

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1085

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-5-84
DATE FOR REVIEW
DATE DUE 10-19-84

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

Approved 10.19.84 mjc Disapproved Returned to Agency

Resubmitted
Approved Disapproved Returned to Agency

Due

Date filed w/Secretary of State 10-22-84

Revisor approved 10/5/84
disapproved

✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 10.4.84 Date

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
8.29.84 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.3.84 At least ~~30/20~~ 25 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

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

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

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Leonard Levine, Commissioner
Department of Human Services

DATE: October 22, 1984

ATTN: Vicki Sleeper

FROM : Special Assistant Attorney General
Martha J. Casserly MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Emergency Rules Governing the Community Work Experience Pilot Demonstration Program Under the Aid to Families With Dependent Children Program, Minnesota Rules, Parts 9505.1050 - 9505.1065 (Emergency).

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.

MJC:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Human Services

Adopted Emergency Rules Governing The Community Work Experience Demonstration Programs: Registration and Work Requirements

Emergency Rules as Adopted

9505.1050 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9505.1050 to 9505.1065 [Emergency] have the meanings given them in this part.

Subp. 2. **Aid to Families with Dependent Children-Unemployed Parent or AFDC-UP.** "Aid to Families with Dependent Children-Unemployed Parent" or "AFDC-UP" means aid to families with dependent children where the principal wage earner is unemployed.

Subp. 3. **Applicant.** "Applicant" means a person who has filed an application for AFDC-UP with the local agency.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of human services or a designee.

Subp. 5. **Community work experience program or CWEP.** "Community work experience program" or "CWEP" means the pilot demonstration program authorized under Minnesota Statutes, section 256.737.

Subp. 6. **Department.** "Department" means the Department of Human Services.

Subp. 7. **Displacement.** "Displacement" means CWEP participants doing work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983, as defined in Minnesota Statutes, section 256.737 and Code of Federal Regulations, title 45, section 238.01.

Subp. 8. **Job placement.** "Job placement" means placement of a participant in a job which is not subsidized by private or public funds.

Subp. 9. **Local agency.** "Local agency" means the agency authorized by the county board or human service board to provide social and financial services.

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Subp. 10. **Mandatory participant.** "Mandatory participant" means an individual receiving AFDC-UP who is required to participate in CWEP as a condition of AFDC-UP eligibility.

Subp. 11. **Participant.** "Participant" means recipient for whom participation in CWEP is mandatory or a recipient who has volunteered to participate in CWEP.

Subp. 12. **Recipient.** "Recipient" means a person who is currently receiving assistance under the AFDC-UP program.

Subp. 13. **Registrant.** "Registrant" means an AFDC-UP applicant or recipient who has registered with the WIN program at the job service agency.

Subp. 14. **Sponsor.** "Sponsor" means an organization, group, or agency designated by the commisisoner to operate a CWEP project. Only public agencies or nonprofit groups and organizations may be sponsors. spelling ?

Subp. 15. **Volunteer.** "Volunteer" means an AFDC-UP recipient whose participation in CWEP is not mandatory, but who chooses to participate and is accepted into the program.

Subp. 16. **Work Incentive Program or WIN.** "Work Incentive Program" or "WIN" means the work incentive program established in Code of Federal Regulations, title 45, section 224 which requires participation in WIN by qualified recipients of AFDC-UP.

Subp. 17. **Worksite.** "Worksite" means the place the CWEP participant is assigned to gain work experience.

9505.1051 [Emergency] APPLICABILITY.

Parts 9505.1050 to 9505.1065 [Emergency] establish the rights and responsibilities of the Department of Human Services, local agencies, oversight committees, and recipients of AFDC-UP concerning registration, eligibility, worksites, and sanctions for CWEP.

9505.1052 [Emergency] PURPOSE OF CWEP.

The purpose of CWEP is to provide work experience and training for AFDC-UP recipients.

9505.1053 [Emergency] COUNTIES ELIGIBLE FOR CWEP.

Subpart 1. **Eligible counties.** Only those counties that

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were approved by January 1, 1984, may operate a CWEP program.

Subp. 2. **Plan proposal.** Each county that has an approved CWEP program as of January 1, 1984, must submit a written plan complying with this part to the commissioner before operation of the program can begin. Counties in which a CWEP program is in operation as of the effective date of parts 9505.1050 to 9505.1065 [Emergency] shall submit a written plan in compliance with this part by December 1, 1984.

Subp. 3. **Plan content.** The plan shall include:

A. the number of recipients expected to participate;

B. the sponsor;

C. a description of the potential worksites to be used and the types of positions to be used;

D. a description of the evaluation standards the county will use; and

E. a statement that the county will use an oversight committee.

Subp. 4. **Plan approval.** The commissioner shall approve the plan if it fulfills the purpose and requirements of law and parts 9505.1050 to 9505.1065 [Emergency.]

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A. the number of recipients that participated;

B. program and administrative costs; and

C. the results achieved.

Subp. 7. **Termination of CWEP program.** Either the county or the department may terminate the CWEP program upon 30 days' written notice to the other.

9505.1054 [Emergency] RECIPIENTS REQUIRED TO PARTICIPATE IN CWEP.

Subpart 1. **General criteria.** Only recipients and not applicants may be required to participate in CWEP. Participants in CWEP continue to receive regular AFDC-UP grants.

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Participants are neither paid by, nor considered employees of, the worksites to which they are assigned.

Subp. 2. **Determining mandatory participation.** Mandatory participation is required of those AFDC-UP recipients who are required to register for WIN and are not exempt under this part.

Subp. 3. **Exemptions from mandatory participation.** Each AFDC-UP recipient must participate in CWEP unless the recipient:

A. meets the exemption criteria under Code of Federal Regulations, title 45, section 238.14(a), as amended through December 31, 1983; or

B. is 60 years of age or older; or

C. lives more than two hours round trip travel time from the worksite, or transportation is unavailable; or

D. is a caretaker of a child under seven; or

E. receives social services and the local agency social worker recommends that the recipient be exempt from CWEP participation; or

F. is in a rehabilitation program approved by the local agency; or

G. is in need of day care which is unavailable; or

H. is in a program or technical school which is full time; or

I. is participating in another work program.

Subp. 4. **Disagreement with exemption determination.** Any disagreement by a recipient with a local agency's determination of exemption is governed by the notice and hearing procedures in Minnesota Statutes, section 256.045, and Code of Federal Regulations, title 45, section 205.10.

Subp. 5. **Voluntary participation in CWEP.** A county shall provide for voluntary participation in CWEP by any AFDC-UP recipient who is not in the mandatory participant group. Sanctions for noncooperation with CWEP do not apply to volunteers.

Subp. 6. **Assistance unit.** Where more than one member of an assistance unit meets the criteria for mandatory participation in CWEP, only the qualifying adult member of the

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unit will be required to participate.

9505.1055 [Emergency] PARTICIPATION REQUIREMENTS.

Subpart 1. **Type of work.** Work may be temporary, permanent, full time, part time, or seasonal as long as it does not exceed the monthly and yearly limits of this part.

Subp. 2. **Limit on hours worked per month.** The local agency shall determine the number of hours per month each participant is required to participate in CWEP. No participant shall be required to work for more hours in any given month than the number of hours which would result from dividing the family's AFDC-UP grant amount by the greater of either: the Minnesota minimum wage or the federal minimum wage; or the prevailing wage area rate established for starting workers in like occupation or industry, whichever the local agency chooses. If there is a subsequent adjustment to an AFDC-UP grant to correct an overpayment or an underpayment, the local agency shall adjust the number of hours required to be worked in a month in the next full month following the adjustment.

Subp. 3. **Limit on months worked.** No participant shall be required to work on a worksite for more than six months in any 12-month period. Any participation on a worksite for more than six months in any 12-month period is voluntary.

Subp. 4. **Job placement.** Job placement will have priority over other CWEP activities.

Subp. 5. **Participation in more than one program.** A participant who is required to participate in more than one of the programs identified in parts 9505.1050 to 9505.1065 [Emergency] will not be denied AFDC-UP assistance for failure to participate in one of the programs if that individual is an active and satisfactory participant in another program.

Subp. 6. **WIN requirements must be met.** In WIN counties applicants shall first be required to register with WIN and must have unsuccessfully searched for a job for two weeks before referral to CWEP.

9505.1056 [Emergency] PARTICIPANT PROTECTION.

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Local agencies must provide workers' compensation coverage to participants. The cost of workers' compensation is an administrative cost which is reimbursable on the same basis as other administrative costs.

9505.1057 [Emergency] PARTICIPANT REIMBURSEMENT.

Subpart 1. **Local agency reimbursement of transportation and day care.** Participants may not be required to use their assistance or their income or resources to pay participation costs.

Participants shall be reimbursed by the local agency for reasonable, necessary, and cost-effective transportation and day care services. Reimbursement for day care services may not exceed $160 per month per child. The costs of transportation and day care are administrative costs which are reimbursable on the same basis as other administrative costs.

Subp. 2. **Local agency reimbursement of other participant costs.** Participants shall also be reimbursed by the local agency for necessary costs directly related to participation in CWEP within the limits of subparts 3 and 4. These costs include but are not limited to:

A. social services;

B. employment related remedial medical care;

C. employment related medical exams;

D. vocational rehabilitation services;

E. homemaker services;

F. financial management aid;

G. incentive allowances;

H. training related expenses;

I. nonrecurring auto repair and auto insurance expenses;

J. payments for special work clothing, shoes, or boots which are required for the recipient to participate in a CWEP assignment;

K. protective devices such as safety glasses, gloves, and helmets; and

L. employment fees.

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Subp. 3. **Amount of participant cost reimbursement.** The local agency shall reimburse each CWEP participant for costs within the scope of subpart 2 not to exceed $25 per month per participant. If it is determined that the cost of the items listed in subpart 2, items A to L exceed $25 per month per participant, the local agency ~~may~~ shall either choose to reimburse for such costs in excess of $25 per month per participant or find that the recipient has good cause not to participate in the CWEP program. FF2

Subp. 4. **Federal reimbursement of local agency.** Federal reimbursement will be made in the following ways:

A. In non-WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., which shall not exceed $25 per month per participant.

B. In WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., and, in addition, 90 percent of those costs in excess of $25 per month per participant.

C. The local agency will receive federal reimbursement for administrative costs of the program in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq.

9505.1058 [Emergency] GOOD CAUSE.

The local agency shall determine whether there is good cause for a participant to refuse to accept an available assignment or to refuse to cooperate with the conditions of an assignment. A determination or recommendation by the Department of Economic Security is not binding on the local agency. ~~Good cause exists when~~ In addition to part 9505.1057 [Emergency], subpart 3, situations in which good cause exists include: FF3 good cause

A. The recipient meets the exemption conditions in part 9505.1054 [Emergency], subpart 3.

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B. The worksite participation adversely affects the recipient's physical or mental health as verified by a physician, licensed or certified psychologist, physical therapist, vocational expert, or by other sound medical evidence.

C. The recipient does not possess the skill or knowledge required for the work.

D. The CWEP assignment does not comply with the terms of the participant's employability plan as defined in Code of Federal Regulations, title 45, section 224.22(a).

9505.1059 [Emergency] RESTRICTIONS ON TYPE OF WORK DONE BY PARTICIPANTS.

Work performed by participants in CWEP must comply with Code of Federal Regulations, title 45, section 238.52~~,-as amended-through-December-31,-1983~~ and Minnesota Statutes, section 256.737. FF 4

9505.1060 [Emergency] PROHIBITIONS AGAINST DISPLACEMENT.

Subpart 1. **Displacement prohibited.** Local agencies shall not assign participants where such assignments displace authorized public employee positions established as of January 1, 1983. This prohibition extends to positions which were established, but vacant as of January 1, 1983. CWEP participants may perform the same tasks as performed by regular employees so long as the January 1, 1983, prohibition is not violated.

Subp. 2. **Action to be taken.** The local agency shall send written notification to the exclusive bargaining representative of the union covering the work the CWEP participant will do on the worksite at least 15 days before a CWEP participant is assigned to a worksite. The exclusive bargaining representative must concur with the job duties of the CWEP participant's worksite assignment within 15 days of notification of the proposed assignment. If concurrence is not received within 15 days, it shall be presumed that the exclusive bargaining representative has concurred in the worksite assignment.

Subp. 3. **Notification to oversight committee.** The local

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agency shall submit a monthly list to each oversight committee containing all worksite assignments and job placements for that county.

9505.1061 [Emergency] SANCTIONS AND APPEALS.

Subpart 1. **Sanctions.** When the local agency determines that a mandatory CWEP participant has failed or refused without good cause to participate in CWEP, the following sanctions shall apply:

A. For the first occurrence the entire assistance unit shall not receive assistance for three payment months.

B. For the second and subsequent occurrences, the entire assistance unit shall not receive assistance for six payment months.

Subp. 2. **Appeals.** Each participant shall have the right to appeal any determination, action, or inaction on the part of the local agency relating to their participation in CWEP according to the welfare hearing procedures in Minnesota Statutes, section 256.045.

9505.1062 [Emergency] SPONSORS.

Subpart 1. **Sponsor.** The commissioner may approve the operation of more than one project by a single sponsor. The sponsor may use only public agencies and nonprofit organizations for worksites, but no state hospital shall be used for worksites.

Subp. 2. **Duties of sponsor.** The duties of a sponsor are to:

A. Assist CWEP participants in a job search before they are assigned to a worksite. The job search must be conducted for at least three days. The job search assistance period is in addition to any other job search the participant might have done before CWEP.

B. Allow the CWEP participant at least one <u>business</u> day per week to search for work. This day may, at local agency option, count as eight hours of authorized CWEP work. FFS

C. Select a convenor, cooperate with the oversight committee, use the forms the department designs for CWEP, and

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provide other data requested by the department.

9505.1063 [Emergency] CONVENOR.

Subpart 1. **Definition.** For the purposes of parts 9505.1050 to 9505.1065 [Emergency], "convenor" means a person selected by the sponsor from a CWEP project area.

Subp. 2. **Convenor duties.** The convenor's duties shall include contacting representatives of the interest groups listed in items A to F in order to solicit approval of submission of their names to the commissioner as potential members of the oversight committee. The convenor shall chair the first oversight committee meeting, and shall ensure that a permanent chairperson is elected at the first meeting of the oversight committee. The list of names submitted to the commissioner must include at least one representative of each of the following interest groups:

A. AFDC-UP recipients;

B. women's groups;

C. public employee unions;

D. legal services representatives;

E. members of the business community; and

F. the general public with specific effort to include minority group representatives.

The people listed must live in the county served by their CWEP project. The only exception to this requirement is representatives of legal services.

9505.1064 [Emergency] OVERSIGHT COMMITTEE.

Subpart 1. **Appointment.** The commissioner shall appoint an oversight committee for each project which will consist of six or more members. Every effort will be made to include at least one member from each of the interest groups listed in part 9505.1063 [Emergency], subpart 2. The list of potential members submitted by the convenor shall serve as a guide to the commissioner. The commissioner may ask the convenor or the local agency for additional names. The commissioner may appoint persons not included on the lists.

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Subp. 2. **Duties.** The duties of the oversight committee are to:

A. meet quarterly;

B. provide informal, nonbinding conciliation hearings for aggrieved CWEP participants to resolve conflicts before resorting to welfare hearing procedures;

C. provide a forum for CWEP participants and the public to voice concerns;

D. review evaluations of the program made by the department and make recommendations to the commissioner;

E. make the names of committee members available to CWEP participants; and

F. visit worksites to inquire about complaints.

Subp. 3. **Hearing procedures.** This part shall not take precedence over the welfare fair hearing procedures of Minnesota Statutes, section 256.045.

9505.1065 [Emergency] CLASSIFICATION OF DATA ON PARTICIPANTS.

The oversight committee is a member of the human service system and shall comply with Minnesota Statutes, section 13.46.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 22 1984
Joan Anderson Growe
Secretary of State
9:40 AM

APPROVED AS TO FORM AND LEGALITY
October 19 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M.J. Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Human Services

Proposed Emergency Rules Governing The Community Work Experience Demonstration Programs: Registration and Work Requirements

Notice of Intent to Adopt Emergency Rules

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, section 256.737.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency 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. Written comments should be sent to:

Don Gralnek
Work and Training Unit
Department of Human Services
2nd Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/296-2460

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

According to Minnesota Statutes, section 256.737, Minnesota Rules, parts 9505.1050 to 9505.1065 [Emergency] will be promulgated according to Minnesota Statutes, Chapter 14 except that the time restrictions of Minnesota Statutes, section 14.35 shall not apply and Minnesota Rules, parts 9505.1050 to 9505.1065 [Emergency] may be in effect until the termination of the demonstration programs. The planned date for termination of the demonstration programs is June 30, 1985.

Minnesota Rules, parts 9505.1050 to 9505.1065 (Emergency) establishes the rights and responsibilities of the Department of Human Services, local agencies, oversight committees, and recipients of Aid to Families with Dependent Children — Unemployed Parent (AFDC-UP) concerning registration, work sites and sanctions. This rule governs a demonstration program for AFDC-UP recipients in eight Minnesota counties (Dodge, Morrison, Wadena, Itasca, Winona, Todd, Blue Earth, and Otter Tail). The purpose of the Community Work Experience Program (CWEP) is to provide work experience and training for AFDC-UP recipients. The rule contains a definition section; lists the counties eligible for CWEP and prerequisites of operating a CWEP program; describes those AFDC-UP recipients required to participate in CWEP and the exemptions from mandatory participation; describes the length of time and number of months per year CWEP recipients are required to participate in CWEP; describes the amount of reimbursement of participant costs by the local agency and the amount of reimbursement of local agency costs by the federal government; lists the criteria for determining good cause for refusing to accept an assignment and refusing to cooperate with the assignment; prohibits displacement of public employee positions and the action the local agency and exclusive bargaining representative must take before a participant is placed in a work site assignment; lists the procedures for sanctions and appeals; describes the duties of the sponsor, convenor, and oversight committee; and makes the oversight committee subject to the Data Practices Act.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the Legislature.

A free copy of the proposed emergency rule may be obtained by contacting Linda Kildow, Work and Training Unit, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, telephone: 612/297-1373.

Leonard W. Levine
Commissioner of Human Services

Emergency Rules as Proposed (all new material)

9505.1050 [Emergency] DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9505.1050 to 9505.1065 [Emergency] have the meanings given them in this part.

Subp. 2. Aid to Families with Dependent Children-Unemployed Parent or AFDC-UP. "Aid to Families with Dependent Children-Unemployed Parent" or "AFDC-UP" means aid to families with dependent children where the principal wage earner is unemployed.

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Subpart 1. Eligible counties. Only those counties that were approved by January 1, 1984, may operate a CWEP program.

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.

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I. is participating in another work program.

Subp. 4. Disagreement with exemption determination. Any disagreement by a recipient with a local agency's determination of exemption is governed by the notice and hearing procedures in Minnesota Statutes, section 256.045, and Code of Federal Regulations, title 45, section 205.10.

Subp. 5. Voluntary participation in CWEP. A county shall provide for voluntary participation in CWEP by any AFDC-UP recipient who is not in the mandatory participant group. Sanctions for noncooperation with CWEP do not apply to volunteers.

Subp. 6. Assistance unit. Where more than one member of an assistance unit meets the criteria for mandatory participation in CWEP, only the qualifying adult member of the unit will be required to participate.

9505.1055 [Emergency] PARTICIPATION REQUIREMENTS.

Subpart 1. Type of work. Work may be temporary, permanent, full time, part time, or seasonal as long as it does not exceed the monthly and yearly limits of this part.

Subp. 2. Limit on hours worked per month. The local agency shall determine the number of hours per month each participant is required to participate in CWEP. No participant shall be required to work for more hours in any given month than the number of hours which would result from dividing the family's AFDC-UP grant amount by the greater of either: the Minnesota minimum wage or the federal minimum wage; or the prevailing wage area rate established for starting workers in like occupation or industry, whichever the local agency chooses. If there is a subsequent adjustment to an AFDC-UP grant to correct an overpayment or an underpayment, the local agency shall adjust the number of hours required to be worked in a month in the next full month following the adjustment.

Subp. 3. Limit on months worked. No participant shall be required to work on a worksite for more than six months in any 12-month period. Any participation on a worksite for more than six months in any 12-month period is voluntary.

Subp. 4. Job placement. Job placement will have priority over other CWEP activities.

Subp. 5. Participation in more than one program. A participant who is required to participate in more than one of the programs identified in parts 9505.1050 to 9505.1065 [Emergency] will not be denied AFDC-UP assistance for failure to participate in one of the programs if that individual is an active and satisfactory participant in another program.

Subp. 6. WIN requirements must be met. In WIN counties applicants shall first be required to register with WIN and must have unsuccessfully searched for a job for two weeks before referral to CWEP.

9505.1056 [Emergency] PARTICIPANT PROTECTION.

Local agencies must provide workers' compensation coverage to participants. The cost of workers' compensation is an administrative cost which is reimbursable on the same basis as other administrative costs.

9505.1057 [Emergency] PARTICIPANT REIMBURSEMENT.

Subpart 1. Local agency reimbursement of transportation and day care. Participants may not be required to use their assistance or their income or resources to pay participation costs.

Participants shall be reimbursed by the local agency for reasonable, necessary, and cost-effective transportation and day care services. Reimbursement for day care services may not exceed $160 per month per child. The costs of transportation and day care are administrative costs which are reimbursable on the same basis as other administrative costs.

Subp. 2. Local agency reimbursement of other participant costs. Participants shall also be reimbursed by the local agency for necessary costs directly related to participation in CWEP within the limits of subparts 3 and 4. These costs include but are not limited to:

A. social services;

B. employment related remedial medical care;

C. employment related medical exams;

D. vocational rehabilitation services;

E. homemaker services;

F. financial management aid;

G. incentive allowances;

H. training related expenses;

I. nonrecurring auto repair and auto insurance expenses;

J. payments for special work clothing, shoes, or boots which are required for the recipient to participate in a CWEP assignment;

K. protective devices such as safety glasses, gloves, and helmets; and

L. employment fees.

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.

Subp. 3. Amount of participant cost reimbursement. The local agency shall reimburse each CWEP participant for costs within the scope of subpart 2 not to exceed $25 per month per participant. The local agency may choose to reimburse for such costs in excess of $25 per month per participant.

Subp. 4. Federal reimbursement of local agency. Federal reimbursement will be made in the following ways:

A. In non-WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., which shall not exceed $25 per month per participant.

B. In WIN counties the local agency will receive federal reimbursement for costs within the scope of subpart 2 in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq., and, in addition, 90 percent of those costs in excess of $25 per month per participant.

C. The local agency will receive federal reimbursement for administrative costs of the program in an amount equal to the reimbursement level under United States Code, title 42, section 601 et seq.

9505.1058 [Emergency] GOOD CAUSE.

The local agency shall determine whether there is good cause for a participant to refuse to accept an available assignment or to refuse to cooperate with the conditions of an assignment. A determination or recommendation by the Department of Economic Security is not binding on the local agency. Good cause exists when:

A. The recipient meets the exemption conditions in part 9505.1054 [Emergency], subpart 3.

B. The worksite participation adversely affects the recipient's physical or mental health as verified by a physician, licensed or certified psychologist, physical therapist, vocational expert, or by other sound medical evidence.

C. The recipient does not possess the skill or knowledge required for the work.

D. The CWEP assignment does not comply with the terms of the participant's employability plan as defined in Code of Federal Regulations, title 45, section 224.22(a).

9505.1059 [Emergency] RESTRICTIONS ON TYPE OF WORK DONE BY PARTICIPANTS.

Work performed by participants in CWEP must comply with Code of Federal Regulations, title 45, section 238.52, as amended through December 31, 1983.

9505.1060 [Emergency] PROHIBITIONS AGAINST DISPLACEMENT.

Subpart 1. Displacement prohibited. Local agencies shall not assign participants where such assignments displace authorized public employee positions established as of January 1, 1983. This prohibition extends to positions which were established, but vacant as of January 1, 1983. CWEP participants may perform the same tasks as performed by regular employees so long as the January 1, 1983, prohibition is not violated.

Subp. 2. Action to be taken. The local agency shall send written notification to the exclusive bargaining representative of the union covering the work the CWEP participant will do on the worksite at least 15 days before a CWEP participant is assigned to a worksite. The exclusive bargaining representative must concur with the job duties of the CWEP participant's worksite assignment within 15 days of notification of the proposed assignment. If concurrence is not received within 15 days, it shall be presumed that the exclusive bargaining representative has concurred in the worksite assignment.

Subp. 3. Notification to oversight committee. The local agency shall submit a monthly list to each oversight committee containing all worksite assignments and job placements for that county.

9505.1061 [Emergency] SANCTIONS AND APPEALS.

Subpart 1. Sanctions. When the local agency determines that a mandatory CWEP participant has failed or refused without good cause to participate in CWEP, the following sanctions shall apply:

A. For the first occurrence the entire assistance unit shall not receive assistance for three payment months.

B. For the second and subsequent occurrences, the entire assistance unit shall not receive assistance for six payment months.

Subp. 2. Appeals. Each participant shall have the right to appeal any determination, action, or inaction on the part of the local agency relating to their participation in CWEP according to the welfare hearing procedures in Minnesota Statutes, section 256.045.

9505.1062 [Emergency] SPONSORS.

Subpart 1. Sponsor. The commissioner may approve the operation of more than one project by a single sponsor. The sponsor may use only public agencies and nonprofit organizations for worksites, but no state hospital shall be used for worksites.

Subp. 2. Duties of sponsor. The duties of a sponsor are to:

A. Assist CWEP participants in a job search before they are assigned to a worksite. The job search must be conducted for at least three days. The job search assistance period is in addition to any other job search the participant might have done before CWEP.

B. Allow the CWEP participant at least one day per week to search for work. This day may, at local agency option, count as eight hours of authorized CWEP work.

C. Select a convenor, cooperate with the oversight committee, use the forms the department designs for CWEP, and provide other data requested by the department.

9505.1063 [Emergency] CONVENOR.

Subpart 1. Definition. For the purposes of parts 9505.1050 to 9505.1065 [Emergency], "convenor" means a person selected by the sponsor from a CWEP project area.

Subp. 2. Convenor duties. The convenor's duties shall include contacting representatives of the interest groups listed in items A to F in order to solicit approval of submission of their names to the commissioner as potential members of the oversight committee. The convenor shall chair the first oversight committee meeting, and shall ensure that a permanent chairperson is elected at the first meeting of the oversight committee. The list of names submitted to the commissioner must include at least one representative of each of the following interests groups:

A. AFDC-UP recipients;

B. women's groups;

C. public employee unions;

D. legal services representatives;

E. members of the business community; and

F. the general public with specific effort to include minority group representatives.

The people listed must live in the county served by their CWEP project. The only exception to this requirement is representatives of legal services.

9505.1064 [Emergency] OVERSIGHT COMMITTEE.

Subpart 1. Appointment. The commissioner shall appoint an oversight committee for each project which will consist of six or more members. Every effort will be made to include at least one member from each of the interest groups listed in part 9505.1063 [Emergency], subpart 2. The list of potential members submitted by the convenor shall serve as a guide to the commissioner. The commissioner may ask the convenor or the local agency for additional names. The commissioner may appoint persons not included on the lists.

Subp. 2. Duties. The duties of the oversight committee are to:

A. meet quarterly;

B. provide informal, nonbinding conciliation hearings for aggrieved CWEP participants to resolve conflicts before resorting to welfare hearing procedures;

C. provide a forum for CWEP participants and the public to voice concerns;

D. review evaluations of the program made by the department and make recommendations to the commissioner;

E. make the names of committee members available to CWEP participants; and

F. visit worksites to inquire about complaints.

Subp. 3. Hearing procedures. This part shall not take precedence over the welfare fair hearing procedures of Minnesota Statutes, section 256.045.

9505.1065 [Emergency] CLASSIFICATION OF DATA ON PARTICIPANTS.

The oversight committee is a member of the human service system and shall comply with Minnesota Statutes, section 13.46.

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 HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES, PARTS 9505.1050 - 9505.1065 (EMERGENCY).

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published in the State Register on September 3, 1984, as a proposed emergency rule pursuant to Minnesota Statutes, sections 14.29 - 14.36.

After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as emergency rules Governing the Community Work Experience Pilot Demonstration Program under the Aid to Families with Dependent Children Program are adopted this 4th day of October, 1984, pursuant to authority vested in me by Minnesota Statutes section 256.737.

STATE OF MINNESOTA

LEONARD W. LEVINE
COMMISSIONER OF HUMAN SERVICES

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Emergency Rules of the State Community Work Experience Pilot Demonstration Program Under the Aid to Families With Dependent Children Program Minnesota Rules, part 9505.1050 to 9505.1065 (Emergency)

ORDER FOR PUBLICATION OF EMERGENCY RULES

IT IS ORDERED this 17 day of August, 1984 that the proposed emergency rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

LEONARD W. LEVINE
Commissioner of Human Services

EW-27

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES PARTS 9505.1050 to 9505.1065 (Emergency)

AFFIDAVIT OF MAILING

Wendy Johnson , being first duly sworn, deposes and says:

That on the 29 day of August , 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Emergency Rules by depositing in the State of Minnesota Central Mail System for first class mailing, 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 Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wendy Johnson

Subscribed and sworn to before me

this 30 day of August , 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

Proposed Emergency Rules Governing
The Community Work Experience Pilot
Demonstration Program Under the Aid
to Families with Dependent Children
Program, Minnesota Rules, parts
9505.1050 to 9505.1065 [Emergency]

NOTICE OF INTENT TO
ADOPT EMERGENCY RULES

The State Department of Human Services proposes to adopt the above-entitled emergency rules to implement Minnesota Statutes, section 256.737.

Persons interested in these rules have until 4:30 p.m. on September 28, 1984 to submit written comments. The proposed emergency 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. Written comments should be sent to:

Don Gralnek
Work and Training Unit
Department of Human Services
2nd Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/296-2460

Upon adoption of these emergency rules, this notice, all written comments received, and the adopted emergency rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed emergency rule to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency.

The adopted emergency rules will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the rules' form. Emergency rules take effect five working days after approval by the Attorney General.

According to Minnesota Statutes, section 256.737, Minnesota Rules, part 9505.1050 to 9505.1065 [Emergency] will be promulgated according to Minnesota Statutes, Chapter 14, except that the time restrictions of Minnesota Statutes, section 14.35, shall not apply and Minnesota Rules, parts 9505.1050 to 9505.1065 [Emergency] may be in effect until the termination of the demonstration programs. The planned date for termination of the demonstration programs is June 30, 1985.

Minnesota Rules, parts 9505.1050 to 9505.1065 (Emergency) establishes the rights and responsibilities of the Department of Human Services, local agencies, oversight committees, and recipients of Aid to Families with Dependent Children - Unemployed Parent (AFDC-UP) concerning registration, work sites, and sanctions. This rule governs a demonstration program for AFDC-UP recipients in eight Minnesota counties (Dodge, Morrison, Wadena, Itasca, Winona, Todd, Blue Earth, and Otter Tail). The purpose of the Community Work Experience Program (CWEP) is to provide work experience and training for AFDC-UP recipients. The rule contains a definition section; lists the counties eligible for CWEP and prerequisites of operating a CWEP program; describes those AFDC-UP recipients required to participate in CWEP and the exemptions from mandatory participation; describes the length of time and number of months per year CWEP recipients are required to participate in CWEP; describes the amount of reimbursement of participant costs by the local agency and the amount of reimbursement of local agency costs by the federal government; lists the criteria for determining good cause for refusing to accept an assignment and refusing to cooperate with the assignment; prohibits displacement of public employee positions and the action the local agency and exclusive bargaining representative must take before a participant is placed in a work site assignment; lists the procedures for sanctions and appeals; describes the duties of the sponsor, convenor, and oversight committee; and makes the oversight committee subject to the Data Practices Act.

These emergency rules will not result in any additional state or county spending beyond the amount of funds appropriated by the legislature.

A free copy of the proposed emergency rule may be obtained by contacting Linda Kildow, Work and Training Unit, Department of Human Services, Second Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, telephone: 612/297-1373.



LEONARD W. LEVINE
Commissioner of Human Services

EW-25

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES, PARTS 9505.1050 to 9505.1065 (Emergency)

AFFIDAVIT OF ADDITIONAL MAILING

Wendy Johnson, being first duly sworn, deposes and says:

That on the 29 day of August, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, in addition to serving the attached Notice of Intent to Adopt Emergency Rules to all persons and associations who have requested that their names be placed on file with for the purpose of receiving notice of the proposed adoption of rules by this Department, she also served the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following agencies:

Oversight Committees
Legal Aid
Legislators
Special Interest Groups
Federal Officer
CWEP Subcontractors

Wendy Johnson

Subscribed and sworn to before me
this 30 day of August, 1984.

Margaret Holt

MARGARET HOLT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept. 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF PROPOSED EMERGENCY RULES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES PARTS 9505.1050 to 9505.1065 (Emergency)

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. S.14.14, subd. 1, that their names be placed on file with and maintained by the Department of Human Services for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 6:00, P.M., this 29 day of August, 1984.



STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF EMERGENCY RULES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES, PARTS 9505.1050 TO 9505.1065 (EMERGENCY).

FINDINGS OF FACT AND CONCLUSIONS

The Commissioner published notice of proposed Emergency rules on the above-entitled matter in the State Register on September 3, 1984. Notice was also sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, section 14.14, Subdivision 1, on August 29, 1984. After affording all interested and affected persons an opportunity to submit comments for 25 days after the notice and reviewing and considering the comments, I find the following:

1. In Part 9505.1053 (Emergency) subpart 2 of the proposed rule (page 2, lines 32-35) the Department requires that each county that has an approved CWEP program as of January 1, 1984 must submit a written plan before operation of the program can begin. One commentator, Tonja Orr, of the Legal Aid Society of Minneapolis, Inc., suggested that since most of the CWEP programs in the state are already in operation, these program plans should be re-examined to ensure that they comply with the rule. The Commissioner agrees with the above comments and has modified the rule.

p.3

2. In Part 9505.1057 (Emergency) subpart 3 of the proposed rule (page 6, lines 29-33) the Department specifies the amount of participant costs the local agency shall reimburse each participant. In a previous subpart, Part 9505.1057, subpart 1 (page 5, lines 34-35 and page 6, line 1) the Department states the federal law that participants may not be required to use their assistance or their income or resources to pay costs of participating in CWEP. One commentator, Ms. Orr, suggested that subpart 3 be clarified so that if participant costs exceed $25 per person per month and the local agency does not choose to reimburse the recipient

for the full amount, the recipient is exempt from participation in CWEP. The Commissioner agrees that the suggested comment would help clarify the rule and has modified the rule. ✓p.7

3. In Part 9505.1058 (Emergency) of the proposed rule (page 7, lines 15-32) the Department lists situations in which good cause exists for a participant to refuse to accept an available assignment or to refuse to cooperate with the conditions of an assignment. One commentator, Ms. Orr, suggested that those reasons listed in paragraphs A-D do not cover all possible situations in which there is good cause, and this should be clarified. In a previous Part, Part 9505.1057 (Emergency) of the proposed rule (page 6, lines 29-33), the Commissioner accepted changes concerning reimbursement of participant costs. The Commissioner finds it necessary to add that situation to Part 9505.1058 and has modified the rule. ✓p.7

4. In Part 9505.1059 (Emergency) of the proposed rule (page 7, lines 33-35 and page 8, lines 1-2) the Department provides that the work performed must comply with federal regulations. One commentator, Ms. Orr, suggested that the work performed should also comply with state statutory language. The Commissioner agrees, accepts this suggestion and has modified the rule. ✓p.8

5. In Part 9505.1062 (Emergency) subpart 2.A. of the proposed rule (page 9, lines 13-17) the Department allows the CWEP participant at least one day per week to search for work. One commentator, Ms. Orr, suggested that the subpart be clarified to refer to one "business" day. The Commissioner agrees to the clarification and has modified the rule. ✓p.9

6. As a result of the Department's review of the comments received and the proposed rules, the Department has made a minor change to correct a problem of lack of clarity of the proposed rules. Such change did not change the substance of the rules. This change is as follows:
Part 9505.1059 (Emergency) of the proposed rule (page 8, lines 1-2).

7. All comments concerning the proposed emergency rules received within the time period allowed by law were considered by the Department.

8. The changes made to the proposed emergency rule are not substantial changes.

CONCLUSIONS

I hereby conclude that:

1. The Commissioner has statutory authority to promulgate these rules.

2. Proper notice of the Department's intent to adopt the proposed above-captioned emergency rules was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed emergency rules.

3. All modifications made to the proposed emergency rules are supported by the data and views submitted to the Department, and are not substantial changes.

4. The emergency rules, as modified, are necessary and reasonable.

5. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

6. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

7. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

Dated: October 4, 1984

STATE OF MINNESOTA

LEONARD W. LEVINE
Commissioner of Human Services

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES PARTS 9505.1050 - 9505.1065 (EMERGENCY).

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Vicky Sleeper 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Vicki Sleeper
Special Assistant Attorney General

Dated: 10/4/84

STATE OF MINNESOTA
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE OF MINNESOTA DEPARTMENT OF HUMAN SERVICES GOVERNING THE COMMUNITY WORK EXPERIENCE PILOT DEMONSTRATION PROGRAM UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, MINNESOTA RULES, PARTS 9505.1050 - 9505.1065 (EMERGENCY).

AFFIDAVIT OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Linda A. Kildow, being first duly sworn, deposes and says that:

As of September 28, 1984 at 4:30 p.m. no one had requested notice of submission of the proposed emergency rule to the Attorney General pursuant to Minnesota Statutes 1984, sections 14.30 and 14.32.

I have submitted the above captioned rules to the Office of the Attorney General on this date, October 4, 1984 for review for form and legality.

Linda A. Kildow

Subscribed and sworn to
before me this 4th day of
October, 1984.

WAYLAND E. CAMPBELL
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 20, 1986