

CHAPTER 7000

MINNESOTA POLLUTION CONTROL AGENCY

PROCEDURAL RULES

7000.0300 DUTY OF CANDOR
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7000.0300 DUTY OF CANDOR.

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

Statutory Authority: *MS s 116.07 subd 3*

History: 8 SR 243

7000.0500 AGENCY MEETINGS.

[For text of subps 1 to 12, see M.R. 1983]

Subp. 13. **Decisions at open meetings.** All regular and special meetings of the agency shall be open to the public, and all decisions of the agency shall be made at such meetings.

[For text of subps 14 to 17, see M.R. 1983]

Statutory Authority: *MS s 116.07 subd 3*

History: 8 SR 243

7000.1000 CONTESTED CASE HEARINGS.

[For text of subps 1 to 4, see M.R. 1983]

Subp. 5. **Ex parte communication.** During the pendency of a contested case, beginning at the time that the agency initiates the contested case hearing and ending upon final disposition of the contested case, no agency member may communicate with or accept a communication from any person concerning the subject matter of the contested case hearing except under the following conditions:

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

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

Subp. 6. **Informal disposition.** Informal disposition by stipulation, agreed settlement, or consent order may be made of any matter for which a contested case hearing is scheduled, or any contested issue, at any point in the hearing, subject to agency approval of this informal disposition or its terms.

Subp. 7. **Consolidation.** The agency may consolidate two or more matters for which contested case hearings are scheduled and hold a joint hearing. The requirements of these rules shall be followed when consolidation is ordered. Any party may object to consolidation by filing a petition for severance with the agency at least 20 days before the hearing. The agency may sever the matter to which the petitioner is a party from the joint hearing.

Subp. 8. **Petition for reopening of hearing and remand to hearing examiner.** At any time up to ten days after the agency's final decision, any party to a contested case hearing may request that the hearing be reopened and the matter

be remanded to the hearing examiner by filing a petition. This petition shall contain the name and address of the petitioner, the agency designation for the matter, and the reasons for the petition.

The agency shall grant or deny a petition as part of the record. This petition shall be granted upon a showing that there are irregularities in the hearing, errors of law, or newly discovered material evidence of such importance as likely to have altered the outcome of the hearing. A petition may be granted upon a showing of good cause for failure to answer or appear at the hearing. Evidence and argument may be presented at the discretion of the agency in written or oral form, or both, by any party to the matter with respect to the granting or denial of the petition.

Subp. 9. Decision after reopening and remand. The decision after reopening of the hearing and remand to the hearing examiner must be made in the same manner prescribed for the decision after a contested case hearing.

Statutory Authority: *MS s 116.07 subd 3*

History: 8 SR 243

7000.1300 CONFIDENTIAL INFORMATION.

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

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

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

Subp. 4. Release authorization. Confidential information may be released when the agency is specifically authorized to do so by statute.

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

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

Subp. 7. Use in contested case hearings. Confidential information that is relevant to a matter for which a contested case hearing is being held and which has been made a part of the record, may be considered by the agency in reaching a decision on the matter, but must not be released to the public unless the agency is required by statute to release it. When the agency is required by

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statute to release the information at the public hearing, the person who certified the information may withdraw the information, but the information shall not be considered by the agency or the hearing examiner in reaching a decision or recommendation on the matter. Whenever confidential information is considered by the agency or a hearing examiner in reaching a decision or recommendation on a matter, that fact must be so stated on the record.

Statutory Authority: *MS s 116.07 subd 3*

History: 8 SR 243

7000.1700 [Repealed, 8 SR 2278]