

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 008

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-23-82
DATE FOR REVIEW 5-3-82
DATE DUE 5-7-82

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

Approved 5-4-82 Disapproved ____ Returned to Agency 5-5-82

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

Date filed w/Secretary of State 5-5-82 Revisor approved 4/27/82 disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 4. 19. 82 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ 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. 4. 82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
5. 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

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

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JAMES J. HINIKER
Commissioner of Administration

DATE: 5/4/82

ATTN : TED A. MARTINEZ, Spec. Ass't. Atty. Gen.

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Administration, Telecommunications Division Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area but not Equipped for 911 Service

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.

JSA:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MINNESOTA LEGISLATURE

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OFFICE OF THE REVISOR OF STATUTES

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ST. PAUL, MINNESOTA 55155

(612) 296-2868

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SUPERVISORS
ELEONORE G. ANDERSON
MARJORIE E. JORGENSEN
BARBARA C. MOEHRLE
MARCIA A. WALDRON

April 23, 1982

Ted Martinez
Assistant Attorney General
204 Administration Building

Dear Mr. Martinez:

Enclosed are copies of your rule as adopted repealing the intercept service requirement for telephone exchanges adjacent to a 911 service area but not equipped for 911 service. We have prepared the rule for submission to the Attorney General's Office.

On the same day you submit the rule to the Attorney General's Office, you must also resubmit two copies of the rule to our office for final approval.

If you have any questions, please call.

Very truly yours,

Ann L. Bateson

Ann L. Bateson
Deputy Revisor

ALB/rr
Enclosure
AR0173

Department of Administration

Telecommunications Division

Adopted Rule Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area but Not Equipped for 911 Service

Rule as Adopted

Repealer. Rule 2 MCAR S 1.6109 J. is repealed.

Relettering. Reletter 2 MCAR S 1.6109 K.-M. as 2 MCAR S 1.6109 J.-L.

STATE OF MINNESOTA
DEPARTMENT OF STATE
9:15 A.M. FILED
MAY 4 1982
Joan Anderson Growe
Secretary of State

APPROVED AS TO LEGALITY
5/4 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Rule as Proposed

Repealer. Rule 2 MCAR S 1.6109 J. is repealed.

Relettering. Reletter 2 MCAR S 1.6109 K.-M. as 2 MCAR S 1.6109 J.-L.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

ALB

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

RD173
February 10, 1982

Agency Department of Administration

Division

Agency Contact Ted Martinez

Phone Number 296-0315

Title: Proposed Rule Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area but not Equipped for 911 Service

Type of Rules: Permanent X Temporary ____

Incorporations by References: None

Rule Number

Material Incorporated
Author
Title
Place
Publisher
Date
Cost
Places Available

See Additional references on back Yes ____ No ____

Duplication of Statutory Language None

Rule Number

Statutory Section Duplicated

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

TELECOMMUNICATIONS DIVISION

In the Matter of the Proposed Adoption of Rules of the State 2 MCAR 1.6109J GOVERNING Minimum Standards and Administration of 911 Emergency Telephone Service

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 15th, 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 4th, 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 Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service area but not equipped for 911 service are adopted this 19th day of April, 1982 pursuant to authority vested in me (the Board) by Minnesota Statutes section 403.07.

STATE OF MINNESOTA

COMMISSIONER OF ADMINISTRATION

STATE OF MINNESOTA

DEPARTMENT OF ADMINISTRATION

In the Matter of the Proposed Adoption of Rules of the State *2 MCAR 1.6109J* Governing *Minimum Standards and Administration of 911 Emergency Telephone Service*

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this *7th* day of *December*, 19 *81* 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 State *of Minnesota, Dept. of Administration (Telecommunications Division)* for that purpose and be published in the State Register.

STATE OF MINNESOTA

COMMISSIONER OF ADMINISTRATION

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
TELECOMMUNICATIONS DIVISION

In the Matter of the Proposed Rule
Repealing the Intercept Service
Requirement for Telephone Exchanges
Adjacent to a 911 Service Area but
not Equipped for 911 Service

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Administration proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, Subd. 4h .

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

Unless seven or more persons submit written requests for a public hearing on the proposed rule 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 through 4f.

Persons who wish to submit comments or a written

request for a public hearing should submit such comments or request to:

ANDREW BLUM
Telecommunications Division
Department of Administration
G-4 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

Authority for the adoption of this rule is contained in Minn. Stat. § 403.07, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Andrew Blum upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule 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 rule as proposed for adoption, should submit a written statement of such request to Andrew Blum.

A copy of the proposed rule is attached to this Notice.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Andrew Blum.

STATE OF MINNESOTA

JAMES J. HINIKER, JR.
Commissioner of Administration

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Proposed Rule Repealing the intercept Service Requiremet for Telephone Exchanges Adjacent to a 911 Service Area but not Equipped for 911 Service

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Shirley J. Olson, being first duly sworn deposes and says:

That on the Fourth 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 (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 Department of Administration for the purpose of receiving notice of the proposed adoption of rules by this Department.

Shirley J. Olson

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

Colleen T. Kisch

COLLEEN T. KISCH
NOTARY PUBLIC—MINNESOTA
DAKOTA COUNTY
My Commission Expires April 24, 1985.

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the State 2 MCAR § 1.6109J Governing Minimum Standards and Administration of 911 Emergency Telephone Service

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, Department of Administration for the purpose of receiving notice of the proposed adoption of rules by this department is accurate and complete as of 1:00 p.m. this 4th day of March, 1982.

Colleen T. Kisch

Colleen T. Kisch
Office Services
Supervisor II

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 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Administration Telecommunications Division

Proposed Rule Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area but Not Equipped for 911 Service

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Administration proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

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

Unless seven or more persons submit written requests for a public hearing on the proposed rule 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 through 4f.

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

Andrew Blum
Telecommunications Division
Department of Administration
G-4 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155

Authority for the adoption of this rule is contained in Minn. Stat. § 403.07, subd. 1. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Andrew Blum upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule 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 rule as proposed for adoption, should submit a written statement of such request to Andrew Blum.

A copy of the proposed rule is attached to this notice.

Copies of this notice and the proposed rule are available and may be obtained by contacting Andrew Blum.

James J. Hiniker, Jr.
Commissioner of Administration

Rule as Proposed

Repealer. Rule 2 MCAR § 1.6109 J. is repealed.

Relettering. Reletter 2 MCAR § 1.6109 K.-M. as 2 MCAR § 1.6109 J.-L.

Energy Agency
Conservation Division

Proposed Temporary Rules Amending the Minnesota Energy Conservation Service Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 116H.17 as well as 116H.08(a) and 116H.07(i), the Energy Agency proposes to adopt a temporary program amending the Minnesota Energy Conservation Service Program.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed rules in writing. Comments should be submitted to:

Greg Hubinger
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-2117

The proposed temporary rules amendments may be modified if the modifications are supported by the data and views submitted to the agency.

These proposed temporary rules amendments, with modifications, if any, shall be submitted to the Attorney General for final approval as to form and legality. The temporary rules amendments shall take effect immediately upon the Attorney General's approval.

These temporary rules amendments shall be effective for 180 days or until they are replaced by permanent rules, whichever occurs first.

Michael J. Murphy
Acting Director

Temporary Rules as Proposed

6 MCAR § 2.2301 [Temporary] Definitions.

A.-V. [Unchanged.]

W. Temporary program. "Temporary program" means a plan which exempts one or more utilities from one or more provisions of the Minnesota Energy Conservation Program, in whole or in part, for a specified period, determined by the agency, which may not exceed four years.

6 MCAR § 2.2314 [Temporary] Temporary programs.

A. Allowable exemptions. The agency may exempt a utility from one or more of the following provisions:

1. The requirement for taking actual measurements of the building shell as described in 6 MCAR § 2.2303 C.2.a.;

2. The requirement in 6 MCAR § 2.2303 C.2. to provide cost and savings estimates for those renewable resource measures;

3. The requirement to provide cost and savings estimates for caulking and weatherstripping as described in 6 MCAR § 2.2303 C.2.;

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.

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
TELECOMMUNICATIONS DIVISION

In the Matter of the Proposed Rule Repealing the Intercept Service Requirement for Telephone Exchanges Adjacent to a 911 Service Area but not Equipped for 911 Service

STATEMENT OF NEED AND REASONABLENESS

Introduction

Pursuant to Minnesota Statute paragraphs 403.01-403.12 (1977), amended 1978 and 1980, the Department of Administration is required to establish and adopt rules, setting minimum standards for 911 systems which incorporate the minimum standards of the Metropolitan Council and for the administration of the Act.

The intent of the rules is to provide a uniform minimum level of service to the citizens of the state and to specify the process for statewide implementation in an orderly and cost effective manner.

The need for the proposed revision to the rules results from practical operational concerns as more systems are placed in service and are ordered. The reasons for the elimination of the specific rule list below, will be indentified in this statement.

2MCAR, PARAGRAPH 1.6109J

This paragraph states: "Telephone exchanges adjacent to a 911 service area, but not

equipped for 911 shall provide intercept service for persons dialing 911." Recent investigations have disclosed that this requirement presents equipment problems and it is not financially feasible for all telephone companies to implement this rule.

The reason for requiring the intercept message originally was to accommodate the situation where one part of a county had 911 and the other part did not. In these cases, callers in exchanges not having 911 would be told by a recording it was unavailable and to instead dial a 7-digit emergency number for the particular emergency service wanted. The basic problem is some telephone companies are able to provide this intercept service while others cannot do it without incurring unreasonable cost.

Telephone companies will incur the higher costs because of the older telephone equipment in operation in many exchanges. Older equipment is more difficult to modify for 911 service and consequently the costs run higher. In some cases installing intercept equipment could exceed the cost of the 911 system alone and reach $100,000 in a single exchange. As the present statutes and rules do not provide for financial assistance to the telephone companies for installing intercept service, the local rate payers would bear the cost.

When 911 systems are installed rarely do all exchanges in a given county or region come on line at once. Consequently, the telephone companies which did not participate initially would have to provide intercept messages for an unknown period of time. The time period would be unreasonably short until their exchange was modified and fully operational. In this case too, the statute and rules do not provide financial assistance to the telephone companies and the local rate payers would have to pay the cost.

Another situation where the rules do not fit properly is when counties not having 911 are adjacent to ones that do and choose to delay implementation until the mandated date of December 15, 1986. In this case, there is little incentive to the telephone companies to proceed with any modification required for intercept service since modifications of switching equipment to provide regular local telephone service could take place during the period. Naturally, it is far more economical for them to wait.

The magnitude of this problem is readily apparent when a recent analysis showed that up to 200 of the 634 telephone exchanges in Minnesota could be directly affected by this rule. The telephone industry, through the Minnesota Telephone Association, has expressed the same concerns about the effects on costs that would have to be passed on to the ratepayers.

While the requirement for 911 intercept would be beneficial, in most cases a good publicity program at the time of installation and afterward should reduce any negative effects. As counties implement 911 service, various types of media announcements and articles could inform the affected citizens with statements such as: "Residents having 248, 324 and 296 telephone prefixes will be able to dial 911 for fire, police or medical sevices. Central office prefixes other than the above cannot dial 911 now but will be able to in the future and should continue to ...."

The 911 Technical Operating Committee, the group that provides technical input to the Metropolitan 911 Telephone Board, has reviewed the proposed changes, and had no adverse reaction and did not think this change would jeopardize the public safety aspects of a 911 system.

Because effective publicity campaigns and intercept service provided voluntarily by

the telephone companies in all cases where financially feasible would suffice to meet public safety requirements, the elimination of this rule is reasonable.

Further, because the requirement for providing intercept service is not practical in light of current technical problems and the potentially high costs to telephone companies and the rate payers and there is a reasonable alternative, the elimination of this rule is reasonable.

AWB:ak/WP

In the Matter of the Proposed Adoption of Rules of the State 2 MCAR 1.6109J Governing Minimum Standards and Administration of 911 Emergency Telephone Service.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Ted A. Martinez, 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.

Ted A. Martinez

Ted A. Martinez
Special Assistant
Attorney General

Dated: 4-23-82