

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 741

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-16-83
DATE FOR REVIEW 9-26-83
DATE DUE 9-30-83

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

Approved 9-30-83 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 10-4-83 Revisor approved 9/26/83 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR

✓ Order Adopting 9.13.83 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
7.27.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.1.83 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

MINNESOTA DEPARTMENT OF ENERGY
AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT DIVISION

100 HANOVER BUILDING
480 CEDAR STREET
ST. PAUL, MINNESOTA 55101
(612) 296-3977

RECEIVED
SEP 16 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

September 13, 1983

Ms. Judith Wehrwein
Special Assistant Attorney General's Office
G25 Administration Building
St. Paul, Minnesota 55155

Dear Ms. Wehrwein:

Enclosed please find the following documents in the matter of Repeal of Rules governing Designation of Enterprise Zones (4 MCAR ss 2.501-2.508) for the Department of Energy and Economic Development.

1) Stripped copies of proposed rules as published in the State Register (4 copies).

2) Order repealing rules (2 copies).

3) Notice of Intent to Repeal Rules without a Public Hearing (Aug. 1, 1983 at 8 SR 149, pp. 149 &150).

4) Order for Notice of Intent to Repeal Rules without a public hearing.

5) Affadavit of Mailing

6) Certificate

7) Statement of Need and Reasonableness

8) Statement of Compliance with rulemaking procedures.

We have not had a request for hearing made during the thirty day period and did not receive any comments during this period. The agency made no changes to the proposed repeal. These rules are not being repealed 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 these documents is appreciated. Should you have any questions, please contact Madeline Harris at 296-5023.

Sincerely,

Wesley Cochrane
Deputy Commissioner

Enclosures

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MARK DAYTON, Commissioner

DATE: 9/30/83

Attn: CHRISTIE ELLER, Special Assistant
Attorney General

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Repeal of the Rules of the Dept. of Energy and Economic Development Relating to Enterprise Zones. 4 MCAR §.2.501-2.508

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.

Encs.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Energy and Economic Development

Economic Development Division

Adopted Repeal of Rules Governing Designation of Enterprise Zones

Rules as Adopted

Repealer. Rules 4 MCAR SS 2.501; 2.502; 2.503; 2.504; 2.505; 2.506; 2.507; and 2.508, are repealed.

APPROVED AS TO LEGALITY

September 30 19 83

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Ted A. Warkentin
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT - 4 1983
Joan Anderson Growe
Secretary of State
3:20 PM

STATE OF MINNESOTA
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULES OF THE DEPT OF ENERGY AND ECONOMIC DEVELOPMENT RELATING TO ENTERPRISE ZONES.
4 MCAR ss 2.501-2.508

ORDER REPEALING RULES

Notice of the Commissioner's intent to repeal the above-entitled rules without a public hearing was published in the State Register on August 1, 1983 and was sent by U.S. mail to all persons on the list maintained by the agency pursuant to M.S. 14.14 subd. 1. on July 27, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 7 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 repealing the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Governing the Designation of Enterprise Zones, 4 MCAR ss 2.501-2.508 are repealed this 13th day of September, 1983, pursuant to authority vested in me by Minnesota Statutes 116J.10.

State of Minnesota

Mark Dayton
Commissioner
Department of Energy and
Economic Development

STATE OF MINNESOTA
DEPARTMENT OF ENERGY & ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULES OF THE DEPARTMENT OF ENERGY & ECONOMIC DEVELOPMENT RELATING TO ENTERPRISE ZONES
4 MCAR ss 2.501-2.508

ORDER FOR NOTICE OF INTENT TO REPEAL RULES WITHOUT A PUBLIC HEARING

It is ordered this twenty-fifth day of July, 1983, that a Notice of Intent to Repeal Rules without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Energy & Economic Development for that purpose and be published in the State Register.

State of Minnesota

Mark Dayton
Commissioner

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
Economic Development Division

PROPOSED REPEAL OF RULES GOVERNING DESIGNATION OF ENTERPRISE ZONES

NOTICE OF INTENT TO REPEAL RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Energy and Economic Development proposed to repeal the rules governing designation of enterprise zones (4 MCAR 2.501 - 2.508). The Commissioner of the Department of Energy and Economic Development has determined that the proposed repeal of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Statute 14.21 - 14.28. The repeal of these rules is necessary because the statute has been repealed and replaced with Chapter 342 Laws of Minnesota 1983. These rules are therefore no longer functional.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules 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 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 Minnesota Statute 14.13 - 14.20.

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

W. Wesley Cochrane
Acting Deputy Commissioner
MN Department of Energy and Economic Development
480 Cedar Street, Room 100
St. Paul, Minnesota 55101

Authority for repeal of these rules is contained in Minn. Stat. 116.J10. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the repeal of the rule and identifies the data and information relied upon to support the proposed rule repealer, has been prepared and is available from W. Wesley Cochrane upon request.

Before the final repeal of these rules without a public hearing, the rules proposed for repeal, this notice, the statement of reasonableness and need, all written comments received, and the final rules as repealed 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 repeal, should submit a written statement of such request to W. Wesley Cochrane. Copies of this notice and the proposed rule repealer is available and may be obtained by contacting W. Wesley Cochrane.

Date: _____

Rule as Proposed. Repealer. Rules 4MCAR ss 2.501; 2.502; 2.503; 2.504; 2.505; 2.506; 2.507; and 2.508.

MINNESOTA DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT DIVISION

100 HANOVER BUILDING
480 CEDAR STREET
ST. PAUL, MINNESOTA 55101
(612) 296-3977

July 27, 1983

TO: INDIVIDUALS AND ORGANIZATIONS WISHING TO BE NOTIFIED OF PROPOSED RULEMAKING

FROM: WESLEY W. COCHRANE
ACTING DEPUTY COMMISSIONER
MN DEPARTMENT OF ENERGY & ECONOMIC DEVELOPMENT
480 CEDAR STREET, ROOM 100
ST. PAUL, MINNESOTA 55101

RE: REPEAL OF RULES RELATING TO ENTERPRISE ZONES
4 MCAR §§ 2.501 - 2.508

The Minnesota Department of Energy and Economic Development proposed to repeal the above entitled rules according to the non-controversial procedures set forth in Minnesota Statutes 14.21 to 14.28 (1982).

The 1983 legislative session resulted in changes to the Enterprise Zone Program necessitating repeal of these rules.

Enclosed is a copy of the Notice of Intent to Repeal Rules without a public hearing that will be published in the State Register on August 1, 1983 as well as a copy of the rules proposed for repeal.

Oral or written comments should be addressed to:

Wesley W. Cochrane
Acting Deputy Commissioner
MN Department of Energy and Economic Development
480 Cedar Street, Room 100
St. Paul, MN 55101

All written material received will become part of the formal record of the rule.

WWC:lsk

4 MCAR § 2.501 Purpose. 4 MCAR §§ 2.501-2.508 are promulgated pursuant to Laws of Minnesota 1982, chapter 523, article VI, section 2 to implement and make specific the provisions of Laws of Minnesota 1982, chapter 523, article VI and relate to the designation of enterprise zones.

4 MCAR § 2.502 Definitions.

A. Statutory definitions. The terms defined in Laws of Minnesota 1982, chapter 523, article VI, section 2 have the same meaning when used in 4 MCAR §§ 2.501-2.508. The terms in B.-E. have the meanings given them for the purposes of Laws of Minnesota 1982, chapter 523, article VI, section 2.

B. Data source. "Data source" means the most recent federal decennial census data unless otherwise provided.

C. Recently experienced. "Recently experienced" means within the last five years.

D. Significant employment. "Significant employment" means one percent of the total employment base of a community.

E. Manufacturing. "Manufacturing" includes activities in standard industrial classification codes 20-39 contained in the "Minnesota Directory of Manufacturing."

4 MCAR § 2.503 Application cycle.

Applications will be accepted from July 1983 through March 1984 for the initial year of receiving applications. After the initial year applications from governing bodies for enterprise zone designation will be accepted during the first quarter of each calendar year.

4 MCAR § 2.504 Application for enterprise zone designation.

The commissioner shall prepare uniform application forms for use by governing bodies setting forth the information necessary for the determination of eligibility as an enterprise zone.

4 MCAR § 2.505 Information in enterprise zone designation applications.

A. Statutory information. An application must demonstrate that the proposed enterprise zone complies with statutory requirements to be designated an enterprise zone.

B. Data connected to zone. Data in an enterprise zone application must be for all areas most closely corresponding to the proposed enterprise zone area. Data need not be for an area identical to the proposed area of the enterprise zone but should be for an area as closely identical as reasonably possible.

C. Statistical sources; economic hardship area. Statistical sources to be used in determining whether an area is an economic hardship area will be those approved by the state demographer.

D. Population statistics. The most recent federal census or estimates by the state demographer or the metropolitan council may be used for population data.

4 MCAR § 2.506 Action plans.

An action plan to promote economic development must be designated and passed on by resolution by the governing body. The action plan should be between three and five pages in length. An action plan shall contain:

A. a brief description of the organization of the governing body designated in charge of developing and implementing the action plan;

B. a brief summary of the area's economic situation based on an analysis of data for the area and surrounding region related, for example, to employment income, labor force composition, unemployment, housing, and land use;

C. some conclusions and judgments about the area's potential for economic development, for example, development of under-utilized resources and ways to overcome any barriers to development; and

D. an identification of realistic actions that the governing body wants to initiate to spur economic growth. Each action identified should address six items: what the action is, its purpose, when action will be initiated, when it will be completed, who is going to complete it, and how it will be completed.

4 MCAR § 2.507 Determination of enterprise zone size.

A governing body may apply for more than one enterprise zone designation but no land area may be part of more than one enterprise zone.

4 MCAR § 2.508 Application procedures.

A. Submission of application. The governing body shall submit to the commissioner three copies of the completed application upon the forms and in the format designated by the commissioner.

B. Review by the commissioner. The commissioner has 30 days from the date of its receipt to approve or disapprove an application.

C. Notification of determination. The commissioner shall notify the governing body of a determination as follows:

1. If the commissioner determines that the application is complete and the area eligible for enterprise zone designation, the governing body shall be notified within 15 days and a copy of the approved application shall be sent to the Department of Revenue.

2. If the commissioner determines that an incomplete application has been submitted, the commissioner shall notify the applicant specifying the deficiencies. The applicant has 30 days from the date of the commissioner's notification to complete the application. In the event the application is then completed in a timely fashion notification shall be as in 1. If the application is not

IN THE MATTER OF PROPOSED REPEAL
OF THE RULES OF THE DEPARTMENT
OF ENERGY AND ECONOMIC
DEVELOPMENT RELATING TO ENTERPRISE
ZONES. 4 MCAR SS 2.501-2.508

STATE OF MINNESOTA
COUNTY OF RAMSEY

AFFIDAVIT OF MAILING

W. Wesley Cochrane being first duly sworn, deposes and says:

That on the 27th day of July, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Repeal Rules without Public Hearing by depositing in the Minnesota Central Mail System for U.S. mailing ~~(or U.S. 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 Department of Energy and Economic Development for the purpose of receiving notice of the proposed repeal of rules by this Notice of Intent to Repeal Rules without a Public Hearing.

W. Wesley Cochrane

Acting Deputy Commissioner

Subscribed and sworn to me
this 28th day of July, 1983.

Madeline Harris
Notary Public

MADELINE HARRIS
NOTARY PUBLIC - MINNESOTA
CHISAGO COUNTY
My Commission Expires Sep. 17, 1985

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

IN THE MATTER OF THE PROPOSED
RULES OF THE DEPT OF ENERGY
AND ECONOMIC DEVELOPMENT
RELATING TO ENTERPRISE
ZONES. 4 MCAR ss 2.501-2.508

I certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. 14.22 (14.14 subd. 1) that their names be placed on file with and maintained by the Minnesota Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by this Notice of Intent to Repeal Rules without Public Hearing is accurate and complete as of 4:30 p.m. this 27th day of July, 1983.

W. Wesley Cochrane
Acting Deputy Commissioner

b. a description of the manner in which payments will be made to grant recipients with the condition that five percent of the grant award will not be paid until successful completion of all activities in the work program and until receipt by OPLIC of an audit of receipts and disbursements of all funds for the project. The audit shall be preformed by the staff of the State Auditor's Office, by a certified public accountant, or by a public accountant as defined in Minnesota Statutes, sections 6.64 to 6.71.

c. assurance that the grant recipient will comply with all applicable state and federal laws, including the federal laws or regulations for which the state is made responsible for enforcement in Code of Federal Regulations, title 34, parts 74, 76, and 770; and section 75.600-75.616.

d. assurance that the grant recipient will supply to OPLIC a tabulation of all bids received, showing the bids accepted.

e. assurance that OPLIC will be notified of project completion within 30 days after project completion so that it may notify the United States Department of Education as required by Code of Federal Regulations, title 34, section 770.21 (a) (2).

Department of Energy and Economic Development Economic Development Division

Proposed Repeal of Rules Governing Designation of Enterprise Zones

Notice of Intent to Repeal Rules without a Public Hearing

Notice is hereby given that the Department of Energy and Economic Development proposes to repeal the rules governing designation of enterprise zones (4 MCAR §§ 2.501-2.508). The Commissioner of the Department of Energy and Economic Development has determined that the proposed repeal of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Statute § 14.21-14.28. The repeal of these rules is necessary because the statute has been repealed and replaced with chapter 342 *Laws of Minnesota 1983*. These rules are therefore no longer functional.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules 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 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. § 14.13-14.20. Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

W. Wesley Cochrane
Acting Deputy Commissioner
MN. Department of Energy and Economic Development
480 Cedar Street, Room 100
St. Paul, Minnesota 55101

Authority for repeal of these rules is contained in Minn. Stat. § 116.J10. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the repeal of the rule and identifies the data and information relied upon to support the proposed rule repealer, has been prepared and is available from W. Wesley Cochrane upon request.

Before the final repeal of these rules without a public hearing, the rules proposed for repeal, this notice, the statement of reasonableness and need, all written comments received, and the final rules as repealed 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 repeal, should submit a written statement of such request to W. Wesley Cochrane.

Copies of this notice and the proposed rule repealer are available and may be obtained by contacting W. Wesley Cochrane.

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 ENERGY AND ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULES OF THE DEPT OF ENERGY AND ECONOMIC DEVELOPMENT RELATING TO ENTERPRISE ZONES.
4 MCAR ss 2.501-2.508

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed repeal of the existing rules. It is submitted pursuant to Minnesota Statutes, section 14.23, which requires that the agency prepare a Statement of Need and Reasonableness which shall be available to the public.

The rules being proposed for repeal were adopted on January 17, 1983 (7 SR 1061) according to the non-controversial rule procedures set forth in Minnesota Statutes 14.21-14.28. There were no written comments received ncr any requests for hearing during the rulemaking period.

Authority to Repeal the Rule.

Minnesota Statutes, section 116J.10, gives the Commissioner general authority to establish rules. Implicit in the authority to establish rules is the ability to repeal unneeded rules.

Rule Repealer.

The rules proposed for repeal were developed in furtherance of the 1982 enterprise zone legislation (Chap. 523, Laws of Minnesota 1982). As of date of this publication, there are no enterprise zones established under that 1982 statute and the rules proposed for repeal. There are likewise no pending applications for designation as an enterprise zone under that 1982 statute and the rules proposed for repeal.

Chapter 342, Laws of Minnesota 1983, Article VIII, substantially rewrites Minnesota's statutes pertaining to the establishment and operation of enterprise zones. That legislation also specifically provides for the development of new rules. Since the entire rule is no longer functional, it is proposed for repeal. As required by Chapter 342, Laws of Minnesota 1983, the department intends to promulgate new rules to reflect the changes resulting from the 1983 session.

Dated: August 27, 1983

STATE OF MINNESOTA
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULES OF THE DEPT OF ENERGY AND ECONOMIC DEVELOPMENT RELATING TO DESIGNATION OF ENTERPRISE ZONES. 4 MCAR ss 2.501-2.508

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Christie Eller, Special Assistant Attorney General, do hereby declare that I have examined the rules and related documents and that, based on my examination and 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.

Christie Eller

Christie Eller,
Special Assistant Attorney General

Dated: 9/14/83