

6 MCAR 4

1 Minnesota Pollution Control Agency

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3 Adopted Amendments to Agency Procedural Rules

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5 Rules as Adopted

6 6 MCAR S 4.3003 Duty of candor.

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

13 6 MCAR S 4.3005 Agency meetings.

14 A.-L. [Unchanged.]

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

18 N.-Q. [Unchanged.]

19 6 MCAR S 4.3010 Contested case hearings.

20 A.-D. [Unchanged.]

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

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

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

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

7-26-83

1 6 MCAR S 4.3013 Confidential information.

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

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

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

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

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

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

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

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