

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 984

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12-1-83
DATE FOR REVIEW 12-12-83
DATE DUE 12-15-83

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

Approved _____ Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 12/1/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 11.22.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 2882

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency includes "small biz" notice

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

✓ Mailing list Certificate

✓ Publication in State Register includes "small biz" notice
9.19.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

✓ 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

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : FILE

DATE: 12/20/83

FROM : MARTHA CASSERLY

PHONE:

SUBJECT: PCA Rule 984 - Standards of Performance for Grain Handeling Facilities.

When we explained our concern with the Public Nuisance Clause § 4.00291 (c), Jocelyn Olson stated this clause is existing languages and should the Attorney General's Office disprove, the agency will resubmit the rule by simply renumbering the clause rather than deleting and moving the clause to another provision as new rule.

A call to the revisors office confirms this and they would permit it.

So therefore, in that the objectionable clause will be inserted one way or another, I decided to go aheard and approve rather than be a obstacle when the agency can, and says it will, work its way around it.

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

November 29, 1983

RECEIVED
DEC - 1 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

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

Re: In the Matter of the Proposed Amendment of Minn Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

Dear Mr. Martinez:

On November 22, 1983, the Minnesota Pollution Control Agency adopted amendments to Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, by repealing that rule and adopting in its place 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities. Enclosed for your review are the following:

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

2. Order Adopting and Repealing Rules (two copies).

3. Certificate of Agency's Resolution Adopting and Repealing Rules.

4. Notice of Intent to Solicit Outside Opinion (6 S.R. 1402, February 8, 1982) and copies of the written comments received pursuant to the Notice of Intent to Solicit Outside Opinion.

5. Order for Notice of Intent to Amend Rules Without a Public Hearing.

6. Certificate of Agency's Authorizing Resolution.

7. Notice of Intent to Amend Rules Without a Public Hearing and rules as proposed (8 S.R. 499, September 19, 1983).

8. Copies of the written comments received during the comment period.

9. Affidavit of Mailing, Notice of Intent to Amend Rules Without a Public Hearing, as mailed, and mailing list.

10. Certificate concerning mailing list.

11. Rule as Proposed.

12. Findings of Fact and Conclusions.

13. Statement of Need and Reasonableness and Exhibits.

14. Statement of Compliance with Rulemaking Procedures.

15. Affidavit Regarding Notification of Submission to Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : SANDRA S. GARDEBRING, Executive Director DATE: 12/20/83

Attn: JOCELYN OLSON, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY MJC PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR § 4.00291, Standards of Performance for Dey Bulk Agricultural Commodity Facilities.

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.
MJC/ls

cc: Ms. Kathy Burek
Mr. Duane Harves

HC copy

Pollution Control Agency

Adopted Amendment of APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR Section 4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

Rule as Adopted

6 MCAR S 4.00291 Standards of performance for dry bulk agricultural commodity facilities.

A. Definitions. For the purposes of this rule the following terms have the meanings given them:

1. "Capture system" means equipment such as hoods, ducts, fans, and dampers used to capture particulate matter.

2. "Column dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in one or more continuous packed columns between two perforated metal sheets.

3. "Dry bulk agricultural commodity" or "commodity" includes grain, grain by-products, seed, beet pulp or pellets, and alfalfa meal or pellets.

4. "Dry bulk agricultural commodity facility" means a facility where bulk commodities are unloaded, handled, cleaned, dried, stored, ground, or loaded. <u>"Dry bulk agricultural commodity facility" does not include a facility located on a family farm or family farm corporation, as defined in Minnesota Statutes, section 116B.02, which handles commodities from the farm or used on the farm.</u>

F&F 7a

5. "Grain" means corn, wheat, sorghum, rice, rye, oats, barley, flax, soybeans, and sunflower seeds.

6. "Grain storage elevator" means a grain elevator located at a wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant that has a permanent grain storage capacity of more than 35,200 cubic meters, which is approximately one million bushels.

7. "Grain terminal elevator" means a grain elevator that

has a permanent storage capacity of more than 88,100 cubic meters, which is approximately 2.5 million bushels, except a grain elevator located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots.

8. "Handling operation" includes the use of bucket elevators, scale hoppers, conveyors, trippers, and spouts for the distribution and weighing of commodities within a commodity facility.

9. "Loading station" means the part of a commodity facility where the commodities are transferred from the facility to a truck, railcar, barge, or ship.

10. "Normal loading procedure" means that part of a barge or ship loading operation where the spout and associated dust suppression systems are capable of distributing the commodity in the hold as needed without making modifications to the loading procedure, such as removing the dust suppressor, raising the spout, slowing the loading rate below the design capability of the spout, or attaching equipment at the end of the spout.

11. "Rack dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in a cascading flow around rows of baffles (racks).

~~11.~~ 12. "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

~~12.~~ 13. "Throughput" means the number of tons of commodities received, plus the number of tons of commodities shipped, divided by two, determined on the basis of an average year. An average year is determined by averaging the actual receipts and shipments for the last three consecutive fiscal years. For facilities less than three years old, actual and anticipated receipts and shipments must be used.

~~13.~~ 14. "Topping-off" means the placing of grain in the final three feet of void in a barge, nine feet in a ship,

between the fore and aft center line of the hatch and the outboard side of the vessel. The depth is determined by vertical measurement along the outboard side of the vessel from the top of the hatch opening.

~~14.~~ 15. "Trimming" means the part of ship loading that requires the use of spoons, slingers, and other equipment attached to the loading spout to ensure that a ship is loaded to capacity.

~~15.~~ 16. "Unloading station" means the part of a commodity facility where the commodities are transferred from a truck, railcar, barge, or ship to a receiving hopper.

B. Standards of performance for dry bulk agricultural commodity facilities.

1. The owner or operator of a commodity facility shall:

a. clean up commodities spilled on the driveway and other facility property as required to minimize fugitive emissions to a level consistent with RACT; and

b. maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed.

2. The owner, operator, or other person who conducts activities at a grain terminal elevator or grain storage elevator, of which construction, modification, or reconstruction commenced after August 3, 1978, shall meet the requirements of Code of Federal Regulations, title 40, part 60.300, subpart DD, (August 3, 1978) entitled Standards of Performance for Grain Elevators.

3. A commodity facility that is not required to be controlled under B.2. must be controlled if the facility meets one of the descriptions listed in Exhibit 6 MCAR S 4.00291-1 where the table indicates "control required." For a facility where control is required under this section, no owner, operator, or other person who conducts activities at the facility may allow:

a. a discharge of fugitive emissions that exhibit greater than five percent opacity from a truck unloading

station, railcar unloading station, railcar loading station, or handling operation;

b. a discharge of fugitive emissions that exhibit greater than ten percent opacity from a truck loading station;

c. a discharge of fugitive emissions that exhibit greater than 20 percent opacity from a ship or barge loading or unloading station, except that during trimming or topping-off, when normal loading procedures cannot be used, no opacity standard applies; and

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than ~~five~~ ten percent opacity, except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis-St. Paul Air Quality Control Region, is in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

4. The owner or operator of a commodity facility not required to control emissions under B.2. or 3. is not required to install capture systems and control equipment but shall unload, handle, clean, dry, and load commodities to minimize fugitive emissions to a level consistent with RACT. If a capture system is used, the particulate matter must be conveyed through control equipment that has a collection efficiency of not less than 85 percent by weight.

5. A grain dryer must meet the following design specifications:

a. the perforations of a column dryer screen must not exceed 3/32 inches in diameter; and

b. the emissions from a rack dryer must pass through a 50-mesh screen enclosure before discharge to the atmosphere.

C. Nuisance. Notwithstanding any provisions in this rule, no owner or operator of a dry bulk agricultural commodity facility may operate or maintain a facility that creates a

public nuisance. If the director determines that operation or maintenance of a commodity facility creates a public nuisance, the director may require the owner or operator to take measures necessary to eliminate the nuisance.

Exhibit 6 MCAR S 4.00291-1

Facility Description	Date Construction, Modification or Reconstruction Commenced	
	Prior to 1/1/84	After 1/1/84
Facility located in Minneapolis-St. Paul Air Quality Control Region or located in a city with a population of 7,500 or more or with annual commodity throughput of more than 180,000 tons	Control required	Control required
Facility with annual commodity throughput of 120,000 to 180,000 tons and located in a city with a population of less than 7,500	No control required	Control required
Facility with annual commodity throughput and location other than those described above	No control required	No control required

Repealer. Pollution Control Agency rule APC 29 is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 2 1 1983
9:50 A.M.
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
December 15 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rule as Proposed (all new material)

6 MCAR S 4.00291 Standards of performance for dry bulk agricultural commodity facilities.

A. Definitions. For the purposes of this rule the following terms have the meanings given them:

1. "Capture system" means equipment such as hoods, ducts, fans, and dampers used to capture particulate matter.

2. "Column dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in one or more continuous packed columns between two perforated metal sheets.

3. "Dry bulk agricultural commodity" or "commodity" includes grain, grain by-products, seed, beet pulp or pellets, and alfalfa meal or pellets.

4. "Dry bulk agricultural commodity facility" means a facility where bulk commodities are unloaded, handled, cleaned, dried, stored, ground, or loaded.

5. "Grain" means corn, wheat, sorghum, rice, rye, oats, barley, flax, soybeans, and sunflower seeds.

6. "Grain storage elevator" means a grain elevator located at a wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant that has a permanent grain storage capacity of more than 35,200 cubic meters, which is approximately one million bushels.

7. "Grain terminal elevator" means a grain elevator that has a permanent storage capacity of more than 88,100 cubic meters, which is approximately 2.5 million bushels, except a grain elevator located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots.

8. "Handling operation" includes the use of bucket elevators, scale hoppers, conveyors, trippers, and spouts for the distribution and weighing of commodities within a commodity facility.

9. "Loading station" means the part of a commodity facility where the commodities are transferred from the facility

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:
MVH

to a truck, railcar, barge, or ship.

10. "Rack dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in a cascading flow around rows of baffles (racks).

11. "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

12. "Throughput" means the number of tons of commodities received, plus the number of tons of commodities shipped, divided by two, determined on the basis of an average year. An average year is determined by averaging the actual receipts and shipments for the last three consecutive fiscal years. For facilities less than three years old, actual and anticipated receipts and shipments must be used.

13. "Topping-off" means the placing of grain in the final three feet of void in a barge, nine feet in a ship, between the fore and aft center line of the hatch and the outboard side of the vessel. The depth is determined by vertical measurement along the outboard side of the vessel from the top of the hatch opening.

14. "Trimming" means the part of ship loading that requires the use of spoons, slingers, and other equipment attached to the loading spout to ensure that a ship is loaded to capacity.

15. "Unloading station" means the part of a commodity facility where the commodities are transferred from a truck, railcar, barge, or ship to a receiving hopper.

B. Standards of performance for dry bulk agricultural commodity facilities.

1. The owner or operator of a commodity facility shall:

a. clean up commodities spilled on the driveway and other facility property as required to minimize fugitive emissions to a level consistent with RACT; and

b. maintain air pollution control equipment in proper

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

operating condition and utilize the air pollution control systems as designed.

2. The owner, operator, or other person who conducts activities at a grain terminal elevator or grain storage elevator, of which construction, modification, or reconstruction commenced after August 3, 1978, shall meet the requirements of Code of Federal Regulations, title 40, part 60.300, subpart DD, (August 3, 1978) entitled Standards of Performance for Grain Elevators.

3. A commodity facility that is not required to be controlled under B.2. must be controlled if the facility meets one of the descriptions listed in Exhibit 6 MCAR S 4.00291-1 where the table indicates "control required." For a facility where control is required under this section, no owner, operator, or other person who conducts activities at the facility may allow:

a. a discharge of fugitive emissions that exhibit greater than five percent opacity from a truck unloading station, railcar unloading station, railcar loading station, or handling operation;

b. a discharge of fugitive emissions that exhibit greater than ten percent opacity from a truck loading station;

c. a discharge of fugitive emissions that exhibit greater than 20 percent opacity from a ship or barge loading or unloading station, except that during trimming or topping-off, when normal loading procedures cannot be used, no opacity standard applies; and

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than five percent opacity, except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis-St. Paul Air Quality Control Region, is in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

4. The owner or operator of a commodity facility not required to control emissions under B.2. or 3. is not required to install capture systems and control equipment but shall unload, handle, clean, dry, and load commodities to minimize fugitive emissions to a level consistent with RACT. If a capture system is used, the particulate matter must be conveyed through control equipment that has a collection efficiency of not less than 85 percent by weight.

5. A grain dryer must meet the following design specifications:

a. the perforations of a column dryer screen must not exceed 3/32 inches in diameter; and

b. the emissions from a rack dryer must pass through a 50-mesh screen enclosure before discharge to the atmosphere.

C. Nuisance. Notwithstanding any provisions in this rule, no owner or operator of a dry bulk agricultural commodity facility may operate or maintain a facility that creates a public nuisance. If the director determines that operation or maintenance of a commodity facility creates a public nuisance, the director may require the owner or operator to take measures necessary to eliminate the nuisance.

Exhibit 6 MCAR S 4.00291-1

Facility Description	Date Construction, Modification or Reconstruction Commenced	
	Prior to 1/1/84	After 1/1/84
Facility located in Minneapolis-St. Paul Air Quality Control Region or located in a city with a population of 7,500 or more or with annual commodity throughput of more than 180,000 tons	Control required	Control required
Facility with annual commodity throughput of 120,000 to 180,000 tons and located in a city with a population of less than 7,500	No control required	Control required
Facility with annual commodity throughput	No control required	No control required

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

and location other than those described above

Repealer. Pollution Control Agency rule APC 29 is repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD336

Agency: Pollution Control Agency

Division: Air Quality

Agency Contact: Richard Sandberg

Rule Numbers: 6 MCAR S 4.00291

Title: Rules Governing Standards of Performance for Dry Bulk Agricultural Commodity Facilities and Repealing APC 29

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: May 24, 1983

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

ORDER ADOPTING AND REPEALING RULES

Notice of the Minnesota Pollution Control Agency's intent to adopt amendments to the above-entitled rules, by adopting new rules and repealing existing rules, without a public hearing was published in the State Register on September 19, 1983, and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (1982) on September 15, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, after receiving no requests for public hearing within the 30-day comment period, after reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned amendments,

NOW, THEREFORE, IT IS ORDERED, that the rule identified as Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, is hereby repealed and the rule 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities, is hereby adopted in its place, this 22nd day of November, 1983, pursuant to authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.07, subd. 4 (1982).

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

Cynthia C Jepsen

CYNTHIA JEPSEN
Chairperson

Department of Economic Security
Training and Community Services Division

Notice of Availability for Public Review of State Plan for the Use of Community Services Block Grant Funds, FY 1983

Funding is authorized under the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35 for a "Community Services Block Grant" to ameliorate the causes of poverty in the states. The block grant replaces funds previously granted to community action agencies directly by the federal government. The Minnesota Department of Economic Security has prepared a plan for the use and distribution of these funds in FFY'83, beginning October 1, 1982. Grants will be made according to the plan, to community action agencies, Indian Reservations and the Minnesota Migrant Council. Funds will be used to provide a range of services having a major impact on the causes of poverty and to provide activities for low-income persons, including the elderly poor, in areas of employment, education, money management, housing and removing the obstacles to poverty.

There is no federal appropriation yet for the FFY '83 Community Services Block Grant.

The FY '83 CSBG plan is available for public review at Regional Development Commission offices, public libraries and community action agencies. Written comments will be accepted through March 15, 1982 at:

Office of Economic Opportunity
Department of Economic Security
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
612/296-5756

Requests for a single copy of the plan may be made to the same address.

Department of Health

Application for Licensure of Advanced Life Support Transportation Service

As of February 8, 1982, a complete application for an advanced life support transportation service was submitted by Brian Murphy, Murphy Ambulance Service, who now operates a basic life support transportation service in the same primary service area.

This notice is given pursuant to Minnesota Statutes 1979, § 144.802, which requires that the Commissioner of Health shall 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 Central Minnesota Health Systems Agency, 113 Division Street, Sauk Rapids, Minnesota 56379, before the close of business on March 11, 1982.

After a public hearing has been held in one of the municipalities in which the service is to be provided, the Central Minnesota Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Central Minnesota Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the Central Minnesota Health Systems Agency recommendation, the Commissioner of Health shall grant or deny the license to this applicant.

Minnesota Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Review of the Existing Rule APC 29, Standards of Performance for Grain Handling Facilities

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information or opinions from sources outside the agency regarding the review of the existing Rule APC 29, entitled Standards of Performance for Grain Handling

Facilities. APC 29 requires that a facility used in the process of handling, storing, processing or drying of grain or seed must meet certain specified standards of performance. In the review process consideration will be given to the standards of performance as related to geographical locations and size of the grain handling facility, and the incorporation of opacity limits into the rule.

The agency requests information and comments concerning the subject matter of this rule. Interested persons or groups may submit statements of information orally or in writing. Written or oral statements should be directed to George Vasilakes at the address and telephone number listed below. Oral comments and inquiries will be accepted by George Vasilakes during regular business hours over the telephone and in person at the agency office.

George Vasilakes
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B2
Roseville, Minnesota 55113
Telephone (612) 296-7267

All statement of information and comments shall be accepted until March 22, 1982. Any written material received by the agency shall be a part of the hearing record in the event amendments to the rule are proposed and public hearings are held.

Dated this 27th day of January 1982.

Louis J. Breimhurst
Executive Director

Department of Public Welfare
Income Maintenance Bureau

Notice of Intent to Solicit Outside Opinion Concerning Revision of 12 MCAR § 2.047 (DPW Rule 47) Concerning the Medical Assistance Program

Notice is hereby given that the Minnesota Department of Public Welfare is considering a revision of rule 12 MCAR § 2.047 (DPW Rule 47). This rule governs administration of the Medical Assistance Program in Minnesota, to include, client eligibility, requirements for provider participation, and covered and non-covered medical services. The statutory authority for the rule is Minn. Stat. § 256B.04.

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

Larry Woods
Department of Public Welfare
Surveillance and Utilization Review Section
P.O. Box 43208
St. Paul, Minnesota 55164

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-9943.

All statements of information and comment must be received by April 1, 1982. Any written material received by the department shall become part of the hearing record.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-7876. Application deadline is March 2, 1982.

ENERGY POLICY DEVELOPMENT COUNCIL has 1 vacancy for a member from the 8th Congressional District. The council advises the Commissioner of Energy, Planning and Development on energy policy. Members are appointed by the Governor

rdick Grain Company
a ConAgra company
375 Grain Exchange Building / Minneapolis, Minnesota 55415 / (612) 339-6811

January 14, 1983

RECEIVED
JAN 18 1983
MINN. POLLUTION
CONTROL AGENCY

Mr. George Vasilakes
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Dear George,

Thanks for your letter of January 7 regarding changes in APC 29.

If it is an EPA requirement to incorporate opacity in APC 29, my comments are as follows:

1. I interpret the proposed amendments to be confined to new facilities -- as stated in the definitions.

2. "Trimming" should be worded to include "topping off" or "trimming" of barges, at which time no opacity restriction required.

3. Under grain dryers -- as I said before -- I interpret the proposed change to refer to new facilities. Some existing dryers probably wouldn't meet the perforation size.

Sincerely,

Robert C. Frey
Director of Operations

RCF/vmp

ConAgra

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT Rochester MPCA

Office Memorandum

TO : George Vasilakes
Division of Air Quality
Facility Review Unit

DATE: Jan. 10, 1983

FROM : Cory Landgren
Rochester Region

PHONE: 507/285-7343

SUBJECT: Proposed changes to APC 29 to clarify language of rule and equalize standards of performance.

Below is found the proposed rule with changes to the 11/22/82 draft made in capital letters. Justification for each change is made following the complete rule.

B. Standards of performance for dry bulk agricultural commodity facilities.

1. The owner or operator of a commodity facility shall:

a. clean up all commodities spilled on the driveway and the plant yard as soon as practicable using methods that minimize the amount of airborne dust; and

b. maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed.

c. HANDLE, PROCESS, UNLOAD, AND LOAD COMMODITIES IN SUCH A MANNER TO MINIMIZE FUGITIVE PARTICULATE EMISSIONS.

d. PREVENT THE DISCHARGE OF FUGITIVE PARTICULATE EMISSIONS GREATER THAN 20 PERCENT OPACITY FROM ANY DISCHARGE POINT UNLESS SPECIFIC STANDARDS ARE ESTABLISHED IN LATER SECTIONS OF THIS RULE.

e. CLEAN UP ALL PARTICULATE ACCUMULATIONS ON THE DRIVEWAY, PLANT YARD, AND OTHER FACILITY PROPERTY AS REQUIRED TO PREVENT FUGITIVE PARTICULATE EMISSIONS.

2. The owner, operator, or any other person conducting activities at a grain terminal elevator or grain storage elevator shall meet the requirements of 40 Code of Federal Regulations Part 60.300, Subpart DD, dated July 1, 1981, entitled Standards of Performance of Grain Elevators, if the construction, modification or reconstruction of the facility commenced after August 3, 1978.

3. A commodity facility which is not required to be controlled under B.2. shall be controlled if the facility meets one of the descriptions listed on Exhibit 6 MCAR 4.0029-1 where the table indicates "control required." For a facility where control is required under this section, the owner, operator, or any other person conducting activities at the facility shall:

a. prevent the discharge of fugitive emissions which exhibit greater than 5 percent opacity from a truck unloading station, railcar unloading station, railcar loading station, or handling operation;

b. prevent the discharge of fugitive emissions which exhibit greater than 10 percent opacity from a truck loading station;

c. prevent the discharge of fugitive emissions which exhibit greater than 20 percent opacity from a ship or barge loading station, except that when trimming ships no opacity restrictions shall apply; and

d. prevent the emission of particulate matter from control equipment which exceeds the limits set forth in Table 2 of Minn. Rule APC 5 and which exhibits greater than 5 percent opacity.

4. The owner or operator of a commodity facility not required to control emissions under B.2. or B.3. shall not be required to install control equipment IF COMPLIANCE WITH B.1.d. IS DEMONSTRATED. If a capture system is installed, the emissions shall be conveyed through control equipment which has a particulate collection efficiency of not less than 85 percent by weight.

5. The owner or operator of a grain dryer shall meet the following design specifications:

a. The perforations of a column dryer screen shall not exceed 3/32 inches in diameter, and column dryers installed 90 days or more after the effective date of this rule shall be provided with a settling chamber, for the exhaust air, designed for the capture and containment of the particulate matter emissions; and

b. the emissions from a rack dryer shall pass through a 50 mesh screen enclosure before discharge to the atmosphere.

EXHIBIT 6 MCAR 4.0029 -1

FACILITY DESCRIPTION	EXISTING FACILITY	NEW FACILITY
FACILITY WITH ANNUAL COMMODITY THROUGHPUT OF MORE THAN 50,000 TONS	CONTROL REQUIRED	CONTROL REQUIRED
FACILITY WITH ANNUAL COMMODITY THROUGHPUT OF MORE THAN 30,000 TONS	NO CONTROL REQUIRED	CONTROL REQUIRED
FACILITY WITH ANNUAL COMMODITY THROUGHPUT OF LESS THAN 30,000 TONS	NO CONTROL REQUIRED	NO CONTROL REQUIRED

Comments on additions and modifications to the APC 29 draft.

1. Section (b) Standards of Performance for All Grain Handling Facilities of the current rule is rather vague. B1. and B2. of the proposed rule clarify this but have not addressed standards for all elevators. The addition of B.1.c., d., and e. would include standards for all elevators including small ones. The 20% opacity requirement is consistent with other rules including APC 4, 5, 7, 11, 12, 22, 23, 25, 26, 28, and 32. Over 90% of the elevators in Region V are now in compliance with the proposed change. The less than 10% not in compliance now have an economic advantage through poor housekeeping which also releases excessive particulates to our environment. This rule change would equalize the emission requirements for these facilities in a reasonable manner.

2. The addition to B.4. requiring demonstration of compliance would not affect the majority (90%+) of facilities in our region. However, it would make B.1.d. effective by requiring control equipment as a last resort if emissions could not be maintained below 20%. This would also give elevators not controlled by B.2. or B.3. some incentive to limit emissions and provide good housekeeping and operating practices. Again, this would eliminate the economic advantage of the small minority of polluters.

3. Extensive changes were made to the Exhibit 6 chart for several reasons. The original chart was confusing and hard to understand. It discriminated against certain facilities merely on the basis of

population. The cutoff of 170,000 tons was a significant change from the current size limits.

Basically, facilities fall into three categories. Local facilities, the country elevators, handle up to about one million bushels throughput and make up about 90% of total. Regional facilities, the regional elevator, handle up to 2½ million bushels throughput and make up about 8% of the total. Major shippers, the barge, ship, and train loaders, handle over 2½ million bushels per year and make up about 2% of the total.

The modification would totally eliminate the population criteria of APC 29 which is discriminatory and places financial burden on some elevators because of location. This change would place control requirements in line with potential emissions which are directly related to throughput. The higher the throughput, the more control required; which is also economically justifiable.

The cutoff for the throughputs requiring control was also lowered to reflect the current operation of elevators in our region. Most all country elevators could continue to operate with no control required. Most regional elevators could continue to operate with no additional control at their present throughput but expansion could require addition of control. The throughput cutoff levels also reflect the minor/major potential emissions factor of 100 tons used to evaluate facilities. Elevators of 30,000 tons or less would have uncontrolled emissions of 50 to 60 tons/year while elevators of 50,000 tons or more would have uncontrolled emissions close to 100 tons/year or more. (AP 42 part A 6.4-2)

The above recommendations have been made to develop a practical and workable rule which reflects current control activities in Region V and are consistent with other air pollution control rules. Rule modifications do not require substantial investment in control equipment but instead formally specify the current operating standards of the industry. A small number of facilities will be required to install control devices but these same facilities would also be liable under the current rule.

The advantage of the modified rule is that it is clear, sets specific limits for emissions, and eliminates the discrimination and confusion from population factors. This will lead to better voluntary compliance and fewer enforcement actions to refer to the Attorney General's office due to vague or ambiguous language. We will have an easier time educating the elevator operators about their responsibility and educating the public about the limits of the MPCA responsibility to control excessive particulate emissions. Thank you.

ZIMMERMAN EQUIPMENT CO.

ZIMMERMAN CONTINUOUS FLOW
GRAIN DRYERS

Litchfield, Illinois 62056

Phone: 217/324-3987

January 5, 1983

Mr. George Vasilikes
MINNESOTA POLLUTION CONTROL AGENCY
1935 W. County Road B 2
Roseville, Minnesota 55113

JAN 10 1983

MINN. POLLUTION
CONTROL AGENCY

Dear Mr. Vasilikes,

If you will recall, late in the month of December, 1982, you and I had a very interesting telephone discussion concerning the value of certain grain dryer designs and their effectiveness regarding the economics of dryer operation, and particulate emissions. We concluded the discussion with you agreeing to send me a copy of grain dryer test results from a Canadian study, and I would write to you explaining my opinion regarding F.M. sheilds, dust chambers and various designs which you are interested in to hopefully reduce emissions from grain dryers.

I thank you for your quick response to my request for the dryer study. In addition, I hope that you find my opinion to be worthy of consideration as you develope your thoughts on policy regarding emission standards and dryer requirements in the State of Minnesota.

Generally speaking, I understand that you may be of the opinion that a grain dryer would be both clean and efficient if an F.M. shield were to be incorporated into the dryer design. In addition, I assumed that you felt that a dust settling chamber would be beneficial not only to the performance of the dryer, but to the economics of the entire operation as well.

In our discussion, I first mentioned that there are numerous dryer designs with some being more similar in operation and design than others. There are dryers in the marketplace which not only incorporate an F.M. shield into the design, but must be of that design to be able to operate. This is to say that the shield is necessary in order for the machine to operate anywhere near its stated capacity, and in most instances, the shield is necessary in order for the machine to comply with even the most lax of state pollution control standards. The existence of any law forcing an F.M. shield to be incorporated into dryer design would only serve the interests of the manufactures of this type of design.

Other manufacturers of commercial grain dryers have in recent years built the F.M. shield into their existing designs. In many cases, this was done to attempt to comply with various pollution control standards. These units had previously been marketed as farm dryers and did not actually compare in quality or construction with existing commercial units.

In other instances, the use of the F.M. shield served another popular purpose as well. With the tremendous increases in the cost of energy, some

ZIMMERMAN EQUIPMENT CO.

ZIMMERMAN CONTINUOUS FLOW
GRAIN DRYERS

Litchfield, Illinois 62056

Phone: 217/324-3987

of the dryer manufacturers have attempted to save energy through the use of re-circulation of heated air from the exhaust side of the drying section to the inlet side of the cooling section. With the implementation of small amounts of fabricated sheet metal, air would be channeled in such a manner as to afford some level of economical operation.

The existence of a law forcing an F.M. shield to be incorporated into dryer design would appear to serve the interests of the manufacturers of these various dryers and perhaps the dryer owners as well. However, in reality, I do not believe that this is actually the case. In virtually all instances of the various dryer designs mentioned thus far, the F.M. shield has served as a "bolt on item" or afterthought in the dryer design, and is not a totally useful or functional item. It has been a"band-aid" of sorts, to patch up poor dryer designs and a make-shift approach to improving dryer cleanliness and economic operation. It typically increases static pressure. This forces the use of larger H.P. motors to do the same job, thus driving energy costs upward. Drying capacity is usually cut substantially, forcing the dryer operator to increase the drying or plenum temperature to help reduce the loss of drying capacity. This increases fuel consumption despite efforts to recirculate heated air. In addition, as drying temperature rises, grain quality decreases greatly. This also is costly to the dryer owner.

Other factors also enter the picture. Recall the purpose of the shield. It was to help eliminate dust emissions. Where did the dust go? If it did not escape to the ambient atmosphere, it is either in the plenum, the grain column, or between the outer grain column wall and the interior wall of the F.M. shield. It is definetly not in the column as the dryers using F.M. shields already have static pressure problems and cannot keep the dust in the grain column or the resulting static pressure would be devastating. Some of this dust is often in the plenum as a result of the hazardous situation the F.M. shield has created. This is obvious due to the frequent fires many dryers of this type experience. Most of the dust is exhausted from the heating section of the dryer to the area between the grain column and the F.M. shield.

The fact that most of the dust lies in this area, brings us to the crux of the problem. This causes tremendous increases in labor costs to clean this area. If the area is not cleaned, several problems arise. Dryer efficiency drops in terms of decreases in capacity and increases in fuel consumption. As the particulate matter builds up and is finally removed, it is often placed outside the dryer where it will eventually spoil or blow away. The fifth and equally significant reason deals with fire hazards. Insurance companies that make it their business to insure elevators, etc., have a rate to meet the risk. Dryers with F.M. shields often are subjected to costly fires and are rather expensive to insure as one might expect.

ZIMMERMAN EQUIPMENT CO.

ZIMMERMAN CONTINUOUS FLOW
GRAIN DRYERS

Litchfield, Illinois 62056

Phone: 217/324-3987

Very few of these units have chambers designed in which dust and particulates should gather, and even fewer dryers offer a dust gathering area which is successful at collecting dust safely.

Zimmerman Equipment Company has on several occasions during the past fifteen years attempted to design and build a successful, efficient dryer that re-circulated heated air back into the dryer. With each attempt we have witnessed several of the problems mentioned above. We have closely examined the results other manufacturers have had as well. It is our opinion that the use of an F.M. shield only hinders the performance of the dryer, for the reasons mentioned above. We believe that a dryer can be designed that burns fuel efficiently, reduces cost and provides a quality end product.

Zimmerman enjoys all of these features, plus having the reputation of being the most clean and most quiet dryer in the marketplace.

In closing, I suggest that you also discuss this matter with a number of people that have knowledge or experience regarding the statements I have made. I hope that you find this useful.

Sincerely yours,

Lon Bathurst

Lonnie Bathurst
Zimmerman Equipment Co.

LB/bw



Farmers Elevator Association of Minnesota



OFFICE OF THE SECRETARY • PHONE: 339-5043 • 852 GRAIN EXCHANGE • MINNEAPOLIS, MN 55415

December 27, 1982

RECEIVED

JAN 3 1983

MINN. POLLUTION CONTROL AGENCY

Minnesota Pollution Control Agency
Attn: Mr. George Vasilakes
Division of Air Quality
1935 W. County Road B2
Roseville, MN 55113-2785

Dear Mr. Vasilakes:

During last week's informational meeting on the proposed amendment to Minnesota Rule APC-29, "Standards of Performance for Grain Handling Facilities," a question arose concerning the intent of APC-29. The impression I have is that only terminal and sub-terminal elevator locations are to be affected by APC-29. However, in exhibit 6 MCAR 4.0029-1, a facility with an annual commodity throughput activity of more than 170,000 tons (3 million bushels) would be required to abide by APC-29 which would include many country elevator locations.

Our Association publishes an annual directory which lists all of the licensed elevators and feed mills in Minnesota. We update this directory yearly, by contacting each licensed facility (845) with a questionnaire that requests the individual facilities to provide us with current data on their facility, i.e., capacity, manager, commodities, etc. We also include in the questionnaire a few additional questions each year concerning information we desire over and above what is needed for the directory. One of the additional questions on this year's questionnaire asked, "How many bushels did you handle in 1981?" The results appear in Exhibit 1.

We had about 650 questionnaires returned this year. Only 261 out of the 650 elevators responded to the bushels handled question. Generally, bushels handled is figured by adding existing inventory at the end of the year to the total amount of grain sold or in plus out divided by 2. I've not encountered any facilities that have figured throughput, in plus out, as you propose. By your proposed definition you could double the figures listed in Exhibit 1 and thus draw even more country elevators under the jurisdiction of APC-29. As it is now, 31 out of the 261 elevators (11.9%) responding would exceed the 170,000 tons or 3 million bushel mark. A reassessment of the definition for throughput activity needs to be conducted but more importantly, the 170,000 ton (3 million bushel) figure needs to be substantially increased.

(cont'd)

Exhibit 1
Total Number of Bushels Handled in 1981
Country Elevators

Bushels		Number	
Less than	100,000	16	690
100,000 -	499,999	31	1290
500,000 -	999,999	57	2290
1,000,000 -	1,499,999	46	1890
1,500,000 -	1,999,999	43	1690
2,000,000 -	2,499,999	23	990
2,500,000 -	2,999,999	14	590
3,000,000 -	3,499,999	10	490
3,500,000 -	3,999,999	5	290
4,000,000 -	4,499,999	5	290
4,500,000 -	4,999,999	2	190
5,000,000 -	5,499,999	3	190
More than	5,500,000	6	290
	Total	261	

The Farmers Elevator Association of Minnesota includes 200 cooperative farmers elevators and 125 independent elevators. We are grateful for the opportunity to comment on the proposed changes to APC-29 and trust that all efforts will be made to exclude country elevators from APC-29 jurisdiction.

Sincerely,

Bob Zelenka

Bob Zelenka
Executive Director
FARMERS ELEVATOR ASSOCIATION OF MINNESOTA
ro

NORTHWEST
AGRI-DEALERS
ASSOCIATION
incorporated

P.O. BOX 698 303 LUNDIN BLVD. MANKATO, MN 56001 507/387-4464

January 3, 1983

RECEIVED
JAN 5 1983
MINN. POLLUTION
CONTROL AGENCY

Mr. George Vasilakes
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113-2785

Re: Proposed Amendments to APC 29

Dear George

I would like to thank you and the agency for setting up the informal meeting of the affected parties to discuss these proposed changes. I think the agency's attempts to amend APC 29 via the non-controversial rule-making process is an excellent game plan. I am hopeful the changes our industry would like to see made can be accomplished so you can update the regulations without expensive, time-consuming hearings.

Our association is composed of country elevators, both independent and cooperative, in the State of Minnesota. We would like to comment on the following items.

1. We support the definition changes as outlined by John Healy of the Northwest Terminal Elevator Association in his letter to you of December 22, 1982. We particularly are concerned with the definition of new facility. Modifications of facilities that do not increase the real grain handling capacity should not be considered construction modifications or reconstruction.

2. Through-put. The proposed definition of through-put, which includes both the incoming and the outgoing material, doubles the through-put. The affect of this can be seen in comparing Exhibit 6 MCAR 4.0029-1 to the old chart which clearly shows there is an effective reduction in allowable tons or bushels of through-put allowed without control being required. The only way the present formula can be adequately used is to double the tonage allowed from the 170,000 tons to 340,000 or 350,000 tons, annually.

   These regulations are for the future. There are dramatic changes occurring in the country elevators as mentioned at the hearing. Many elevators currently handle more than three million bushels today and therefore the 170,000 ton (three million bushel) figure needs to be substantially increased not only for today but for the future.

Lowell T. Schultz, President
Farmers Grain Company
Storden, Minnesota

Robert Welters, Vice President
Good Thunder Feed & Grain, Inc.
Good Thunder, Minnesota

Thomas Cashman, Executive Vice Pres.
P.O. Box 698 303 Lundin Blvd.
Mankato, Minnesota

3. Design specifications for grain dryers. The design specifications that require a settling chamber for column dryers installed ninety days after the effective date of the rule may prove to be quite costly. From comments made at the hearing, it appears to be an intuitive decision, not one based on technical data.

Again we want to thank you for the informal hearing and we hope you will keep us appraised of any subsequent changes in APC 29.

Yours truly

Tom

Thomas E. Cashman
Executive Vice President

TEC:th

pc Richard Sandberg
Brad Beckham
Louis Chamberlain
Bob Zelenka
John Healy

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT MPCA - Duluth - Region I

Office Memorandum

TO : George Vasilakes
Program Development & Air Analysis
Division of Air Quality

DATE: December 30, 1982

FROM : Bob Beresford BB
Pollution Control Specialist

PHONE: 8-101-4660

SUBJECT: APC 29 Revisions

I am writing in response to the November 22, 1982 memo regarding proposed changes to APC 29. The incorporation of the proposed opacity limits for truck unloading, railcar unloading, railcar loading, truck loading, and ship or barge loading are to be commended. Because there is no opacity limit on trimming emissions, I think it is important to limit trimming with uncontrolled spouts to those very few cases where a "'tween decker" or vessel with side holds is loaded. Looking at the proposed trimming definition, a conventional laker and saltie vessel with open holds could be trimmed extensively with an uncontrolled spout under the guise of loading the vessel to capacity. In fact, I have never observed a need to load an open hold ship in this way, and I have witnessed dozens of topping off operations. There does not appear to be a need to perform this operation on the conventional vessels being loaded for transit in the 27-foot harbor depth of Duluth.

I am concerned about the number of grain elevators that are being exempted from any control requirements under the proposed rule, based partly upon the philosophy that they are in attainment areas and therefore shouldn't be required to maintain present control equipment or in some cases, install control equipment. There are about 600 grain elevators in Minnesota and the proposed rule will exempt about 90% of them from any control requirement. The problem with this approach is that a uncontrolled country elevator with a throughput of 25,000 tons per year, emits about 102.5 tons of particulate per year, based on U. S. EPA emission factors in AP 42. The proposed rule will allow about 540 elevators (90% of total) to emit, when considered in total, massive uncontrolled tonnages of grain dust which has been proven to have allergenic properties, has been linked with asthmatic attacks in populations located near grain elevators and results in many complaints to MPCA. The present APC 29 already exempts some existing facilities, but the exemption is being extended from elevators in towns of 2500 or less, or with throughputs of less than four million bushels per year, to all existing elevators in towns of less than 7500 people. For new

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elevators, the exemption from control requirements is being expanded from those elevators in rural, unincorporated areas and with throughput of less than two million bushels to those elevators with throughput of less than 170,000 tons (about 6,500,000 bushels) in cities of less than 7500 people. Can this massive relaxation be justified in light of the PSD philosophy that seeks to protect air quality in relatively clean air areas?

Once control requirements for these elevators are eliminated, and the nuisance clause is eliminated, how are complaints or emission problems going to be resolved? APC 6 does not provide a very safe backup to APC 29, for nuisance situations, since APC 6 will likely be weakened when it is reviewed, under the same legal philosophy that is preventing you from including a nuisance clause in APC 29. I wonder if our Attorney General staff ruling that a nuisance clause is too arbitrary and capricious is in keeping with the long-standing legal record of nuisance cases being resolved in the courts to the satisfaction of the complainant.

Does the decision to not require air pollution control equipment for grain elevators in attainment areas mean that boilers, industrial processes, incinerators, sulfuric acid plants, portland cement plants, asphalt plants, petroleum refineries, secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, sewage sludge incinerators, and direct heating equipment will all be exempted from control requirements if they are located in attainment areas, as each of their control rules is reviewed? You are establishing a precedent for doing just that.

Who is going to perform the air quality monitoring to determine where and if nonattainment areas result from the relaxing APC 29? Part of the reason you are considering this relaxation may be the fact that it is not possible to visit all elevators on a routine basis to insure compliance with APC 29. That does not justify relaxing the rule, however. Many of the complaint responses in the Regional offices involve investigation of small to medium scale pollution situations that would not be subject to routine inspection, but which are resolvable only because there is a Minnesota rule requiring control of such emissions. Concrete batch plant silo vent emissions, unpaved road fugitive emissions, unpermitted open burning, many spill response situations, and improper sludge land spreading techniques are just a few examples of these sorts

of situations. The MPCA response would not have occurred without the complaint, but once the complaint is brought to our attention, we are able to investigate and resolve the situation through enforcement of existing rules. You will be giving this capability away for most grain elevators in Minnesota with the proposed APC 29 and making a serious sacrifice of the MPCA status of environmental advocate in the process.

Are there requirements in the draft APC 29 for those facilities needing control equipment, that emissions from various legs, conveyors, cleaners, and other sources not enumerated under B. 3. be controlled by air pollution control equipment? I did not see this requirement in the draft rule.

As an alternative to the proposed rule, whose limitations I have tried to describe above, why not simply limit emissions from the elevators exempted from control in the existing APC 29 to 20% opacity and 85% control efficiency. Emissions from smaller elevators not meeting these limits would be investigated on a complaint response basis. Retain the existing population and throughput cutoffs, to provide some measure of protection for the large, exposed populations in cities under 7500. This would avoid the need for any nuisance clause.

Please contact me to discuss, when you have reviewed these comments.

BB:hp

cc: Rich Sandberg, Program Development & Air Analysis Section, DAQ
Brad Beckham, Chief, Program Development & Air Analysis, DAQ
Tim Scherkenbach, Assistant Division Director, DAQ

NORTHWEST TERMINAL ELEVATOR ASSOCIATION

612-339-4625
P.O. BOX 15004
COMMERCE STATION
MINNEAPOLIS, MN 55415

December 22, 1982

RECEIVED

DEC 27 1982

MINN. POLLUTION
CONTROL AGENCY

Mr. George Vasilakes
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, MN 55113

Re: Proposed Amendments to APC 29

Dear George:

Following the meeting on December 15, we have reviewed the proposed amendments to APC 29 and make the following suggestions for changes in the proposed draft.

Definitions:

1. Capture system - This definition should be restructured to read "Capture system means equipment such as sheds, hoods, ducts, fans, and dampers used to collect particulate matter." This restructuring clarifies that sheds, hoods, etc., refers to equipment and not particulate matter.

3. Dry Bulk Agricultural Commodity - Previously, APC 29 was applied to grain handling facilities only. Its application has now been expanded to include dry bulk agricultural commodity facilities. Effectively, this means that grain elevators, feed mills, fertilizer plants, seed plants, and dehydrating plants are now affected. Because the application has been substantially expanded, we hope that you will advise each of these affected parties about the proposed amendments and the comment and rulemaking process. This will permit their participation.

4. Dry Bulk Agricultural Commodity Facility - The word "bulk" should be inserted before the word "commodities" in the definition. This will clarify that the commodities need to be in bulk state. Also, it should be clarified that this amendment does not apply to flour mills or processing plants except for the point at which the bulk commodity is received or shipped.

5. Handling Operations - The parenthetical phrase "(excluding legs used to unload barges or ships)" should be inserted after "bucket elevator legs". This will clarify that the use of legs in this particular application would not be subject to the opacity requirements of B3(a). The word "conveyors" should be struck. If it is left as proposed, this means the opacity requirements of B3(a) could be applied to all points along a conveyor belt when moving grain horizontally. As you explained, you are concerned about opacity readings only at transfer points where grain changes direction. So striking "conveyors" will achieve this end.

7. New Facility - Construction, modification, or reconstruction should be defined. Basically, any change which does not increase the hourly grain handling capacity

of a facility should not be considered to be construction, modification or reconstruction. In 40 Code of Federal Regulations Part 60.304, Subpart DD, certain physical changes or changes in the method of operation are classified as to whether they constitute a modification of an existing facility. Additionally, "existing facility" should be specifically defined as any facility not defined as a new facility.

9. Throughput activity - The proposed wording fundamentally changes the generally accepted concept of throughput. It adds the amount of commodity received to the amount of commodity shipped. This basically doubles, by definition, the amount of throughput of a facility. This becomes an issue when applied to Exhibit 6 for determining the amount of throughput which mandates compliance with 6 MCAR 4.0029. The definition as proposed artifically inflates throughput figures for facilities and therefore distorts the true throughput of a facility. The definition should be revised to read "Throughput activity means the sum of the number of tons of commodities received plus the number of tons of commodities shipped by the owner or operator of a dry bulk agricultural commodities facility in an average year divided by two. An average year shall be determined by averaging the actual and anticipated receipts and shipments for three consecutive fiscal years, including the year in progress at the time of the analysis." This will make it consistent with generally accepted industry practices.

10. Trimming - Strike the proposed definition in its entirety. Insert "Trimming means the placing of grain during the final stages of loading which causes a ship or barge to become balanced and/or satisfies a full visible capacity requirement." The proposed definition of trimming does not reflect normal industry practices. All ships and barges are subject to trimming not just 'tween deckers. You have expressed concern about suppressors being removed. Suppressors may be required to be opened, but not removed, during trimming so as to increase the trajectory of the grain stream to facilitate the proper filling of the ship or barge.

11. Unloading Station - The word "grain" should be changed to "commodity". This will maintain the consistency of referring to all commodity in these amendments as "commodity" rather than "grain".

STANDARDS OF PERFORMANCE:

B1(a) should be changed to read "when cleaning up commodities spilled on the driveway in the plant yard, use methods that minimize the amount of airborne dust; and". This clarifies the intent is to encourage good housekeeping procedures. It is easily understood and interpreted both by plant personnel and compliance officers.

The words "grain terminal elevator" and "grain storage elevator" should be defined as used in B2. Both of these words are defined in 40 Code of Federal Regulations Part 60.300, Subpart DD. However, the Federal Regulations may not always be readily available to plant personnel. Therefore, to facilitate application of this standard, it would be helpful if "grain terminal elevator" and "grain storage elevator" were defined within 6 MCAR 4.0029.

The following definitions should be used as they coincide with the definitions used in Part 60.300, Subpart DD:

> "Grain terminal elevator means any grain elevator which has a permanent storage capacity of more than 88,100 m^3 (ca. 2.5 million U.S. bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots."
>
> "Grain storage elevator means any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant which has a permanent grain storage capacity of 35,200 m^3 (ca. 1 million bushels)."

It is our understanding that B2 applies to grain terminals which have permanent storage capacity of more than 2.5 million bushels except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feed lots; or elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill, or soybean oil extraction plant with permanent storage capacity of one million bushels. However, when reading B2 or B3 it is not clear whether a facility would be subject to B2 or B3. Both of these sections should more clearly specify the type of facility to which they would be respectively applied.

In B3(a), (b), (c) "prevent the discharge of" and in (d) "prevent the emission of" should be struck in all four sections. "Cause to be discharged" should be inserted in each section. In B3 the word "the" should be struck and replaced by "no" so that it reads "For a facility where control is required under this section, no owner, operator or any other person conducting activities at the facility shall:". These two changes ensure that the owner, operator or other person is responsible for preventing fugitive emissions from being discharged. The language as proposed would make the owner, operator or other person accountable if a discharge of fugitive emissions accidentally occurs. There are certain times that fugitive emissions may be accidentally discharged due to mechanical malfunctions beyond the control of the owner, operator or person in charge.

In B3(c), the words "or barges" should be inserted after "trimming ships". The phrase would then read "except that when trimming ships or barges no opacity restrictions shall apply;". This change acknowledges that trimming occurs when loading both ships or barges.

B3(d), the word "also" should be inserted between "which" and "exhibits". This would change the end of the sentence to read "... which also exhibits greater than five percent opacity." This change clarifies that the discharge from the equipment needs to exceed both the limits set in APC 5 as well as the opacity criteria.

In B5(a) a period should be inserted after "diameter". The remaining portion of 5(a) should be struck. These standards should not specify equipment design (i.e. settling chambers or windshields). An actual settling chamber, as proposed, would not be commonly available in all commercial dryers.

The 170,000 ton figure, which appears in Exhibit 6, should be changed to 350,000 tons. The proposed 170,000 tons figure does not reflect the current industry practices that have resulted because of the changing dynamics of the transportation system.

The NWTEA is comprised of 16 different companies that operate terminal elevators in the state of Minnesota. We support your attempts to amend APC 29 via the non-controversial rulemaking process. We are confident that if the above suggestions are all incorporated into the proposed amendments that most of the controversy from the terminal elevator standpoint would be minimized.

Sincerely,

John Healy

John Healy, CAE
Executive Vice President

JH:sr

cc: Richard Sandberg
Brad Beckham
Louis Chamberlain

General Mills, Inc.
General Offices

Post Office Box 1113
Minneapolis, Minnesota 55440

Engineering Policy

December 16, 1982

RECEIVED

DEC 20 1982

MINN. POLLUTION
CONTROL AGENCY

Minnesota Pollution Control Agency
1935 W. Co. Road B-2
Roseville, MN 55113

Attn: George Vasilakes,
Div. of Air Quality

Dear George:

This is in confirmation of some of the comments and recommendations offered regarding proposed revision to APC-29 on Standards of Performance for Dry Bulk Agricultural Products at the informal meeting at MPCA offices on December 15, 1982:

1. A "New Facility" definition is included in paragraph A.7, however, there is no definition of "Existing Facility" as used in Exhibit 6. "Existing Facility" should be defined as a facility not defined as a "New Facility" to avoid any misinterpretation.

2. Paragraph A.11. should use the word "commodity" instead of "grain."

3. Paragraph A.10. defines "Trimming" as applied to shiploading. This definition should be modified or perhaps a separate definition should also be included to describe "Topping Off" without the use of a supressor or other device on the end of the spout during barge loading.

4. Paragraph B.1.a. requires the "cleanup of all commodities spilled on the driveway and plant yard as soon as practicable...;and." Since cleanup of all commodities, meaning every particle of grain or dust, is not practical, it is recommended that the word "all" be omitted and be replaced by "significant amounts of." Cleanup of small quantities of commodities spilled, especially in unpaved areas, would create more fugitive dust than leaving the commodity to naturally decompose. Any significant amount of a commodity spilled is normally swept up and salvaged, especially in paved areas.

5. Paragraph B.3.c. should also include exception for topping off barges consistent with the added definition of "Topping Off" of barges.

6. Paragraph B.3.d. should include the word also as follows: "...and which also exhibits greater than 5 percent opacity" to make it clear that both the Table 2 and 5 percent opacity conditions must be exceeded for a violation to exist. As a practical matter if the 5 percent opacity emission is exceeded for the exhaust of a capture system, this would trigger the need for determining the concentration of particulates in the exhaust air or malfunction of the control device.

7. Paragraph 5 should be rewritten to insure that it applies only to "New Facilities" for grain dryers. If it is intended that the perforation size and screen size also apply to existing dryers, it is likely that some existing dryers would not comply, in which case they should be permitted to remain in use as long as emissions do not exceed an opacity of 5 percent. Also the design requirement of the settling chamber is not clear. Certainly such a chamber cannot be expected to capture and contain all particulate matter emissions.

I will be glad to discuss these comments with you further if you so desire.

Sincerely yours,

Donald J. Thimsen

Donald J. Thimsen, P.E.

DJT:mb

General Mills, Inc.
General Offices

Post Office Box 1113
Minneapolis, Minnesota 55440

Engineering Policy

March 15, 1982

RECEIVED
MAR 1 o
POLLUTION CONTROL

Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Rd. B-2
Roseville, MN 55113

Attn: Mr. George Vasilakes

Dear Mr. Vasilakes:

This is in reference to the notice which appeared in the State Register on Monday, February 8, 1982, regarding comments which you will consider on amendments to APC-29, Standards of Performance for Grain Handling Facilities.

General Mills, Inc. has only three facility locations in Minnesota which handle grain. These are the terminal elevators at Duluth and Minneapolis and the Purity Oats flour mill in northeast Minneapolis. We are primarily concerned with the incorporation of opacity limits into proposed amendments to APC-29 and wish to offer the following comments concerning opacity limits:

1. Visual opacity measurements according to EPA Method 9 are highly subjective and cannot be accurately correlated with mass emission standards or rates, particularly in the case of fugitive grain dust which may be generated during ship and barge loading of grain.

2. Since opacity readings are so subjective, they should not be included as limits or standards in amendments to APC-29 on which enforcement of civil or criminal penalties are based. If opacity limits are included they should be used only as triggering mechanism of the need for further investigation of whether concentration or mass emission limits such as in APC-5 are being violated, and then only as applied to stack or duct point sources.

3. The procedure for visual opacity measurements of fugitive grain dust is not accurately defined in EPA Method 9 such that even trained observers can make consistent observations as a basis of civil or criminal penalties. Such opacity measurements therefore, should be used only as an indication that dust control equipment may be malfunctioning or may be improperly operated.

4. If opacity limits, such as found in APC-5, are applied to grain dust emissions from an exhaust stack or duct, it is unlikely that the emission from a grain dust collector with 85% efficiency, such as permitted for certain grain handling facilities as outlined in APC-29, will comply with these opacity limits also. Such opacity limits therefore, would put an additional regulatory burden on grain handling facilities.

The following general comments are also offered concerning air pollution control regulation and air quality in the Duluth Superior AQCR:

1. Particulate air quality monitoring data in the City of Duluth collected by the MPCA has failed to demonstrate any correlation between grain handling activity and violation of air quality standards. In fact during period of low grain handling activity, such as the winter period, or no activity, such as during the grain millers strike for 8 weeks in August and September 1979, there was no demonstrable improvement in particulate air quality in the City of Duluth.

2. In the case of the Duluth-Superior AQCR there is a substantial difference between Minnesota and Wisconsin standards on opacity of emissions. Wisconsin visible emission standards, as applied to facilities constructed before April 1, 1972(6)(b), have a limit on opacity of 40%. We see no reason why grain handling facilities in Duluth should be subject to more restrictive opacity standards than similar facilities in Superior. This disparity in regulations represents another case of regulatory economic burden in Minnesota over other states without any measurable improvement in air quality as the result.

We will be glad to discuss these comments with you in more detail if you so desire.

Sincerely yours,

Donald J. Thimsen

Donald J. Thimsen, P.E.
Mgr. Environmental Engrg.

DJT:mb

cc Louis Chamberlain

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

ORDER FOR NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 1st day of September, 1983, that Notice of Intent to Amend Rules Without a Public Hearing in the above-entitled matter 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.

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

CERTIFICATE OF AGENCY'S RESOLUTION

I, Virgil Herrick, do hereby certify that I am a member and the Chairman of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following are true, complete and correct copies of resolutions adopted at meetings of the Minnesota Pollution Control Agency duly and properly called an held on the 27th day of April and May 24, 1983, that a quorum was present at said meetings, that a majority of those present voted for the resolutions and that said resolutions will be set forth in the minutes of said meetings and have not been rescinded or modified.

The following resolution was adopted on April 27, 1983:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby finds that the attached proposed rules relating to standards of performance for dry bulk agricultural commodity facilities are noncontroversial in nature.
>
> BE IT RESOLVED, that Sandra S. Gardebring, the Executive Director of the Minnesota Pollution Control Agency is hereby granted the authority and directed to sign an Order of the Agency directing that Notice be given of the Agency's intent to adopt without a public hearing the attached rules, to sign the Notice thereof, and to perform any acts incidental thereto.
>
> 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 the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but not limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Agency's representative at all hearings.

The following resolution was adopted in May 24, 1983:

> WHEREAS, on April 27, 1983, the Minnesota Pollution Control Agency authorized noncontroversial rulemaking procedures to go forward with respect to proposed 6 MCAR

§4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities, and

WHEREAS, it is intended by the Agency that these rules replace the existing Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, and

WHEREAS, the resolution adopted by the Agency on April 27, 1983, inadvertently omitted the following two things:

1) the words "outside the Minneapolis - St. Paul Air Quality Control Region" in section B.3.d. of the rule, and

2) authorization to repeal existing Minn. Rule APC 29,

THEREFORE, BE IT RESOLVED:

1. That Section B.3.d. of the rule be proposed for adoption with the additional language underlined in the following:

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than five percent opacity; except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis - St. Paul Air Quality Control Region, shall be in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

2. That the proposal for adoption of 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities include a repealer of Minn. Rule APC 29.

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

Virgil E. Herrick

VIRGIL HERRICK
Chairman

Cynthia C. Jessen

Attest by one other Agency member

40C

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Perry Nicklas, being duly sworn, deposes and says:

That on the 15 day of September, 1983, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Amendments to Rules Without a Public 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.

Perry Nicklas

Subscribed and sworn to before me this 15th day of September, 1983.

Margaret Frank
Notary Public

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

Pollution Control Agency

Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

Notice of Intent to Adopt Amendments to Rules Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing amendments to Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be recodified and retitled as 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities. The Agency proposes to accomplish the amendment by repealing Minn. Rule APC 29 and replacing it with 6 MCAR §4.00291.

The Agency has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§14.21 - 14.28 (1982).

The proposed amendments are authorized by Minn. Stat. §116.07, subd. 4 (1982). A copy of the proposed amendments is enclosed. Please be advised that during the public comment period on the proposed amendments, the Agency staff intends to propose the following amendment to 6 MCAR §4.0029 B.3.d.:

> d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than ~~five~~ ten percent opacity; except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis - St. Paul Air Quality Control Region, shall be in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

The need for and reasonableness of this change is explained in the Agency's Statement of Need and Reasonableness.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Jeanine Willenbring
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7351

Interested persons have 30 days, specifically until October 19, 1983, to submit comments on the proposed amendments. The proposed amendments may be modified if the data and views submitted to the Agency warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless seven or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §14.11 - 14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to George Vasilakes, at the Agency address previously stated (telephone: (612) 296-7325), no later than October 19, 1983. If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to George Vasilakes at the address previously stated.

You are hereby advised, pursuant to Minn. Laws 1983, ch. 188, "Small business considerations in rulemaking," that the proposed rule amendments may have an impact on some small businesses dealing in dry bulk agricultural commodities. The nature of any impact on a small business is dependent upon the geographical location of the business, the commodity throughput of the business, and whether the business' facilty is new or existing. The changes being proposed in the amendments to the rule which may impact small businesses include the following:

1. Expansion of the coverage of the rule to include all dry bulk agricultural commodities. The rule formerly covered grain only.

2. Addition of a new definition of the term "throughput," which affects the applicability of the rule to some businesses.

3. Addition of specific opacity limitations for sources of fugitive particulate emissions.

4. Addition of the requirement for certain facilities to minimize fugitive emissions to a level consistent with "reasonably available control technology." This term is defined in the rule.

5. Specification in the rule of a requirement to maintain air pollution control equipment in proper operating condition and to use the equipment as designed. This requirement has formerly been imposed in permits.

More detailed information concerning the nature of the impact of these changes upon small businesses is set forth in the Agency's Statement of Need and Reasonableness.

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, subd. 11 (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
>
> (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 contains 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: September 16, 1983

Rule as Proposed (all new material)

6 MCAR S 4.00291 Standards of performance for dry bulk agricultural commodity facilities.

A. Definitions. For the purposes of this rule the following terms have the meanings given them:

1. "Capture system" means equipment such as hoods, ducts, fans, and dampers used to capture particulate matter.

2. "Column dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in one or more continuous packed columns between two perforated metal sheets.

3. "Dry bulk agricultural commodity" or "commodity" includes grain, grain by-products, seed, beet pulp or pellets, and alfalfa meal or pellets.

4. "Dry bulk agricultural commodity facility" means a facility where bulk commodities are unloaded, handled, cleaned, dried, stored, ground, or loaded.

5. "Grain" means corn, wheat, sorghum, rice, rye, oats, barley, flax, soybeans, and sunflower seeds.

6. "Grain storage elevator" means a grain elevator located at a wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant that has a permanent grain storage capacity of more than 35,200 cubic meters, which is approximately one million bushels.

7. "Grain terminal elevator" means a grain elevator that has a permanent storage capacity of more than 88,100 cubic meters, which is approximately 2.5 million bushels, except a grain elevator located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots.

8. "Handling operation" includes the use of bucket elevators, scale hoppers, conveyors, trippers, and spouts for the distribution and weighing of commodities within a commodity facility.

9. "Loading station" means the part of a commodity facility where the commodities are transferred from the facility to a truck, railcar, barge, or ship.

10. "Rack dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in a cascading flow around rows of baffles (racks).

11. "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is

capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

12. "Throughput" means the number of tons of commodities received, plus the number of tons of commodities shipped, divided by two, determined on the basis of an average year. An average year is determined by averaging the actual receipts and shipments for the last three consecutive fiscal years. For facilities less than three years old, actual and anticipated receipts and shipments must be used.

13. "Topping-off" means the placing of grain in the final three feet of void in a barge, nine feet in a ship, between the fore and aft center line of the hatch and the outboard side of the vessel. The depth is determined by vertical measurement along the outboard side of the vessel from the top of the hatch opening.

14. "Trimming" means the part of ship loading that requires the use of spoons, slingers, and other equipment attached to the loading spout to ensure that a ship is loaded to capacity.

15. "Unloading station" means the part of a commodity facility where the commodities are transferred from a truck, railcar, barge, or ship to a receiving hopper.

B. Standards of performance for dry bulk agricultural commodity facilities.

1. The owner or operator of a commodity facility shall:

a. clean up commodities spilled on the driveway and other facility property as required to minimize fugitive emissions to a level consistent with RACT; and

b. maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed.

2. The owner, operator, or other person who conducts activities at a grain terminal elevator or grain storage elevator, of which construction, modification, or reconstruction commenced after August 3, 1978, shall meet the requirements of Code of Federal Regulations, title 40, part 60.300, subpart DD, (August 3, 1978) entitled Standards of Performance for Grain Elevators.

3. A commodity facility that is not required to be controlled under B.2. must be controlled if the facility meets one of the descriptions listed in Exhibit 6 MCAR S 4.00291-1 where the table indicates "control required." For a facility where control is required under this section, no owner, operator, or other person who conducts activities at the facility may allow:

a. a discharge of fugitive emissions that exhibit greater than five percent opacity from a truck unloading station, railcar unloading station, railcar loading station, or handling operation;

b. a discharge of fugitive emissions that exhibit greater than ten percent opacity from a truck loading station;

c. a discharge of fugitive emissions that exhibit greater than 20 percent opacity from a ship or barge loading or unloading station, except that during trimming or topping-off, when normal loading procedures cannot be used, no opacity standard applies; and

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than five percent opacity, except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis-St. Paul Air Quality Control Region, is in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

4. The owner or operator of a commodity facility not required to control emissions under B.2. or 3. is not required to install capture systems and control equipment but shall unload, handle, clean, dry, and load commodities to minimize fugitive emissions to a level consistent with RACT. If a capture system is used, the particulate matter must be conveyed through control equipment that has a collection efficiency of not less than 85 percent by weight.

5. A grain dryer must meet the following design specifications:

a. the perforations of a column dryer screen must not exceed 3/32 inches in diameter; and

b. the emissions from a rack dryer must pass through a 50-mesh screen enclosure before discharge to the atmosphere.

C. Nuisance. Notwithstanding any provisions in this rule, no owner or operator of a dry bulk agricultural commodity facility may operate or maintain a facility that creates a public nuisance. If the director determines that operation or maintenance of a commodity facility creates a public nuisance, the director may require the owner or operator to take measures necessary to eliminate the nuisance.

Exhibit 6 MCAR S 4.00291-1

Facility Description	Date Construction, Modification or Reconstruction Commenced	
	Prior to 1/1/84	After 1/1/84
Facility located in Minneapolis-St. Paul Air Quality Control Region or located in a city with a population of 7,500 or more or with annual commodity throughput of more than 180,000 tons	Control required	Control required
Facility with annual commodity throughput of 120,000 to 180,000 tons and located in a city with a population of less than 7,500	No control required	Control required
Facility with annual commodity throughput and location other than those described above	No control required	No control required

Repealer. Pollution Control Agency rule APC 29 is repealed.

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MPLS MN 55404

MS MARY STANTON
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2 ST PAUL MN 55101

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SUITE 811
DULUTH MN 55802 3

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ATTN MR R A GARVEY
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P O BOX 43189 3
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ATTN LOREN L JOHNSON
BOX 1318
GRAND FORKS MN 58201 3

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210 MISSABE BLDG
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DIVERSIFIED INC
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PARK RIDGE ILL 60068
3

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EMT
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3

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FRC/ENVIRONMENTAL SERVICE
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DULUTH MN 55802
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HAKOPEE, MN 55379
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ST PAUL MN 55101 4

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5401 GAMBLE DRIVE
MPLS MN 55416 4

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BOX 604
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250 METRO DRIVE SUITE 725
MINNEAPOLIS MN 55420 5

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1235 JEFFERSON DAVIS HWY
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MPLS MN 55409 5

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STILLWATER MN 55082
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STILLWATER MN 55082
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ST PAUL MN 55133
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P O BOX 66568
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IOCO PIPELINE CO.
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)MBARD IL 60148
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66 ROSE PLACE
PAUL MN 55113
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10 FIFTY SEVENTH AVE N
LS MN 55430
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TTN RALPH SCHLETTY
OX 43089
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30 S DEARBORN ST
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550 NW HWY
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20 NORTH WACKER DR
CHICAGO IL 60606
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555 CEDAR ST
ST PAUL MN 55101
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FALLS CHURCH VA 22041
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400 SUMMIT BANK BLDG
310 S FOURTH AVE
MPLS MN 55415
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SHELL ENGINEERING & ASSOC
1804 VANDIVER DRIVE
PO BOX 548
COLUMBIA MO 65205
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E I DU PONT DE NEMOURS CO
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OLD RIDGEBURY RD
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127 7TH ST N
SUITE 204
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STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14 (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 3:00 p.m., this 14 day of September, 1983.

Elaine A. Zoch

Pollution Control Agency

Proposed Amendment of APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR § 4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (agency) intends to adopt without a public hearing amendments to Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be recodified and retitled as 6 MCAR § 4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities. The agency proposes to accomplish the amendment by repealing Minn. Rule APC 29 and replacing it with 6 MCAR § 4.00291.

The agency has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1982).

The proposed amendments are authorized by Minn. Stat. § 116.07, subd. 4 (1982). The proposed amendments are published below. Please be advised that during the public comment period on the proposed amendments, the agency staff intends to propose the following amendment to 6 MCAR § 4.0029 B.3.d.:

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than ~~five~~ ten percent opacity; except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis-St. Paul Air Quality Control Region, shall be in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

The need for and reasonableness of this proposed change is explained in the agency's Statement of Need and Reasonableness.

The agency has prepared a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon by the agency to support the proposed amendments. Copies of the statement of need and reasonableness and of the proposed amendments are available and may be obtained by contacting:

Jeanine Willenbring
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7351

Interested persons have 30 days, specifically until October 19, 1983, to submit comments on the proposed amendments. The proposed amendments may be modified if the data and views submitted to the agency warrant modification and the modification does not result in a substantial change in the proposed amendments.

Unless seven or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§ 14.11-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to George Vasilakes, at the agency address previously stated (telephone: (612) 296-7325), no later than October 19, 1983. If a person desires to request a public hearing, the agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Upon adoption of the amendments by the agency board, the rules as proposed, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be sent 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 amendments as adopted, should submit a written statement of such request to George Vasilakes at the address previously stated.

You are hereby advised, pursuant to Minn. Laws 1983, ch. 188, "Small business considerations in rulemaking," that the

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.

proposed rule amendments may have an impact on some small businesses dealing in dry bulk agricultural commodities. The nature of any impact on a small business is dependent upon the geographical location of the business, the commodity throughput of the business, and whether the business' facility is new or existing. The changes being proposed in the amendments to the rule which may impact small businesses include the following:

1. Expansion of the coverage of the rule to include all dry bulk agricultural commodities. The rule formerly covered grain only.

2. Addition of a new definition of the term "throughput," which affects the applicability of the rule to some businesses.

3. Addition of specific opacity limitations for sources of fugitive particulate emissions.

4. Addition of the requirement for facilities to minimize fugitive emissions to a level consistent with "reasonably available control technology." This term is defined in the rule.

5. Specification in the rule of a requirement to maintain air pollution control equipment in proper operating condition and to use the equipment as designed. This requirement has formerly been imposed in permits.

More detailed information concerning the nature of the impact of these changes upon small businesses is set forth in the Agency's Statement of Need and Reasonableness.

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, subd. 11 (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

(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 contains 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

Rule as Proposed (all new material)

6 MCAR § 4.00291 Standards of performance for dry bulk agricultural commodity facilities.

A. Definitions. For the purposes of this rule the following terms have the meanings given them:

1. "Capture system" means equipment such as hoods, ducts, fans, and dampers used to capture particulate matter.

2. "Column dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in one or more continuous packed columns between two perforated metal sheets.

3. "Dry bulk agricultural commodity" or "commodity" includes grain, grain by-products, seed, beet pulp or pellets, and alfalfa meal or pellets.

4. "Dry bulk agricultural commodity facility" means a facility where bulk commodities are unloaded, handled, cleaned, dried, stored, ground, or loaded.

5. "Grain" means corn, wheat, sorghum, rice, rye, oats, barley, flax, soybeans, and sunflower seeds.

6. "Grain storage elevator" means a grain elevator located at a wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant that has a permanent grain storage capacity of more than 35,200 cubic meters, which is approximately one million bushels.

7. "Grain terminal elevator" means a grain elevator that has a permanent storage capacity of more than 88,100 cubic meters, which is approximately 2.5 million bushels, except a grain elevator located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots.

8. "Handling operation" includes the use of bucket elevators, scale hoppers, conveyors, trippers, and spouts for the distribution and weighing of commodities within a commodity facility.

9. "Loading station" means the part of a commodity facility where the commodities are transferred from the facility to a truck, railcar, barge, or ship.

10. "Rack dryer" means equipment used to reduce the moisture content of grain in which the grain flows from the top to the bottom in a cascading flow around rows of baffles (racks).

11. "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

12. "Throughput" means the number of tons of commodities received, plus the number of tons of commodities shipped, divided by two, determined on the basis of an average year. An average year is determined by averaging the actual receipts and shipments for the last three consecutive fiscal years. For facilities less than three years old, actual and anticipated receipts and shipments must be used.

13. "Topping-off" means the placing of grain in the final three feet of void in a barge, nine feet in a ship, between the fore and aft center line of the hatch and the outboard side of the vessel. The depth is determined by vertical measurement along the outboard side of the vessel from the top of the hatch opening.

14. "Trimming" means the part of ship loading that requires the use of spoons, slingers, and other equipment attached to the loading spout to ensure that a ship is loaded to capacity.

15. "Unloading station" means the part of a commodity facility where the commodities are transferred from a truck, railcar, barge, or ship to a receiving hopper.

B. Standards of performance for dry bulk agricultural commodity facilities.

1. The owner or operator of a commodity facility shall:

a. clean up commodities spilled on the driveway and other facility property as required to minimize fugitive emissions to a level consistent with RACT; and

b. maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed.

2. The owner, operator, or other person who conducts activities at a grain terminal elevator or grain storage elevator, of which construction, modification, or reconstruction commenced after August 3, 1978, shall meet the requirements of Code of Federal Regulations, title 40, part 60.300, subpart DD, (August 3, 1978) entitled Standards of Performance for Grain Elevators.

3. A commodity facility that is not required to be controlled under B.2. must be controlled if the facility meets one of the descriptions listed in Exhibit 6 MCAR § 4.00291-1 where the table indicates "control required." For a facility where control is required under this section, no owner, operator, or other person who conducts activities at the facility may allow:

a. a discharge of fugitive emissions that exhibit greater than five percent opacity from a truck unloading station, railcar unloading station, railcar loading station, or handling operation;

b. a discharge of fugitive emissions that exhibit greater than ten percent opacity from a truck loading station;

c. a discharge of fugitive emissions that exhibit greater than 20 percent opacity from a ship or barge loading or unloading station, except that during trimming or topping-off, when normal loading procedures cannot be used, no opacity standard applies; and

d. a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than five percent opacity, except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis-St. Paul Air Quality Control Region, is in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

4. The owner or operator of a commodity facility not required to control emissions under B.2. or 3. is not required to install capture systems and control equipment but shall unload, handle, clean, dry, and load commodities to minimize fugitive emissions to a level consistent with RACT. If a capture system is used, the particulate matter must be conveyed through control equipment that has a collection efficiency of not less than 85 percent by weight.

5. A grain dryer must meet the following design specifications:

a. the perforations of a column dryer screen must not exceed 3/32 inches in diameter; and

b. the emissions from a rack dryer must pass through a 50-mesh screen enclosure before discharge to the atmosphere.

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C. Nuisance. Notwithstanding any provisions in this rule, no owner or operator of a dry bulk agricultural commodity facility may operate or maintain a facility that creates a public nuisance. If the director determines that operation or maintenance of a commodity facility creates a public nuisance, the director may require the owner or operator to take measures necessary to eliminate the nuisance.

Exhibit 6 MCAR § 4.00291-1

Facility Description	Date Construction, Modification or Reconstruction Commenced	
	Prior to 1/1/84	After 1/1/84
Facility located in Minneapolis-St. Paul Air Quality Control Region or located in a city with a population of 7,500 or more or with annual commodity throughput of more than 180,000 tons	Control required	Control required
Facility with annual commodity throughput of 120,000 to 180,000 tons and located in a city with a population of less than 7,500	No control required	Control required
Facility with annual commodity throughput and location other than those described above	No control required	No control required

Repealer. Pollution Control Agency rule APC 29 is repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Waste Management Board

Adopted Amendments to Rules of the State Waste Management Board Governing Supplementary Review and Governing Operating Procedures

The rules as proposed and published at *State Register*, Volume 7, No. 47, pp. 1678-1680, (7 S.R. 1678) are now adopted without modification.

Office of Administrative Hearings

Adopted Amendments to Procedural Rules for Workers' Compensation Hearings

The rules proposed and published at *State Register*, Volume 7, Number 52, pages 1827-1831, June 27, 1983 (7 S.R. 1827) are adopted with the following modifications:

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 22nd day of November, 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 noncontroversial rules, after considering the Statement of Need and Reasonableness and the written comments submitted to the Agency, 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 Finidngs of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rules, together with the proposed rules, in the State Register on September 19, 1983 (8 S.R. 499).

2. On September 15, 1983, the Agency gave the same notice by United States mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (1982).

3. The notice of the Agency's intent to amend the rules afforded all interested persons 30 days to submit data and views

on the proposed rules and to request a hearing on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. §14.22 (1982).

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on October 19, 1983.

6. During the comment period, the Agency received three written comments. None of these contained a request for a public hearing.

7. The Agency finds that certain modifications to the proposed rules are supported by the data and views submitted to the Agency within the comment period. Specifically, the Agency makes the following findings with respect to each of the modifications:

a. Amendment of the Definition of "Dry Bulk Agricultural Commodity Facility."

During the comment period the Agency received a comment requesting that the definition of "dry bulk agricultural commodity facility" be amended to clarify that the rule does not impose requirements upon individually owned, operated, and managed farms. The Agency does not intend that the rule should impose requirements on farmers on their own property; the rule is directed at larger commercial operations. Therefore, it is

necessary and reasonable to amend Section A.4. of the rule, for the purposes of clarifying the Agency's intent, as follows:

> "Dry bulk agricultural commodity facility" means a facility where bulk commodities are unloaded, handled, cleaned, dried, stored, ground, or loaded. "Dry bulk agricultural commodity facility" does not include a facility located on a family farm or family farm corporation, as defined in Minnesota Statutes Section 116B.02, which handles commodities from the farm or used on the farm.

b. Addition of Definition for "Normal Loading Procedures."

During the comment period the Agency received a comment that the language of Section B.3.c. of the rule is unclear. That section contains a 20 percent opacity limitation for the discharge of fugitive emissions from ship or barge loading or unloading operations, with the following exception: "except that during trimming or topping off, when normal loading procedures cannot be used, no opacity standard applies." (Emphasis supplied.) The comment indicated that the phrase "when normal loading procedures cannot be used" is unclear.

The Agency has no objection to clarifying its intention in using the phrase "normal loading procedures." The intention is that trimming and topping off operations are covered by the opacity limitation except when loading procedures must be altered in order to properly load the barge or ship. Therefore it is necessary and reasonable to add to Section A. of the rule the following additional definition:

> "Normal loading procedure" means that part of a barge or ship loading operation where the spout and associated dust suppression systems are capable of distributing the commodity in the hold as needed without making modifications to the loading procedure, such as removing the dust suppressor, raising the spout, slowing the loading rate below the design capability of the spout, or attaching equipment at the end of the spout.

c. Amendment to Opacity Limitation on Control Equipment.

During the comment period the Agency itself proposed an amendment to Section B.3.d. of the rule. The Agency's intent to make this proposal was indicated in the Notice of Intent to Adopt Amendments to Rules Without a Public Hearing, both as published in the State Register (8 S.R. 499, September 19, 1983) and as mailed to interested persons. The need for and reasonableness of the proposed amendment was also discussed in full at page 40-41 of the Statement of Need and Reasonableness, which discussion is hereby incorporated herein by reference. Therefore it is necessary and reasonable for the Agency to amend Section B.3.d. of the rule as follows:

> a discharge of particulate matter from control equipment that exceeds the limits set forth in table 2 of rule APC 5 or that exhibits greater than ~~five~~ ten percent opacity; except that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis - St. Paul Air Quality Control Region, shall be in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

8. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the

amendments to the rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rule amendments are supported by the data and views submitted to the Agency within the comment period and do not result in a substantial change in the proposed rule amendments.

MINNESOTA POLLUTION CONTROL AGENCY

Cynthia C Jepsen

CYNTHIA JEPSEN
Chairperson

Sandra Gardebring

SANDRA S. GARDEBRING
Executive Director

Dated: November 22, 1983

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING AND REPEALING RULES

I, Cynthia Jepsen, do hereby certify that I am a member and the Chairperson of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 22nd day of November, 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

> BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts 6 MCAR §4.00291, Standards of performance for dry bulk agricultural commodity facilities, as attached, and hereby repeals Minn. Rule APC 29, pursuant to the authority vested in the Agency by Minn. Stat. §116.07, subd. 4 (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 and Repealing Rules.
>
> BE IT FURTHER RESOLVED, that the Chairperson and the Executive Director are hereby authorized to execute the above-named documents.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of November, 1983.

Cynthia C Jepsen
CYNTHIA JEPSEN
Chairperson

Attest by one other Agency member

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Pollution Control Agency (Agency) has proposed to adopt amendments to Minn. Rule APC 29 (APC 29), Standards of Performance for Grain Handling Facilities. The rule will be recodified, in accordance with the Minnesota Code of Administrative Rules (MCAR), as 6 MCAR §4.00291, and retitled "Standards of Performance for Dry Bulk Agricultural Commodity Facilities." The Agency proposes to accomplish the amendment by repealing APC 29 and replacing it with 6 MCAR §4.00291.

The Agency has prepared a list of the exhibits which support the proposed amendments. The exhibit list is appended to this document. The exhibits are available for review at the Agency's offices at 1935 West County Road B2, Roseville, Minnesota.

The purpose of this document is to describe the proposed rule amendments, demonstrate the legal authority of the Agency to adopt the proposed rule amendments, demonstrate the need for the proposed rule amendments, demonstrate the reasonableness of the proposed rule amendments, and, pursuant to the requirements of Minn. Laws 1983, ch. 188, entitled "Small Business Considerations in Rulemaking," to document how the agency has considered the methods for reducing the impact of the proposed rule amendments on

small businesses.

II. DESCRIPTION OF THE PROPOSED AMENDMENTS

The existing Minn. Rule APC 29 (Exhibit 1) establishes standards of performance for grain handling facilities with respect to particulate matter emissions. The control requirements established in the rule differ for different facilities, depending on geographical location, grain throughput, and whether the facility is existing or new.

The amendments to the rule expand the coverage of the rule to include all dry bulk agricultural commodity facilities. However, the proposed amendments do not, in general, significantly alter the control requirements placed on existing facilities which are now regulated under the existing rule.

The majority of the proposed amendments to the rule involve changes in or additions to the standards of performance established by the rule.

The first change in standards of performance involves issues relating to housekeeping practices. Section (b)(1) of the existing rule requires maintenance of "good operating and housekeeping practices" at all times. 6 MCAR §4.00291 B.1. maintains the concept of the original rule but sets forth with more specificity what actions are necessary. The owner or operator is required under the proposed amendments to clean up commodities spilled on facility property "as required to minimize

fugitive emissions to a level consistent with reasonably available control technology." "Reasonably available control technology" (RACT) is defined in the definitions of the rule amendments and takes into account technological and economic feasibility. This section of the rule amendments also requires the owner or operator to maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed.

The second change in standards of performance involves the incorporation by reference of the New Source Performance Standards adopted by the U. S. Environmental Protection Agency (EPA) for grain terminal elevators and grain storage elevators. These two terms are also defined in the definitions of the proposed rule as amended.

Several changes are proposed within the rule concerning which facilities are required to control particulate emissions from their operations. As in the existing rule, determination of whether control is required is based on geographical location, population density, commodity throughput, and whether the facility is new or existing. For purposes of clarity, this information is presented in the form of a chart, which appears as Exhibit 6 MCAR §4.00291-1. For facilities located in the Minneapolis-St. Paul Air Quality Control Region, for facilites located in a city with a population of 7,500 or more, or with an annual commodity

throughput of more than 180,000 tons, controls are required on both existing and new facilities. For facilities with an annual commodity throughput of 120,000 to 180,000 tons and located in a town with a population of less than 7,500, installation of control equipment is not required for existing facilities but would be required on new facilities. A facility which does not fall into one of the descriptions given above would not be required to install control equipment, regardless of whether the facility is new or existing. The proposed descriptions contain changes to the existing rule, increasing the population-size cut-off and increasing the throughput cut-off.

The amended rules establish a different type of control standard for facilities which are required to install control equipment. The existing rule requires the application of induced draft to all sources of particulate emissions and the conveyance of the particulate matter through control equipment. The requirement to apply induced draft has been replaced by limitations on visible emissions (opacity) on various operations at commodity facilities. Under the proposed amendments, fugitive particulate emissions from truck unloading, railcar loading and unloading, and handling operations are limited to five percent opacity. Fugitive emissions from truck loading cannot be greater than ten percent opacity, and emisssions from barge and ship loading or unloading are limited to twenty percent opacity except during trimming or topping-off operations. The control

equipment which is installed at commodity facilities to remove the particulate matter captured at any of the emission sources must meet the emission limitations established in Minn. Rule APC 5, Table 2. This is a minor change from the existing rule, which offered an option of meeting either a percent removal (e.g., 99 percent by weight) or the requirements of Tables 1 or 2 in Minn. Rule APC 5. The proposed rule as amended also contains a specific opacity limitation on emissions from control equipment.

The proposed amendments also establish minimum operational requirements for facilities which are not required to control emissions. These operational requirements involve activities such as limiting the free fall distance of a commodity being loaded into a vehicle, and the measures undertaken to comply with these requirements will be judged as being adequate only if they are consistent with RACT.

The amendments do not affect the provisions of Sections (f) and (g) of the existing rule ("Exceptions for Grain Dryers" and "Nuisance"), which are retained in the rule.

III. LEGAL AUTHORITY TO ADOPT THE PROPOSED AMENDMENTS

The Agency is authorized by Minn. Stat. §116.07, subd. 4 (1982) to adopt, amend, and rescind rules for the prevention, abatement or control of air pollution. That statute provides, in relevant part:

> Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt,

> amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein, to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

"Air pollution" is defined as follows:

> "Air pollution" means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

Minn. Stat. §116.06, subd. 3 (1982). "Air contaminant" or "air contamination" is defined to mean:

> [T]he presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous, fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

Minn. Stat. §116.06, subd. 2 (1982).

Minn. Rule APC 29 was adopted for the purpose of controlling particulate emissions into the ambient air from grain handling facilities. The rule as amended will continue to restrict the emission of particulate matter into the air from these facilities and from other facilites which are dry bulk agricultural commodity facilities.

The facilities regulated by the rule as amended would be described as emission facilities. These facilites are defined to

include:

> [A]ny structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur."

Minn. Stat. §116.06, subd. 5 (1982).

Based on the foregoing, the Agency has statutory authority to adopt the proposed amendments.

IV. STATEMENT OF NEED

Minn. Rule APC 29 was originally promulgated by the Agency on March 12, 1976. 1/ The need to adopt amendments to the rule arises from the following problems:

1) During the seven years since the adoption of the rule, the Agency has gained knowledge and experience in the regulation of grain handling facilities and other dry bulk agricultural commodities which generate fugitive particulate emissions. In addition, there have been advances in control technology for emissions from these types of facilities. These factors cause the existing rule to be somewhat outdated and in need of updating to take account of the advances in regulatory experience and control technology.

2) The Agency is being required by the U. S. Environmental Protection Agency (EPA) to revise the rule in certain

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1/ The published rule contains the date March 12, 1975. However, Agency rulemaking records indicate that the effective date of the rule was March 12, 1976.

respects.

These problems are described more fully below.

A. Need to Update the Rule

The Agency's experience with enforcing APC 29 has resulted in identification of certain ambiguities and inadequacies in the rule which need to be addressed.

There is ambiguity in the existing rule relating to the fact that many grain handling facilities include both grain processing equipment and grain handling equipment. The processing equipment is subject to the requirements of Minn. Rule APC 5, "Standards of Performance for Industrial Process Equipment." Existing APC 29 does not exclude from its coverage those portions of a grain handling facility which are devoted to processing. Because the requirements of APC 5 and APC 29 are not in all cases consistent, and because it is the Agency's intent that processing be covered by APC 5 and not APC 29, there is a need to amend APC 29 to clarify which operations of a facility are regulated by the rule.

Another problem with existing APC 29 relates to the fact that many of the products handled at grain handling facilities are not grain, even though they create the similar particulate emission problems. For example, screenings, dust, and midds are derived from grain but are not grain as such, and therefore they are arguably not covered by existing APC 29. Other products such as

alfalfa products, soybean meal, and beet pulp pellets are not covered by the existing rule but should be because they are capable of creating particulate emission problems when handled. Therefore there is a need to amend the rule to expand its coverage.

Agency experience with enforcement of the existing APC 29 has shown that in some instances its requirements are overly stringent, considering the air quality benefit to be obtained versus the cost of control. The specific instances of this are explained in the Statement of Reasonableness. There is a need to amend the rule to relax those requirements which are overly stringent.

B. Need to Revise the Rule to Satisfy EPA Requirements

The involvement of EPA with the rule arises out of the requirements of the Clean Air Act (Exhibit 2). Pursuant to Section 109 of the Act, federal ambient air quality standards for particulates have been established to prevent the occurrence of adverse health and welfare effects. (See 40 C.F.R. §50.7.) 2/ Primary ambient air quality standards are set at levels to protect the public health while secondary standards serve to prevent all other adverse effects, such as injury to vegetation and livestock, property damage, and visibility reduction. The National Ambient

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2/ The Agency has also adopted ambient air quality standards for particulate matter. These are set forth in 6 MCAR §4.0001 and, with respect to particulate matter, are identical to the federal standards.

Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP) are set forth in 40 C.F.R. §50.7.

Section 110 of the Clean Air Act requires that each State submit to the Administrator of EPA a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of national primary and secondary ambient air standards in each air quality control region (or portion thereof) as needed. If the Administrator determines that the submitted SIP meets all applicable requirements, EPA adopts the SIP using federal notice-and-comment rulemaking procedures.

Once a SIP is adopted by EPA it is enforceable by EPA in accordance with Section 113 of the Clean Air Act. Specifically, if EPA finds a person to be in violation of a State rule which is part of an adopted SIP, EPA can take certain enforcement actions in the manner set forth in the Act.

Minnesota submitted its SIP to EPA in 1971, and at that time it was approved by the Administrator. Minnesota's SIP included all of the Agency's rules that were in place at that time. However, between 1971 and 1981, the Agency continued to adopt new rules and amend its old rules as a part of its efforts to attain and maintain federal and state ambient air quality standards.

One of the new rules adopted by the Agency was APC 29. The rule did not contain a limitation on visible emissions (commonly referred to as "opacity") but rather established an equipment

standard: i.e., to apply "induced draft" on sources of particulate emissions within grain handling facilities. However, Agency inspectors frequently used opacity readings at these facilities as a guide to determining whether induced draft was being applied in an effective manner on sources of particulate emissions.

The Agency did not submit APC 29 to the Administrator of EPA for inclusion in the SIP until 1981. Prior to the approval of APC 29 by EPA, the only Agency rules within the EPA-adopted SIP which were enforceable against grain handling facilities by EPA under Section 113 of the Clean Air Act were Minn. Rule APC 11, "Restriction of Emission of Visible Air Contaminants," and Minn. Rule APC 6, "Preventing Particulate Matter from Becoming Air-Borne." Minn. Rule APC 11 establishes opacity limitations for any facility "for which a specific standard of performance has not been promulgated." (Minn. Rule APC 11 A.) EPA evidenced an active interest in the regulation of grain handling facilites in Minnesota, citing grain handlers for violations of APC 11. In this manner EPA became accustomed to using opacity limitations in Minnesota as an enforcement mechanism for grain handling facilities.

In 1978 EPA adopted, pursuant to Sections 111 and 301(a) of the Clean Air Act, New Source Performance Standards (NSPS) for Grain Elevators, 40 C.F.R. §§60.300 - 60.304. These standards contain opacity restrictions, evidencing further EPA's belief that

opacity limitations are appropriate in the regulation of fugitive particulate emissions for grain handling facilities.

On January 23, 1981, as a part of an effort to update Minnesota's SIP, the Agency submitted APC 29 to the Administrator for approval. A part of EPA's review was to determine whether the new rule meets the requirements of Part D of the Clean Air Act. Part D establishes specific requirements concerning the development of the SIP for designated nonattainment areas in a state which will result in compliance with ambient air quality standards. The state must impose upon sources located in areas of the state which do not meet the ambient air quality standards (nonattainment areas) a requirement to install "reasonably available control technology" (RACT).

In reviewing APC 29, EPA apparently decided that the equipment standard included in APC 29 was not sufficiently enforceable to meet the requirement to impose RACT. However, EPA incorrectly assumed that the opacity limitations of APC 11 would continue to apply to grain handling facilities, and on that basis published a notice that it would approve the rule. In its Notice of Proposed Rulemaking dated November 20, 1981 (46 Fed. Reg. 57061, 57065) (Exhibit 3), EPA stated:

> EPA has reviewed this rule and determined that the particulate standards for grain handling facilities represent RACT. The opacity limits contained in APC-11 will be utilized in this rule.

During EPA's public comment period the Agency submitted a

comment indicating that EPA's understanding was incorrect and that the Agency did not interpret the opacity limitations of APC 11 to apply to grain handling facilities. The Agency stated:

> Minnesota Rule APC 11 "Restriction of Emission of Visible Air Contaminants" sets forth opacity limitations for an emission facility for which a specific standard of performance has not been promulgated in another regulation. Since the MPCA interprets Minnesota Rule APC 29 as having a standard of performance requirement, the Agency contends it is that rule which is controlling rather than Minneasota Rule APC 11 for grain handling facilities.

Letter of J. Michael Valentine, Director, Division of Air Quality, Minnesota Pollution Control Agency, to Gary Gulezian, Chief of Regulatory Analysis Section, EPA, December 18, 1981. (Exhibit 4.)

The Agency's letter prompted discussions between EPA and Agency officials. EPA's position was that it would not approve the rule unless it contained opacity limitations because EPA did not believe it was otherwise sufficiently enforceable. During the discussions the Agency stated its intention to amend APC 29 to provide opacity limitations in certain portions of the rule. Based on this commitment, EPA published on May 6, 1982, a new notice of proposed rulemaking in which APC 29 was conditionally approved. (47 Fed. Reg. 19556.) (Exhibit 5.) The notice states that the condition could be satisfied in two ways:

1) The Agency could submit an amended APC 29 which contains specific opacity limits that are representative of RACT levels of control; or

2) The Agency could submit operating permits and/or

stipulation agreements for the grain handling facilities in the two nonattainment areas of Minnesota (the Twin Cities Metropolitan Area and the City of Duluth) which contain opacity limitations equivalent to RACT control levels.

The Agency has decided to proceed with the first option. Therefore the proposed rule amendments are needed to meet the requirements of EPA with respect to Minnesota's SIP.

V. STATEMENT OF REASONABLENESS

The discussion below addresses the reasonableness of each provision of the proposed rule amendments.

A. Definitions

Section A. of the proposed rule amendments defines fifteen terms used in other sections of the rule. These terms are discussed below.

1. "Capture system" is defined to make it clear that it refers to equipment used to capture particulate matter, such as hoods, ducts, fans and dampers. It is reasonable to define this term because it clarifies what types of systems are referred to in Section B.4. of the rule as amended.

2. "Column dryer" is defined in order to clarify which equipment must meet the performance standard established in Section B.5.a. of the rule as amended.

3. "Dry bulk agricultural commodity" and "commodity" are

defined to include grain, grain by-product, seed, beet pulp or pellets, and alfalfa meal or pellets. The effect of this definition is to expand the coverage of the rule to regulate the handling of commodities in addition to grain. This is reasonable because, as explained in the Statement of Need, many grain handling facilities handle a variety of dry bulk commodities in addition to grain. The commodities listed are handled with the same types of equipment as grain and generate particulate emissions when handled. Therefore it is reasonable to require grain handling facility operators to handle these other commodities in a manner that will prevent fugitive emissions. Facilities which do not handle grain but which handle the commodities listed in the definition use equipment similar to the equipment used at grain elevators. It is therefore reasonable to require these types of facilites to meet the same standards of performance which grain handling facilities must meet.

The definition of "commodity" does not cover some products which people may consider to be dry bulk agricultural commodities. Examples are salt and dry bulk fertilizer. However, it is reasonable not to include these products in the definition because they have handling requirements which are different than the products included in the definition. Fugitive emissions from these other types of products are required to be controlled pursuant to Minn. Rule APC 6, "Preventing Particulate Matter From

Becoming Air-Borne."

4. "Dry bulk agricultural commodity facility" is defined to make it clear as to which operations of a facility are covered by the rule. This definition is needed to address the problem previously described in the Statement of Need: that is, to clarify that only unloading, handling, cleaning, drying, storing, grinding, and loading operations are covered by the rule as amended. Processing operations, by not being included in the list, are not covered by the rule. This definition does not include, for example, the processing equipment found in flour mills, oil processing plants, alfalfa dehydrating equipment, sugar beet processing equipment, and other processing equipment. It excludes the roller mills, sifters, and purifiers at a flour mill.

Some equipment is not strictly processing equipment and not strictly handling equipment. For that equipment, its location and use will determine whether it is covered by APC 29 as amended or by Minn. Rule APC 5, relating to processing equipment. For example, hammermills would be covered by APC 29 as amended if they are located in a grain elevator or are part of the grain elevator. Cleaners located in a grain elevator and used as precleaners would be covered by APC 29 as amended, while cleaners indigenous to a flour mill operation would be covered by APC 5.

It is reasonable to define "dry bulk agricultural commodity facility" to clear up the ambiguity in the existing rule relating

to its applicability to processing equipment. It is reasonable to apply these rules to facilities where commodities are loaded, handled, cleaned, dried, stored, ground, or loaded because these are the operations which are, if uncontrolled, likely to result in emissions of particulate matter.

5. "Grain" is defined to clarify the fact that the rule covers only corn, wheat, sorghum, rice, rye, oats, barley, flax, soybeans, and sunflower seeds. This is reasonable because these grains cause particulate matter emissions when handled.

6. "Grain storage elevator" incorporates into the rule the definition of "grain storage elevator" found in the EPA's New Source Performance Standards (NSPS) for grain elevators. This definition is set forth in 40 C.F.R. §60.301(b). (Exhibit 6.) It is reasonable to include this definition because section B.2. of the rule incorporates by reference the requirements of the NSPS.

7. "Grain terminal elevator" incorporates into the rule the definition of "grain terminal elevator" found in EPA's NSPS for grain elevators. This definition is set forth in 40 C.F.R. §60.301(c). (Exhibit 6.) It is reasonable to include this definition because section B.2. of the rule incorporates by reference the requirements of the NSPS.

8. "Handling operation" is defined to clarify which handling operations must meet the performance standards established in Section B.3. of the rule as amended.

9. "Loading station" is defined in order to clarify which operations must meet the performance standards established by Section B.3. of the rule as amended.

10. "Rack dryer" is defined in order to clarify which facilities must meet the performance standards established by Section B.5.b. of the rule as amended.

11. "Reasonably available control technology" is defined in order to clarify the degree of control required by sections B.1. and B.4. of the rule as amended. This definition is consistent with another Agency rule, 6 MCAR §4.0033, "Standards of Performance for Coal Handling Facilities Within Designated Areas." Section A.5. of that rule contains the same definition of RACT. It is reasonable to include this definition to aid both the public and the agency enforcement personnel in understanding the degree of control required by the rule.

12. "Throughput" is defined to provide a formula by which a facility's commodity throughput is determined. This is important because elsewhere in the rule throughput cut-offs are established in connection with control requirements. It is reasonable to include this definition to avoid disputes in the future as to how throughput should be calculated.

13. "Topping-off" is defined in order to clarify which operations during ship or barge loading or are exempt from the opacity limitation established in Section B.3. of the

rule as amended. This definition is reasonable because it describes the part of the loading operation when it becomes difficult, if not impossible, to control fugitive emissions during ship or barge loading. It describes the activity in enough detail to allow an owner or operator or inspector to clearly determine when topping-off is occurring.

14. "Trimming" is defined in order to clarify which operations during ship or barge loading are exempt from the opacity limitation established in Section B.3. of the rule as amended. This definition is reasonable because it describes the operations which are difficult, if not impossible, to control during ship or barge loading. It describes the activity in enough detail to allow an owner or operator or inspector to clearly determine when such an activity is occurring.

15. "Unloading station" is defined in order to clarify which operations must meet the performance standards established in Section B.3. of the rule as amended. It is reasonable to include this definition in order to aid the public in understanding the control requirements of the rule as amended.

B. Standards of Performance for Dry Bulk Agricultural Commodity Facilities

Sections B.1. throught B.5. of the rule as revised establish the standards of performance for dry bulk agricultural commodity facilities. These standards of performance are discussed below.

Section B.1. Housekeeping

Section (b)(1) of the existing rule requires maintenance of "good operating and housekeeping practices" at all times. Section B.1. of the rule as amended maintains the concept of the original rule but sets forth with more specificity what actions are necessary.

The owner or operator is required under Section B.1.a. of the rule as amended to clean up commodities spilled on facility property "as required to minimize fugitive emissions to a level consistent with reasonably available control technology." This requirement is reasonable because spilled commodities, if not cleaned up, can create a fugitive emission problem, either when blown by the wind or when disturbed by motor vehicles. The degree of control required is reasonable because it is is tied to RACT. RACT, by definition, takes into account technological and economic feasibility. This allows the smaller facilities to employ clean-up methods different from those that would be required of larger facilities with greater economic resources.

Paragraph B.1.b. of the rule as amended requires the owner or operator to maintain air pollution control equipment in proper operating condition and utilize the air pollution control systems as designed. This requirement is necessary because no benefit is obtained from air pollution control equipement which is installed but is not operated. The requirement is reasonable because in

most cases the cost for operating and maintaining control equipment is low in comparison with the cost of installation. It is reasonable for existing facilities because it is not genuinely a new requirement, having either been already a requirement of any Agency permit issued to the owner or operator or else having been required by virture of the fact that shut-down or improperly operated equipment would have resulted in the violation of a performance standard of the existing rule.

Section B.2., Incorporation of the NSPS

Section B.2. of the rule as amended requires the owner, operator, or other person who conduct activities at a grain terminal elevator or grain storage elevator, of which construction, modification, or reconstruction commenced after August 3, 1978, to meet EPA's NSPS for those facilities. The NSPS were promulgated by EPA on August 3, 1978, and are set forth in 40 C.F.R. Sections 60.300 - 60.304. Exhibit 6 sets forth the NSPS and also discusses EPA's rationale for portions of the NSPS.

The NSPS restricts the particulate matter emissions allowed from both fugitive emission sources and point sources at those facilities that have large enough grain storage capacities to fall within the size restrictions specified in the definitions of grain terminal elevators and grain storage elevators. The affected facilities are required to meet opacity standards for fugitive emissions for each of the ten operations that may be found at

these facilities. These opacity limits are based on the operating capability of a well-designed and well-operated grain facility. EPA has set forth the bases of these standards in a document entitled "Standards Support and Environmental Impact Statement, Volume 2: Promulgated Standards of Performance for Grain Elevator Industry" (Exhibit 7).

By letter dated September 1, 1982, EPA has delegated to the Agency the authority to enforce the NSPS for grain elevators. (Exhibit 8.) Because the Agency has been delegated this authority and is responsible for the enforcement of the NSPS, it is reasonable to incorporate by reference the provisions of the NSPS in APC 29 as amended. This incorporation by reference will notify the regulated public that the Agency is administering and enforcing the federal NSPS.

Section B.3., Commodity Facilities Requiring Control Equipment

Section B.3. of the rule as revised provides that a commodity facility that is not subject to the NSPS must be controlled if the facility meets one of the descriptions listed in Exhibit 6 MCAR §4.00291-1. The rule also establishes the standards of performance for those facilities which are required to be controlled.

In order to determine whether control is required on a facility it is necessary to look at the three descriptions listed in Exhibit 6 MCAR §4.00291-1.

The first description is: "Facility located in Minneapolis-St. Paul Air Quality Control Region or located in a city with a population of 7,500 or more or with annual commodity throughput of more than 180,000 tons." For these facilities, control is required regardless of when construction, modification, or reconstruction of the facility commenced.

The second description is: "Facility with annual commodity throughput of 120,000 to 180,000 tons and located in a city with a population of less than 7,500." If the construction, modification, or reconstruction of the facility commenced prior to Jaunary 1, 1984, no control is required. If construction, modification, or reconstruction commenced after January 1, 1984, control is required.

The third description is: "Facility with annual commodity throughput and location other than those described above." For these facilities, no control is required regardless of when construction, modification, or reconstruction commenced.

The existing APC 29 takes the approach of varying control requirements based on location and throughput. 3/ As explained above, this approach is maintained in the rule as amended. This approach is permissible under the statute which provides the

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3/ Exhibit 9 lists the number and location of grain elevators in Minnesota cities having a population of 2,500 or more and lists facilities with the potential for 180,000 tons annual throughput which are located in Minnesota cities having a population of less than 7,500.

Agency with rulemaking authority for these rule amendments. Minn. Stat. §116.07, subd. 4 (1982) provides that rules for the prevention, abatement, or control of air pollution of air pollution "may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein." This approach is reasonable because the problems caused by commodity facilities vary on thoses bases. The reasonableness of the three descriptions and the control requirements is discussed below.

Description Number 1

A facility falls into the first description, thus requiring controls whether it is new or existing, if it:

1. is located in the Minneapolis-St. Paul Air Quality Control Region, or
2. is located in a city with a population of 7,500 or more, or
3. has an annual commodity throughput of more than 180,000 tons.

The rationale behind the first two categories relates to the size of the populations. The Minneapolis-St. Paul Air Quality Control Region constitutes the state's largest population center, with 49 percent of the total state population compressed into 3 percent of the land area. A city with a population of 7,500 or more is also a large population center.

Agency ambient air quality monitoring data indicates that as the size of a city increases there is a greater concentration of air pollutants due to the resulting increase in industrial development (thus increasing the number of emission sources). Larger cities also have more concentrated traffic activity, which causes more particulate matter to be suspended in the atmosphere from the exhaust gases and the movement of vehicles. There is usually more road construction and maintenance in the larger cities. At these sites there can be digging, grading, sandblasting, and similar operations which allow the discharge of particulate matter into the air. Home heating plants also discharge particulate matter into the air, especially in recent years as woodburning stoves have become increasingly popular. Because of these factors, larger cities are more likely to experience problems with TSP levels. It is therefore of greater importance in larger cities that each source of emissions be controlled to reduce the amount of pollutants it contributes to the atmosphere.

In addition, where there are large populations, there is a greater number of people exposed to high TSP levels. As a city gets larger, it becomes more difficult for the individual to escape the effects of the high TSP levels. There is also a greater chance that as the TSP concentration increases in a larger city it is more uniform and widely spread throughout the

city. This subjects the individual to high TSP concentrations for more hours during the day.

The facilities in the first two categories above are already required to be controlled by existing APC 29. Due to the potential in these population centers for increasing air pollution, it is reasonable to continue to require facilities in these locations to be controlled. However, there is a proposed change in the population size cut-off for the second category. The existing APC 29(c)(2) and (d)(2) requires controls on existing and new facilities located outside the metropolitan area but within cities with a population of 2,500 or more. This size cut-off is proposed to be changed to 7,500. The reasonableness of this change is discussed below.

Agency experience with enforcing APC 29 has shown that the rule is too restrictive in some cases. Small facilities located in cities with populations of 2,500 to 7,500 frequently have low commodity throughput and cannot support the high cost of control equipment required by the rule. In addition, those facilities are more likely to create nuisance problems than to cause violations of ambient air quality standards. Since the benefits from TSP reduction are small in these cases and the control equipment costs remain high, the requirement for controls on these facilities is not reasonable. As a result, in many instances, the Agency has not strictly enforced the existing APC 29 against these small facilities.

In order to eliminate the discrepancy between the rule requirements and enforcement realities, it is reasonble to increase the population cut-off from 2,500 to 7,500. Increasing the population size restriction does not render people in small towns unprotected from pollution. All of the cities in Minnesota under 7,500 population are now meeting the ambient air quality standards. In the few instances where there may be a local complaint of high fugitive emissions, the nuisance provisions of the rule (Section C. of the rule as amended) may be enforced to resolve the problem.

Regardless of location, under the amended rule a commodity facility is required to be controlled if it has an annual commodity throughput of more than 180,000 tons. The potential to discharge particulate matter into the air is directly proportional to the throughput of a facility. Even when located in small population centers, these large facilities have the potential to adversely affect air quality. They are quite often located outside city limits so that they can take advantage of rail spur availability. When located near a city, they can impact the city's air quality directly. Also, facilities of this size can afford to take pollution control measures due to their high throughput, which lowers the cost of pollution control per unit. Therefore it is reasonable to continue to require controls on these large facilities.

The 180,000 ton throughput cut-off represents a change from the existing APC 29, which sets certain control requirements based on a 4 million bushel (120,000 tons) throughput cut-off. 4/ Changing this throughput cut-off does not, however, remove control requirements from all facilities with annual throughputs of 120,000 to 180,000 tons. These fall under the second description contained in Exhibit 6 MCAR §4.00291-1, which is discussed below.

Description Number 2

A facility falls into the second description if it:

1. has an annual commmodity throughput of 120,000 to 180,000 tons, and
2. is located in a city with less than 7,500.

The question of whether the facility must be controlled depends upon the date on which construction, modification, or reconstruction of the facility commenced. If it commences after January 1, 1984, control is required. If it commenced before January 1, 1984, control is not required under Section B.3. However, some abatement of particulate emissions is required for these facilities under Section B.4, which is discussed later in this document.

4/ Throughput in the rule as revised is expressed in tons rather than in bushels, as in the existing rule. This change is reasonable because of the expansion in the coverage of the rule to include commodities other than grain, some of which are measured in tons rather than in bushels. The measurement of the quantity of grain handled is readily available in tons.

The provisions of this rule represent a change from the existing rule in that medium-sized facilities in smaller cities will have more stringent control requirements if they are built after January 1, 1984, than if they are existing on that date. It is reasonable to impose more stringent control requirements for new medium-sized facilities because a person planning to build such a facility will have advance warning of the design considerations and potential additional expense of installation of control equipment and can take those design considerations and expenses into account when building the facility. Because of the expense, it is not be reasonable to require existing medium-sized facilities in small cities to replace the control equipment which they installed under the existing APC 29.

Description Number 3

A facility falls into the third description if it has an annual commodity throughput and location other than the facilities covered by descriptions number 1 and 2. These facilities are required to abate particulate emissions to some degree under Section B.4. of the revised rule. The reasonableness of those requirements are discussed under the discussion of Section B.4.

Control Requirements

The owner or operator of a commodity facility must meet the applicable performance standards established in Sections 3.a. - d. of the rules as revised. Applicability of the performance

standards, as discussed above, is determined by Exhibit 6 MCAR §4.00291-1. The reasonableness of these control requirements is discussed below.

Sections 3.a. - d. contain opacity limitations for various operations of commodity facilities. These opacity limitations replace the existing equipment standard which required the application of induced draft to sources of particulate emissions. As discussed in the Statement of Need at pages 9 - 14, the Agency needs to replace the induced draft equipment standard with specific opacity limits for these types of operations in order to obtain approval of the SIP.

The use of opacity limitations in place of the requirement to apply induced draft is reasonable because both EPA studies and Agency enforcement experience demonstrate that opacity limitations provide an objective compliance tool. Compliance can be evaluated with a high degree of accuracy and uniformity, whereas under the equipment standard of the existing rules, compliance determination depended upon the judgment of the individual inspector as to whether the proper equipment had been installed and whether it was being operated properly. In addition, opacity limitations are more flexible than the equipment standard in that the owner or operator is free to choose control options as long as the option chosen will result in compliance with the opacity limitation. This flexibility allows owners and operators to take advantage of

innovations and advances in control technology, which the equipment standard did not always allow.

The specific opacity limits proposed for specific operations are based on present capabilities of fugitive particulate emission control at well-designed and well-operated facilities. These specific opacity limits are discussed below.

Section 3.a. of the rule as revised establishes a five percent opacity limitation for a truck unloading station, railcar unloading station, railcar loading station, or handling operation. The establishment of a five percent opacity limitation for these operations is reasonable because well-designed and well-operated facilites are presently meeting this requirement and need only to operate and maintain existing control systems. The state of the art for controlling particulate emissions from these facilities is commonly known and accepted as part of the cost of operating the facility. Part of the economic burden for new facilities is accepted by the operators as necessary for keeping the facilities clean of dust to prevent fires, explosions, to lower insurance rates, and to meet the health and safety requirements of the Occupational Safety and Health Administration. (See Exhibits 10 and 11.)

Section 3.b. of the rule as revised establishes a ten percent opacity limitation for a truck loading station. It is reasonable to have a less stringent opacity limitation for truck loading

station than for a truck unloading station because fugitive particulate emission control is more difficult at these operations. There are a wide variety of loading devices currently in use, none of which are successful in completely eliminating fugitive emissions because of the fact that trucks have fully open tops that are difficult to hood. The best method for loading trucks is within an enclosed structure using a dust suppressor. However, in many cases buiding an enclosure cannot be economically justified because of the small number of trucks loaded. Therefore it is reasonable to allow trucks to be unloaded outside so long as they meet the ten percent opacity limitation.

Section 3.c. of the rule as revised establishes a twenty percent opacity limitation for ship or barge loading or unloading stations, except that during trimming or topping-off, when normal loading procedures cannot be used, no opacity standard applies. It is reasonable to apply a twenty percent opacity limitation to ship or barge loading or unloading except during trimming or topping-off because this standard can be easily met with state of the art control equipment. The ability to meet the standards and the reasonableness of the exceptions to the standard are discussed below.

Existing ship and barge loading or unloading stations are currently required by the existing APC 29 to be controlled by the application of induced draft to all sources of particulate

emissions. Agency enforcement experience has shown that where induced draft has been applied, the facility is capable of meeting a twenty percent opacity limitation except during trimming and topping-off. Therefore the rule as revised is reasonable because it does not establish requirements that are more stringent than those of the existing rule.

The existing facilities affected by this rule include seventeen barge loading facilities and five commodity facilities engaged in the bulk loading of lakers and ocean going ships.

Of the seventeen barge loading facilities, fifteen have installed dust suppressors and induced draft. The other two barge loading facilities are capable of operating in a manner that meets a twenty percent opacity limitation without installing dust suppression equipment. Therefore existing barge loading facilities will not be adversely impacted by this rule.

Of the five shiploading facilities, three have the capability of loading ships in compliance with the twenty percent opacity limitations because they have installed well designed dust suppressors and extendable spout systems. One of the remaining facilities is able to meet the twenty percent opacity restriction by loading only sunflower seeds. The other facility is restricted from loading ships by the existing APC 29 until a dust suppression system is installed. For this uncontrolled facility, the rule as revised will allow the operator to select any control option which

will result in compliance with the opacity standard. Therefore the rule as revised is reasonable as to the ship loading facilities which exist in Minnesota.

The rule as revised states that the twenty percent opacity standard is not applicable to ship or barge loading or unloading operations during trimming or topping-off, when normal loading procedures cannot be used. 5/ The phrase "when normal loading procedures cannot be used" limits the exemption so that if a facility is designed so that it is possible to meet the opacity limits during trimming and topping-off, the emissions must be

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5/ In drafting the amended rule, the Agency considered addressing the special problems of trimming and topping-off using options other than a total exemption from opacity standards. One possibility was the approach taken in Minn. Rule APC 11 B., which establishes a twenty percent opacity limitation for certain facilities but which allows the following excursion: "a maximum of 40% opacity shall be permissible for four minutes in any 60 minute period." This type of excursion allowance does not fit the situation for trimming or topping-off because, although trimming or topping-off operations constitute a very small portion of a total loading period, either operation might in a given instance exceed four minutes in length and might exceed a 40 percent opacity limitation. In fact, for these operations, establishing a time period for an excursion might be too restrictive in some cases and not restrictive enough in others, since the time necessary to complete these operations varies on a case-by-case basis. Adjusting the opacity limit upward for an allowable excursion is similarly unsatisfactory for the same reason. Allowing, for example, a 60 percent opacity standard for all trimming and topping-off operations would not encourage owners and operators to do better than 60 percent when possible, as does the language of the proposed rule (as discussed below). For these reasons, the Agency chose not to use the excursion approach of Minn. Rule APC 11 B.

controlled to meet the opacity limitation. The term "normal loading procedures" is subject to reasonable interpretation on a case-by-case basis both now and in the future. For some facilities, there are at the present time portions of trimming and topping-off operations which neither the commodity handling industry nor the Agency knows how to control in an economically feasible manner. However, over the past several years advances have been made in the control of fugitive emissions, and as these advances have become economically and technically feasible, they have become incorporated into "normal loading procedures." The Agency expects that in the future there will be advances in emission control that likewise will become incorporated into normal loading procedures. In this manner the rule will allow for improvements to be added to commodity facilities. However, as discussed below, there are situations where applying the opacity limitation would not be economically reasonable.

"Trimming" is defined by Section A.14. of the revised rule as "the part of the ship loading that requires the use of spoons, slingers, and other equipment attached to the loading spout to ensure that a ship is loaded to capacity." Trimming is normally unnecessary when loading barges. (Exhibit 12.) Trimming is required on those ocean going ships that are difficult or impossible to load completely because the design of the ship is such that the holds and the wing tanks cannot be loaded using the

normal loading spout system. Trimming is also required when loading a type of ship known as a "tween decker," an older style of ship sometimes loaded in the Duluth Harbor. This type of ship has more than one deck, and in order to distribute grain to the corners under the decks it is necessary to use a device which will fling the grain or other commodity into those corners. Controlling particulate matter emissions during the trimming operation is extremely difficult and thus extremely expensive. The types of controls that could be used would not be economically justifiable because of the fact that trimming operations are so rarely necessary. The fact that these operations are relatively rare makes the exemption for trimming operations reasonable because it will have a minimal impact on air quality. Therefore it is reasonable to exempt from the opacity limitation those portions of trimming operations where normal loading procedures cannot be used.

"Topping-off" is defined in Section A.13. of the revised rule as "the placing of grain in the final three feet of void in a barge, nine feet in a ship, between the fore and aft center line of the hatch and the outboard side of the vessel." The definition states how depth is determined: "by vertical measurement along the outboard side of the vessel from the top of the hatch opening." Topping-off is done during the final phases of loading a barge or ship. There are two reasons why particulate emission control is

difficult or impossible during topping-off:

1. As the grain or other commodity being loaded falls from the end of the loading spout, the loading spout is maneuvered about the inside of the vessel so that the grain or other commodity will be well-distributed. The equipment used on a loading spout to control particulate emissions is often a "dead box," a removable piece of equipment which controls emissions but also lessens the speed of the free-fall of the grain or commodity. At the end of the loading process, when the vessel becomes nearly full,the room to maneuver the loading spout becomes less and less. In order to fill the outboard side of the barge or ship, it may be necessary to remove or bypass the control equipment in order to physically reach that portion of the vessel.
2. During topping-off, the owner or operator may face the following situations which may result in an increase in the distance that the commodity must fall: a) as a ship becomes almost full, it may become necessary to elevate the end of the loading spout in order to reach the outboard side of the ship, 6/ and b) as a barge is loaded it may become necessary to reach the outboard

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6/ Exhibit 13 shows an example of the different angles that are used to load a ship when it is empty and when it is loaded.

side of the barge to level out the load. These situations result in an increase in the distance between the end of the spout and the outboard side of the vessel. This increased distance increases the potential for fugitive emissions because the wind has a greater opportunity to blow the commodity away.

Topping-off cannot be avoided for the safety of the barge or ship. Uneven loading of a ship or barge can result in a listing of the vessel, which is not acceptable for proper nagivation.

That portion of topping-off where normal loading procedures cannot be used takes place during a very limited period of time. Agency calculations indicate that topping-off barges involves only about two percent of the commodities loaded (Exhibit 14) and that topping-off ships involves five percent or less of the commodities loaded (Exhibits 15 and 16). The annual increase in particulate emissions is calculated to be less than one ton from uncontrolled topping-off of barges and less than three tons from uncontrolled topping-off of ships. It is conceivable that if expense were no object these emissions could be controlled; however, in light of the short period of time the operations take place, the great expense to control them is not justifiable in light of the small air quality benefit to be achieved. Therefore it is reasonable to exempt from the twenty percent opacity limitation those portions of topping-off operations where normal loading procedures cannot

be used.

For the reasons stated above, the requirements of Section 3.c. of the revised rule relating to ship or barge loading or unloading are reasonable.

Section 3.d. of the revised rule establishes performance standards for control equipment installed at commodity facilities. The owner or operator must meet the limits set forth in Table 2 of Minn. Rule APC 5 and must meet an opacity limitation. However, the rule contains an exception providing that facilities constructed prior to January 1, 1984, with an annual commodity throughput of more than 180,000 tons and located in an unincorporated area or in a city with a population of less than 7,500, outside the Minneapolis St. Paul Air Quality Control Region is in compliance if the control equipment has a collection efficiency of not less than 85 percent by weight.

The requirement to meet the limits set forth in Table 2 of Minn. Rule APC 5 is already established for control equipment on existing grain handling facilities by existing APC 29(e), which provides:

> Equivalent Performance Standard. The owner or operator of a grain handling facility who is required to convey particulate emissions through control equipment shall be deemed to be in compliance with the requirements of this regulation if the owner or operator of the facility does not cause or allow the emission of particulate matter from any control equipment to exceed the limits set forth in Tables 1 & 2 in APC 5.

It is reasonable to extend this requirement to the commodity

facilities covered by the revised rule because the handling of the commodities covered by the rule involves particulate matter problems which are the same or similar to those created by the handling of grain.

The amendments to the rule also establish an opacity standards for the emissions from the control equipment. The addition of an opacity standard applicable to control equipment will not result in a need to upgrade or install additional control equipment because it is the Agency's intent that the opacity limit be set at a level which can be met by the types of control equipment currently used on commodity facilities.

The proposed revised rule as published in the State Register contains a five percent opacity limitation for control equipment. However, the Agency has determined that this limitation is too restrictive for the types of control equipment required under Table 2 of Minn. Rule APC 5. The largest concentration of particulate matter allowed by Table 2 is 0.10 grains per standard cubic foot. If the rule is to be in accord with Agency intent, control equipment to which the 0.10 emission limit is applicable must be able to meet the opacity limitation established for that control equipment. The Agency examined a study performed by EPA and reported in "Optical Properties and Visual Effects of Smoke Stack Plumes." A graph contained in that study (Exhibit 17) shows that the optical transmittance of plumes containing a mass

particulate matter concentration of 0.10 grains per cubic foot from a stack having a ten foot diameter is 70 percent (please refer to the dotted line for the 6.4 micron size particles). This translates to 30 percent opacity. The opacity of a plume is related to the distance through the plume. A commodity facility control equipment stack is normally about three feet in diameter. The Agency, using EPA's chart, has calculated that for a three foot diameter stack, the opacity for control equipment meeting a 0.10 grains per cubic foot emission standard would be expected to be about nine percent opacity. Therefore the five percent opacity limitation is too stringent and the Agency is proposing that a change be made in the rule as proposed so that a ten percent opacity limitation is applicable to the control equipment at these facilities.

The establishment of an opacity limitation for equipment to which a numerical emission limit also applies is a common practice of regulatory agencies who deal with air pollution abatement. (See, e.g., 6 MCAR §4.0004.) Where the emissions from the equipment meet the opacity limitation, it extremely likely that the emission limitation is also being met. This allows the Agency and the regulated party to monitor compliance without the necessity of running time-consuming and costly stack tests. (Exhibit 18.) Therefore it is reasonable to establish an opacity limitation for control equipment installed on commodity facilities.

The exception in the rule allows existing facilities with annual throughput of more than 180,000 tons and located in unincorporated areas or small towns outside the seven county Metropolitan area to be in compliance if they were previously in compliance with those portions of existing APC 29(c) and (d) that required control equipment to have a collection efficiency of not less than 85 percent by weight. This exception affects three facilities in Minnesota presently known to have an annual commodity throughput exceeding 180,000 tons and another ten to fifteen facilities with the design capacity and potential to reach or exceed the 180,000 tons annual throughput level. (See Exhibit 9.) It is reasonable to allow these facilities to remain in compliance without adding additional control equipment because a requirement to retrofit these facilities with more efficient control equipement would impose a severe economic hardship on these facilities which would place them at an economic disadvantage.

Section B.4. of the rule as revised provides that if an owner or operator of a commodity facility is not required to control emissions under Sections B.2. or B.3. of the rule, he or she is not required to install capture systems and control equipment. However, that owner or operator is nevertheless required to unload, handle, clean, dry, and load commodities to minimize fugitive emissions to a level consistent with RACT. However, if

the owner or operator does install a capture system, the particulate matter must be conveyed through control equipment that has a collection efficiency of not less than 85 percent by weight.

The facilities covered by Section B.4. of the rule are smaller facilities located in more sparsely populated areas. It is reasonable not to require the installation of control equipment on these facilities because smaller facilites cannot economically support the installation of control equipment. However, it is reasonable to require the implementation of economically and technically feasible emission control because these facilities do have an impact on ambient air quality.

The ability of smaller facilities to support the installation of control equipment was studied by EPA. The results of that study are reported in Chapter 5 of a document entitled "Emission Control in the Grain and Feed Industry, Volume I." (Exhibit 19.) This study includes a review of the financial statement of country elevators, inland terminal elevators, and export elevators to determine the financial impact of air pollution control equipment costs upon the elevators. The study determined that control equipment costs decrease the net income of small elevators by sixty percent when baghouse filters are required and fifty percent when cyclones are required. (Exhibit 19 at p. 353.) The results of this study show that small facilities cannot economically support the installation of either type of control equipment.

Complaints from residents near these facilities received by the Agency demonstrate the fact that some country elevators have the potential to create a nuisance situation. The complaints result from concern that the facility operator is indiscriminately allowing the discharge of emissions into the air during unloading, loading, storage, drying, cleaning, and transporting the commodities. It has been learned that in most cases these problems can be resolved to the satisfaction of the residents simply and econmically by modifying the method of operating handling equipment, by patching ductwork, enclosing unprotected dusty areas, or cleaning up the dusty areas that generate the emissions.

It is reasonable to require that particulate emissions from these facilities be controlled to a degree consistent with RACT because, by definition, RACT requires only that which is technologically and economically reasonable. However, it should be noted that the provisions of 6 MCAR §4.0001 prohibit any facility from being operated in a manner that will result in a violation of the ambient air quality standards, and the provisions of Section C. of the rule as revised (section (g) of the existing APC 29) prohibit the operation of the facility in a manner that will cause a public nuisance.

Section (c)(3)(bb) of the existing APC 29 contains the same requirements as those in the last sentence of Section B.4. of the

revised rule. For these facilities, the revised rule does not change the requirement that an owner or operator who has installed a capture system must convey collected particulate matter through control equipment with a collection efficiency of not less than 85 percent by weight.

Section B.5. Grain Dryers

Section B.5. of the rule as revised provides that a grain dryer must meet the design specifications set forth in Sections 5.a. and 5.b. The design specifications are identical to those established in the existing rule APC 29(f)(2) and (3). However, the Agency is proposing to eliminate the language of Section (f)(1) of the existing rule, which provides that the owner or operator of a grain dryer shall be deemed in compliance with the requirements of APC 29 if:

> (1) The grain dryer is located in a protected area away from residences and places frequented by the public and operation of the grain dryer does not create a public nuisance. If the Director determines that the operation of the grain dryer is a public nuisance, the owner or operator shall enclose the grain dryer in such a manner that the nuisance is eliminated.

It is reasonable to eliminate this language because it is unnecessary. Any nuisance problem associated with a grain dryer can be dealt with pursuant to the provisions of Section C. of the revised rule (Section (g) of the existing rule).

Section C. Nuisance

Section C. of the rule as revised prohibits the owner or

operator of any commodity facility from operating or maintaining the facility in such a manner as to create a public nuisance. If the Director of the Agency determines that a facility creates a public nuisance, the director may require the owner or operator to take measures necessary to eliminate the nuisance.

The revised rule is identical to Section (g) of the existing rule, with the exception that the term "grain handling facility" has been changed to "dry bulk agricultural commodity facility." It is reasonable to expand the coverage of the original rule to the additional commodity facilities covered by the revised rule because the additional commodity facilities create the same types of particulate emission problems that grain handling facilities create.

VI. CONSIDERATION OF SMALL BUSINESS

Minn. Laws 1983, ch. 188 (to be codified as Minn. Stat. §14.115) requires the Agency, when proposing amendments to an existing rule which may affect small businesses, to consider the following methods for reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirments for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In drafting the proposed amendments to APC 29 the Agency did give consideration to small businesses. The rule as revised provides exemptions from any requirement to install control equipment for many small facilities (see Exhibit 6 MCAR §4.00291-1, consistent with items (a) and (e) above. The Agency has replaced the induced draft equipment standard with performance standards (opacity limitations), which provides more flexibility than the existing rule and which is consistent with items (c) and (d) above. Since there are no reporting rules or specific schedules of compliance in the amended rules, item (b) does not apply to these rules.

The Agency actively sought the input of regulated persons, including small businesses, during the drafting of the proposed rule amendments. The Agency invited commodity facility owners and operators and representatives of all commodity facility associations to a comment on a preliminary draft of the rule amendments at a meeting which was held on December 15, 1982, at the Agency offices. Many comments were received at the meeting and after the meeting, and the rules were redrafted to take those comments into account. Another meeting was held on March 15, 1983. The Agency believes that the rule as finally proposed

addresses the concerns of the regulated parties.

VII. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities, are needed and reasonable.

MINNESOTA POLLUTION
CONTROL AGENCY

for Jay M. Heffern

Sandra S. Gardebring
Executive Director

September 16, 1983

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

EXHIBIT LIST

The following exhibits are referred to in the Statement of Need and Reasonableness and are available for inspection at the Agency's offices at 1935 West County Road B2, Roseville, Minnesota.

No.	Title
1	Existing Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities.
2	Sections 109-116 of the Clean Air Act, as amended in 1977.
3	U. S. Environmental Protection Agency (EPA) Notice of Proposed Rulemaking (46 Fed. Reg. 57061, November 20, 1981).
4	Letter of J. Michael Valentine, Director, Division of Air Quality, Minnesota Pollution Control Agency, (MPCA) to Gary Gulezian, Chief of Regulatory Analysis Section, EPA, December 18, 1981.
5	EPA Notice of Final Rulemaking (47 Fed. Reg. 19556, May 6, 1982).
6	New Source Performance Standards for Grain Elevators, 40 C.F.R. §§60.300 - 60.304, published at 43 Fed. Reg. 34340 (August 3, 1978).
7	Standards Support and Environmental Impact Statement, Volume 2, Promulgated Standards of Performance for Grain Elevator Industry, EPA, April, 1978.
8	Letter of Valdus V. Adamkus, EPA Regional Administrator, to Louis J. Breimhurst, Executive Director, MPCA, September 1, 1982.

No.	Title
9	Number and Location of Grain Elevators with 2500 Population or More; Commodity Facilities with Potential for 180,000 Tons Annual Throughput and Located Outside the Minneapolis-St. Paul Air Quality Control Region in Cities Less than 7,500 Population.
10	Memorandum of George Vasilakes, Division of Air Quality, MPCA, to Willis Mattison, MPCA, "Country Elevator Fire Insurance Inspection Criteria," February 28, 1983.
11	Memoradum of George Vasilakes, Division of Air Quality, MPCA, to Willis Mattison and Larry Landherr, MPCA, "Country Elevator OSHA Enforcement Criteria."
12	Memorandum of George Vasilakes, Division of Air Quality, MPCA, to file, "Telephone Communication on Barge Loading," January 10, 1983.
13	Diagram supplied by Continental Grain, showing spout angles during loading of the ship "Federal Fraser," March, 1983.
14	Diagram showing the cross section of a barge with calculation for estimating the percentage of the load at the final three feet of void at the far side of the hatch.
15	Diagram showing the cross section of a ship with calculations estimating the percentage of the load at the final nine feet of void at the far side of the hatch.
16	Diagram showing the cross section of an ocean-going ship (salty) with calculations estimating the percentage of the load at the final nine feet of void at the far side of the hatch.
17	Figure 21, page 32, Optical Properties and Visual Effects of Smoke Stack Plumes, EPA, 1967.
18	Crocker, B.B., "Monitoring Particulate Emissions," Chemical Engineering Progress, March, 1975.
19	Emission Control in the Grain and Feed Industry, Volume I, Chapter 5, "Economic Impact of Dust Control," EPA, December, 1973.

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

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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: November 22, 1983

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule APC 29, Standards of Performance for Grain Handling Facilities, to be Recodified and Retitled 6 MCAR §4.00291, Standards of Performance for Dry Bulk Agricultural Commodity Facilities

AFFIDAVIT REGARDING NOTIFICATION OF SUBMISSION TO ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

George Vasilakes, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Adopt Amendments to Rules Without a Public Hearing as published in the State Register (8 S.R. 499, September 19, 1983) and as mailed to interested persons on September 15, 1983, as the person to receive requests for notification on the date that the Agency submits the above-entitled rule amendments to the Attorney General for review.

2. That no person requested to be notified of the date that the Agency submits the rule amendments to the Attorney General for review.

George Vasilakes
George Vasilakes

Subscribed and sworn to before me this 26th day of October, 1983.

Maryanne Gibbons
Notary Public

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