MN 55402

Julie Schreifels
708 Holly Ave.
St. Paul, MN 55104

Paula Schmid
91 W. Robie
St. Paul, MN 55107

Duane A. Rasmussen
Sell Publishing Company
120 N. Lake St.
P.O. Box 250
Forest Lake, MN 55025

Thomas J. Gmeinder
Gmeinder Law Offices
301 Selby Ave.
St. Paul, MN 55104

John R. Finnegan
St. Paul Pioneer Press
and Dispatch
55 E. 4th St.
St. Paul, MN 55101-1160

John A. Rhodes
1721 Randolph Ave.
St. Paul, MN 55105

Rodgers Adams
Minneapolis Star & Tribune
425 Portland Ave.
Minneapolis, MN 55488

Michael B. Kramer, Mgr.
Minnesota Newspaper Assoc.
84 S. 6th St.
Minneapolis, MN 55402

Jeanette McDougal
769 Holly Ave.
St. Paul, MN 55104

S. Stephen Chapman
Clear Air-Clear Water
255 Hennepin Ave.
Minneapolis, MN 55408

Linda E. Museus
Louis D. Bass Law Office
Park Ave. Lawyers Bldg.
1616 Park Ave. S.
Minneapolis, MN 55404

Russell Hatling, Pres.
Minnesota Environmental
Control Citizens Assoc.
144 Melbourne Ave. SE
Minneapolis, MN 55414

Chuck Biechlin
WTCN TV
441 Boone Ave. N.
Minneapolis, MN 55427

Joyce K. Williams
Common Cause/Minnesota
555 Wabasha St., Rm 307
St. Paul, MN 55102

Steve J. Gadler
2120 Carter Ave.
St. Paul, MN 55108

Eugene Klee
708 Holly Ave.
St. Paul, MN 55104

Marina Pacini
837 Aldine, Apt 2
St. Paul, MN 55104

Dennis A. Herzig
KSTP TV
3415 University Ave.
Minneapolis, MN 55414

Mr & Mrs Herbert Dalglish
284 Cherokee Ave.
St. Paul, MN 55107

Duane R. Harves
Office of Admin. Hearings
400 Summit Bank Bldg.
310 S. 4th Ave.

William E, Ronald,
Maryanne, Timothy Mozey
4070 Shoreline Dr.
Minneapolis, MN 55422

William B. Mozey
4700 Lyndale N.
Minneapolis, MN 55430

R.L. Mozey
7633 W. River Rd.
Brooklyn Park, MN 55444

David Butler
14559 Shoreline Dr.
Mound, MN 55422

Vernon Nelson
4110 Shoreline Dr.
Minneapolis, MN 55422

Fred & Shelly Bones
4400 Drew Ave. N.
Minneapolis, MN 55422

Nickalos G. Schlee
4200 Chowen Ave. N.
Minneapolis, MN 55422

Mel T. Davis D/B/A
Chemical Consultant
Formulators
7465 Harold Ave. N.
Minneapolis, MN 55427

Marlene Lundeen
841 3 Heritage Hills Cir.
Bloomington, MN 55437

David Hall
St. Paul Dispatch and
Pioneer Press
55 E. 4th St.
St. Paul, MN 55101

Mary Leach
183 E. Thompson #2
St. Paul, MN 55118

Attorney at Law
77 E. Congress St.
St. Paul, MN 55107

NSP
414 Nicollet Mall
Minneapolis, MN 55401

Vivian Hart
Baker Community Center
209 W. Page St.
St. Paul, MN 55107

Doug Stone
WCCO TV
50 S. 9th St.
Minneapolis, MN 55402

Robert Hillstrom
Hillstrom, Bale & Martinson
10 Minnesota Federal Bldg.
Minneapolis, MN 55402

John Hoeft
Metropolitan Council
Rm 300 Metro Square Bldg.
7th & Robert Sts
St. Paul, MN 55101

Allan Klein
Office of Admin. Hearings
400 Summit Bank Bldg.
310 S. 4th Ave.
Minneapolis, MN 55415

John Knapp
Hesshian, McKasy & Soderberg
1500 Midwest Plaza W.
Minneapolis, MN 55402

~~Curt Firman
W.J. Licke
General Counsel
Blandin Paper Co.
115 1st St. SW~~

Curt Firman
Blandin Wood Products
502 Co. Rd. 63
Grand Rapids, MN 55744

W.J. Licke
General Counsel
Blandin Paper Co.
115 1st St. SW
Grand Rapids, MN 55744

Alan Short
Pioneer Press
55 E. 4th St.
St. Paul, MN 55150

Nelson French
Project Environment
Boyd Place, Suite N
2929 4th Ave. S.
Minneapolis, MN 55408

~~Stevan Van Vliet
441 Boone Ave. N.~~

Stevan Van Vliet
441 Boone Ave. N.
Golden Valley, MN 55427

MPCA EXHIBIT 6

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14, subd. 1 (1982), that their names be placed on file with the Minnesota Pollution Control Agency (Agency) for the purpose of receiving notice of the proposed adoption of rules by the Agency is accurate and complete as of 10:00 a.m., this 13th day of April, 1983.

Paul W. Hoff

satisfactory completion of the program. The official need not be licensed under 5 MCAR § 3.083 unless that person also is an instructor in the program.

1. When a student satisfactorily completes the motorcycle driver education program, including both classroom and laboratory instruction, the authorized school official must furnish the student a certificate of course completion.

2. When a student satisfactorily completes classroom instruction and intends to complete the program with another provider, the authorized school official must furnish the student a verification statement of completion of classroom instruction.

M. Annual report. A school district desiring approval for its motorcycle driver education program must submit an annual report to the Department of Education, on forms supplied by it, before conducting the course. The annual report must identify the authorized school official and all instructors who will be teaching students and each instructor's drivers license number.

EDU 149 Motorcycle requirements for motorcycle driver education.

A. Safety standards. Each motorcycle used for laboratory instruction for motorcycle driver education must comply with all federal and state motor vehicle safety standards for the model year of the motorcycle.

B. Required maintenance. Each motorcycle used for laboratory instruction must be maintained in safe operating condition through routine care and servicing.

C. Insurance or self-insurance required. The district shall provide a plan of reparation security covering each vehicle used. Residual liability coverage and uninsured motorist coverage must be provided in the following amounts: not less than $100,000 because of bodily injury to or death of any one person in any one accident; not less than $300,000 because of bodily injury to or death of two or more persons in any one accident; and not less than $50,000 because of damage to or destruction of property of others in any one accident.

EDU 150 Instructor requirements for motorcycle driver education.

All instructors providing motorcycle driver education instruction must be appropriately licensed by the Board of Teaching.

Repealer. Rule EDU 142 C. is repealed.

Minnesota Pollution Control Agency

Withdrawal of Previously Proposed Amendments to Agency Procedural Rules 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010, and 4.3013

Notice of Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (agency) withdraws the proposed amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 E., and 4.3013 as published at page 312 of the September 13, 1982, *State Register* (7 S.R. 312) and as corrected in the Errata published at page 506 of the October 4, 1982, *State Register* (7 S.R. 506).

Notice is hereby given that the agency intends to adopt newly proposed amendments to the above-listed rules. A public hearing will be held pursuant to Minn. Stat. §§ 14.05-14.20 (1982), in the above-entitled matter in the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota, on Friday, May 20, 1983, commencing at 9:30 a.m. The hearing will be continued on subsequent days if necessary at the same location until all persons or representatives have had an opportunity to be heard concerning the adoption of the proposed rule amendments captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The hearing will be conducted by Ms. Phyllis Reha, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7611, a hearing examiner appointed by the Chief Hearing Examiner of the State of Minnesota.

Amendments to the above-captioned rules were first proposed by the agency as a part of a rulemaking proceeding, held pursuant to Minn. Stat. §§ 14.21-14.28 (1982) without a public hearing, to amend the agency's procedural rules Minn. Rules MPCA 1-4 and 6-13. See *State Register*, Volume 7, Number 11, pages 312-320, September 13, 1982, as corrected in the Errata published at *State Register*, Volume 7, Number 14, Page 506, October 4, 1982. During the public comment period the Agency received more than seven requests for public hearing on the amendments proposed to 6 MCAR §§ 4.3003, 4.3005 M., and 4.3013. On October 26, 1982, the agency adopted a resolution to hold a rulemaking hearing on the amendments proposed to

those three rules and the amendment proposed as 6 MCAR § 4.3010 E. The agency's resolution also adopted the remainder of the amendments, notice of adoption of which was published at *State Register*, Volume 7, Number 25, pages 957-959, December 20, 1982, and which became effective on December 28, 1982.

On February 22, 1983, the agency withdrew the amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 E., and 4.3013 and proposed new amendments to those same rules. The amendments which are the subject of this hearing are the new amendments.

The proposed amendments, if adopted, would:

1. Delete the last sentence of 6 MCAR § 4.3003, which contains a cross reference to a rule which has been repealed;

2. Change the word "chairman" to "chairperson" in 6 MCAR § 4.3005 M., and delete the provisions of the rules allowing the making of decisions by telephone poll.

3. Add a provision to the rule relating to contested case hearings (6 MCAR § 4.3010) which prohibits ex parte communications with agency members during the pendency of a contested case hearing.

4. Make minor stylistic and clarifying changes to 6 MCAR § 4.3013. The amendments also extend the required notice period from three calendar days to three working days where the director intends to release to the public information which was 1) requested to be certified as confidential, or 2) certified as confidential but required to be released by federal law.

One free copy of the newly proposed rule amendments may be obtained by contacting David Christopherson, Minnesota Pollution Control Agency, Roseville, Minnesota 55113, telephone (612) 296-7711.

The agency's authority to promulgate the proposed rule amendments is contained in Minn. Stat. § 116.07, subd. 3 (1982).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency offices and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying the need for and reasonableness of the proposed rule amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. The statement of need and reasonableness may also be obtained by contacting David Christopherson at the address and telephone number stated above.

This proceeding is governed by Minn. Stat. §§ 14.05-14.20 (1982) and by the rules of the Office of Administrative Hearings, 9 MCAR §§ 2.101-2.113, and by other applicable requirements of state law. The hearing will be conducted so all interested persons will have an opportunity to participate. Any person having questions concerning the proceeding may telephone or write to the Hearing Examiner.

Upon completion of the hearing, the record will remain open for five working days, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. Any person may submit written statements to the Hearing Examiner during this period.

Please be advised that the proposed rule amendments are subject to change as a result of the rule hearing process. The agency urges those who are interested to any extent in the proposed rule, including those who support the rule as proposed, to participate in the rule hearing process.

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

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01 (1982) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Sandra S. Gardebring
Executive Director

Rules as Proposed

6 MCAR § 4.3003 Duty of candor.

In all formal or informal negotiations, communications, proceedings, and other dealings between any person and any member, employee, or agent of the agency, it shall be the duty of each person and each member, employee, or agent of the agency to act in good faith and with complete truthfulness, accuracy, disclosure, and candor. ~~Any violation of the aforesaid duty shall be cause for imposition of sanctions as provided in MPCA 11.~~

6 MCAR § 4.3005 Agency meetings.

A.-L. [Unchanged.]

M. Decisions at open meetings. All regular and special meetings of the agency shall be open to the public, and all decisions of the agency shall be made at such meetings; ~~provided, however, that if the chairman, or in his absence, the vice-chairman, determines that the exigencies of time and circumstances warrant, then an agency decision may be made by telephone poll, or other appropriate means. The unavailability of any agency member shall not postpone the making of the decision. If, pursuant to the poll, a majority of all members of the agency cast an identical vote, the decision of the majority shall be an agency decision. In the event that an agency decision is made by telephone poll, or other appropriate means, such decision shall be subject to confirmation at the next agency meeting~~.

N.-Q. [Unchanged.]

6 MCAR § 4.3010 Contested case hearings.

A.-D. [Unchanged.]

E. Ex parte communication. During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following conditions:

1. if the communication is in writing, copies of the communication must have been sent to all parties to the matter and to all other agency members; or

2. if the communication is oral, it must take place at a public meeting after reasonable notice of the time and place of the meeting has been given to all parties and to all other agency members.

E.-H. [Reletter as F.-I.]

6 MCAR § 4.3013 Confidential information.

~~(1)~~ A. Certification. In order to certify records, information, or objects for the confidential use of the agency, an owner ~~or~~, operator, or other person qualified by law, shall submit to the director a written statement setting forth those statutory grounds that require the agency to keep the records, information, or objects confidential. Any certification of records or information that applies to water pollution sources must be approved by the director. These records and information shall not be released unless the director denies the certification request. Whenever the director denies a certification request, the director shall notify the certifier of the denial at least three working days prior to making the records or information available to the public. The certifier may withdraw the records or information if such an option is available to him.

~~(2)~~ B. Filing. All certified records, information, or objects must be appropriately identified and segregated at the offices of the agency.

~~(3)~~ C. Agency use. Certified records, information, and objects, when approved by the director if required, are only for the confidential use of the agency. However, confidential information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air, and land resources so long as these analyses or summaries do not identify any owner or operator who has so certified.

~~(4)~~ D. Release authorization. Confidential information may be released when the agency is specifically authorized to do so by ~~the person who certified the records, information, or objects~~ statute.

~~(5)~~ E. Denial of request. Certified records or information that apply to water pollution sources may be released if the director denies the certification request. The provisions of ~~(1)~~ A. apply to this release.

~~(6)~~ F. Federal law. Regardless of whether records or information are certified confidential, the agency may disclose any information which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure. Whenever the agency is required to release certified information pursuant to federal law, ~~he~~ the director shall notify the certifier of this requirement at least three working days prior to making the records or information available to the public. The certifier may withdraw this information if such an option is available.

~~(7)~~ G. Use in contested case hearings. Confidential information that is relevant to a matter for which a ~~public~~ contested case hearing is being held and which has been made a part of the record, may be considered by the agency in reaching a decision on the matter, but must not be released to the public unless the agency is required by statute to release it. When the agency is required by statute to release the information at the public hearing, the person who certified the information may withdraw the information, but the information shall not be considered by the agency or the hearing ~~officer~~ examiner in reaching a decision or recommendation on the matter. Whenever confidential information is considered by the agency or a hearing ~~officer~~ examiner in reaching a decision or recommendation on a matter, that fact must be so stated on the record.

Department of Revenue
Property Tax Division

Proposed Rule Relating to Enterprise Zones (13 MCAR § 1.0010-1.0014)

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.21 to 14.28.

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the thirty-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statute §§ 14.13 to 14.20.

Persons who wish to submit such comments or a written request for a public hearing should submit such comments or requests to:

Luci Mitchell, Attorney
Commissioner's Staff
Minnesota Department of Revenue
Second Floor Centennial Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of this rule is contained in Minnesota Statutes § 270.06 (14). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Luci Mitchell upon request. A copy of the proposed rule is also available from Luci Mitchell.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Luci Mitchell.

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

PCA-83-004-AK

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Withdrawal of Previously Proposed Amendments of Agency Procedural Rules 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 and 4.3013, and New Proposed Amendments to 6 MCAR §§ 4.3003, 4.3005 M., 4.3010 and 4.3013.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Allan W. Klein, Hearing Examiner, on Friday, May 20, 1983, at 9:30 a.m. at the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota.

This Report is part of a controversial rule hearing proceeding held pursuant to Minn. Stat. §§ 14.13 through 14.20, to determine whether the Agency has fulfilled all relevant, substantive and procedural requirements, and whether the proposed Rules are needed and reasonable.

Members of the Agency panel appearing at the hearing included Deputy Executive Director Jay M. Heffern and David Christopherson. The Agency was represented by Special Assistant Attorney General Jocelyn F. Olson.

There were no members of the public who attended the hearing. The hearing took only six minutes, and no member of the public appeared despite the fact that the Examiner delayed the start of the hearing to accommodate any possible latecomers. No written comments were received from the public during the comment period, which ended on May 27, 1983.

This Report shall be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rules. Pursuant to Minn. Stat. § 14.16 (1982), the Director of the Minnesota Pollution Control Agency shall, if she proposes to adopt the rules as recommended herein, submit the rules, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Director makes changes in the rules other than those recommended herein, she shall submit the rules with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On March 29, 1983, the Executive Director of the Minnesota Pollution Control Agency (hereinafter the "Director") filed the following documents with the Chief Hearing Examiner:

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

2. On April 13, 1983, the MPCA mailed the Notice of Hearing to all persons and associations who had registered their names with the MPCA for the purpose of receiving such notice.

3. On April 18, 1983, a Notice of Hearing and a copy of the proposed rules were published at 7 State Register 1510.

4. On April 22, 1983, the MPCA filed the following documents with the Hearing Examiner:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of MPCA personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 6 State Register 1654, March 19, 1982 (there were none).

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

5. This hearing was one of the last steps in the Agency's attempt to modify its rules of procedure. On September 13, 1982, the Agency published in the State Register notice of its intent to adopt amendments to its procedural rules without a public hearing. During the public comment period, the Agency received more than 7 requests for a hearing on some of its proposals. On October 26, 1982, the Agency Board resolved to adopt the portions of the proposed rules which were not objected to, and to hold a rulemaking hearing on those portions which were. The remainder of the rules became effective on December 28, 1982.

6. Prior to the scheduling of the public hearing on the portions of the proposed amendments which had drawn objections, the Agency held two meetings with interested persons to discuss the amendments. As a result of these meetings, the Agency determined to modify its proposals. On February 22, 1983, the Agency withdrew the previously proposed rule amendments and proposed new versions of those amendments. It is those new versions which are the subject of this hearing.

Nature of the Rules and Statutory Authority.

7. The general nature of the proposed rule amendments relates to the operating procedures of the Agency.

8. The Agency's authority to adopt the rules is contained in Minn. Stat. § 116.07, subd. 3 (1982), which provides as follows:

> Pursuant and subject to the provisions of Chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend, and rescind rules governing its own administration and procedure and its staff and employees.

Need and Reasonableness of Proposed Changes.

9. The Examiner has reviewed each of the proposed changes, as well as the justifications set forth in the Statement of Need and Reasonableness. It is found that each of the proposed changes is (1) within the statutory authority

of the Agency to adopt, and (2) has been justified as both needed and reasonable (See Memorandum).

10. The Agency has not proposed any changes to the rules as published in the State Register. Therefore, no substantial change decision needs to be made.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Agency gave proper notice of the hearing in this matter.

2. That the Agency has fulfilled the procedural requirements of Minn. Stat. § 14.14, subds. 1 and 2 (1982) and all other procedural requirements of law or rule.

3. That the Agency has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1, 14.15, subd. 3 and 14.50 (i) and (ii) (1982).

4. That the Agency has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii) (1982).

5. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated this 31st day of May, 1983.

Allan W. Klein

ALLAN W. KLEIN
Hearing Examiner

MEMORANDUM

This Report is extremely brief due to two factors: there were no public comments in opposition to the agency's proposals, and the Statement of Need and Reasonableness does a thorough job of justifing them. In such a case, it seems unnecessary and even wasteful to prepare a detailed analysis of each of the rules. Since the only evidence in the record is that supplied by the agency, it would superfluous to merely rehash it. Persons interested in these rules are, therefore, directed to the agency's Statement of Need and Reasonableness for a thorough discussion of them.

A.W.K.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 28th day of June, 1983. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of rules, after considering the Statement of Need and Reasonableness and the Report of the Hearing Examiner, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT AND CONCLUSIONS

The Agency adopts the Findings of Fact and Conclusions of the Hearing Examiner, as contained in his Report attached hereto, and incorporates them herein by reference.

Dated this 28th day of June, 1983.

MINNESOTA POLLUTION CONTROL AGENCY

Cynthia C Jepsen For
VIRGIL HERRICK
Chairman

Sandra Gardebring
SANDRA S. GARDEBRING
Executive Director

CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULE AMENDMENTS

I, Sandra S. Gardebring, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that a resolution was adopted at a meeting of the Agency properly called and held on the 28th day of June, 1983; that a quorum was present at said meeting; that a majority of the Agency voted in favor of the resolution; that the resolution is set forth in the minutes of said meeting and has not been rescinded or modified; and that the resolution states, in relevant part, as follows:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts the attached amendments to Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013, pursuant to the authority vested in the Agency by Minn. Stat. §116.07, subd. 3 (1982).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required in Minn. Stat. §14.08 (1982).
>
> BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact and Conclusions and Order Adopting Rules.
>
> BE IT FURTHER RESOLVED, that the Chairman and the Executive Director are hereby authorized to execute the above-named

documents.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of June, 1983.

SANDRA S. GARDEBRING
Executive Director

Subscribed and sworn to
before me this 29th day
of June, 1983.

Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

MPCA EXHIBIT 8

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013, and Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

On September 13, 1982, the Minnesota Pollution Control Agency published in the State Register notice of its intent to adopt amendments to its procedural rules Minn. Rules MPCA 1-4 and 6-13 without a public hearing. (7 S.R. 312 as corrected by Errata published at 7 S.R. 506 (October 4, 1982).) During the public comment period the Agency received more than seven requests for hearing on the amendments proposed as 6 MCAR §§4.3003, 4.3005 M., and 4.3013. On October 26, 1982, the Agency adopted a resolution to hold a rulemaking hearing on those three rules listed and on 6 MCAR §4.3010 E. The Agency's resolution also adopted the remainder of the rules.

The remainder of the rules became effective on December 28, 1982, five working days after the notice of their adoption was published in the State Register (7 S.R. 957, December 20, 1982).

Prior to the scheduling of a public hearing on the remaining four portions of the proposed rule amendments, the Agency held two meetings with interested persons to discuss the amendments. As a result of these meetings, changes were proposed to be made to the amendments. On February 22, 1983, the Agency withdrew the

previously proposed rule amendments and proposed new amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010 E., and 4.3013, which amendments are the subject of this hearing. The amendments proposed at this time are made with reference to the rules as shown at 7 S.R. 957 (December 20, 1982).

II. NEED FOR AND REASONABLENESS OF PROPOSED AMENDMENTS TO 6 MCAR §4.3003.

6 MCAR §4.3003 is entitled "Duty of candor." This rule establishes that it is the duty of each person, including members, employees and agency, to act in good faith and with complete truthfulness, accuracy, disclosure, and candor. The last sentence of the rule provides: "Any violation of the aforesaid duty shall be cause for imposition of sanctions as provided in MPCA 11." The Agency proposes to delete this last sentence. This change is needed and reasonable because MPCA 11 has now been repealed (see proposed repeal at 7 S.R. 312, September 13, 1982, adopted at 7 S.R. 957, December 20, 1982). The deletion of this sentence will not remove any of the Agency's authority to enforce the rule. Violations of 6 MCAR §4.3003 can be addressed through the impositions of sanctions provided by Minn. Stat. §115.071 (1982), which provides:

> The provisions of Chapters 115 and 116 and all regulations, standards, orders, stipulation agreements, schedules of compliance, and permits adopted or issued by the agency . . . may be enforced by any one or any combination of the following: criminal prosecution; action to recover civil penalties; injunction; action to compel performance; or other appropriate action, in accordance with the provisions of said chapters and this section.

III. NEED FOR AND REASONABLENESS OF PROPOSED AMENDMENTS TO 6 MCAR §4.3005 M.

6 MCAR §4.3005 M. is entitled "Decisions at open meetings." The Agency proposes to make two types of changes in this rule.

First, the Agency proposes to change the references in this rule from "chairman" to "chairperson." This is needed and reasonable because it is desirable to make the rule gender-neutral.

Second, the Agency proposes to delete the portion of the rule which allows the Agency to make decisions by telephone poll or other appropriate means.

The Agency reexamined the telephone poll provisions of the rule after it received several comments from the public. These comments expressed opposition to this decision-making procedure on the grounds that it was written so broadly as to allow important Agency decisions to be made without public input. Some persons commented that the rule violates the Open Meeting Law, Minn. Stat. §471.705 (1982). While the Agency does not believe that the conduct of a telephone poll violates the Open Meeting Law, the comments received did cause the Agency to reexamine the need for the telephone poll procedure.

The Agency reviewed its records to determine the types of decisions that have been made in the past by telephone poll and found that they have been ministerial in nature. They have involved situations where the Agency has been under a deadline to take a given action by a certain date, where no Agency meeting is

scheduled to take place prior to the deadline, and where the calling of a special meeting is not practical under the circumstances. The types of decisions which have the potential in the future to require a telephone poll procedure are as follows:

1. amendment of a contract to which the Agency is a party for the sole purpose of extending a date within the contract;

2. execution of a contract to undertake cleanup of a pollutant discharge or spill where the responsible party cannot be identified or where the responsible party refuses to undertake adequate cleanup;

3. authorization to the Director to initiate the holding of a contested case hearing;

4. authorization to the Director to file on behalf of the Agency a petition to intervene as a party in an administrative proceeding held by another agency of the state or of the United States or to request the attorney general to bring an appeal of a decision reached in such an administrative proceeding; and

5. authorization to the Director to request the attorney general to bring an action in court seeking a temporary restraining order or temporary injunction.

After identifying the situations where a telephone poll might

be needed the Agency analyzed whether the situation could be effectively addressed in some other manner than a telephone poll. The Agency determined that some of these situations can be avoided by better advanced planning and by administrative actions which can be initiated by the Director. Pursuant to Minn. Stat. §15.06 (1982), the Agency has the option to make a formal delegation to the Director of some of its ministerial decision-making authority, including the actions listed above. Therefore the Agency has determined that the telephone poll provisions of the rule are not necessary. Therefore this proposed deletion is needed and reasonable.

IV. NEED FOR AND REASONABLENESS OF PROPOSED AMENDMENTS TO 6 MCAR §4.3010.

The Agency proposes to add a new section to 6 MCAR §4.3010, the rule relating to the conduct of contested cases. This proposed section, to be codified as §4.3010 E. (the existing section E. and the sections thereafter are proposed to be relettered accordingly) provides:

> Ex parte communication. During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following conditions:
>
> 1. if the communication is in writing, copies of the communication must have been sent to all parties to the matter and to all other agency members; or

2. if the communication is oral, it must take place at a public meeting after reasonable notice of the time and place of the meeting has been given to all parties and to all other agency members.

This provision is needed because once a contested case hearing has been ordered, the Agency members will function in the same manner as judges, and all possibilities for the decisionmakers to become biased on the matter must be avoided. It is also necessary because receipt of ex parte communications must be avoided by Agency members due to the potential for violating the Minnesota Administrative Procedure Act (APA) and both the United States and Minnesota Constitutions.

Although the APA does not expressly prohibit ex parte communications, certain of its provisions prohibit them by implication. 1/ Minn. Stat. §14.60, subd. 2 (1982) prohibits the Agency from considering factual information or evidence in the determination of the case unless it is part of the record. Likewise, Minn. Stat. §14.62, subd. 1 (1982) requires the

---

1/ In the federal system, agency decisionmakers are prohibited by statute from making or receiving outside contacts relevant to the merits of any agency proceeding. 5 U.S.C. §557(d) prohibits agency decisionmakers from being involved in any ex parte communication "beginning at such time as the agency may designate, but in no case . . . later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge it will be noticed, inwhich case the prohibitions shall apply beginning at the time of his acquisition of such knowledge." 5 U.S.C. §557(d)(1)(E).

Agency's decision to be based on the record. Thus, factual information or evidence obtained through ex parte communications must not be considered by the Agency in making a decision, as that information is outside the record. The APA also contains several provisions that guarantee parties the right to know about and rebut evidence that is to be considered. Minn. Stat. §14.60, subd. 3 (1982) provides parties with the right of cross-examination of evidence. Likewise, Minn. Stat. §14.60, subd. 4 (1982) requires the Agency to notify parties of facts for which administrative notice will be taken and provides parties with an opportunity to contest the facts so noticed. Receipt of ex parte communications would be contrary to these rights.

Both the United States and Minnesota Constitutions prohibit the deprivation of any person of life, liberty, or property without "due process of law." Inherent in the concept of due process is the concept of "fundamental fairness." Ex parte contacts may violate principles of fundamental fairness and, hence, the constitutional protection of due process. See, e.g., Crosby-Ironton Federation of Teachers, Local 1325 v. Independent School District No. 182, Crosby-Ironton, 285 N.W.2d 667 (Minn. 1979). (Respondent claimed lack of due process by reason of ex parte contacts by the appellant's representative with the arbitrator. While the Court did not decide the case on that issue, the Court noted that "[a]ny case reaching the court

involving review of arbitration awards where ex parte contacts are made, orally or in writing, in regard to the issue under dispute, without notifying all other parties to the dispute, will raise a strong presumption of fraud or other undue means. . ." Id. at 670.)

The proposed rule is reasonable because it promotes fairness by ensuring that all parties have access to the decision makers on an equal basis. It allows communications to be made if all of the Agency members and all of the parties to the case are given an opportunity to know the contents of the communication. However, it should be emphasized that communications received must not include information which is outside the hearing record.

The proposed rule is reasonable for the further reason that it is consistent with other Minnesota rules relating to ex parte communications, specifically the rules of the Office of Administrative Hearings, the rules of the Cable Communications Board, and the rules of the Waste Management Board. The rules are also consistent with the requirements imposed upon both attorneys and judges by the Code of Professional Responsibility and the Code of Judicial Conduct.

9 MCAR §2.217 G.1. of the Office of Administrative Hearings prohibits the Hearing Examiner in a contested case from having ex parte communications with any person regarding that case:

> Hearing Examiner conduct. The Hearing Examiner shall not communicate, directly or indirectly, in connection

> with any issue of fact or law with any person or party including the agency concerning any pending case, except upon notice and opportunity for all parties to participate.

The proposed rule is consistent with this rule.

4 MCAR §4.015 of the Cable Communications Board provides:

> Ex parte communications. In order to avoid all possibilities of prejudice, real or apparent, to the public interest and to persons involved in proceedings pending before the board, no person who is a party, witness or interceder in any on-the-record proceeding, nor any representative of any such person, shall submit ex parte off-the-record communications to any member of the board or to any employee of the board regarding any matter at issue in such on-the-record proceeding, except as authorized by law; and no board member or any employee shall request or entertain any such ex parte, off-the-record communications. For the purposes of this rule, the term "on-the-record proceedings" means a proceeding required by statute, constitution or published board rule, regulation or order to be decided on the basis of the record of a board hearing; the term "interceder" shall include any person outside the board or other agency.

The proposed rule is consistent with this rule.

6 MCAR §8.013 of the Waste Management Board provides:

> Ex parte communication. No party to a matter for which a hearing has been ordered by the board shall communicate with any board member concerning the matter except in writing, or orally as a part of a presentation at a board meeting. Copies of any written communication shall be sent to all parties to the mattter and to all board members.

The proposed rule is consistent with this rule.

The proposed rule is consistent with the requirements imposed upon attorneys by the Code of Professional Responsibility (Code). Disciplinary Rule 7-110(B) of the Code renders it unethical for attorneys to contact dicisionmakers in a situation that invites

the appearance of impropriety. That disciplinary rule provides:

> In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause pending with a judge or an official before whom the proceeding is pending, except:
>
> (1) In the course of official proceedings in the cause.
>
> (2) In writing if he promptly delivers a copy of the writing to opposing counsel or to the adverse party if he is not represented by a lawyer.
>
> (3) Orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.
>
> (4) As otherwise authorized by law.

The reasoning behind the adoption of Disciplinary Rule 7-110 is elaborated in Ethical Consideration 7-35 of the Code, which states:

> All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings a lawyer should communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party. For example, a lawyer should not communicate with a tribunal by a writing unless a copy thereof is promptly delivered to opposing counsel or to the adverse party if he is not represented by a lawyer. Ordinarily an oral communication by a lawyer with a judge or hearing examiner should be made only upon adequate notice to opposing counsel, or if there is none, to the opposing party. A lawyer should not condone or lend himself to private importunities by another with a judge or hearing officer on behalf of himself or his client.

The proposed rule is consistent with the requirements imposed upon judges by the Code of Judicial Conduct. Canon 3 A(4) of this Code provides:

> A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before him if he gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

For the reasons stated above, the proposed 6 MCAR §4.3010 E. is needed and reasonable.

V. NEED FOR AND REASONABLENESS OF PROPOSED AMENDMENTS TO 6 MCAR §4.3013

6 MCAR §4.3013 is entitled "Confidential information." The Agency proposes to make four types of changes to the rule. These changes are discussed below.

First, the Agency proposes to make certain stylistic amendments to the rules. The Agency proposes to change the rule so that is gender-neutral. For example, the word "he" is changed to "the director." This is needed and reasonable because it is desirable to make the rules gender-neutral. The Agency also proposes to change references in the rule from "hearing officer" to "hearing examiner." This is needed and reasonable because it conforms the rule to the current terminology of the Administrative Procedure Act.

Second, the Agency proposes to amend 6 MCAR §§4.3013 A. and 4.3013 F. to expand from three calendar days to three working days the number of days notice that must be given before making public

any records which are 1) requested to be certified as confidential or 2) certified as confidential but required by federal law to be released. The purpose of the notice is to give the person who submitted the information an opportunity to withdraw it. Three days notice may not provide a sufficient opportunity to do so, since one or more of those days could fall on a weekend or a holiday. Three working days does provide a sufficient opportunity. Therefore these amendments are needed and reasonable.

Third, the Agency proposes to change the language of 6 MCAR §4.3013 D. to conform it with the requirements of the Government Data Practices Act. The Agency's original rule allowed the person who certified data as confidential to authorize the Agency to release the data. However, Minn. Stat. §13.05 (1982) allows agencies to release data classified as confidential only when a statute permits. Therefore the Agency proposes to change the rule to allow the Agency to release confidential data only when authorized by statute to do so. This amendment is needed and reasonable because it conforms the rule to the current statute.

Fourth, the Agency proposes to change the language of 6 MCAR §4.3013 G. to make it clear that confidential information in a contested case may only be considered by the Agency if that information has been made a part of the record. This result is already required by Minn. Stat. §14.60, subd. 2 (1982), which

requires Agency decisions to be based solely upon the record. Therefore, it is necessary and reasonable to make this clarification.

VI. CONCLUSION

Based on the foregoing, the proposed amendments to Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013 are both needed and reasonable.

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

Dated: April 11, 1983

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed
Amendment of Agency Procedural
Rules 6 MCAR §§4.3003, 4.3005 M.,
4.3010, and 4.3013, and Newly Proposed
Amendments to 6 MCAR §§4.3003, 4.3005 M.,
4.3010, and 4.3013

STATEMENT OF COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: 6/28/83

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Withdrawal of Previously Proposed Amendment of Agency Procedural Rules 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013; Newly Proposed Amendments to 6 MCAR §§4.3003, 4.3005 M., 4.3010, and 4.3013

AFFIDAVIT CONCERNING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

David Christopherson, being duly sworn on oath deposes and says:

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

2. That he was named in the Notice of Hearing as the person to be contacted regarding the above-referenced rule amendments;

3. That no person requested, either orally or in writing, that he or she be notified of the transmittal by the Minnesota Pollution Control Agency of the above-referenced rule amendments to the Office of the Attorney General; and

4. That, accordingly, no such notice need be made.

David Christopherson

Subscribed and sworn to before me this 28th day of June, 1983.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985