

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Procedural Rules

4

5 Rules as Adopted

6 7000.0100 DEFINITIONS.

7 [For text of subps 1 and 1a, see M.R.]

8 Subp. 2. Agency or agency members. "Agency" or "agency
9 members" means the commissioner and the eight persons appointed
10 to the Minnesota Pollution Control Agency, pursuant to Minnesota
11 Statutes, section 116.02, subdivision 1.

12 [For text of subps 2a to 14, see M.R.]

13 7000.0400 OFFICERS, COMMITTEES, AND DUTIES.

14 Subpart 1. Officers. The officers of the agency are the
15 commissioner, who serves as the agency chair as prescribed in
16 Minnesota Statutes, section 116.02, subdivision 4, and
17 vice-chair.

18 Subp. 2. [See repealer.]

19 Subp. 3. Electing and term of the vice-chair. Each year,
20 at its annual meeting, the agency shall elect a vice-chair to
21 serve a one-year term. The vice-chair must be elected by a
22 majority of all agency members. No member elected to the office
23 of vice-chair may serve in that capacity more than two full
24 terms consecutively.

25 Subp. 4. Duties. The commissioner shall preside at all
26 agency meetings. The vice-chair shall discharge the duties of
27 the commissioner as chair during the absence or disability of
28 the commissioner in carrying out the duties of the chair. The
29 commissioner shall also have the duties prescribed by statute or
30 by rule or delegation of the agency.

31 Subp. 5. Vacancies. If a vacancy occurs in the office of
32 commissioner of the agency and no successor is appointed or no
33 temporary commissioner is available or designated as prescribed
34 in Minnesota Statutes, section 15.06, the vice-chair shall
35 preside and carry out the duties as chair at agency meetings.

1 If a permanent vacancy occurs in the office of vice-chair, the
2 agency shall, as soon as possible after the permanent vacancy,
3 elect a new vice-chair to fill out the term of the vacated
4 office of vice-chair.

5 Subp. 6. Removal. The vice-chair may be removed from
6 office by an affirmative vote of two-thirds of all agency
7 members. The vote to remove a vice-chair shall be made at the
8 next regular meeting of the agency following the meeting at
9 which the removal motion is made.

10 [For text of subp 7, see M.R.]

11 Subp. 8. Execution of documents. Contracts, stipulation
12 agreements, and other documents approved by the agency pursuant
13 to law shall be executed on the agency's behalf by the
14 commissioner and the vice-chair unless the agency authorizes
15 some other form of signing.

16 7000.0500 AGENCY MEETINGS.

17 Subpart 1. Regular and annual meetings. Twelve regular
18 monthly meetings of the agency shall be held each calendar year.
19 The annual meeting, also conducted as a regular meeting, shall
20 be held during the month of July of each year. The date, time,
21 and place of each regular meeting, including the annual meeting,
22 shall be designated by the commissioner. The commissioner may
23 direct that a regular meeting be postponed or advanced to
24 accommodate a state holiday, weather emergency, or scheduling
25 conflicts of agency members.

26 Subp. 2. Special meetings. Upon concluding that a special
27 meeting would assist the agency in accomplishing its work or
28 upon receiving a request for a special meeting from three agency
29 members, the commissioner shall call a special meeting of the
30 agency. The date, time, and place of the special meeting shall
31 be designated by the commissioner. In setting the time and
32 place of a special meeting, the commissioner shall consider the
33 extent to which time is of the essence and whether it would be
34 unreasonable or unfair to interested persons for the agency to
35 postpone consideration of the agenda for the special meeting to

1 allow as much notice as would be required for a regular meeting
2 of the agency.

3 Subp. 3a. Committee meetings. The committee chair or the
4 commissioner shall call a committee meeting when either
5 concludes that a committee meeting would assist the agency in
6 accomplishing its work or upon receiving a request for a
7 committee meeting from a member of the agency committee. The
8 date, time, and place of the committee meeting shall be
9 designated by the commissioner after consultation with the
10 committee chair.

11 Subp. 3b. Informational meetings. Part 7001.0120
12 addresses informational meetings on permits. For all other
13 matters, the agency or commissioner shall call a public
14 informational meeting upon concluding that a public
15 informational meeting would provide the agency with information
16 that would assist it in accomplishing its work or would
17 otherwise be in the public interest. The date, time, and place
18 of the informational meeting shall be designated by the
19 commissioner.

20 [For text of subp 8, see M.R.]

21 Subp. 9. Presiding officer. The commissioner shall
22 preside at all regular and special meetings of the agency. The
23 vice-chair shall preside in the commissioner's absence. If the
24 commissioner and vice-chair are both absent, the remaining
25 members shall designate one of the agency members present to
26 preside over the meeting until the commissioner or vice-chair
27 arrives.

28 [For text of subps 10 to 17, see M.R.]

29 Subp. 18. Continuation or recess of agency meetings. The
30 agency may continue or recess an agency meeting to a later time
31 or date if necessary to allow for the drafting of findings of
32 fact as directed by agency members or further discussion or
33 deliberation concerning a matter on a meeting agenda. If an
34 agency meeting is continued or recessed and the time, date, and
35 place for reconvening is announced and recorded at the time the
36 meeting is recessed or continued, no further notice of the

1 reconvening is necessary. If the agency provided an opportunity
2 for public comments on a specific matter before a meeting is
3 recessed or continued, the commissioner may rule that no further
4 comments will be heard when the meeting is reconvened. However,
5 agency members may ask questions of agency staff and interested
6 persons even when no further public comment is to be taken.

7 7000.0650 PUBLIC PARTICIPATION IN AGENCY MEETINGS.

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

9 Subp. 5. Oral presentations at agency meetings.

10 Consistent with the provisions of part 7000.0500, subpart 18,
11 the agency shall afford interested persons a reasonable
12 opportunity to make oral statements concerning matters on an
13 agency meeting agenda. To ensure an opportunity for full and
14 fair consideration of all views, the commissioner may limit the
15 time and scope of each speaker's presentation and may require
16 speakers with similar views to select a spokesperson. Oral
17 statements must be relevant to the matter before the agency.
18 Oral presentations following a rulemaking or contested case
19 hearing must be limited to the record for the matter.

20 Subp. 6. Written materials. The agency shall consider
21 timely, relevant written materials that interested persons
22 submit concerning a matter on an agenda for an agency meeting.
23 Recessing or continuing a meeting as provided under part
24 7000.0500, subpart 18, does not create a new opportunity to
25 submit written comments, unless the commissioner states
26 otherwise and establishes a schedule for submittal of additional
27 written materials. Written statements will be considered timely
28 and relevant only if they meet the following conditions:

29 [For text of items A and B, see M.R.]

30 C. for matters for which a contested case hearing has
31 not been held but a permit comment period has been established
32 under chapter 7001 or 7007, any additional written permit
33 comments must be served on the agency at least five days before
34 the agency meeting, and must be limited to permit procedural
35 mistakes or irregularities, errors of law, or newly discovered

1 material issues of fact that could not have been discovered
2 prior to the close of the permit comment period;

3 D. for all matters, the commissioner may establish a
4 reasonable schedule for submitting written comments. If a
5 schedule is established under this item and the commissioner
6 serves notice of the schedule on interested persons, service is
7 timely if made within the established deadlines; and

8 [For text of item E, see M.R.]

9 [For text of subp 7, see M.R.]

10 7000.0750 AGENCY RECORDS AND FINAL DECISION MAKING.

11 [For text of subps 1 to 3, see M.R.]

12 Subp. 4. Record upon which the agency makes other
13 decisions. The record upon which the agency shall make a final
14 decision in all matters other than rulemaking and contested case
15 hearings consists of the following:

16 [For text of items A to C, see M.R.]

17 D. written documents containing relevant information,
18 data, or materials referenced and relied upon by agency staff in
19 recommending a proposed action or decision; and

20 [For text of item E, see M.R.]

21 [For text of subps 5 to 8, see M.R.]

22 Subp. 9. Stay of decision. A person may petition for a
23 stay of an agency decision. Petitions must comply with the
24 requirements of part 7000.2100 relating to timing, serving of a
25 petition, and petition contents. The agency's grounds for
26 granting or denying a petition and the agency's consideration of
27 the petition are the same as the requirements of part 7000.2100.

28 7000.0850 DELEGATION PROCEDURE.

29 The agency may delegate the exercise of specified authority
30 or duties to the commissioner as follows:

31 [For text of items A to C, see M.R.]

32 D. the commissioner and the vice-chair must sign and
33 date the delegation once it is given;

34 [For text of items E to H, see M.R.]

1 7000.1300 CONFIDENTIAL INFORMATION.

2 [For text of subps 1 and 2, see M.R.]

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

11 [For text of subps 4 to 7, see M.R.]

12 7000.1750 CONTESTED CASE HEARINGS.

13 [For text of subpart 1, see M.R.]

14 Subp. 4. Parties. Any person whose legal rights, duties,
15 or privileges are to be determined in the matter for which the
16 contested case hearing is to be held is a party. When a
17 contested case hearing is held pursuant to a petition for a
18 hearing, the person or persons petitioning for the hearing are
19 parties to the matter. In any hearing on an application for a
20 permit or variance, the applicant is a party. The deputy
21 commissioner is a party in any hearing ordered by the agency.
22 Any person who has properly intervened in the contested case
23 under part 1400.6200 is a party.

24 [For text of subp 7, see M.R.]

25 7000.1800 PETITION FOR CONTESTED CASE HEARING.

26 Subpart 1. Petition for contested case hearing. Any
27 person may petition the agency to hold a contested case
28 hearing. To be considered by the agency, a petition must be
29 submitted in writing, must contain the information specified in
30 subpart 2, and must be timely. Timeliness shall be determined
31 as follows:

32 A. for permit matters, a petition for a contested
33 case hearing must be submitted during the public comment period
34 established under parts 7001.0100 and 7007.0850;

35 B. for matters other than those covered by item A,

1 the commissioner may establish deadlines for persons to petition
2 for a contested case hearing. If the commissioner establishes
3 deadlines to petition for a contested case hearing, petitions
4 for a contested case hearing will be considered timely if they
5 are served on all agency members, including the commissioner
6 within the established deadlines; and

7 C. if item A does not apply and no deadlines are
8 established as provided in item B, a petition for a contested
9 case shall be considered timely as follows:

10 (1) for regular meetings of the agency and
11 special meetings noticed ten or more days before the meeting,
12 service is timely if all agency members, including the
13 commissioner, are served five days before the meeting; and

14 (2) for special meetings of the agency noticed
15 less than ten days before the meeting, service is timely if all
16 agency members, including the commissioner, are served
17 personally or by facsimile before the agenda item is scheduled
18 to be heard.

19 [For text of subp 2, see M.R.]

20 Subp. 3. Written responses to petitions for contested case
21 hearings. Any person may serve timely responses to a petition
22 for a contested case hearing. Timeliness shall be determined as
23 described in items A and B.

24 A. If the commissioner has established a schedule as
25 provided in subpart 1, item A or B, responses to a petition for
26 a contested case hearing must be submitted within the deadlines
27 established.

28 B. If no schedule has been established, responses to
29 a petition for a contested case hearing must be personally
30 served on or facsimiled to all agency members, including the
31 commissioner, at any time prior to the time at which the matter
32 will be considered by the agency.

33 [For text of subp 4, see M.R.]

34 7000.2000 FINAL DECISIONS AND ORDERS IN CONTESTED CASES.

35 [For text of subpart 1, see M.R.]

1 Subp. 2. Service of comments and exceptions. Any person
2 who serves written comments on or exceptions to the
3 administrative law judge's report shall serve these comments or
4 exceptions upon each agency member, including the commissioner,
5 and upon all parties.

6 Subp. 3. Appearance at agency meeting. Any party may
7 appear at the agency meeting at which the matter will be
8 considered for final decision and present oral comments and
9 arguments, limited to evidence in the record, subject to time
10 limitations and conditions that the commissioner prescribes in
11 accordance with part 7000.0650, subpart 5.

12 [For text of subps 4 to 7a, see M.R.]

13 Subp. 8. Notice. The commissioner must serve a copy of
14 every final decision or order in a matter for which a contested
15 case hearing has been held on all parties to the matter and on
16 all interested persons who have submitted to the agency a
17 request to be notified of the decision.

18 7000.2100 PETITION FOR STAY AND REOPENING OF AGENCY'S FINAL
19 DECISION FOLLOWING CONTESTED CASE HEARING.

20 Subpart 1. Petition for a stay and reopening. At any time
21 up to ten days after the agency's final decision, any party to a
22 contested case hearing may petition in writing the agency for an
23 order that the agency's final decision be stayed and that the
24 matter be reopened and, if necessary, remanded to the
25 administrative law judge. The petition must be served upon all
26 agency members, including the commissioner, and parties. Any
27 response to the petition by other parties must be served any
28 time up to seven days after receipt of the petition on all the
29 agency members and parties to the matter.

30 [For text of subp 2, see M.R.]

31 Subp. 3. Grounds for granting or denying petition. The
32 petition shall be granted upon a showing that there are
33 irregularities in the hearing, errors of law, or newly
34 discovered material issues of fact that could not have been
35 discovered prior to the agency's final decision and of such

1 importance as are likely to have altered the outcome of the
2 decision.

3 [For text of subp 4, see M.R.]

4 7000.5000 DECLARATION OF EMERGENCY.

5 [For text of subpart 1, see M.R.]

6 Subp. 2. Notification to agency. If the commissioner
7 anticipates that emergency conditions may be approaching, the
8 commissioner shall keep agency members informed of these
9 conditions by any means practicable. Upon declaration of an
10 emergency by the commissioner, the commissioner shall
11 immediately notify all agency members. Notification may be by
12 telegram, telephone, or any other means practicable. The
13 commissioner shall schedule a special meeting of the agency as
14 soon as practicable, but no later than the next scheduled
15 regular meeting of the agency after the declaration of an
16 emergency. At the special meeting the agency shall determine
17 whether to continue the emergency declaration and, if continued,
18 under what conditions.

19 Subp. 3. Duration. Any action taken by the commissioner
20 pursuant to the declaration of emergency shall remain effective
21 according to the following provisions:

22 A. until the date of the special meeting and
23 thereafter, until the date determined by the agency at the
24 meeting;

25 B. item A notwithstanding, until notice, hearing, and
26 determination are effected pursuant to law; or

27 C. until discontinued by the declaration of the
28 commissioner or by majority vote of the agency.

29 [For text of subps 4 to 7, see M.R.]

30 7000.7000 VARIANCES.

31 [For text of subps 1 to 8, see M.R.]

32 Subp. 9. Notification. The commissioner must serve every
33 decision of the agency on a variance application on the
34 applicant and upon all interested persons who have submitted to
35 the agency a request to receive a copy of the decision.

1 [For text of subps 10 to 13, see M.R.]

2 7000.9100 PROHIBITED EX PARTE COMMUNICATIONS.

3 [For text of subps 1 and 2, see M.R.]

4 Subp. 3. Disclosure of ex parte communication. If a
5 person or party makes a prohibited oral ex parte communication
6 to an agency member, the agency member must advise the person or
7 party who makes the communication that the communication is
8 prohibited and shall immediately terminate the communication.
9 If a prohibited written or oral ex parte communication is
10 received by an agency member, that agency member must promptly
11 disclose the following information to the commissioner or
12 vice-chair prior to any decision regarding the contested case or
13 rulemaking proceeding that is the subject of the ex parte
14 communication:

15 [For text of items A to D, see M.R.]

16 [For text of subps 4 and 5, see M.R.]

17 REPEALER. Minnesota Rules, part 7000.0400, subpart 2, is
18 repealed.