

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 710

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7/1
DATE FOR REVIEW 7/10
DATE DUE 7/15

Adopted w/a hearing _____
Adopted w/o a hearing X
Temporary rule _____

Approved _____ Disapproved 7/15 Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____

✓ Rule as Adopted 1 copy only.

✓ Rule as Proposed see SR copy.

? Order Adopting 6.26.81 1 copy only.

N/A Notice of Intent to Solicit Outside Opinion

? Order for rulemaking not submitted
_____ Date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notices of rulemaking see SR copy.
? Sufficiency see my comment

✓ Affidavit of Mailing Notice of rulemaking not submitted
_____ At least 30 days prior to hearing/adoption

✓ Mailing list Certificate

✓ Publication in State Register
3.16.81 and 4.13.81 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

? Agency's Findings of Fact not submitted.

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

Affidavit of Mailing Notice of Submission to Attorney General

Notice of Submission to the Attorney General

not submitted but see letter of transmittal from Joan Volz

Submitted to Revisor ?

SF-00006-02

See our File 754 for 11/24/81 submission

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ROLF MIDDELTON
Commissioner
Minnesota Department of Economic Security

DATE: July 15, 1981

ATTN : Joan Volz
Special Assistant Attorney General

FROM : Ted A. Martinez
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Economic Security, Governing Employment of Summer Youth

The rules in the above-captioned matter have not been approved by this office for the following reasons:

1. The notice of Intent to Amend Rules Without a Public Hearing published in the State Register on March 16, 1981, read together with the Notice of Extension of Request Period published on April 13, 1981, is defective in the following respects:

A. As required by 1 MCAR § 1.203G.8, the notice fails to include a statement that all persons wishing to be informed when the rule is submitted to the Attorney General may request such notice and a statement of the manner in which the request may be made.

B. Minnesota Statutes § 15.0412 subd. 4h requires that before the date of the notice, the agency shall prepare a statement of need and reasonableness which shall be available to the public. Although the agency did prepare this statement, there is nothing in the notice which would inform the public of its availability. Therefore, appropriate language reflecting the above should be included in the notice.

2. There is nothing in the record that reflects which notice was sent out to all persons and associations who requested that their names be placed on file with the State for the purpose of receiving notice of the proposed adoption of the rules. Given the date on the Affidavit of Mailing, it appears that only the second notice, published in the State Register on April 13, 1981, was mailed out. This is improper, if this is the case, since that notice did not include the rule nor a description thereof. It appears that a new notice will have to be sent out taking into account the comments in this memorandum.

3. Although this is not a basis for disapproval at this time, I am informed by the Revisor of Statutes Office that there was some problem with the incorporation by reference to the Employment and Training Administration of the U.S. Department of Labor. Please be advised that this issue will be reviewed upon your resubmission of the Rules to this office.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for review. Upon resubmission, please include two copies of a new or supplemental Order Adopting, and the original and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

Please be advised that pursuant to Minn. Stat. § 15.0412 subd. 4g effective July 1, 1981, "(n)o rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has endorsed on the rule that it is approved as to form." Therefore, at the time when you resubmit the new rule to this office, you must submit two copies of the same to the revisor of statutes.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

TAM:rjg

Enc.

cc: Duane Harves
Susan Robertson

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Economic Security

Proposed Amendments to the Rule Governing the Minnesota Youth Employment Act

Notice of Extension of Request Period

The Minnesota Department of Economic Security gave notice at *State Register*, Volume 5, Number 37, pp. 1433-1436, March 16, 1981 (5 S.R. 1433) that it intends to adopt certain changes in the rule governing procedures under the Minnesota Youth Employment Act, Minnesota Statutes §§ 268.34-268.36. The department has determined that these changes will be noncontroversial and has chosen to proceed without a public hearing pursuant to the provisions of Minnesota Statutes § 15.0412, subdivision 4(h). However, should seven or more persons submit a written request for a public hearing in the manner set forth below, the department will hold a public hearing on its proposed changes. Additionally, the public is invited to comment on the proposed rule, and the rule may be modified if modifications are supported by the data and views submitted. Written requests for a public hearing and/or comment must be submitted to Lawrence W. Cheetham, State Youth Services Supervisor, Minnesota Department of Economic Security, Room 528, 390 North Robert Street, Saint Paul, Minnesota 55101. The purpose of this notice is to announce the extension of the request and comment period, with requests and comments to be accepted until 4:30 p.m. on May 15, 1981.

Pollution Control Agency
Air Quality Division

Proposed Rule Governing the Agency's Permit Program for the Growth or Expansion of Industry in Nonattainment Areas

Notice of Intent to Adopt A Rule without A Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter, "agency") intends to adopt the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subd. 4h (1980).

If adopted, the proposed rule would establish a permit program for the expansion or growth of emission facilities in areas of the state identified as nonattainment areas. The permit conditions set out in the proposed rule will insure that a subject emission facility grows or expands in a manner that results in an improvement in air quality.

The agency is authorized to adopt this rule under Minn. Stat. § 116.07, specifically, Minn. Stat. § 116.07, subd. 4 and subd. 4a (1980).,

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 (1980).

IN TESTIMONY WHEREOF, I have hereunto set my hand this 19th day of February, 1981.

Albert H Quie

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Economic Security

Proposed Amendments to Rule Governing the Minnesota Youth Employment Act

Notice of Intent to Amend Rules without A Public Hearing

The Minnesota Department of Economic Security hereby gives notice that it intends to adopt certain changes in the rule governing procedures under the Minnesota Youth Employment Act, Minnesota Statutes §§ 268.34-268.36. The department has determined that these changes will be non-controversial and has chosen to proceed without a public hearing pursuant to the provisions of Minnesota Statutes § 15.0412, subdivision 4(h). However, should seven or more persons submit a written request for a public hearing in the manner set forth below, the department will hold a public hearing on its proposed changes. Written requests for a public hearing must be submitted to Lawrence W. Cheetham, State Youth Services Supervisor, Minnesota Department of Economic Security, Room 528, 390 North Robert Street, Saint Paul, Minnesota 55101, within thirty (30) days of the date of publication in the *State Register*.

The proposed changes to the rule clarify the criteria for participation in the Section E(1) Regular Program and Section E(2) Postsecondary Program. The clarified criteria of economically disadvantaged is more precise and definitive than the current poverty guideline and further conforms with the Federal Comprehensive Employment and Training Act. This will result in a more efficient administration of the Act by program operators.

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The second proposed change in the rule is a change in the language to determine certification for the postsecondary part of the program (Section E (2)). The current rule specifies certification for the postsecondary portion of the program as individuals who are at least 18 years of age and who are certified by the department as intending to enroll or are enrolled in a postsecondary institution. The proposed change adds to that definition "or a high school graduate." This change would allow high school graduates under 18 years of age who are intending to enroll in a postsecondary educational institution to participate in the postsecondary part of the program.

The third proposed change is an addition to part G. (reallocation procedures). The addition would be known as G.3. This addition would allow the department to shift funds from one CETA prime sponsor to another during the course of the program with the mutual consent of both CETA prime sponsors. The proposed addition would allow a more efficient use of the funds appropriated under the Act and would result in an increased number of youth obtaining employment.

Amendments as Proposed

8 MCAR § 4.0010 Summer Youth Employment.

A. Purpose. This rule adopted pursuant to Laws of 1977, ch. 254, § 3, is designed to establish a procedure for the allocation of funds under the Youth Employment Act of 1977, Laws of 1977, ch. 254, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of said funds.

B. Definition of terms. The following terms used in this rule shall have the meaning given them:

1. "Act" means the Youth Employment Act of 1977, Laws of 1977, ch. 254.

2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security.

3. "Contract" means an agreement entered into between a prime sponsor or a political subdivision or a nonprofit organization and the commissioner for the operation of a youth employment program under the Act.

4. "Department" means the Minnesota Department of Economic Security.

5. "Prime sponsor" means a unit of government, combination of units of government, a rural concentrated employment grantee, or an Indian reservation, which has entered into a grant with the United States Department of Labor to provide comprehensive manpower services under the Federal Comprehensive Employment and Training Act of 1973. (P.L. 93-203)

6. "Program employer" means an organization which employs a person or persons under the program established by the Act.

7. "Subcontract" means an agreement entered into between a prime sponsor and a political subdivision and/or nonprofit organization for the operation of a youth employment program under the Act.

C. Allocation of funds. The commissioner shall allocate funds available under the Act as follows:

1. Allocations to counties.

a. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties on the basis of each county's share of the estimated youth population of the state which is 14 through 21 years of age.

b. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties according to each county's share of the estimated youth population of the state which is 14 through 21 years of age, adjusted for:

(1) Historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July and August for the most recent three-year period for which such data is available.

(2) The county's proportion of families below the poverty level as evidenced by 1970 U. S. Census figures as adjusted by reference to more recent population surveys, provided that such reference to more recent population surveys shall be made only if such data is available for all counties in the state.

(3) Estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent U. S. Census data.

c. The method of allocation to counties expressed mathematically shall be as follows:

$$A_{ci} = \frac{0.5(YP_{ci})}{YPs} + \frac{0.5F(YPA_{ci}) \quad (U_{ci})\ (P_{ci})}{\sum_{i=1}^{n} (YPA_{ci}) \quad (U_{ci})\ (P_{ci})}$$

where: 1. A_{ci} = allocation to the ith county

2. F. = funds available under the Act

3. YP_{ci} = youth population 14 through 21 years of age in the ith county, determined by interpolation for the current year from projections of the state demographer

4. PYs = same as 3, above for the state

5. YPA_{ci} = youth population as in 3, above, but adjusted for postsecondary school enrollment as referenced in 8 MCAR § C.1.b.(3)

6. U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the ith county

7. P_{ci} = percent of all families with income below the poverty level in the ith county as evidenced by the 1970 Census or more recent population surveys as referenced in 8 MCAR § C.1.b.(2)

2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

a. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total population of the county as evidenced by the most recent U. S. Bureau of Census estimates. Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 U. S. Census figures.

b. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under 8 MCAR § 4.0010 C.2.a., shall be allocated to the county as a whole.

D. Contracting procedures. Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

1. Sign the contract for the entire amount of the allocation and directly administer the program.

2. Sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions and/or nonprofit organizations within the prime sponsor's jurisdiction.

3. Designate all or a part of the allocation to be directly used by a state agency, political subdivision or a nonprofit organization.

4. Decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations and counties in the prime sponsor's area.

E. Operations procedures.

1. Regular program. Youth who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the Act are eligible for program employment. Approximately fifty percent of the youth hired should be from families ~~whose annual incomes~~ which meet ~~do not exceed~~ the ~~poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U.S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area. Hreinafter, this portion of the program is referred to as the "regular program."

2. Postsecondary program. Notwithstanding 8 MCAR § 4.0010 E.1., at least 33-1/3 percent of the funds allocated to the prime sponsor area are to be used to hire youth who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately fifty percent of the youth hired should be from families ~~whose annual incomes~~ which meet ~~do not exceed~~ the ~~poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within

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an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the department and the department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area. Hereinafter, this portion of the program is referred to as the "postsecondary program." A partial waiver from this part may be obtained in accordance with the procedures set forth in 8 MCAR § 4.0010 G.

3. To obtain eligible youth, program employers must place a job order with the department and may employ only those youth referred by the department.

4. Eligible youth (not designated as supervisors) shall be paid the federal minimum wage for a period not to exceed 40 hours per calendar week and for not more than 12 weeks.

5. Program employers, at their discretion, may designate one eligible youth as supervisor for every ten youth in its employ under the Act. Program employers who employ at least five but less than ten youth may designate one youth as a supervisor. Youth designated as supervisors shall be paid the Federal minimum wage plus twenty-five cents (25¢) per hour for up to 40 hours per week for a period not exceeding 12 weeks.

6. Upon signing a contract or subcontract program employers may begin employing eligible youth referred by the department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30th of each calendar year.

F. Invoicing. The department shall reimburse contractors for wages paid to eligible youth, employer's contributions to FICA paid in behalf of such youth and Workers' Compensation insurance costs for such youth. Invoices and specific procedures for reimbursement will be furnished to program employers by the department.

G. Reallocation procedures.

1. Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

a. The city or county originally allocated the funds according to the formula in 8 MCAR § 4.0010 C. refuses the funds.

b. The city or county originally allocated the funds gives its permission for those funds to be used in another city or county.

c. The prime sponsors may reallocate up to the equivalent of one full-time slot or position not to exceed $1,000 between any subdivision above for the purpose of simplified administration of the program.

2. Prime sponsors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the Department that they are unable to obtain sufficient youth who meet the criteria set forth in 8 MCAR § 4.0010 F.e.2., and the department concurs.

3. During the period of the contract, the department may shift funds from one prime sponsor to another prime sponsor with the mutual consent of both prime sponsors if the prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies such funds are likely to be used before the end of the contract period.

Department of Corrections

Proposed Rules Governing Juvenile Residential Facilities

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the State Capitol, Room 123, St. Paul, Minnesota, 55155, on April 21, 1981 commencing at 9:30 a.m. and continuing until all persons have had an opportunity to be heard.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules, captioned above, by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Peter Erickson, Examiner at Room 300, 1745 University Avenue, St. Paul, Minnesota, 55104, telephone (612) 296-8118. It is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication, that those persons,

In the Matter of the Proposed Adoption of Rules of the State of Minnesota, Department of Economic Security, Governing Employment of Summer Youth

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Joan Volz, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Joan Volz

JOAN VOLZ
Special Assistant
Attorney General

Dated: 6/29/81

STATE OF MINNESOTA

DEPARTMENT OF Economic Security

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Employment of Summer Youth

ORDER ADOPTING RULES

Notice of the Commissioner's [Board's] intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 16, and April 13, 1981 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on April 10, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Employment of Summer Youth Under the Youth Employment Act of 1977 are adopted this 26th day of June, 1981 pursuant to authority vested in me [the Board] by Minnesota Statutes section 268.12, Subdivision 3.

STATE OF MINNESOTA

Rolf Middleton

Rolf Middleton
COMMISSIONER OF Economic Security

Exhibit F

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Employment of Summer Youth

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Bruce A. Lindsey, being first duly sworn deposes and says:

That on the 10th day of April, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of (Hearing/Intent to Adopt Rules Without Public Hearing) by depositing in the (State of Minnesota Central Mail System for United States mailing (or) United States mail) at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the pupose of receiving notice of the proposed adoption of rules by the Department of Economic Security.

Bruce A. Lindsey

Bruce A. Lindsey

Subscribed and sworn to before me
this 13th day of July, 1981.

David S. Bren

DAVID S. BREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov. 6, 1985.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JERRY ANDERSON
Special Assistant
Attorney General
G-25, Administration Bldg.

DATE: June 29, 1981

FROM : JOAN VOLZ
Special Assistant
Attorney General
1100 Bremer Tower

PHONE: 6-9412

SUBJECT: Economic Security Summer Youth Rules

Jerry, attached for your review are the noncontroversial summer youth rules of economic security. I am informed by the Department that it received no written comments, two telephone inquiries, and no request for a hearing regarding these rules. Please call me if you have any questions.

Joan

JV/kts
Enclosure

RECEIVED
JUL 1 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

RECEIVED
JUL 1 1991
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

EXHIBIT A

MINNESOTA DEPARTMENT OF ECONOMIC SECURITY

Adopted Rule of Department of Economic Security Governing the Employment of Summer Youth Under the Youth Employment Act of 1977

***Revised May 15, 1981**

8 MCAR § 4.0010

A. Purpose. This rule adopted pursuant to Laws 1977, ch. 254, § 3, is designed to establish a procedure for the allocation of funds under the Youth Employment Act of 1977, Laws 1977, ch. 254, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of said funds.

B. Definition of terms. The following terms used in this rule shall have the meaning given them:

1. "Act" means the Youth Employment Act of 1977, Laws 1977, ch. 254.
2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security.
3. "Contract" means an agreement entered into between a prime sponsor or a political subdivision or a nonprofit organization and the commissioner for the operation of a youth employment program under the Act.
4. "Department" means the Minnesota Department of Economic Security.
5. "Prime Sponsor" means a unit of government, combination of units of government, a rural concentrated employment grantee, or an Indian reservation, which has entered into a grant with the United States Department of Labor to provide comprehensive manpower services under the Federal Comprehensive Employment and Training Act of 1973. (P.L. 93-203)

*Revisions and additions underlined.

6. "Program Employer" means an organization which employs a person or persons under the program established by the Act.

7. "Subcontract" means an agreement entered into between a prime sponsor and a political subdivision and/or nonprofit organization for the operation of a youth employment program under the Act.

C. Allocation of funds. The commissioner shall allocate funds available under the Act as follows:

1. Allocations to counties.

a. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties on the basis of each county's share of the estimated youth population of the State which is 14 through 21 years of age.

b. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties according to each county's share of the estimated youth population of the State which is 14 through 21 years of age, adjusted for:

(1) Historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July and August for the most recent three-year period for which such data is available.

(2) The county's proportion of families below the poverty level as evidenced by 1970 U. S. Census figures as adjusted by reference to more recent population surveys, provided that such reference to more recent population surveys shall be made only if such data is available for all counties in the State.

(3) Estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent U. S. Census data.

c. The method of allocation to counties expressed mathematically shall be as follows:

$$A_{ci} = \frac{0.5(YP_{ci})}{YPs} + \frac{0.5F(YPA_{ci})\ (U_{ci})\ (P_{ci})}{\sum_{i=1}^{n} (YPA_{ci})\ (U_{ci})\ (P_{ci})}$$

where:
1. A_{ci} = allocation to the ith county
2. F = funds available under the Act
3. YP_{ci} = youth population 14 through 21 years of age in the ith county, determined by interpolation for the current year from projections of the State Demographer
4. YPs = same as 3, above for the State
5. YPA_{ci} = youth population as in 3, above, but adjusted for postsecondary school enrollment as referenced in 8 MCAR C.1.b.(3)
6. U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the ith county
7. P_{ci} = percent of all families with income below the poverty level in the ith county as evidenced by the 1970 Census or more recent population surveys as referenced in 8 MCAR C.1.b.(2)

2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

a. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total

population of the county as evidenced by the most recent U. S. Bureau of Census estimates. Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 U. S. Census figures.

b. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under 8 MCAR § 4.0010 C.2.a., shall be allocated to the county as a whole.

D. Contracting procedures. Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

1. Sign the contract for the entire amount of the allocation and directly administer the program.
2. Sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions and/or nonprofit organizations within the prime sponsor's jurisdiction.
3. Designate all or a part of the allocation to be directly used by a State agency, political subdivision or a nonprofit organization.
4. Decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations and counties in the prime sponsor's area.

E. Operations procedures.

1. Regular program. Youth who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the Act, are eligible for program employment. Approximately

fifty percent of the youth hired should be from families which meet the criteria for economically disadvantaged as established by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the Department and the Department concurs, such criteria shall be waived with respect to the funds allocated to such area. Hereinafter, this portion of the program is referred to as the "regular program."

2. Postsecondary program. Notwithstanding 8 MCAR § E.1., at least 33-1/3 percent of the funds allocated to the prime sponsor area are to be used to hire youth who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the Department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately fifty percent of the youth hired should be from families which meet the criteria for economically disadvantaged as stablished by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the Department and the Department concurs, such criteria shall be waived with respect to the funds allocated to such area.

Hereinafter, this portion of the program is referred to as the "Postsecondary Program." A partial waiver from this part may be obtained in accordance with the procedures set forth in 8 MCAR § 4.0010 G.

3. To obtain eligible youth, program employers must place a job order with the Department and may employ only those youth referred by the Department.
4. Eligible youth (not designated as supervisors) shall be paid the Federal minimum wage for a period not to exceed 40 hours per calendar week and for not more than 12 weeks.
5. Program employers, at their discretion, may designate one eligible youth as supervisor for every ten youth in its employ under the Act. Program employers who employ at least five but less than ten youth may designate one youth as a supervisor. Youth designated as supervisors shall be paid the Federal minimum wage plus twenty-five cents (25¢) per hour for up to 40 hours per week for a period not exceeding 12 weeks.
6. Upon signing a contract or subcontract program employers may begin employing eligible youth referred by the Department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30th of each calendar year.

F. Invoicing. The Department shall reimburse contractors for wages paid to eligible youth, employer's contributions to FICA paid in behalf of such youth and Workers' Compensation insurance costs for such youth. Invoices and specific procedures for reimbursement will be furnished to program employers by the Department.

G. Reallocation procedures.

1. Funds may be reallocated within a county or between a county and a city or between counties under the following circumstances:

a. The city or county originally allocated the funds according to the formula in 8 MCAR § 4.0010 C. refuses the funds.

b. The city or county originally allocated the funds gives its permission for those funds to be used in another city or county.

c. The prime sponsors may reallocate up to the equivalent of one full-time slot or position not to exceed $1,000 between any subdivision above for the purpose of simplified administration of the program.

2. Prime sponsors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the Department that they are unable to obtain sufficient youth who meet the criteria set forth in 8 MCAR § 4.0010 F.e.2., and the Department concurs.

3. During the period of the contract, the Department may shift funds from one prime sponsor to another prime sponsor with the mutual consent of both prime sponsors if the prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies such funds are likely to be used before the end of the contract period.

Department of Economic Security

Statement of Need and Reasonableness for Proposed Amendments
to Rule Governing the Minnesota Youth Employment Act

The Minnesota Department of Economic Security is proposing certain changes to the Summer Youth Employment Rule (8 MCAR s 4.0010) to remove restrictions which prevent the enrollment of certain program eligible applicants; and which prevent the full utilization of available resources.

The first proposed change clarifies the criteria for participation in the Regular Program (Section E (1)), and the Postsecondary Program (Section E (2)). The clarified criteria of economically disadvantaged is more precise and definitive than the current poverty guideline and further conforms with the Federal Comprehensive Employment and Training Act. This will result in more efficient and uniform administration of the Act by program operators.

The second proposed change will allow certification of all high school graduates to the postsecondary part of the program (Section E (2)). The current rule specifies certification for the postsecondary portion of the program of individuals who are at least 18 years of age and who are certified by the department as enrolled or intending to enroll in a postsecondary institution. The proposed change adds to that definition "or a high school graduate"; and will allow high school graduates under 18 years of age who are intending to enroll in a postsecondary educational institution to participate in the postsecondary part of the program.

The third proposed change will add procedures for the reallocation of funds. The addition (part G.3) will allow the department to shift funds from one CETA prime sponsor to another during the course of the program with the mutual consent of both CETA prime sponsors. This proposed addition will allow more efficient use of funds appropriated under the Act and result in an increased number of youth obtaining employment.

STATE OF MINNESOTA

DEPARTMENT OF Economic Security

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing Employment of Summer Youth

ORDER ADOPTING RULES

Notice of the Commissioner's [Board's] intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 16, and April 13, 1981 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on April 10, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Employment of Summer Youth Under the Youth Employment Act of 1977 are adopted this 26th day of June, 1981 pursuant to authority vested in me [the Board] by Minnesota Statutes section 268.12, Subdivision 3.

STATE OF MINNESOTA

Rolf Middleton

Rolf Middleton
COMMISSIONER OF Economic Security

Exhibit E

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of Rules of the State of Minnesota
Governing Employment of Summer Youth

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department of Economic Security is accurate and complete as of 8:00 A.M., this 10th day of April, 1981.

Bruce Lindsey

Bruce Lindsey
Procedures Coordinator

AG copy

EXHIBIT A

MINNESOTA DEPARTMENT OF ECONOMIC SECURITY

Proposed Amended Rule of the Department of Economic Security Governing the Employment of Summer Youth Under the Youth Employment Act of 1977

8 MCAR § 4.0010

A. Purpose. This rule adopted pursuant to Laws 1977, ch. 254, § 3, is designed to establish a procedure for the allocation of funds under the Youth Employment Act of 1977, Laws 1977, ch. 254, and to establish contracting, operating, and invoicing procedures to be utilized in the expenditure of said funds.

B. Definition of terms. The following terms used in this rule shall have the meaning given them:

1. "Act" means the Youth Employment Act of 1977, Laws 1977, ch. 254.
2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security.
3. "Contract" means an agreement entered into between a prime sponsor or a political subdivision or a nonprofit organization and the commissioner for the operation of a youth employment program under the Act.
4. "Department" means the Minnesota Department of Economic Security.
5. "Prime Sponsor" means a unit of government, combination of units of government, a rural concentrated employment grantee, or an Indian reservation, which has entered into a grant with the United States Department of Labor to provide comprehensive manpower services under the Federal Comprehensive Employment and Training Act of 1973. (P.L. 93-203)

6. "Program Employer" means an organization which employs a person or persons under the program established by the Act.

7. "Subcontract" means an agreement entered into between a prime sponsor and a political subdivision and/or nonprofit organization for the operation of a youth employment program under the Act.

C. Allocation of funds. The commissioner shall allocate funds available under the Act as follows:

1. Allocations to counties.

a. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties on the basis of each county's share of the estimated youth population of the State which is 14 through 21 years of age.

b. Fifty percent (50.0%) of the funds available under the Act, shall be allocated to counties according to each county's share of the estimated youth population of the State which is 14 through 21 years of age, adjusted for:

(1) Historic summer unemployment rates in the county as evidenced by official labor force estimates for the months of June, July and August for the most recent three-year period for which such data is available.

(2) The county's proportion of families below the poverty level as evidenced by 1970 U. S. Census figures as adjusted by reference to more recent population surveys, provided that such reference to more recent population surveys shall be made only if such data is available for all counties in the State.

(3) Estimates of postsecondary school enrollment in the county as evidenced by validated statistics from the Minnesota Higher Education Coordinating Board or, in their absence, by the most recent U. S. Census data.

c. The method of allocation to counties expressed mathematically shall be as follows:

$$A_{ci} = \frac{0.5(YP_{ci})}{YPs} + \frac{0.5F(YPA_{ci})(U_{ci})(P_{ci})}{\sum_{i=1}^{n}(YPA_{ci})(U_{ci})(P_{ci})}$$

where:
1. A_{ci} = allocation to the ith county
2. F = funds available under the Act
3. YP_{ci} = youth population 14 through 21 years of age in the ith county, determined by interpolation for the current year from projections of the State Demographer
4. YPs = same as 3, above for the State
5. YPA_{ci} = youth population as in 3, above, but adjusted for postsecondary school enrollment as referenced in 8 MCAR C.1.b.(3)
6. U_{ci} = most recent three year average of official labor force unemployment rates for the months of June, July, and August for the ith county
7. P_{ci} = percent of all families with income below the poverty level in the ith county as evidenced by the 1970 Census or more recent population surveys as referenced in 8 MCAR C.1.b.(2)

2. Allocation to cities and Indian reservations. After the commissioner has made an allocation to each county, each county's allocation shall be divided as follows:

a. Each city within the county which has a total population of 2,500 or more shall receive that portion of the county's allocation which is proportionate to the population of the city as compared to the total

population of the county as evidenced by the most recent U. S. Bureau of Census estimates. Each Indian reservation within the county shall receive that portion of the county's allocation which is proportionate to the population of the Indian reservation as compared to the total population of the county as evidenced by 1970 U. S. Census figures.

b. The remainder of the county allocation, that part which is not allocated to cities and Indian reservations under 8 MCAR § 4.0010 C.2.a., shall be allocated to the county as a whole.

D. Contracting procedures. Each prime sponsor will be offered a contract for the amount of funds allocated to its area. Upon the offer of a contract, each prime sponsor may exercise the following options:

1. Sign the contract for the entire amount of the allocation and directly administer the program.
2. Sign the contract for the entire amount of the allocation and subcontract the operation of the program to political subdivisions and/or nonprofit organizations within the prime sponsor's jurisdiction.
3. Designate all or a part of the allocation to be directly used by a State agency, political subdivision or a nonprofit organization.
4. Decline the offer of the contract. In such a case, the commissioner shall offer to contract directly with the cities, Indian reservations and counties in the prime sponsor's area.

E. Operations procedures.

1. Regular program. Youth who are at least 14 years of age but less than 22 years of age at the time they are to begin employment under the program established by the Act, are eligible for program employment. Approximately

fifty percent of the youth hired should be from families ~~whose annual incomes~~ which meet ~~do not exceed~~ the ~~poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the Department and the Department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area. Hereinafter, this portion of the program is referred to as the "regular program."

2. Postsecondary program. Notwithstanding 8 MCAR § 4.0010 E.1., at least 33-1/3 percent of the funds allocated to the prime sponsor area are to be used to hire youth who are at least 18 years of age, or a high school graduate, but less than 22 years of age who are certified by the Department as intending to enroll or are enrolled in a postsecondary educational institution. Approximately fifty percent of the youth hired should be from families ~~whose annual incomes~~ which meet ~~do not exceed~~ the ~~poverty guidelines~~ criteria for economically disadvantaged as established by the Employment and Training Administration of the U. S. Department of Labor. However, in the event there are insufficient eligible youth from economically disadvantaged families ~~below the poverty level~~ available for employment to meet this goal within an area under the jurisdiction of a prime sponsor which has received an allocation under 8 MCAR § 4.0010 C., and the prime sponsor certifies such insufficiency to the Department and the Department concurs, such ~~poverty level~~ criteria shall be waived with respect to the funds allocated to such area.

Hereinafter, this portion of the program is referred to as the "Postsecondary Program." A partial waiver from this part may be obtained in accordance with the procedures set forth in 8 MCAR § 4.0010 G.

3. To obtain eligible youth, program employers must place a job order with the Department and may employ only those youth referred by the Department.
4. Eligible youth (not designated as supervisors) shall be paid the Federal minimum wage for a period not to exceed 40 hours per calendar week and for not more than 12 weeks.
5. Program employers, at their discretion, may designate one eligible youth as supervisor for every ten youth in its employ under the Act. Program employers who employ at least five but less than ten youth may designate one youth as a supervisor. Youth designated as supervisors shall be paid the Federal minimum wage plus twenty-five cents (25¢) per hour for up to 40 hours per week for a period not exceeding 12 weeks.
6. Upon signing a contract or subcontract program employers may begin employing eligible youth referred by the Department; however, no youth may be employed while attending school as a full-time student. No youth may be employed beyond September 30th of each calendar year.

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c. The prime sponsors may reallocate up to the equivalent of one full-time slot or position not to exceed $1,000 between any subdivision above for the purpose of simplified administration of the program.

2. Prime sponsors may shift funds from the postsecondary portion of their program to the regular portion of their program provided that they certify in writing to the Department that they are unable to obtain sufficient youth who meet the criteria set forth in 8 MCAR § 4.0010 F.e.2., and the Department concurs.

3. <u>During the period of the contract, the Department may shift funds from one prime sponsor to another prime sponsor with the mutual consent of both prime sponsors if the prime sponsor releasing the funds certifies that such funds are surplus and unlikely to be used within his area by the end of the contract period and the prime sponsor receiving the funds certifies such funds are likely to be used before the end of the contract period.</u>