

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 8026

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-21-82
DATE FOR REVIEW 4-30-82
DATE DUE 5-5-82

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 4-30-82 Disapproved ____ Returned to Agency ~~4-30-82~~ 5-3-82

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State ~~4-30-82~~ 5-3-82 Revisor approved 4/23/82 disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed see SR.

✓ Order Adopting 4.15.82 . Date

✓ Notice of Intent to Solicit Outside Opinion 5.13.81

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
3.10.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
3.15.82 . At least 30/~~20~~ days prior to ~~hearing~~/adoption .

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

Agency's Findings of Fact no changes

LCRAR Report or agency Affidavit

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

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT of Commerce - Banking

RECEIVED
JUN 04 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

TO : Ted Martinez
Special Assistant
Attorney General

DATE: June 3, 1982

FROM : Michael J. Pint
Commissioner of Banks

PHONE: 6-2715

SUBJECT: Adopted Rules Governing Preapplication Conferences on Business Licenses - Bureau of Business Licenses

I would like to know if the recent notification that the rules proposed by the Bureau of Business Licenses published in State Register, Volume 6, Number 37, pages 1577-1578, March 15, 1982, which were recently adopted as published, have been reviewed and approved by the Attorney General's Office.

It is the Banking Division's opinion the rules go beyond the scope of the enabling statute. I am enclosing a copy of our comments for your information. If these rules have not been approved as yet by the Attorney General's Office, I would like to discuss this matter with you. We would like to seriously consider challenging these rules prior to their final enactment. We would prefer not to go into court to resolve this matter.

MJP:pi

Attach.

STATE OF MINNESOTA
COUNTY OF RAMSEY

DEPARTMENT OF COMMERCE
BANKING DIVISION

IN THE MATTER OF THE PROPOSED
RULES RELATED TO PREAPPLICATION
CONFERENCES FOR BUSINESS LICENSES

COMMENTS ON PROPOSED RULES

This is in response to the notice to adopt the above-entitled rules as published in the State Register, Monday, March 15, 1982. The rules have been considered noncontroversial in nature by the Minnesota Commissioner of Energy, Planning and Development and proposed to be adopted without hearing.

The noncontroversial determination is questionable in view of the impact on the state agencies, the vagueness of the rules, and their extension beyond the scope of the law.

I. Rules Do Not Address Potential Cost to Issuing Agencies.

The impact of the rules on licensing agencies is not addressed in the proposed rules. The potential for the Bureau of Business Licensing (Bureau) to schedule preapplication conferences at times and locations, which are cost-intensive to the issuing agencies, are uncontrolled. The rules should provide that wherever possible, conferences shall be held at the location of the issuing agency or one of the agencies where multiple licenses are involved.

This is justified by the fact that issuing agencies have not been funded to defray these additional extra agency proceedings as has the Bureau. It is and has been customary for the Banking Division to hold conferences to discuss conditions surrounding potential applications. It would be an undue burden under present budget pressures to accept the expenses of time and travel not contemplated, budgeted, or necessary under current practices.

It is recommended that 4 MCAR § 2.111, B, as proposed, be amended to read:

> "B. Approval and notice. If the director determines after consideration of a formal request that a preapplication conference is warranted, he shall secure the participation of the interested agencies and notify the person in writing of the date, time, and place of the conference. Wherever possible, the place of the conference receiving primary consideration should be the offices of the issuing agency or if there is more than one such agency, at one of their offices."

The law, Minn. Stat. § 362.473, Subdivision 1, states in support of this recommended amendment to the proposed rules: ". . . in which affected agencies shall participate to the extent practicable . . ." It is at the offices and with the resources of the agency such participation would be most effective and that attendance at some distant or remote location was not contemplated by the statute.

II. Rules Are Vague and Extend Beyond the Scope of the Law.

The considerations on which the decision to conduct a preapplication conference includes "the dollar volume of the proposed activity" (4 MCAR § 2.111, B, (1). This consideration is vague and does not appear to fall within the scope of Minn. Stat. § 362.473, Subd. 1.

The term "activities," while used in various context within Minn. Stat. § 362, does not provide sufficient clarity to the identification of "dollar volume." The dollar volume of what? Initial capitalization, set-up costs, subsequent gross revenues from operations or total assets? The Bureau's statement of need and reasonableness contends this criteria is both justified and described in a study conducted in 1979-1981. Without the study as evidence and its availability for questions at a proper hearing, the terms "dollar value of the proposed activity" lacks ample identity and is vague.

Also, the consideration of this quality, unlike the remaining two factors, appears to go well beyond the scope of the enabling statute. The unnecessary complexities or burdens to be avoided under the purposes of the statute (Minn. Stat. § 362.473, Subd. 1) do not hinge on the resulting volume of business accessed. In fact, there would logically be an inverse relationship between such burdens and whatever the size or scope of the proposed activity might prove to be. Clearly, the vague and unsupported proposal to include dollar volume as a factor should be deleted or clarified and substantially proved to be reasonable and necessary.

It is recommended that the dollar volume factor be eliminated or a hearing be held on these rules at which supporting evidence is presented.

Dated: April 13, 1982

Michael J. Pint
Commissioner of Banks

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : KENT E. EKLUND
Comm. of Energy, Planning & Develop.

DATE: 4/30/82

ATTN : GILBERT S. BUFFINGTON, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Bureau of Business Licenses Governing Preapplication Conferences for Business Licences

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

The Minnesota Department of Energy, Planning & Development

epd

April 20, 1982

Mr. Jerry Anderson
Special Assistant Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Anderson:

Enclosed please find the following documents in the matter of the Adoption of Rules for Pre-application Conferences for the Bureau of Business Licenses:

1) Rules as adopted (4 copies)
2) Order Adopting Rules (2 copies)
3) Notice of Intent to Solicit outside Opinion Concerning proposed rules relating to Pre-application Conferences for the Bureau of Business Licenses
4) Order for Notice of Intent to Adopt Rules without a Public Hearing
5) Notice of Intent to Adopt Rules without a Public Hearing
6) Affidavit of Mailing
7) Mailing list certificate
8) Rule as Proposed
9) Statement of Need and Reasonableness
10) Written comments on the rule
11) Statement of Compliance with Rulemaking Procedures

We have not had a request for hearing made during the thirty-day period and received comments from only two parties during this period. The agency made no changes to the proposed rules. These rules are not adopted in response to a petition and no requests have been made to be notified of submission of the rules to the Attorney General.

Your earliest response to the documents is appreciated. Should you have any questions or concerns, please contact me at 296-0617.

Sincerely,

Charles A. Schaffer

Charles A. Schaffer
Director
BUREAU OF BUSINESS LICENSES

Enclosures

AG copy.

Department of Energy, Planning and Development

Bureau of Business Licenses

Adopted Rules Governing Preapplication Conferences on Business Licenses

Rules as Adopted

4 MCAR S 2.110 Definitions.

A. Applicability. For the purposes of 4 MCAR SS 2.110-2.112, the terms defined in this rule have the meanings given them.

B. Agency. "Agency" has the meaning given it in Minn. Stat. S 15.0411, subd. 2.

C. Director. "Director" has the meaning given it in Minn. Stat. S 362.463, subd. 6.

D. Initial response period. "Initial response period" means the 60-day time limit imposed by Minn. Stat. S 362.473, subd. 3 on an agency for the rendering of a written review and opinion.

E. License. "License" has the meaning given "business license" in Minn. Stat. S 362.452, subd. 2.

F. Person. "Person" has the meaning given it in Minn. Stat. S 362.463, subd. 8.

G. Written review and opinion. "Written review and opinion" means a written statement by an agency which incorporates the information required by Minn. Stat. S 362.473, subd. 2 relating to a proposed business activity.

4 MCAR S 2.111 Preapplication conference.

A. Request. Any person may request a preapplication conference by submitting to the bureau of business licenses a formal request in the format prescribed by the bureau.

B. Approval and notice. If the director determines, after consideration of a formal request, that a preapplication conference is warranted, he shall secure the participation of the interested agencies and notify the person in writing of the date, time, and place of the conference.

The director will consider the following factors in making his determination as to whether a preapplication conference is warranted:

1. the dollar volume of the proposed activity;

2. whether the proposed activity involves multiple licenses from agencies; and

3. whether the proposed activity involves business or corporate structures, activities, technologies, products, or processes which are different from, or reasonably appear to be different from, those for which a license has been required in the past.

C. Supervision. The director or his designated representative shall preside over the preapplication conference to insure that it achieves the purposes set forth in Minn. Stat. S 362.473, subd. 1.

D. Effect upon participants. A preapplication conference is not binding upon any of the participants.

4 MCAR S 2.112 Written review and opinion.

A. Authorization. If during a preapplication conference the director determines that a proposed business activity meets the criteria set forth in Minn. Stat. S 362.473, subd. 2, he shall request each affected agency to provide the person with a written review and opinion as to every license the agency requires for the proposed business activity.

B. Request. The director's request for a written review and opinion shall be submitted in writing to the agency. The request shall specify the date on which the agency's initial response period begins.

C. Extensions. A request for an extension of the initial response period shall be set forth in writing by the agency and include the specific reasons justifying the extension.

If the agency does not receive written notice from the director denying the extension within ten days of submission of its request, the extension is granted and is effective for an additional 60-day period.

The director shall provide the person with written notice

of his approval of the extension, its duration, and the reasons the extension was approved.

D. Modification or amendment. An agency may modify or amend a written review and opinion by notifying the person and the director in writing of its intent to do so. The notice shall include a statement setting forth the reasons for the modification or amendment.

The modification or amendment shall be provided to the person and director within 30 days of transmittal of the agency's notification of modification or amendment.

APPROVED AS TO LEGALITY

April 30 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A. Mondale

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 3 1982
Joan Anderson Growe
Secretary of State

9:15 A.M.

Department of Energy, Planning and Development Bureau of Business Licenses

Proposed Rules Governing Preapplication Conferences on Business Licenses

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Energy, Planning and Development proposes to adopt the above entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h(1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if modifications are supported by the data and views submitted to the agency do not result in substantial change in the proposed language.

Unless 7 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such requests to:

Bureau of Business Licenses
Attn: Madeline Harris
Department of Energy, Planning & Development
480 Cedar Street
St. Paul, MN 55101 (612) 296-5023

Authority for adoption of these rules is contained in Minn. Stat. § 362.473 (chapter 342, Laws of 1981). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from M. Harris at the above listed address upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Madeline Harris at the above listed address.

The rules proposed for adoption relate to the following matters: Pre-Application Conferences; Requests for Conferences; Multiple licenses; written review and opinions; time limits; extensions and effect of review and opinion procedure.

Copies of this notice and the proposed rules are available and may be obtained by contacting M. Harris either in writing or by telephone.

March 3, 1982

W. Wesley Cochrane
Assistant Commissioner

Rules as Proposed (all new material)

4 MCAR § 2.110 Definitions.

A. Applicability. For the purposes of 4 MCAR §§ 2.110-2.112, the terms defined in this rule have the meanings given them.

B. Agency. "Agency" has the meaning given it in Minn. Stat. § 15.0411, subd. 2.

C. Director. "Director" has the meaning given it in Minn. Stat. § 362.463, subd. 6.

D. Initial response period. "Initial response period" means the 60-day time limit imposed by Minn. Stat. § 362.473, subd. 3 on an agency for the rendering of a written review and opinion.

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.

E. License. "License" has the meaning given "business license" in Minn. Stat. § 362.452, subd. 2.

F. Person. "Person" has the meaning given it in Minn. Stat. § 362.463, subd. 8.

G. Written review and opinion. "Written review and opinion" means a written statement by an agency which incorporates the information required by Minn. Stat. § 362.473, subd. 2 relating to a proposed business activity.

4 MCAR § 2.111 Preapplication conference.

A. Request. Any person may request a preapplication conference by submitting to the bureau of business licenses a formal request in the format prescribed by the bureau.

B. Approval and notice. If the director determines, after consideration of a formal request, that a preapplication conference is warranted, he shall secure the participation of the interested agencies and notify the person in writing of the date, time, and place of the conference.

The director will consider the following factors in making his determination as to whether a preapplication conference is warranted:

1. the dollar volume of the proposed activity;

2. whether the proposed activity involves multiple licenses from agencies; and

3. whether the proposed activity involves business or corporate structures, activities, technologies, products, or processes which are different from, or reasonably appear to be different from, those for which a license has been required in the past.

C. Supervision. The director or his designated representative shall preside over the preapplication conference to insure that it achieves the purposes set forth in Minn. Stat. § 362.473, subd. 1.

D. Effect upon participants. A preapplication conference is not binding upon any of the participants.

4 MCAR § 2.112 Written review and opinion.

A. Authorization. If during a preapplication conference the director determines that a proposed business activity meets the criteria set forth in Minn. Stat. § 362.473, subd. 2, he shall request each affected agency to provide the person with a written review and opinion as to every license the agency requires for the proposed business activity.

B. Request. The director's request for a written review and opinion shall be submitted in writing to the agency. The request shall specify the date on which the agency's initial response period begins.

C. Extensions. A request for an extension of the initial response period shall be set forth in writing by the agency and include the specific reasons justifying the extension.

If the agency does not receive written notice from the director denying the extension within ten days of submission of its request, the extension is granted and is effective for an additional 60-day period.

The director shall provide the person with written notice of his approval of the extension, its duration, and the reasons the extension was approved.

D. Modification or amendment. An agency may modify or amend a written review and opinion by notifying the person and the director in writing of its intent to do so. The notice shall include a statement setting forth the reasons for the modification or amendment.

The modification or amendment shall be provided to the person and director within 30 days of transmittal of the agency's notification of modification or amendment.

Department of Public Safety
Safety Administration Division

Proposed Rules Governing Issuance and Display of School Bus Inspections Certificates

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

STATE OF MINNESOTA
DEPARTMENT OF ENERGY, PLANNING & DEVELOPMENT

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULES OF THE STATE
BUREAU OF BUSINESS LICENSES
GOVERNING PREAPPLICATION
CONFERENCES FOR BUSINESS LICENSES

ORDER
ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 15, 1982 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 March 10, 1982. 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 Rules Governing Preapplication Conferences for Business Licenses are adopted this 15th day of April, 1982 pursuant to authority vested in me by Minnesota Statutes 362.473, subd. 5.

State of Minnesota

Kent E. Eklund

Kent E. Eklund
Commissioner of Energy,
Planning & Development

Department of Economic Development
Bureau of Business Licenses

Notice of Intent to Solicit Outside Opinion Concerning Development of Rules Relating to Pre-application Conferences on Business Licenses

Notice is hereby given that the Department of Economic Development is considering development of rules regarding pre-application conferences for business license applicants and business license issuing departments. Those rules would implement procedures to clarify the nature of licensing department interest in a proposed business project, to provide guidance regarding license application and review procedures, to coordinate agency action and data collection, to render written opinions

as to the need for licenses and the conditions to be met by the applicant. Authority for development of these rules is contained in Minn. Stat. § 362.463 (Chapter 342, Laws of 1981).

All interested or affected parties may submit information on this subject. Written or oral information and comment should be addressed to:

Charles A. Schaffer
Bureau of Business Licenses
Minnesota Department of Economic Development
480 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours at (612) 296-0617. All statements of information and comment must be received by September 1, 1981.

Any written material received by this date will become part of the record of any rules hearing held on this subject.

STATE OF MINNESOTA
BUREAU OF BUSINESS LICENSES

IN THE MATTER OF THE PROPOSED RULES OF THE BUREAU OF BUSINESS LICENSES RELATING TO PREAPPLICATION CONFERENCES FOR BUSINESS LICENSES

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

It is ordered this second day of March, 1982, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Energy, Planning and Development for that purpose and be published in the State Register.

State Of Minnesota

Kent E. Eklund

Kent E. Eklund
Commissioner

IN THE MATTER OF THE PROPOSED RULES OF THE BUREAU OF BUSINESS LICENSES RELATING TO PREAPPLICATION CONFERENCES FOR BUSINESS LICENSES

AFFIDAVIT OF MAILING

STATE OF MINNESOTA
COUNTY OF RAMSEY

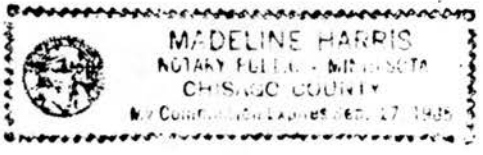
Denise Garcia, being first duly sworn, deposes and says:

That on the 10th day of March, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the 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 Bureau of Business Licenses for the purpose of receiving notice of the proposed adoption of rules by this Notice of Intent to Adopt Rules Without a Public Hearing.

Denise Garcia
Denise Garcia
Bureau of Business Licenses

Subscribed and sworn to before me this 10 day of March, 1982.

Madeline Harris



STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

IN THE MATTER OF THE PROPOSED
RULES OF THE BUREAU OF
BUSINESS LICENSES RELATING
TO PREAPPLICATION CONFERENCES
ON BUSINESS LICENSES

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes 15.0412, subd. 4. that their names be placed on file with and maintained by the Bureau of Business Licenses for the purpose of receiving notice of the proposed adoption of rules by this Notice of Intent to Adopt Rules Without Public Hearing is accurate and complete as of 4:30 p.m. this 10th day of March, 1982.

Charles A. Schaffer, Director
Bureau of Business Licenses

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
COMMISSIONER OF ENERGY,
PLANNING AND DEVELOPMENT

IN THE MATTER OF A PROPOSED RULE
RELATED TO PREAPPLICATION
CONFERENCES FOR BUSINESS LICENSES

STATEMENT OF NEED
AND REASONABLENESS

The Minnesota Commissioner of Energy, Planning and Development (hereinafter "Commissioner") pursuant to Minnesota Stat.§15.0412, subdivision 4 (1978), hereby affirmatively presents facts establishing the need for and reasonableness of the above captioned proposed rule. Terms used throughout this statement will have the definitions given them in proposed rule 4MCAR §2.110.

I. STATUTORY AUTHORITY AND NEED FOR PROMULGATION OF 4MCAR §2.110 - 2.112.

Minnesota Stat. §362.473 authorizes the Commissioner to conduct preapplication conferences. These conferences, according to Minn. Stat. §362.473, subd. 1 are needed to "...provide guidance regarding license application and review procedures, and to coordinate agency actions and data collection or submission regarding license application."

These conferences will constitute a resource, making information on licenses required for business undertakings, projects and activities in the state available to a variety of users from the local, state and national levels, both in the public and private sectors. The purpose of these conferences is to assist the users in obtaining early, accessible and accurate license and permit information and provide an opportunity for resolution of questions and issues related to eligibility and license issuance.

The proposed rule identifies, as required by Minn. Stat. §362.473, subd. 5, the

"procedures to be followed in the conduct of preapplication reviews and opinions."

The Commissioner published in the State Register pursuant to Minn. Stat. 15.0412, subd. 6, a Notice of Intent to Solicit Outside Opinion concerning this rule, 6S.R.54 (July 13, 1981). A copy is attached hereto as Appendix A and made a part hereof. No written comments were received in response to this Notice.

In addition, the Commissioner, on September 18, 1981 also distributed the initial proposed rule by mail to interested parties, including state agencies, and other agencies and parties concerned with business licensure. Written comments that were received as a result of this mailing will be submitted in the record as separate items.

II. REASONABLENESS OF PROPOSED RULE.

4MCAR §2.110 Definition.

A. Applicability. The definitions in this section provide common terminology and meaning for terms used in discussing and understanding the substantive provisions of this proposed rule.

B. Sub-Sections B, C, E & F are statutory definitions, referenced for ease of identification.

C. Initial Response Period is defined here to identify the statutorily delineated time period within which an agency must render their written review and opinion. (Minn. Stat. 362.473, subd. 3). This section is added to the rules for purposes of clarity.

D. Written Review and Opinion is defined to reference a written statement by an agency related to a proposed business activity which incorporates the information required by Minn. Stat. 362.473, subd. 2. It is defined in order to distinguish it from other written comments, information, questions, or opinions provided by the

agency.

4MCAR §2.111 Preapplication Conference

A. Request. This section provides for a party requesting a preapplication conference to submit a formal request in a format prescribed by the bureau. It is necessary for the request to be directed to the Bureau of Business licenses since it is charged by statute with conduct of preapplication conferences. Further, it is reasonable to direct it to the Bureau since it serves as a central location for licensing information and thus knows what departments and licenses are appropriately involved.

It is necessary and reasonable that this request be in a format prescribed by the Bureau so that the Bureau can have such information from the person requesting the conference as will be necessary to identify his type of business, the possible licenses which may be necessary, the appropriate departments to be involved in a conference. Since the nature of any proposed activity will differ from business to business, it is reasonable that the request stress a format for presenting information rather than stress a single form which could not accommodate the kinds of information to be provided by all possible businesses making a request.

B. Approval and Notice. This section provides that the director arrange a preapplication conference in cases where he believes it to be warranted. Since the purpose of the conference procedure is to provide information and clarify issues, it is reasonable to identify the broad kinds of circumstances when such a preapplication conference would be valuable and appropriate without making those the exclusive standards for when a conference should be held.

The Minnesota Business Licensing Study conducted by the former Minnesota Department of Economic Development from 1979-1981 identified the three factors con-

tained in this subsection as being the main indicators of when preapplication would be needed or beneficial to an applicant.

C. Supervision. This section provides for the director or his designee to preside over the preapplication conference to ensure that it achieves the purposes set forth in Minn. Stat. 362.473, subd. 1. Since, in many cases, several agencies will be involved in the conference, it is necessary to have a single facilitator and coordinator to ensure that the conference serves the purposes required by statute. Since the director has been charged by statute with determining when such a conference is required, receiving requests for such conferences, and conduct of such conferences, it is reasonable that the director or his designee preside.

D. Effect upon participants. This section provides that a preapplication conference is not binding upon any of the participants. Business may, for any number of reasons, change any number of pertinent factors relating to conduct of their business at any time during or after a preapplication conference. While the conference should serve as an aid to planning, it is not intended to lock businesses into an inflexible position or structure. Similarly, state agencies may find that their positions on license related issues may change after a preapplication conference as a result of administrative, legislative, or judicial action. It is necessary and reasonable, therefore, to provide that neither party be bound by opinions given nor positions taken at the preapplication conference. Although this section is repetitive of statutory language, it is included for purposes of clarity.

4MCAR §2.112 Written Review and Opinion

A. Authorization. This section is included in order to provide information regarding the criteria the director will use in determining when a written review and opinion will be sought. Although this section is repetitive of statutory language, it is included for purposes of clarity.

B. Request. This section provides for the director's request for a written review and opinion to be made in writing to the licensing agency and shall specify when the 60 day time limit for rendering a review and opinion commences. It is necessary because Minn. Stat. 362.473, subd. 3 provides for each agency participating in the review and opinion to give its opinion within 60 days from the date fixed by the director. It is reasonable that to ensure compliance and recordkeeping the director's request be in writing.

C. Extensions. This section provides for extensions of the 60 day time limit and provides for informing the person requesting the conference of any such extension. It is necessary to have such a rule since Minn. Stat. 362.473, subd. 3 provides that the director may extend the 60 day deadline at the request of an interested agency. It is reasonable that provision be made for informing the person requesting the preapplication conference of any extension, its duration, and the reasons the extension was approved.

D. Modification or amendment. This section provides for modification or amendment of a written review and opinion, notification of the amendment to the director, and transmittal of the actual modification or amendement to the director and the person on whose proposed activity the written review and opinion was prepared. Minn. Stat. 362.473, subd. 4 provides for modification or amendment of written reviews and opinions. Because of his statutory charge, it is incumbent upon the director to know the current status of a license and a procedure is necessary to keep him abreast of the current opinion of an agency regarding its licenses. It is reasonable to provide a procedure whereby the agency informs the director of its intent to modify or amend its written review and opinion, and a procedure whereby the actual amendment is transmitted to the director and the person on whose proposed activity the review and

opinion was prepared.

Dated: March 1, 1982

STATE OF MINNESOTA
COMMISSIONER OF ENERGY, PLANNING
AND DEVELOPMENT

Kent E. Eklund

Kent E. Eklund
Commissoner

STATE OF MINNESOTA
DEPARTMENT OF ENERGY, PLANNING & DEVELOPMENT
BUREAU OF BUSINESS LICENSES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE BUREAU OF BUSINESS LICENSES GOVERNING PREAPPLICATION CONFERENCES FOR BUSINESS LICENSES

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Gilbert S. Buffington, Special Assistant Attorney General, 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.

Gilbert S. Buffington
Special Assistant Attorney General

Dated: April 19, 1982