

1 Pollution Control Agency

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3 Adopted Rules Relating to Permits

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5 Rules as Adopted

6 6 MCAR S 4.4001 Definitions.

7 A. Scope. The definitions in 6 MCAR S 4.3002 in the
8 agency's procedural rules apply to the terms used in 6 MCAR SS
9 4.4001-4.4021 unless the terms are defined as follows.

10 B. Draft permit. "Draft permit" means a document prepared
11 by the director under 6 MCAR S 4.4010 that indicates the
12 director's preliminary decision to issue, modify, revoke and
13 reissue, or reissue a permit, and that indicates the proposed
14 terms and conditions of the permit; or a notice prepared by the
15 director under 6 MCAR S 4.4010 that indicates the director's
16 preliminary decision to deny, to refuse to reissue, or to revoke
17 a permit without reissuance.

18 C. Permit. "Permit" means a discharge, emission, and
19 disposal authorization; a construction, installation, or
20 operation authorization; and other agency authorizations
21 designated "permit" in Minnesota Statutes, chapters 115 and 116,
22 including Minnesota Statutes, sections 115.03, subdivision 1;
23 115.07; 116.07, subdivision 4a; 116.081; and 116.091. "Permit"
24 does not include an "order," "variance," or "stipulation
25 agreement" as defined in 6 MCAR S 4.3002 and does not include a
26 "certification."

27 D. General permit. "General permit" means a permit issued
28 under 6 MCAR S 4.4021 to a category of permittees whose
29 operations, emissions, activities, discharges, or facilities are
30 the same or substantially similar.

31 6 MCAR S 4.4002 Scope of rules.

32 Except as otherwise specifically provided, 6 MCAR SS
33 4.4001-4.4021 apply to the following:

34 A. An agency permit required for the storage, treatment,
35 utilization, processing, transfer, intermediate disposal, or

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1 final disposal of solid waste.

2 B. An agency permit required for the treatment, storage, or
3 disposal of hazardous waste.

4 C. An agency permit required for sewage sludge landspreading
5 facilities.

6 D. A letter of approval required for sewage sludge
7 landspreading sites. Rule 6 MCAR S 4.4004 A. and C. applies to
8 these approvals, except that the time period referenced in those
9 rules shall be 30 days instead of 180 days. Rules 6 MCAR SS
10 4.4010 D. and E. and 4.4011 do not apply to these approvals.

11 E. An agency permit required for the construction,
12 installation, or operation of a disposal system. Rule 6 MCAR S
13 4.4004 A. and C. applies to permits for sewer extensions, except
14 that the time period referenced in those rules shall be 60 days
15 instead of 180 days. Rules 6 MCAR SS 4.4010 D. and E., 4.4011,
16 and 4.4015 do not apply to permits for sewer extensions.

17 F. An agency permit required for the discharge of a
18 pollutant into the waters of the state from a point source.

19 G. An agency permit required for the construction or
20 operation of a feedlot; however, rules 6 MCAR SS 4.4004-4.4007
21 do not apply to these permits. Rules 6 MCAR SS 4.4010 D. and E.
22 and 4.4011 do not apply to animal feedlot interim permits.

23 H. An agency permit required for the construction or
24 operation of a liquid storage facility. Rule 6 MCAR S 4.4004 A.
25 and C. applies to these permits except that the time period
26 referenced in those rules shall be 90 days instead of 180 days.
27 Rules 6 MCAR SS 4.4010 D. and E., 4.4011, and 4.4015 do not
28 apply to these permits.

29 I. An agency permit required for the construction,
30 modification, reconstruction, or operation of an air emission
31 facility except those activities permitted under APC 8. Rules 6
32 MCAR SS 4.4010 D. and E. and 4.4011 do not apply to permits for
33 construction, modification, or reconstruction of a facility with
34 a potential controlled net increase of a single criteria
35 pollutant of less than 100 tons per year or to permits for
36 operation of a facility with an actual emission rate of a single

1 criteria pollutant of less than 500 tons per year. Rule 6 MCAR
2 S 4.4010 E.3. does not apply to permits for construction,
3 modification, or reconstruction of a facility with a potential
4 controlled net increase of a single criteria pollutant of 100
5 tons per year to 250 tons per year or to permits for operation
6 of a facility with an actual emission rate of a single criteria
7 pollutant of 500 tons per year to 5,000 tons per year. Rule 6
8 MCAR S 4.4004 A. applies to permits for air emission facilities,
9 except that for a permit not subject to a Minnesota or federal
10 public notice requirement, the time period referenced in that
11 rule shall be 90 days.

12 J. An agency permit required for the construction of a
13 facility, building, structure, or installation that attracts or
14 may attract mobile source activity that results in emissions of
15 an air pollutant for which there is a state standard. Rule 6
16 MCAR S 4.4015 A. and B. does not apply to these permits.

17 6 MCAR S 4.4003 Permit required.

18 No person required by statute or rule to obtain a permit
19 may construct, install, modify, or operate the facility to be
20 permitted, nor shall a person commence an activity for which a
21 permit is required by statute or rule until the agency has
22 issued a written permit for the facility or activity.

23 6 MCAR S 4.4004 Application deadlines.

24 A. Application for new permit. Except as otherwise required
25 by 6 MCAR SS 4.4106 and 4.4204, a permit application for a new
26 facility or activity may be submitted at any time. However, it
27 is recommended that the permit application be submitted at least
28 180 days before the planned date of the commencement of facility
29 construction or of the activity.

30 B. Modification or revocation and reissuance of existing
31 permits. If a permit has been issued by the agency, the person
32 holding the permit may file with the agency, at any time, a
33 written application for modification of the permit or for
34 revocation and reissuance of the permit; except that if the
35 reason for the application is the adoption by a federal agency

1 of a new or amended pollution standard, limitation, or effluent
2 guideline the permittee shall file an application within the
3 time for filing specified by the federal agency as a part of the
4 notice of adoption published in the Federal Register.

5 C. Reissuance of existing permits. If a permit has been
6 issued by the agency and the person holding the permit desires
7 to continue the permitted activity beyond the expiration date of
8 the permit, the person shall submit a written application for
9 permit reissuance at least 180 days before the expiration date
10 of the existing permit.

11 6 MCAR S 4.4005 Written application.

12 A person who requests the issuance, modification,
13 revocation and reissuance, or reissuance of a permit shall
14 complete, sign, and submit to the director a written
15 application. The person shall submit the written application in
16 a form prescribed by the director. The application shall
17 contain the items listed in A.-I. unless the director has issued
18 a written exemption from one or more of the data requirements.
19 After receiving a written request for an exemption from a data
20 requirement, the director shall issue the exemption if the
21 director finds that the data is unnecessary to determine whether
22 the permit should be issued or denied. The application must
23 contain:

24 A. the name, address, and telephone number of the owner of
25 the facility for which the application is submitted and
26 identification of the status of the owner as a federal, state,
27 public, private, or other entity;

28 B. if the operator of the facility for which the application
29 is submitted is different from the owner, the name, address, and
30 telephone number of the operator and identification of the
31 status of the operator as a federal, state, public, private, or
32 other entity;

33 C. the name, address, and telephone number of the person who
34 prepared the application;

35 D. a description including the location of the business,
36 plant, system, facility, or activity for which a permit is

1 sought;

2 E. a general description of the materials handled,
3 processed, stored, or disposed of by the applicant that are
4 pertinent to the application; and a statement of the nature and
5 quantity of the materials proposed to be stored, processed,
6 discharged, emitted, or disposed of during the period of the
7 required permit, and proposed methods for control of these
8 materials;

9 F. a topographic map, or other map if a topographic map is
10 unavailable, that shows the facility and the area surrounding
11 the facility for a distance of at least one mile in all
12 directions of the facility; and all structures that relate to
13 the proposed discharge, emission, storage, processing, or
14 disposal activity;

15 G. a copy of a draft or final environmental impact statement
16 that has been prepared under the National Environmental Policy
17 Act, United States Code, title 42, sections 4331 et seq. as
18 amended through December 31, 1982, or a copy of an environmental
19 assessment or environmental impact statement prepared under the
20 rules of the Minnesota Environmental Quality Board, 6 MCAR SS
21 3.021 et seq.;

22 H. additional information determined by the director to be
23 relevant to a decision as to permit issuance, including but not
24 limited to plans, specifications, or other technical information
25 that is necessary to determine whether the facility will meet
26 all applicable Minnesota and federal statutes and rules;

27 I. other information relevant to the application as required
28 by 6 MCAR SS 4.4106, 4.4206-4.4215, 4.4304, 4.4315, or 4.6105
29 and 4.6106.

30 6 MCAR S 4.4006 Signatures.

31 A permit application must be signed as follows:

32 A. for a corporation, by a principal executive officer of at
33 least the level of vice president or the duly authorized
34 representative or agent of the executive officer if the
35 representative or agent is responsible for the overall operation
36 of the facility that is the subject of the permit application;

1 B. for a partnership or sole proprietorship, by a general
2 partner or the proprietor, respectively;

3 C. for a municipality, state, federal, or other public
4 agency, by either a principal executive officer or ranking
5 elected official;

6 D. If the operator of the facility for which the application
7 is submitted is different from the owner, both the owner and the
8 operator shall sign the application according to A.-C. Except
9 in the case of a hazardous waste facility permit application, if
10 the director finds that this requirement is impracticable under
11 the circumstances, the director shall require the operator to
12 sign the application according to A.-C.

13 6 MCAR S 4.4007 Certification.

14 A person who signs a permit application shall make the
15 following certification: "I certify under penalty of law that
16 this document and all attachments were prepared under my
17 direction or supervision in accordance with a system designed to
18 assure that qualified personnel properly gather and evaluate the
19 information submitted. Based on my inquiry of the person or
20 persons who manage the system, or those persons directly
21 responsible for gathering the information, the information
22 submitted is, to the best of my knowledge and belief, true,
23 accurate, and complete." Where applicable, the person shall
24 also fulfill the certification requirements of 6 MCAR S 4.4205.

25 6 MCAR S 4.4008 Retention of records.

26 The applicant shall retain copies of the permit
27 application, all data and information used by the applicant to
28 complete the application, and additional information requested
29 by the director during the review of the application for a
30 period of at least three years from the date the application is
31 signed. This period is automatically extended during the course
32 of an unresolved enforcement action regarding the facilities or
33 as requested by the director.

34 6 MCAR S 4.4009 Review of permit applications.

35 The director shall review all permit applications for

1 completeness. If the director finds that the application is
 2 incomplete or otherwise deficient, the director shall promptly
 3 advise the applicant in writing of the incompleteness or
 4 deficiency. The director shall suspend further processing of
 5 the portion of the application affected by the deficiency until
 6 the applicant has supplied the necessary information or
 7 otherwise corrected the deficiency.

8 6 MCAR S 4.4010 Preliminary determination and draft permit.

9 A. Preliminary determination. After a permit application is
 10 complete, the director shall make a preliminary determination as
 11 to whether the permit should be issued or denied.

12 B. Draft permit. If the preliminary determination is to
 13 issue a permit, the director shall prepare a draft permit,
 14 including a proposed schedule of compliance if a schedule is
 15 necessary to meet all applicable standards and limitations
 16 imposed by statute or rule. If the preliminary determination is
 17 to deny the permit application, the director shall prepare a
 18 notice of intent to deny the permit. For the purposes of the
 19 procedures required in B.-E., a notice of intent to deny a
 20 permit is considered a draft permit.

21 C. Fact sheet. The director shall prepare a fact sheet for
 22 each draft permit described in 6 MCAR S 4.4108 B. for each draft
 23 permit proposed to be issued under 6 MCAR SS 4.4021 and 4.4217
 24 A., and for each draft permit that the director finds is the
 25 subject of widespread public interest or involves issues of
 26 major importance to the agency or to the public. The director
 27 shall send a copy of this fact sheet to the applicant and upon
 28 request to any other person. The fact sheet must set forth the
 29 principal facts and the significant factual, legal,
 30 methodological, and policy questions considered in preparing the
 31 draft permit. The fact sheet must include, if applicable:

- 32 1. a concise description of the type of facility or
- 33 activity that is the subject of the permit application;
- 34 2. the type and quantity of wastes, fluids, or pollutants
- 35 that are proposed to be or are being handled, processed,
- 36 treated, stored, disposed of, emitted, or discharged;

- 1 3. a summary of the basis for the draft permit
- 2 conditions, including references to applicable statutory or
- 3 regulatory provisions;
- 4 4. reasons why requested variances or alternatives to
- 5 required standards do or do not appear justified;
- 6 5. a concise statement regarding the requirements
- 7 prescribed in Minnesota Statutes, chapter 116D that are or may
- 8 be applicable to the facility or activity which is the subject
- 9 of the permit application;
- 10 6. the preliminary determinations made by the director on
- 11 the permit application; and
- 12 7. a description of the procedures for reaching a final
- 13 decision on the draft permit, including:
- 14 a. the beginning and ending dates of the public
- 15 comment period;
- 16 b. procedures for requesting a public informational
- 17 meeting or contested case hearing and the nature of the two
- 18 types of proceedings;
- 19 c. other procedures by which the public may
- 20 participate in the agency's consideration of the permit
- 21 application; and
- 22 d. the name, address, and telephone number of a person
- 23 to contact for additional information or to whom comments may be
- 24 submitted.
- 25 D. Public notice of permit application and preliminary
- 26 determination. The director shall prepare and issue a public
- 27 notice of a completed application and the director's preliminary
- 28 determination as to whether the permit should be issued or
- 29 denied. The public notice must include, at a minimum:
- 30 1. The address and telephone number of the main agency
- 31 office and the applicable agency regional office and a statement
- 32 that additional information may be obtained at these offices.
- 33 2. The name and address of the applicant, and if
- 34 different, of the facility or activity that is the subject of
- 35 the permit application.
- 36 3. A concise description of the facility or activity that

1 is the subject of the permit application.

2 4. A statement of the preliminary determination of the
3 director to issue or deny the permit.

4 5. If the director's preliminary determination is to
5 issue the permit, a statement of the duration of the draft
6 permit.

7 6. A statement that a draft permit has been prepared and,
8 if applicable, that a fact sheet has been prepared and that a
9 copy of these documents will be mailed to any interested person
10 upon the agency's receipt of a written request.

11 7. A statement that during the public comment period a
12 person may submit comments to the agency on the draft permit or
13 on the preliminary determination, a statement of the dates on
14 which the comment period commences and terminates, and a
15 statement of the information that the person is required by 6
16 MCAR S 4.4011 to include in the comments. The public comment
17 period shall be 30 days unless a different public comment period
18 is specifically established by another agency rule.

19 8. A brief description of the procedures for reaching a
20 final decision on the permit application, including procedures
21 for requesting a public information meeting or a contested case
22 hearing and the nature of the two types of proceedings; and any
23 other procedures by which the public may participate in the
24 agency's consideration of the permit application.

25 E. Distribution of public notice. The director shall
26 distribute the public notice in the following manner:

27 1. The director shall make a copy of the public notice
28 available at the main agency office and at the applicable agency
29 regional office.

30 2. The director shall mail a copy of the public notice to
31 the applicant, to all persons who have registered their names
32 and addresses on the mailing list established under 6 MCAR S
33 4.4020, and to any interested person upon request. If
34 applicable, the director shall also mail copies of the public
35 notice according to 6 MCAR S 4.4217 C.

36 3. The director shall circulate the public notice within

1 the geographical area of the facility or activity which is the
2 subject of the permit application. The director shall designate
3 the geographical area which shall, as a minimum, include the
4 county in which the facility or activity is or will be located.
5 The director shall circulate the public notice in one or more of
6 the following ways:

7 a. by posting the notice in the post office, public
8 library, or other buildings used by the general public in the
9 designated geographical area;

10 b. by posting the notice at or near the entrance of
11 the applicant's premises, if located near the facility or
12 activity that is the subject of the permit application;

13 c. by publishing the notice in one or more newspapers
14 or periodicals of general circulation in the designated
15 geographical area;

16 d. by publishing the notice in a manner constituting
17 legal notice to the public; or

18 e. if applicable, in the manner required by 6 MCAR SS
19 4.4021 D. and 4.4217 D.

20 6 MCAR S 4.4011 Public comments.

21 A. Submission of written comments. During the public
22 comment period established in the public notice, an interested
23 person, including the applicant, may submit written comments on
24 the application or on the draft permit. If the subject of the
25 draft permit and public notice is the modification of a permit,
26 these comments must be limited to the portion of the permit
27 proposed to be modified. The person may also request that a
28 public informational meeting or a contested case hearing be held
29 on the application.

30 B. Contents of written comments. A person who submits
31 comments under A. shall include in the comments the following:

32 1. a statement of the person's interest in the permit
33 application or the draft permit;

34 2. a statement of the action the person wishes the agency
35 to take, including specific references to sections of the draft
36 permit that the person believes should be changed; and

1 3. the reasons supporting the person's position, stated
2 with sufficient specificity as to allow the director to
3 investigate the merits of the person's positions.

4 C. Public meeting or hearing. If a person requests a public
5 informational meeting or contested case hearing, the comments
6 must include the items listed in B. and a statement of the
7 reasons the person desires the agency to hold a public
8 informational meeting or contested case hearing and the issues
9 that the person would like the agency to address at the public
10 informational meeting or contested case hearing.

11 D. Extension of comment period. The public comment period
12 may be extended by the director if the director finds an
13 extension of time is necessary to facilitate additional public
14 comment. Comments submitted in writing by interested persons or
15 the applicant during the public comment period must be retained
16 and considered in the formulation of final determinations
17 concerning the permit application.

18 6 MCAR S 4.4012 Public informational meeting.

19 A. Determination of need. If the director or the agency
20 determines that a public informational meeting would help
21 clarify and resolve issues regarding the director's preliminary
22 determination or the terms of the draft permit or if the
23 director has received a request under 6 MCAR S 4.4218 A., the
24 director shall hold a public informational meeting.

25 B. Location. If the requester desires, the public
26 informational meeting must be held in the geographical area of
27 the facility or activity which is the subject of the permit
28 application. Otherwise, the public informational meeting must
29 be held in a place selected by the director which is generally
30 convenient to persons expected to attend the meeting.

31 C. Notice. The director shall prepare a notice of the
32 public informational meeting. The notice must contain a
33 reference to the public notice of the application and the draft
34 permit, including any identification numbers on the draft permit
35 and the dates of issuance of the public notice and the draft
36 permit; the date, time, and location of the public informational

1 meeting; the information described in 6 MCAR S 4.4010 D.1.-6.; a
2 concise description of the manner in which the public
3 informational meeting will be conducted; and the issue or issues
4 to be discussed.

5 D. Distribution of notice. The director shall publish the
6 notice in a newspaper of general circulation in the geographical
7 area of the facility or activity which is the subject of the
8 permit application, and shall mail a copy of the notice to the
9 applicant, the appropriate city and county officials, and all
10 other persons determined by the director to have an interest in
11 the permit application. If applicable, the director shall
12 comply with 6 MCAR S 4.4218 C.

13 E. Consolidation of issues. If the director or the agency
14 determines that no person would be adversely affected by
15 consolidation, the director or the agency may consolidate two or
16 more matters, issues, or related groups of permit applications
17 for which a public informational meeting will be held.

18 6 MCAR S 4.4013 Contested case hearing.

19 A. Required hearing. The agency shall hold a contested case
20 hearing if it finds all of the following:

21 1. that a person requesting the contested case hearing
22 has raised a material issue of fact or of the application of
23 facts to law related to the director's preliminary determination
24 or the terms of the draft permit;

25 2. that the agency has jurisdiction to make
26 determinations on the issues of fact or of the application of
27 facts to law raised by the person requesting the contested case
28 hearing; and

29 3. that there is a reasonable basis underlying issues of
30 fact or law raised by the person that requests the contested
31 case hearing such that the holding of a contested case hearing
32 would aid the agency in making a final determination on the
33 permit application.

34 B. Public informational meeting. If the agency finds that
35 the holding of a contested case hearing is not justified under
36 A., the agency shall nevertheless hold a public informational

1 meeting if the agency determines that a public informational
2 meeting would help clarify or resolve issues regarding the terms
3 of the draft permit.

4 C. Hearing notice and order. If the agency decides to hold
5 a contested case hearing, the director shall prepare a notice of
6 and order for hearing. The notice of and order for hearing must
7 contain:

8 1. the information required by 9 MCAR S 2.204 of the
9 Office of Administrative Hearings;

10 2. a reference to the public notice of the application
11 and the draft permit, including any identification numbers on
12 the draft permit, and the dates of issuance of the public notice
13 and the draft permit;

14 3. identification of the existing parties and a concise
15 description of the issues which have been raised by any party;
16 and

17 4. the address of the agency office or offices where
18 interested persons may inspect or obtain copies of the public
19 notice of the application, the draft permit, the fact sheet, and
20 other information relevant to the permit application and the
21 holding of the hearing.

22 D. Relevant rules. The notice of hearing, distribution of
23 the notice, and the conduct of the contested case hearing are
24 governed by Minnesota Statutes, sections 14.57 to 14.62; the
25 rules of the Office of Administrative Hearings, 9 MCAR SS 2.201
26 et seq.; and, if applicable by 6 MCAR S 4.4218 B., C., and D.

27 6 MCAR S 4.4014 Final determination.

28 A. Agency action. Except as provided in B., the agency
29 shall issue, reissue, revoke and reissue, or modify a permit if
30 the agency determines that the proposed permittee or permittees
31 will, with respect to the facility or activity to be permitted,
32 comply or will undertake a schedule of compliance to achieve
33 compliance with all applicable state and federal pollution
34 control statutes and rules administered by the agency, and
35 conditions of the permit and that all applicable requirements of
36 Minnesota Statutes, chapter 116D and the rules promulgated under

1 chapter 116D have been fulfilled.

2 B. Agency findings. The following findings by the agency
3 constitute justification for the agency to refuse to issue a new
4 or modified permit, to refuse permit reissuance, or to revoke a
5 permit without reissuance:

6 1. that with respect to the facility or activity to be
7 permitted, the proposed permittee or permittees will not comply
8 with all applicable state and federal pollution control statutes
9 and rules administered by the agency, or conditions of the
10 permit;

11 2. that there exists at the facility to be permitted
12 unresolved noncompliance with applicable state and federal
13 pollution control statutes and rules ~~or permit conditions~~
14 administered by the agency, or conditions of the permit and that
15 the permittee will not undertake a schedule of compliance to
16 resolve the noncompliance;

17 3. that the permittee has failed to disclose fully all
18 facts relevant to the facility or activity to be permitted, or
19 that the permittee has submitted false or misleading information
20 to the agency or to the director;

21 4. that the permitted facility or activity endangers
22 human health or the environment and that the danger cannot be
23 removed by a modification of the conditions of the permit; or

24 5. that all applicable requirements of Minnesota
25 Statutes, chapter 116D and the rules promulgated under chapter
26 116D have not been fulfilled.

27 C. Contested case hearing. If a contested case hearing has
28 been held, the agency shall comply with the procedures set forth
29 in 6 MCAR S 4.3008 of the agency procedural rules prior to
30 making a final determination.

31 6 MCAR S 4.4015 Terms and conditions of permits.

32 A. Term of permit. Unless specifically otherwise provided
33 by statute or rule, an agency permit is issued for a term not to
34 exceed five years.

35 B. Special conditions. Each draft and final permit must
36 contain conditions necessary for the permittee to achieve

1 compliance with applicable Minnesota or federal statutes or
2 rules. If applicable to the circumstances, the conditions must
3 include:

4 1. A schedule of compliance that leads to compliance with
5 the appropriate Minnesota or federal statute or rule. The
6 schedule of compliance must require compliance in the shortest
7 reasonable period of time or by a specified deadline if required
8 by Minnesota or federal statute or rule. If appropriate, the
9 schedule of compliance must include interim dates, which in no
10 case may be separated by more than one year. A permit with a
11 schedule of compliance must require the submission to the
12 director of progress reports. The progress reports must be
13 submitted not later than 14 days after each interim and final
14 date of compliance regarding the permittee's compliance or
15 noncompliance with the schedule of compliance and they must
16 explain any instance of noncompliance and state the actions that
17 have been taken to correct the noncompliance.

18 2. Requirements for monitoring and testing and reporting
19 of monitoring and testing results. Monitoring and testing
20 requirements must specify the type, interval, and frequency of
21 monitoring and testing activities that are sufficient to yield
22 ~~data representative of the pollutant or situation monitored or~~
23 ~~tested data to determine whether there is compliance with the~~
24 ~~terms and conditions of the permit or compliance with Minnesota~~
25 ~~and federal pollution control statutes and rules. As~~
26 appropriate, the permit must contain requirements for the proper
27 use, maintenance, and installation of monitoring and testing
28 equipment or methods. The permit must require the permittee to
29 keep accurate records of monitoring and testing activities and
30 to submit to the director periodic reports of monitoring results
31 required by the permit and, as requested by the director, the
32 results of other monitoring and testing undertaken by the
33 permittee that are related to compliance with the terms and
34 conditions of the permit or compliance with Minnesota and
35 federal pollution control statutes and rules. Reporting of
36 monitoring results must contain the certification in 6 MCAR S

1 4.4007.

2 3. A requirement that the permittee retain the following
3 items for at least three years after which time this period must
4 be automatically extended during the course of an unresolved
5 enforcement action or at the request of the director:

6 a. copies of all reports required by the conditions of
7 the permit;

8 b. calibration and maintenance records and all
9 original strip chart recordings for continuous monitoring
10 instrumentation;

11 c. records of the date, exact location, and time of
12 monitoring and testing which is related to compliance with the
13 terms and conditions of the permit or compliance with Minnesota
14 and federal pollution control statutes and rules, the name of
15 the individual who performed the sampling or measurements, the
16 date the analysis was performed, the name of the individual who
17 performed the analysis, the analytical techniques or methods
18 used, and the results of the analysis; and

19 d. if applicable, reports required by 6 MCAR S 4.4223
20 B.5.

21 4. A requirement that all documents and reports,
22 including monitoring reports, submitted to the agency for any
23 reason by the permittee, are signed by the permittee or the duly
24 authorized representative of the permittee. For hazardous waste
25 facility permits, duly authorized representative is defined by 6
26 MCAR S 4.4223.

27 C. General conditions. Unless specifically exempted by
28 statute or rule, each draft and final permit must include the
29 following general conditions and the agency shall incorporate
30 these conditions into all permits either expressly or by
31 specific reference to this rule:

32 1. The agency's issuance of a permit does not release the
33 permittee from any liability, penalty, or duty imposed by
34 Minnesota or federal statutes or rules or local ordinances,
35 except the obligation to obtain the permit.

36 2. The agency's issuance of a permit does not prevent the

1 future adoption by the agency of pollution control rules,
2 standards, or orders more stringent than those now in existence
3 and does not prevent the enforcement of these rules, standards,
4 or orders against the permittee.

5 3. The permit does not convey a property right or an
6 exclusive privilege.

7 4. The agency's issuance of a permit does not obligate
8 the agency to enforce local laws, rules, or plans beyond that
9 authorized by Minnesota statutes.

10 5. The permittee shall perform the actions or conduct the
11 activity authorized by the permit in accordance with the plans
12 and specifications approved by the agency and in compliance with
13 the conditions of the permit.

14 6. The permittee shall at all times properly operate and
15 maintain the facilities and systems of treatment and control and
16 the appurtenances related to them which are installed or used by
17 the permittee to achieve compliance with the conditions of the
18 permit. Proper operation and maintenance includes effective
19 performance, adequate funding, adequate operator staffing and
20 training, and adequate laboratory and process controls,
21 including appropriate quality assurance procedures. The
22 permittee shall install and maintain appropriate back-up or
23 auxiliary facilities if they are necessary to achieve compliance
24 with the conditions of the permit and, for all permits other
25 than hazardous waste facility permits, if these back-up or
26 auxiliary facilities are technically and economically feasible.

27 7. The permittee may not knowingly make a false or
28 misleading statement, representation, or certification in a
29 record, report, plan, or other document required to be submitted
30 to the agency or to the director by the permit. The permittee
31 shall immediately upon discovery report to the director an error
32 or omission in these records, reports, plans, or other documents.

33 8. The permittee shall, when requested by the director,
34 submit within a reasonable time the information and reports that
35 are relevant to the control of pollution regarding the
36 construction, modification, or operation of the facility covered

1 by the permit or regarding the conduct of the activity covered
2 by the permit.

3 9. When authorized by Minnesota Statutes, sections
4 115.04; 115B.17, subdivision 4; and 116.091, and upon
5 presentation of proper credentials, the agency, or an authorized
6 employee or agent of the agency, shall be allowed by the
7 permittee to enter at reasonable times upon the property of the
8 permittee to examine and copy books, papers, records, or
9 memoranda pertaining to the construction, modification, or
10 operation of the facility covered by the permit or pertaining to
11 the activity covered by the permit; and to conduct surveys and
12 investigations, including sampling or monitoring, pertaining to
13 the construction, modification, or operation of the facility
14 covered by the permit or pertaining to the activity covered by
15 the permit.

16 10. If the permittee discovers, through any means,
17 including notification by the agency, that noncompliance with a
18 condition of the permit has occurred, the permittee shall take
19 all reasonable steps to minimize the adverse impacts on human
20 health, public drinking water supplies, or the environment
21 resulting from the noncompliance.

22 11. If the permittee discovers that noncompliance with a
23 condition of the permit has occurred which could endanger human
24 health, public drinking water supplies, or the environment, the
25 permittee shall, within 24 hours of the discovery of the
26 noncompliance, orally notify the director. Within five days of
27 the discovery of the noncompliance, the permittee shall submit
28 to the director a written description of the noncompliance; the
29 cause of the noncompliance; the exact dates of the period of the
30 noncompliance; if the noncompliance has not been corrected, the
31 anticipated time it is expected to continue; and steps taken or
32 planned to reduce, eliminate, and prevent reoccurrence of the
33 noncompliance.

34 12. The permittee shall report noncompliance with the
35 permit not reported under 11. as a part of the next report which
36 the permittee is required to submit under this permit. If no

1 reports are required within 30 days of the discovery of the
2 noncompliance, the permittee shall submit the information listed
3 in 11. within 30 days of the discovery of the noncompliance.

4 13. The permittee shall give advance notice to the
5 director as soon as possible of planned physical alterations or
6 additions to the permitted facility or activity that may result
7 in noncompliance with a Minnesota or federal pollution control
8 statute or rule or a condition of the permit.

9 14. The permit is not transferable to any person without
10 the express written approval of the agency after compliance with
11 the requirements of 6 MCAR S 4.4019. A person to whom the
12 permit has been transferred shall comply with the conditions of
13 the permit.

14 15. The permit authorizes the permittee to perform the
15 activities described in the permit under the conditions of the
16 permit. In issuing the permit, the state and agency assume no
17 responsibility for damage to persons, property, or the
18 environment caused by the activities of the permittee in the
19 conduct of its actions, including those activities authorized,
20 directed, or undertaken under the permit. To the extent the
21 state and agency may be liable for the activities of its
22 employees, that liability is explicitly limited to that provided
23 in the Tort Claims Act, Minnesota Statutes, section 3.736.

24 6 MCAR S 4.4016 Continuation of expired permit.

25 A person who holds an expired permit and who has submitted
26 a timely and complete application for reissuance of the permit
27 may continue to conduct the permitted activity until the agency
28 takes final action on the application if the director determines
29 that both of the following are true:

30 A. the permittee is in compliance with the terms and
31 conditions of the expired permit; and

32 B. the agency, through no fault of the permittee, has not
33 taken final action on the application on or before the
34 expiration date of the permit.

35 6 MCAR S 4.4017 Justification to commence modification of permit

1 or revocation and reissuance of permit.

2 The following constitute justification for the director to
3 commence proceedings to modify a permit or to revoke and reissue
4 a permit:

5 A. alterations or modifications to the permitted facility or
6 activity that will result in or have the potential to result in
7 significant alteration in the nature or quantity of permitted
8 materials to be stored, processed, discharged, emitted, or
9 disposed of by the permittee;

10 B. the director receives information previously unavailable
11 to the agency that shows that the terms and conditions of the
12 permit do not accurately represent the actual circumstances
13 relating to the permitted facility or activity;

14 C. the agency or the federal government promulgates a new or
15 amended pollution standard, limitation, or effluent guideline
16 that is applicable to the permitted facility or activity;

17 D. a court of competent jurisdiction invalidates or modifies
18 a Minnesota or federal statute or rule or federal guideline upon
19 which a condition of the permit is based;

20 E. an event occurs that is beyond the control of the
21 permittee that necessitates modification of a compliance
22 schedule in the permit;

23 F. the director finds that the permitted facility or
24 activity endangers human health or the environment and that a
25 change in the operation of the permitted facility or in the
26 conduct of the permitted activity would remove the danger to
27 human health or the environment;

28 G. the director receives a request for transfer of the
29 permit; and or

30 H. if applicable, there exists any justification listed in 6
31 MCAR S 4.4224 A.

32 6 MCAR S 4.4018 Justification to commence revocation without
33 reissuance of permit.

34 The following constitute justification for the director to
35 commence proceedings to revoke a permit without reissuance:

36 A. existence at the permitted facility of unresolved

1 noncompliance with applicable state and federal pollution
2 statutes and rules or a condition of the permit, and refusal of
3 the permittee to undertake a schedule of compliance to resolve
4 the noncompliance;

5 B. the permittee fails to disclose fully the facts relevant
6 to issuance of the permit or submits false or misleading
7 information to the agency or to the director;

8 C. the operation of the permitted facility or activity
9 terminates; and

10 D. the director finds that the permitted facility or
11 activity endangers human health or the environment and that the
12 danger cannot be removed by a modification of the conditions of
13 the permit.

14 6 MCAR S 4.4019 Procedure for modification; revocation and
15 reissuance; and revocation without reissuance of permits.

16 A. In general. If the permittee requests the modification
17 or the revocation and reissuance of a permit, the director shall
18 require and review a permit application as provided in 6 MCAR SS
19 4.4004-4.4009. Except as provided in B. and C., in modifying
20 permits and in revoking and reissuing permits the agency shall
21 follow the procedures set forth in 6 MCAR SS 4.4010-4.4013 to
22 the same extent required for the issuance of the permit. In
23 permit modification proceedings, only those portions of the
24 permit that are proposed to be modified are open for comment and
25 a contested case hearing. In proceedings to revoke and reissue
26 a permit, the entire permit is open for comment and a contested
27 case hearing.

28 B. Modification solely as to ownership or control. Upon
29 obtaining the consent of the permittee, the agency ~~may~~ shall
30 consider a request to modify a permit as to the ownership or
31 -----
32 control of a permitted facility or activity without following
33 the procedures in 6 MCAR SS 4.4010-4.4013 if the agency finds
34 that no other change in the permit is necessary and. If the
35 -----
36 permit is a permit described in 6 MCAR S 4.4002 A. or B., the
37 -----
38 agency shall also find that the agency has received a binding
39 -----
40 written agreement between the permittee and the proposed

1 transferee containing a specific date for transfer of permit
2 responsibilities and allocation of liabilities between the
3 permittee and the proposed transferee. Within 60 days of
4 receipt of a complete written application for modification as to
5 ownership and control, the director shall place the matter on
6 the agenda for consideration by the agency. The agency shall
7 not unreasonably withhold or unreasonably delay approval of the
8 proposed permit modification.

9 C. Minor modification. Upon obtaining the consent of the
10 permittee, the director may modify a permit to make the
11 following corrections or allowances without following the
12 procedures in 6 MCAR SS 4.4010-4.4013:

- 13 1. to correct typographical errors;
- 14 2. to change an interim compliance date in a schedule of
15 compliance, provided the new date is not more than 120 days
16 after the date specified in the permit and does not interfere
17 with the attainment of the final compliance date;
- 18 3. to change a provision in the permit that will not
19 result in allowing an actual or potential increase in the
20 emission or discharge of a pollutant into the environment, or
21 that will not result in a reduction of the agency's ability to
22 monitor the permittee's compliance with applicable statutes and
23 rules; and
- 24 4. if applicable, to make a change as provided in 6 MCAR
25 SS 4.4224 C. and 4.4321.

26 D. Revocation without reissuance. The director shall give
27 notice to the permittee of a proposal to revoke a permit without
28 reissuance. This notice must state that within 30 days of the
29 receipt of the notice the permittee may request a contested case
30 hearing be held on the proposed action. If the permittee
31 requests a contested case hearing, the agency shall hold the
32 hearing in accordance with the rules of the Office of
33 Administrative Hearings, 9 MCAR SS 2.201 et seq.

34 6 MCAR S 4.4020 Mailing list.

35 A person who desires to receive copies of public notices
36 issued by the director under 6 MCAR S 4.4010 D. shall submit to

1 the director a written request that the person's name and
2 address be placed on a mailing list kept by the director for the
3 purpose of issuing public notices on permit applications. The
4 person may request notice of all permit applications or may
5 limit the request only to notice of permit applications for
6 facilities or activities of a certain type or for facilities or
7 activities in a defined geographical area. The director shall
8 periodically update this list by mailing to persons on the list
9 a notice asking whether the person wishes to continue to receive
10 notices concerning permit applications. Failure to respond to
11 the director's notice constitutes justification for the director
12 to remove the person's name and address from the list. The
13 director shall also annually publish in the public press and in
14 the State Register notice of the opportunity to be placed on the
15 mailing list.

16 6 MCAR S 4.4021 General permits.

17 A. Scope. This rule applies to the permits listed in 6 MCAR
18 S 4.4002, except for agency permits required for the treatment,
19 storage, and disposal of hazardous waste.

20 B. Determination by agency. If the agency finds that it is
21 appropriate to issue a single permit to a category of permittees
22 whose operations, emissions, activities, discharges, or
23 facilities are the same or substantially similar, the agency
24 shall proceed under C.-F. This permit is known as a general
25 permit.

26 C. Requirements. The agency shall not issue a general
27 permit unless the agency finds that:

28 1. there are several permit applicants or potential
29 permit applicants who have the same or substantially similar
30 operations, emissions, activities, discharges, or facilities;

31 2. the permit applicants or potential permit applicants
32 discharge, emit, process, handle, or dispose of the same types
33 of waste;

34 3. the operations, emissions, activities, discharges, or
35 facilities are subject to the same or substantially similar
36 standards, limitations, and operating requirements; and

1 4. the operations, emissions, activities, discharges, or
2 facilities are subject to the same or substantially similar
3 monitoring requirements.

4 D. Notice of intent. The applicant and the agency shall
5 follow the same procedures to issue a general permit as are
6 required for the issuance of an individual permit. However, to
7 comply with 6 MCAR S 4.4010 E.3., the agency shall publish
8 notice of intent to issue a general permit in the State Register.

9 E. Geographical area. A general permit issued by the agency
10 must state specifically the geographical area covered by the
11 permit.

12 F. Issuance of individual permit. If a permit applicant who
13 is eligible to be covered by a general permit requests an
14 individual permit, the agency shall process the application as
15 an application for an individual permit. If the agency finds
16 that the operations, emissions, activities, discharges, or
17 facilities of a permit applicant or a permittee covered by a
18 general permit would be more appropriately controlled by an
19 individual permit, the agency shall issue an individual permit
20 to the applicant or the permittee. Upon issuance of the
21 individual permit, a general permit previously applicable to the
22 permittee no longer applies to that permittee. In considering
23 whether it is appropriate to issue an individual permit under
24 F., the agency shall consider:

25 1. whether the operations, emissions, activities,
26 discharges, or facilities of the permit applicant or permittee
27 have characteristics creating the potential for significant
28 environmental effects;

29 2. whether the permittee has been in compliance with the
30 terms of the general permit and applicable statutes and rules;
31 and

32 3. whether the operations, emissions, activities,
33 discharges, or facilities have been altered such that they no
34 longer fit within the category covered by the general permit.

35

36 Repealer. Pollution Control Agency rule MPCA 5 is repealed.