

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

204(A)

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Health Dept.
(Agency or Board)

Regulation No. MHD 144 (F)

Subject: Wainer of Rule

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

MAY 28 1976

BY Edw Staudenmaier
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 5-28-76 1:25PM 1:35

Rev. 9-72

204A

Attorney General

Richard A. Wexler
Special Assistant
Attorney General

June 1, 1976

Michael B. Miller
Special Assistant
Attorney General

296-4692

Rule 144(f)

Returned herewith is Health Department Rule 144(f) as filed.

MBM/mb

Enclosure

Minn. Rule MHD 144(f)

Waiver of Rule

As Adopted in Modified Version by State Board of Health

MHD 144(f) WAIVER OF RULE.

The Agency may waive any provision of these rules with respect to any municipality when necessary to accomplish the purposes and intent of the enabling legislation. A waiver shall not be granted if it will violate any specific provision of the enabling legislation. A waiver shall only be granted when the agency has made a documented finding that the granting of the waiver is necessary to meet the intent and purpose of the enabling legislation. Governed by this standard, a waiver shall be granted at the reasonable discretion of the agency. The Agency shall specify in writing the exact rule that is waived and the detailed reasons for granting the waiver.

Minn. Rule MHD 144(f)

Waiver Of Rule

As Initially Adopted by State Board of Health

MHD 144(f) WAIVER OF RULE.

The Agency may waive any provision of these rules with respect to any municipality when necessary to accomplish the purposes and intent of the enabling legislation. A waiver shall not be granted if it will violate any specific provision of the enabling legislation. Other than as governed by these standards, the Agency determination on whether or not to grant a waiver shall be based upon its reasonable discretion. The Agency shall specify in writing the exact rule that is waived and the detailed reasons for granting the waiver.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
STATE BOARD OF HEALTH

In the Matter of the Proposed
Rule Relating to the Water
Purification and Filtration
Plants Grants Program

ORDER ADOPTING
RULE

The above-entitled matter came on for hearing before the Minnesota State Board of Health (hereinafter "Board") on the 29th day of December, 1975, at 10:00 A.M. in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 (Supp. 1975) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and also upon other persons, associations and groups of which the Board was aware of as possibly having an interest in the above captioned rule.

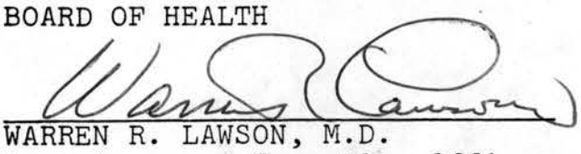
After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Minn. Rule MHD 144(f), Waiver of Rule, which authorizes the Board to waive any other provision of MHD 144, relating to the Water Purification and Filtration Plants' Grants Program, under specified conditions is adopted this 14th day of May, 1976, pursuant to authority vested in the

Board by Minn. Stat. § 298.244 subd. 2 (Supp. 1975) and in me by resolution of the Board duly adopted at a meeting of the Board on the 8th day of April, 1976.

STATE OF MINNESOTA

BOARD OF HEALTH



WARREN R. LAWSON, M.D.
Secretary and Executive Officer

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

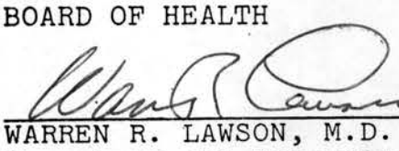
I, Warren R. Lawson, M.D., do hereby certify that I am the Secretary and Executive Officer of the Minnesota State Board of Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the said Board duly and properly called and held on the 8th day of April, 1976; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the modified version of the rule relating to the Water Purification and Plants' Grants Program identified as MHD 144(f) is found to be reasonable, necessary, supported by the evidence contained in the record, and does not constitute a substantive change, and is hereby approved and adopted, pursuant to authority vested in us by Minn. Stat. § 298.244 subd. 2(a) (Supp. 1975) and that Warren R. Lawson, M.D., Secretary and Executive Officer of the Minnesota State Board of Health, be and hereby is authorized to sign an order adopting this rule.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of May, 1976.

STATE OF MINNESOTA

BOARD OF HEALTH



WARREN R. LAWSON, M.D.
Secretary and Executive Officer

Minn. Rule MHD 144(f)

Waiver of Rule

As Adopted in Modified Version by State Board of Health

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APPROVED AS TO FORM AND LEGALITY
MAY 28 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 28 1976 1:25 P.M.
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
MAY 28 1976
BY
AUTH. SIGNATURE
1:35 pm.

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL-Health

Office Memorandum

TO : Michael Miller
Special Assistant
Attorney General
Department of Administration

DATE: May 18, 1976

Rec'd 5-18-76

FROM : Richard A. Wexler
Assistant Attorney General

PHONE: 5370

SUBJECT: Minn. Rule MHD 144(f)

On February 20, 1976, I forwarded to you for your review and approval the Board of Health rules relating to Water Filtration and Purification Plant Grants, Minn. Rule MHD 144. After reviewing the supporting documentation and rules, you determined that MHD 144(f), Waiver of Rule, needed to be reworded so as to clearly define the standard by which the Board could waive provisions of the rule. Consequently, you returned the rules on March 15, 1976, while I was on vacation.

Jack Breviu resubmitted MHD 144, after deleting subdivision (f) on March 22, 1976. Subsequently on April 1, 1976, you approved and filed MHD 144.

In discussions with Jack, I understand that you felt that subdivision (f) could be reworded without the necessity of holding another hearing. Jack drafted wording, which you found acceptable, and resubmitted the rule to the Board of Health for its adoption. The Board adopted the rule at its April 8, 1976 meeting.

at least, that is what he remembers of it

I am hereby resubmitting MHD 144(f) for your review and approval. Pursuant to our phone conversation of May 4, 1976, the only documents that I have included are three copies of the rule as initially adopted by the Board, five copies of the rule as modified and adopted by the Board, and three copies each of an Order Adopting Rule and a Certificate of Board's Adoption of Rules Resolution. Of course, all the other supporting documentation has been already reviewed by you when you approved MHD 144(a) through (e).

After speaking with you, I thought that it would be helpful if you also had access to that part of the Board's Statement of Justification relating to MHD 144(f). The Statement reads as follows:

MHD 144(f). The principal purpose behind the rule is to implement the enabling legislation which is intended to assist the affected municipalities meet an unexpected but necessary financial burden created by the discovery of a threat to the public health. This section of the rule permits the Agency to waive any provision of the rule where the rule, under the facts involved, will result in frustrating rather than furthering the intent of the enabling legislation. The Agency is free to exercise its discretion in a reasonable manner with respect to any waiver request within the standards noted in the section and must specify in writing the exact nature of the waiver and the detailed reasons therefore.

(Emphasis added.)

I hope that this will clarify matters for you. If you have any questions, please give me a call.

RAW:cs

Enclosures

CERTIFICATE OF BOARD'S

ADOPTION OF RULES RESOLUTION

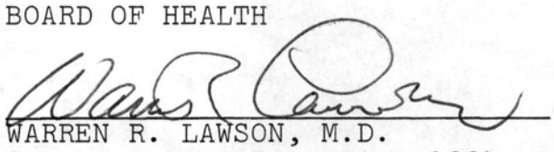
I, Warren R. Lawson, M.D., do hereby certify that I am the Secretary and Executive Officer of the Minnesota State Board of Health, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the said Board duly and properly called and held on the 8th day of April, 1976; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the modified version of the rule relating to the Water Purification and Plants' Grants Program identified as MHD 144(f) is found to be reasonable, necessary, supported by the evidence contained in the record, and does not constitute a substantive change, and is hereby approved and adopted, pursuant to authority vested in us by Minn. Stat. § 298.244 subd. 2(a) (Supp. 1975) and that Warren R. Lawson, M.D., Secretary and Executive Officer of the Minnesota State Board of Health, be and hereby is authorized to sign an order adopting this rule.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 14th day of May, 1976.

STATE OF MINNESOTA

BOARD OF HEALTH



WARREN R. LAWSON, M.D.
Secretary and Executive Officer