

STATE OF MINNESOTA  
COUNTY OF RAMSEY

BEFORE THE MINNESOTA  
COMMISSIONER OF ENERGY,  
PLANNING AND DEVELOPMENT

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

STATEMENT OF NEED  
AND REASONABLENESS

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

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

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

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

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

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

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

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

## II. REASONABLENESS OF PROPOSED RULE.

### 4MCAR §2.110 Definition.

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

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

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

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

agency.

#### 4MCAR §2.111 Preapplication Conference

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

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

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

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

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

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

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

#### 4MCAR §2.112 Written Review and Opinion

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

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

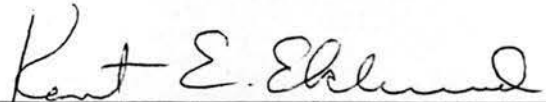
C. Extensions. This section provides for extensions of the 60 day time limit and provides for informing the person requesting the conference of any such extension. It is necessary to have such a rule since Minn. Stat. 362.473, subd. 3 provides that the director may extend the 60 day deadline at the request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

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

opinion was prepared.

Dated: March 1, 1982

STATE OF MINNESOTA  
COMMISSIONER OF ENERGY, PLANNING  
AND DEVELOPMENT



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Kent E. Eklund  
Commissoner