

1 Department of Employee Relations

2

3 Adopted Rules Regarding the State Personnel System

4

5 Rules as Adopted

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7 Chapter One: Scope and Definitions

8 2 MCAR S 2.300 Scope of the rules. Rules 2 MCAR SS 2.300-2.417

9 supplement and clarify the provisions of Minnesota Statutes,
10 chapter 43A which generally affect the rights of or processes
11 available to the general public. They also apply to state
12 employees of the executive branch when the employees participate
13 in any process that is available to the general public. Unless
14 otherwise stated, these rules apply to positions in the civil
15 service in the executive branch, the office of the Legislative
16 Auditor, the Minnesota State Retirement System, and the Teachers
17 Retirement Association.

18 2 MCAR S 2.301 Other elements of the state personnel system.

19 A. Commissioner. The commissioner is the chief personnel
20 and labor relations manager for the civil service of the
21 executive branch. The commissioner is responsible for carrying
22 out Minnesota Statutes, chapter 43A. Personnel rules are one of
23 several elements used to implement Minnesota Statutes, chapter
24 43A. Other elements are described in B., C., and D.

25 B. Collective bargaining agreements. Collective bargaining
26 agreements define or describe terms and conditions of employment
27 between the state and exclusive representatives of employees as
28 directed under Minnesota Statutes, sections 179.61 to 179.76.
29 Provisions of collective bargaining agreements supersede
30 inconsistent provisions of 2 MCAR SS 2.300-2.417 for employees
31 covered under these agreements.

32 C. Other employment plans. Certain plans established and
33 approved under Minnesota Statutes, section 43A.18 define or
34 describe terms and conditions of employment for all classified
35 and unclassified employees in the executive branch who are not

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1 covered by a collective bargaining agreement. Provisions of
2 these plans supersede inconsistent provisions of 2 MCAR SS
3 2.300-2.417 for employees covered by these plans.

4 D. Administrative procedures. Certain administrative
5 procedures adopted in accordance with Minnesota Statutes,
6 section 43A.04, subdivision 4 define or describe employee
7 relations programs, activities, and elements for state agency
8 management and employees but do not directly affect the rights
9 of or processes available to the general public.

10 2 MCAR S 2.302 Application. Personnel actions taken before the
11 effective date of 2 MCAR SS 2.300-2.417 are governed by the
12 rules that were in effect on the date when the actions were
13 taken.

14 2 MCAR S 2.303 Definitions.

15 A. Applicability. For purposes of 2 MCAR SS 2.300-2.417,
16 the terms defined in this rule have the meanings given them.
17 Terms used in 2 MCAR SS 2.300-2.417 which are defined in
18 Minnesota Statutes, section 43A.02 and 2 MCAR S 2.402 shall have
19 the meanings there given them.

20 B. Affirmative action. "Affirmative action" means a
21 management point of view that all barriers to employment
22 opportunity that are not based on specific job requirements
23 should be identified and removed and that initial employment and
24 advancement opportunities for persons in protected groups shown
25 to be underutilized in an agency's work force should be
26 facilitated so that the imbalance is redressed.

27 C. Affirmative action plan. "Affirmative action plan" means
28 a coherent set of management policies and procedures designed to
29 find any barriers contributing to imbalance in an agency's work
30 force and to foster the correction of any imbalances which exist.

31 D. Agency subdivision. "Agency subdivision," for purposes
32 of affirmative action, means a state hospital or nursing home,
33 state school, state university, community college, correctional
34 facility, or regional or district office under the jurisdiction
35 of a state agency, which is geographically separate and which

1 has an appointing authority.

2 E. Department. "Department" means the Department of
3 Employee Relations, including the commissioner and the employees
4 of the department.

5 F. Director. "Director" means the state director of the
6 Equal Opportunity Division, Department of Employee Relations.

7 G. Emergency employee. "Emergency employee" means an
8 employee who is appointed for no more than 30 aggregate working
9 days in any 12-month period for any single appointing authority.

10 H. Employment condition. "Employment condition" means any
11 limitation on continuous employment caused by the number of
12 hours of work assigned to an employee, and his or her
13 appointment status. Hours of work may be full time, part time,
14 or intermittent. Appointment status may be unlimited, limited
15 temporary, limited emergency, or seasonal.

16 I. Full-time employee. "Full-time employee" means an
17 employee who is normally scheduled to work 80 hours in a
18 biweekly payroll period.

19 J. Goal. "Goal" means a numerical objective designed to
20 correct an identified deficiency in the utilization of protected
21 group members.

22 K. Goal unit. "Goal unit" means:

23 1. each of the groups of classifications in an agency or
24 agency subdivision assigned to the units defined in Minnesota
25 Statutes, section 179.741, subdivision 1;

26 2. the group of employees in an agency or agency
27 subdivision whose terms and conditions of employment are subject
28 to the provisions of Minnesota Statutes, section 43A.18,
29 subdivision 2;

30 3. the group of employees in an agency or agency
31 subdivision whose terms and conditions of employment are subject
32 to the provisions of Minnesota Statutes, section 43A.18,
33 subdivision 3; or

34 4. the group of employees in an agency or agency
35 subdivision whose total compensation is subject to the
36 provisions of Minnesota Statutes, section 43A.18, subdivision 4.

1 L. Handicapped person. "Handicapped person" means any
2 person who has a physical or mental impairment which
3 substantially limits one or more major life activities, has a
4 record of such an impairment, or is regarded as having such an
5 impairment. "Handicapped" does not include any individual who
6 is an alcohol or drug abuser whose current use of alcohol or
7 drugs prevents the individual from performing the duties of the
8 job in question or whose employment, by reason of current
9 alcohol or drug abuse, would constitute a direct threat to
10 property or the safety of others.

11 M. L. Intermittent employee. "Intermittent employee" means
12 an employee who works an irregular and uncertain schedule which
13 alternately begins, ceases, and begins again as the needs of the
14 agency require.

15 N. M. Labor force statistics. "Labor force statistics"
16 means the estimated number of persons 16 years old or older who
17 are working, seeking work, or unemployed at the time as
18 determined by the most recent federal census published by the
19 United States Department of Commerce, Bureau of the Census.

20 O. N. Labor market area. "Labor market area" means a
21 geographic area in which an employer is seeking a worker in a
22 particular goal unit and where there is an available supply of
23 workers employed or seeking jobs in that goal unit.

24 P. O. Part-time employee. "Part-time employee" means an
25 employee who is normally scheduled to work fewer than 80 hours
26 in a biweekly payroll period.

27 Q. P. Seasonal employee. "Seasonal employee" means an
28 employee who is appointed for no more than ten months during any
29 12 consecutive months but who is expected to return to work year
30 after year.

31 R. Q. Temporary employee. "Temporary employee" means an
32 employee who is appointed with a definite ending date. A
33 temporary employee's term of employment may not exceed a total
34 of 12 months in any 24-month period in any one agency.

35 S. R. Timetable. "Timetable" means a prescribed reasonable
36 time period in which affirmative action goals are expected to be

1 achieved.

2 F. S. Underutilization. "Underutilization" means the
3 employment in a goal unit of fewer qualified protected group
4 members than would reasonably be expected from their workforce
5 participation in the labor market area.

6 U. T. Unlimited employee. "Unlimited employee" means an
7 employee who is appointed with no definite ending date.

8

9 Chapter Two: Classification

10 2 MCAR S 2.306 Use of class titles. The title of the class is
11 the official title of every position allocated to that class for
12 all purposes having to do with the position. The title is used
13 on all personnel records, payroll records, budget estimates,
14 official records, and reports related to the position. An
15 appointing authority may use any other working title to
16 designate a particular position for the purposes of internal
17 administration and in any other connection not involving the
18 personnel processes covered by administrative procedures,
19 statutory law, or 2 MCAR SS 2.300-2.417.

20 2 MCAR S 2.307 Class specifications. The commissioner shall
21 provide make available for public inspection, and may amend,
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23 written class specifications for any class in the classification
24 plan. Each class specification must include the class title, a
25 general description of the scope of the work, and the knowledge,
26 skills, and abilities an incumbent should possess in order to
27 perform duties of the class. If a classification consists of
28 only one position, the commissioner may use the position
29 description as the class specification.

30 Definitions used in class specifications are descriptive
31 and not restrictive, indicating the kinds of positions allocated
32 to classes, and are not to be construed as limiting in any way
33 or modifying the power of the appointing authority to appoint,
34 direct, and control the work of employees. Using a particular
35 expression or illustration of duties does not exclude other
duties not mentioned that are of a similar kind or quality.

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Chapter Three: Wage and Salary

3 2 MCAR S 2.311 Administration of the wage and salary plan.

4 A. Scope. Rule 2 MCAR S 2.311 applies to all classified and
5 unclassified positions in the executive branch, the classified
6 positions in the office of the Legislative Auditor, the
7 Minnesota State Retirement System, and the Teachers Retirement
8 Association, which have been assigned to salary ranges by the
9 commissioner. The rule is conditional upon the availability of
10 funds and authorization by the commissioner of finance.

11 B. Salary upon entry into civil service. Salary upon entry
12 into civil service should usually be at the minimum rate for the
13 classification. An appointing authority may make an appointment
14 at the second or third step of a range or within 12 percent of
15 the minimum rate for the class when the salary range does not
16 contain steps. An appointing authority must receive prior
17 authorization from the commissioner to make an appointment at or
18 beyond the fourth step of the salary range or more than 12
19 percent above the minimum rate when the range does not contain
20 steps. The commissioner may disapprove an unauthorized salary
21 offer by an appointing authority beyond the third step of a
22 salary range or more than 12 percent from the minimum rate.
23 Appointments above the minimum rate must be based upon the
24 exceptional qualifications of the candidate or the
25 unavailability of candidates at the minimum rate. Salaries paid
26 to current employees in the same or related classifications must
27 also be taken into consideration.

28 C. Salary upon reinstatement or appointment from a
29 reemployment list. If a former employee is reinstated or
30 reemployed in a classification in which the employee was
31 previously employed, the appointing authority may make the
32 appointment at the same rate of pay the employee had been
33 receiving at the time of his or her last separation from that
34 classification plus any automatic adjustments that may have been
35 made since the employee left the civil service or the
36 classification. Appointments above this rate of pay must be

1 approved by the commissioner before they can take effect.
2 Automatic adjustments include, but are not limited to,
3 across-the-board adjustments, equity adjustments, and
4 cost-of-living adjustments and do not include
5 performance-related increases that the employee might have
6 received had he or she remained in the classification.

7 2 MCAR S 2.312 Relocation expenses.

8 A. Conditions for reimbursement. An appointing authority
9 may reimburse a person for relocation expenses associated with
10 an initial appointment in the civil service. Authorization for
11 relocation expenses must be made on or before the date of hire.
12 The relocation must be completed within six calendar months
13 unless the time period is extended, in writing, to a maximum of
14 one year by the appointing authority.

15 B. Reimbursement limits. The reimbursement limit is that
16 prescribed in the collective bargaining agreement or the
17 compensation plan which applies to the position being filled.
18 The appointing authority may establish lower limits for both the
19 type and amount of reimbursement. Payment for relocation
20 expenses may be made after the person has become an employee.

21 C. State not responsible for loss or damage. The state of
22 Minnesota is not responsible for loss or damage to household
23 goods or personal effects as a result of a relocation covered by
24 this rule.

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Chapter Four: Recruitment

27 2 MCAR S 2.316 Scope of competition. The commissioner shall
28 decide whether to announce an examination on a competitive open
29 or competitive promotional basis or both. To make this
30 decision, the commissioner shall consider:

31 A. the requests of appointing authorities;

32 B. the provisions of collective bargaining agreements or
33 plans established under Minnesota Statutes, section 43A.18 that
34 could limit the opportunities of applicants from outside the
35 civil service to receive consideration for appointment;

1 C. the anticipated number of qualified applicants within and
2 outside the civil service;

3 D. ways to meet affirmative action goals; and

4 E. career opportunities and mobility for employees.

5 2 MCAR S 2.317 Public notice of examinations. The commissioner
6 shall provide public notice of the opening of competitive open
7 examinations by posting announcements on the public bulletin
8 board at the department for at least seven days. The
9 commissioner may publicize examination announcements in any way
10 he or she considers appropriate to attract qualified
11 applicants. These ways may include providing notice of
12 announcements in newspapers or appropriate public offices.

13 2 MCAR S 2.318 Contents of announcements of examinations.
14 Announcements of examinations must specify the title of the
15 class or class option, typical job duties, components of the
16 examination process, limitations on applicant admission, the
17 date by which applications must be received, and the place where
18 applications should be submitted. Announcements may contain any
19 other information that the commissioner considers useful to
20 attract qualified applicants.

21 2 MCAR S 2.319 Expenses of candidates for civil service
22 positions. The commissioner or an appointing authority may pay
23 travel expenses for candidates or eligibles invited to
24 participate in oral examinations or employment interviews. In
25 determining to pay travel expenses, the commissioner or an
26 appointing authority will consider the availability of qualified
27 candidates, the needs of the agency or state service, and the
28 availability of funds. Any expenses paid are subject to the
29 provisions of the commissioner's plan, established under
30 Minnesota Statutes, section 43A.18, subdivision 2, regarding
31 types and maximum amounts of reimbursement.

32

33 Chapter Five: Competitive Open Examinations

34 2 MCAR S 2.320 Applications. Applicants shall apply for

1 competitive open examinations on forms prescribed by the
2 commissioner. The forms must be used to ask for information for
3 use in the examination and appointment process, including an
4 indication of applicant availability for certain geographic
5 locations, employment conditions, or travel. The application
6 form must contain a statement that providing false information
7 on the application may subject the applicant to the penalty
8 provisions of Minnesota Statutes, section 43A.39. It must also
9 contain a statement explaining why private or confidential
10 information is being collected and the purpose for which it is
11 to be used and must indicate that the appointing authority has
12 the right to verify information provided in the application.

13 2 MCAR S 2.321 Admissions.

14 A. General. The commissioner shall admit to examinations
15 applicants whose completed applications are received at the
16 place specified in the examination announcement on or before the
17 specified date.

18 The commissioner may admit an applicant who has submitted
19 an incomplete timely application but shall require completion of
20 the application. The commissioner shall withdraw the
21 applications of applicants who fail to respond to requests for
22 information within a specified period.

23 B. Limited admissions. The commissioner may limit admission
24 to those applicants who indicate their availability for
25 geographic locations and employment conditions specified in the
26 examination announcement.

27 The commissioner may announce the maximum number of
28 candidates whose names will be placed on the list or who will be
29 permitted to compete in any of the separate examination parts.

30 The commissioner may admit candidates to later examination
31 parts in rank order of rating on the previous parts, and may
32 invite additional candidates to complete the examination process
33 as the need arises to create or expand an eligible list.

34 C. Refusal to admit to an examination. To protect the
35 security of an examination, the commissioner may refuse to admit
36 an applicant to an examination or examination part when the

1 applicant has taken the same examination or examination part
2 within the preceding six months. In deciding whether to let an
3 applicant repeat an examination or examination part, the
4 commissioner shall consider the type of examination questions
5 involved, the effect of memory and practice, the availability of
6 untested applicants and other circumstances regarding the
7 examination, needs of agencies, and situations of individual
8 applicants. If the same examination or examination part is used
9 more than once within a six-month period for the same or a
10 different classification, an applicant who has been refused
11 admission because of a six-month retest prohibition may submit
12 an application and have the score he or she obtained on the
13 previous examination or examination part apply to the subsequent
14 examination or examination part.

15 The commissioner may remove from further consideration the
16 applications of candidates who do not appear at the scheduled
17 time or place for an examination or examination part.

18 D. Notice of admittance and refusal to admit. The
19 commissioner shall notify candidates of the date, time and place
20 for those parts of the examination process which require the
21 candidate to appear in person.

22 The commissioner shall give an applicant the reasons for
23 refusing to accept an application or to admit an applicant to an
24 examination or examination part.

25 2 MCAR S 2.322 Change of application deadline or examination
26 date. The commissioner may postpone the last date for filing
27 applications and the date of any examination part or may cancel
28 an examination or examination part. In these cases, the
29 commissioner shall notify candidates of the new date or
30 cancellation.

31 2 MCAR S 2.323 Administration of examinations. The commissioner
32 will administer all examination parts at the time and place and
33 by the personnel he or she decides most nearly meet the needs of
34 the service.

35 2 MCAR S 2.324 Scoring of examinations. The commissioner shall

1 decide the appropriate scientific techniques and procedures to
2 be used to score examinations and to determine the ratings of
3 candidates. The commissioner shall set the minimum rating for
4 achieving eligibility considering the requirements of the class
5 and the number of vacancies anticipated while the eligible list
6 is in force. Final ratings of candidates will be determined by
7 computing the earned rating on each examination part in
8 accordance with the weights established for each part. The
9 commissioner may require candidates to obtain a minimum rating
10 on each examination part in order to receive a final passing
11 rating or to pass all preceding examination parts in order to be
12 rated on the remaining parts of the examination process.
13 Veterans preference points will be assigned in accordance with
14 Minnesota Statutes, section 43A.11 and applied only after a
15 candidate has attained a final passing examination rating.
16 Where rating procedures involve assignment of a numerical score,
17 a score of 70 is required to pass and a score of 100 is the
18 maximum score.

19 2 MCAR S 2.325 Notification of examination ratings. The
20 commissioner shall give written notice to all candidates of
21 their rating and must keep these ratings as official records of
22 the department.

23 2 MCAR S 2.326 Explanation and appeals of examination ratings.
24 Upon request, the commissioner shall give a candidate or his or
25 her authorized representative an explanation of the methods used
26 to determine an examination rating. A candidate may appeal to
27 the commissioner in writing for reconsideration of his or her
28 examination rating. The appeal must be received in the
29 department within 30 calendar days of the date on the notice of
30 examination rating and shall state the grounds for the appeal.
31 The commissioner shall grant a review on the grounds of error,
32 irregularity or fraud in the conduct or scoring of the
33 examination or upon submission of additional information
34 affecting the original rating.

35 If a review discloses errors, fraud, or irregularities

1 affecting the ratings of other candidates, the review may be
2 extended to the ratings of those candidates.

3 The commissioner ~~may~~ must change the rating of a candidate
4 if additional information affecting the original rating is
5 submitted or if an error was made in the original rating, or ~~may~~
6 must order a new examination or a revision to the examination
7 for the candidate or for all competitors if an error or
8 irregularity occurred in the conduct or scoring of the
9 examination.

10 A change made in the rating of a candidate as the result of
11 an appeal will not affect an appointment already made in good
12 faith as the result of original ratings.

1 Chapter Seven: Establishment and Maintenance
2 of Eligible Lists

3 2 MCAR S 2.341 Eligible lists. The commissioner shall keep
4 eligible lists in accordance with Minnesota Statutes, sections
5 43A.11, subdivision 7 and 43A.12. If, after applying Minnesota
6 Statutes, section 43A.11, subdivision 7, the commissioner finds
7 that two or more candidates have identical final ratings, the
8 commissioner shall place their names on the eligible list in
9 descending order of the last four digits of their social
10 security numbers with larger numbers coming first.

11 2 MCAR S 2.342 Reemployment lists and reinstatement. An
12 appointing authority may directly reinstate a former permanent
13 or probationary employee to a vacancy in the same class within
14 three years of the former employee's separation from that class.

15 The commissioner shall establish and maintain a
16 reemployment list of former permanent or probationary employees
17 of the class who apply for reemployment within three years of
18 separation from the class. In deciding whether to place the
19 name of a former employee on the reemployment list, the
20 commissioner shall consider the reemployment rating reported by
21 the person's former appointing authority.

22 2 MCAR S 2.343 Duration of eligible lists. The commissioner
23 shall decide how long competitive open and reemployment eligible
24 lists will remain in effect. Under Minnesota Statutes, section
25 43A.12, a list must remain in effect for at least six months
26 unless the class for which the examination was given is
27 abolished.

28 To determine whether to abolish or continue an eligible
29 list after six months, the commissioner shall consider the
30 following factors: whether the examination process has changed,
31 how many vacancies are anticipated, when the examination was
32 last administered, how many eligibles are still available, and
33 how often the existing eligible list has been used. If a
34 competitive open eligible list exists for a class and the
35 commissioner considers it necessary to establish another

1 competitive open list for the same class, the existing list must
2 either be abolished or combined with the new list by placing
3 names of all eligibles in order of their final ratings.

4 A candidate's eligibility begins on the date a candidate's
5 name is placed on an eligible list and continues for the
6 duration established by the commissioner for that eligible list
7 except as otherwise provided in 2 MCAR SS 2.300-2.417. If it
8 becomes necessary to abolish an eligible list before the
9 published expiration of eligibility, the commissioner shall
10 notify eligibles and offer them the opportunity to reapply if
11 the examination is to be reannounced.

12 2 MCAR S 2.344 Removal of names from eligible lists. The
13 commissioner may remove names from eligible lists permanently or
14 temporarily in accordance with Minnesota Statutes, section
15 43A.13, subdivision 8, or in any of the following situations:

- 16 A. when the eligible has been appointed to fill a permanent
17 position in the class;
- 18 B. when the eligible has been appointed to fill a permanent
19 position in another class at a comparable or higher salary;
- 20 C. when the eligible fails to respond within seven days from
21 the date of mailing to a written inquiry of the commissioner or
22 an appointing authority about availability for appointment;
- 23 D. when the eligible declines an appointment under
24 conditions the eligible previously indicated would be acceptable;
- 25 E. when the eligible fails to report for a scheduled
26 employment interview or for work within the time period
27 prescribed by an appointing authority;
- 28 F. when the eligible fails to maintain a record of current
29 address; and
- 30 G. when the appointing authority documents that an eligible
31 does not meet the requirements of the position or the eligible
32 fails to successfully complete a required examination part
33 administered following certification.

34 2 MCAR S 2.345 Notice of removal of names from eligible lists.
35 The commissioner shall notify eligibles in writing when

1 permanently removing names in accordance with 2 MCAR S 2.344 G.
2 and Minnesota Statutes, section 43A.13, subdivision 8.

3 2 MCAR S 2.346 Restoration of names to eligible lists. An
4 eligible whose name is removed from an eligible list in
5 accordance with 2 MCAR S 2.344 may request in writing that the
6 commissioner restore his or her name to the list for the
7 duration of the list. The request must state why the eligible
8 believes his or her name should be restored to the eligible
9 list. After reviewing the request, the commissioner may restore
10 the eligible's name to the eligible list.

11 2 MCAR S 2.347 Changes in availability. Eligibles may notify
12 the commissioner of changes in their availability at any time
13 while the eligible list is in force.

14

15 Chapter Eight: Certification of Eligibles

16 2 MCAR S 2.351 Order of certification. The commissioner shall
17 certify eligibles to vacancies from whichever eligible list he
18 or she finds appropriate, considering any requests of an
19 appointing authority for a specific eligible list and any
20 obligations under collective bargaining agreements or plans
21 established under Minnesota Statutes, section 43A.18. Eligibles
22 shall be certified as provided in Minnesota Statutes, section
23 43A.13.

24 The commissioner shall generally certify in the following
25 order: layoff lists; competitive promotional lists; and
26 competitive open and reemployment lists.

27 2 MCAR S 2.352 Selective certification. When the commissioner
28 is satisfied that the job-related information given by an
29 appointing authority warrants the action, he or she may limit
30 certification to the eligibles possessing identified special
31 qualifications.

32 2 MCAR S 2.353 Incomplete and augmented certification. If
33 certified eligibles are unavailable for hire, an appointing
34 authority may request a new certification or request that

1 additional names be added to the certification. Additional
2 names will be added in order of standing to bring the number to
3 the maximum allowable by law. If the request to add names is
4 made more than 30 days after the original certification date,
5 the commissioner will provide a new certification from the
6 eligible list.

7 If additional names are not available and the certification
8 contains fewer names than authorized by law, the commissioner
9 may decide that the remaining names certified are sufficient to
10 provide a reasonable selection and that they constitute a
11 complete certification. The commissioner may instead augment
12 the incomplete certification with names from other types of
13 eligible lists for the class or from eligible lists for classes
14 of higher or similar compensation if the commissioner determines
15 the examination reasonably measures the ability to perform the
16 duties of the class for which certification is made.

17 2 MCAR S 2.354 Revised certification. If the rating of an
18 eligible is changed as the result of an appeal under 2 MCAR S
19 2.326, and the change places the eligible's rating among those
20 of other eligibles certified to a vacancy in accordance with
21 Minnesota Statutes, section 43A.13, the commissioner shall add
22 the eligible's name to that certification. At the discretion of
23 the commissioner, the name of an eligible who has changed a
24 statement of availability in accordance with 2 MCAR S 2.347 may
25 be added to a certification if the change places the eligible's
26 rating among those of other eligibles who were certified under
27 Minnesota Statutes, section 43A.13. The addition of a name in
28 accordance with this rule does not affect an employment offer
29 already made.

30

31 Chapter Nine: Appointments

32 2 MCAR S 2.355 Appointments. Positions in the classified
33 service must be filled by appointments from eligible lists
34 except as otherwise provided by Minnesota Statutes, chapter 43A
35 and 2 MCAR SS 2.300-2.417. An appointing authority may select

1 an eligible from an eligible list after comparing the knowledge,
2 skills, and abilities of the eligibles with the specific needs
3 of the position and agency. Specific needs include meeting
4 agency affirmative action goals.

5 The appointing authority is responsible for verifying all
6 job-related information on all prospective employees for civil
7 service positions. On or before the appointment date, the
8 appointing authority should explain to the prospective employee
9 his or her proposed classification title, employment status,
10 salary, and terms and conditions of employment. The appointing
11 authority shall submit appropriate appointment forms to the
12 commissioner which must include the effective date of
13 appointment. Appointments made from eligible lists are
14 effective only on or after the date of certification.

15

16 Chapter Ten: Other Means of Filling Positions in the
17 Civil Service

18 2 MCAR S 2.361 General. In addition to filling vacancies in the
19 civil service by appointing certified eligibles, appointing
20 authorities may make noncompetitive, qualifying, labor service,
21 work training, internship, or unclassified appointments in
22 accordance with Minnesota Statutes. Those appointments may be
23 made when authorized by the commissioner or by statute and are
24 subject to 2 MCAR SS 2.361-2.370.

25 2 MCAR S 2.362 Emergency appointments. An appointing authority
26 may make an emergency appointment to meet unique and immediate
27 needs. The appointing authority may appoint any person he or
28 she considers qualified. Appointments are limited to 30 working
29 days in any 12-month period by Minnesota Statutes, section
30 43A.15, subdivision 2.

31 2 MCAR S 2.363 Temporary appointments. The commissioner may
32 approve an appointing authority's written request for a
33 temporary appointment for:

- 34 A. filling a vacancy funded for six months or less;
35 B. providing an employee for a temporary project not

1 anticipated to last more than six months;

2 C. filling a vacancy created by an approved leave of absence
3 to a maximum of one year; or

4 D. unusual documented instances, when an appointing
5 authority asks to make a temporary appointment of six months or
6 less to a position otherwise authorized for more than six months.

7 An appointing authority may request authorization to make a
8 direct temporary appointment of any person he or she considers
9 qualified in accordance with Minnesota Statutes, section 43A.15,
10 subdivision 3. The commissioner may certify any qualified
11 eligible from an appropriate eligible list or may authorize the
12 appointing authority to make a direct appointment of a person he
13 or she considers qualified or both. In making this decision,
14 the commissioner will consider requests from the appointing
15 authority, the anticipated length of the temporary appointment,
16 and the number and availability of eligibles for temporary
17 appointments.

18 2 MCAR S 2.364 Provisional appointments.

19 A. Authorizing provisional appointments. The commissioner
20 may authorize a provisional appointment in accordance with
21 Minnesota Statutes, section 43A.15, subdivision 4, after
22 considering the following documentation submitted by the
23 appointing authority:

24 1. an explanation of the urgent reason for filling the
25 vacancy which makes it impractical to await results of a
26 competitive examination;

27 2. a statement that there is no appropriate eligible list
28 available or that all eligible candidates on an incomplete
29 certification from an eligible list are unavailable or
30 unsuitable for appointment, including a specific statement of
31 the job-related reasons for determining an eligible to be
32 unsuitable; and

33 3. a description of the nominee's qualifications in the
34 form prescribed by the commissioner to permit examination of the
35 nominee's qualifications to determine whether the nominee is
36 qualified to be provisionally appointed to the position as

1 required by Minnesota Statutes, section 43A.15, subdivision 4.

2 B. Terminating provisional appointments. The appointing
3 authority shall terminate a provisional appointment 90 days
4 after the commissioner provides a certification from which an
5 appointment could be made, or after six months, whichever is
6 earlier. However, in individual cases, the commissioner may
7 grant exceptions and extend provisional appointments in
8 accordance with Minnesota Statutes, section 43A.15, subdivision
9 4, if the appointing authority documents a continued shortage of
10 qualified eligibles.

11 2 MCAR S 2.365 Transfers from other public jurisdictions.

12 A. Permitted transfers or demotions. The commissioner may
13 approve the transfer or voluntary demotion of an employee from
14 another public jurisdiction if the following conditions are met:

15 1. the employee is currently working in the other public
16 jurisdiction or has worked in the other public jurisdiction
17 within the preceding year;

18 2. the position held by the employee in the other public
19 jurisdiction is covered by a personnel system with competitive
20 entry and promotion standards, comparable in duties and
21 responsibilities to the Minnesota classified position, and
22 compensated at a level similar to or higher than the position to
23 which the employee is being transferred or demoted; and

24 3. the employee meets the qualifications for the class to
25 which he or she is being transferred or demoted.

26 B. Disallowed transfers. The commissioner shall not approve
27 the transfer of an employee to a position funded by a
28 grant-in-aid agency program from a public jurisdiction without a
29 federally approved merit system.

30 2 MCAR S 2.366 Exceptional appointments. The commissioner may
31 authorize an exceptional appointment in accordance with
32 Minnesota Statutes, section 43A.15, subdivision 8, after
33 considering the following documentation submitted by the
34 appointing authority:

35 A. a statement that the position requires exceptional

1 qualifications of a scientific, professional, or expert nature;

2 B. a statement that the intended appointee possesses the
3 qualifications; and

4 C. a statement that it is impracticable to conduct a
5 competitive examination to select a suitable candidate.

6 2 MCAR S 2.367 Routine service appointments. Appointing
7 authorities may make routine service appointments only to
8 positions in classes determined by the commissioner to be of a
9 routine service nature as provided in Minnesota Statutes,
10 section 43A.15, subdivision 10. The commissioner shall give
11 public notice as provided in 2 MCAR S 2.317 designating the
12 routine service classes and describing the procedures used in
13 recruiting and selecting persons for appointment.

14 2 MCAR S 2.368 Shortage occupation appointments. An appointing
15 authority may make shortage occupation appointments only to
16 positions in classes determined to be in critically short supply
17 of qualified applicants. The commissioner shall make this
18 determination in accordance with Minnesota Statutes, section
19 43A.15, subdivision 11, considering documentation regarding the
20 unavailability of qualified applicants for positions in the
21 class, the length of time positions in the class remain vacant,
22 and recruiting efforts made to secure applicants for the class.
23 The commissioner shall give public notice as provided in 2 MCAR
24 S 2.317 designating the shortage occupation classes and
25 describing the recruiting, qualifying examination, and referral
26 processes to be used in filling positions in these classes.

27 2 MCAR S 2.369 Work training appointments. Appointing
28 authorities may make work training appointments only to
29 positions in work training programs approved by the
30 commissioner. These appointments shall be of a predetermined
31 duration.

32 Work training programs must include trainee recruitment and
33 selection procedures that incorporate public notice of intent to
34 accept applications for training.

1 2 MCAR S 2.370 Internship appointments. Appointing authorities
2 may make internship appointments only to positions in programs
3 established in cooperation with accredited educational
4 institutions. These appointments shall be of a predetermined
5 duration.

6 The internship appointment must provide academic credit or
7 fulfillment of academic requirements for the participating
8 student. An appointing authority is responsible for providing
9 information about available programs and positions to
10 institutions and students.

11

12 Chapter Eleven: Conflict of interest

13 2 MCAR S 2.381 Reporting and investigating conflict of
14 interest. A member of the public may report an alleged conflict
15 of interest concerning a civil service employee subject to the
16 code of ethics in Minnesota Statutes, section 43A.38 to the
17 commissioner or the employee's appointing authority. The
18 appointing authority shall cooperate with the commissioner in
19 investigating complaints. If the commissioner decides that a
20 conflict of interest exists, the commissioner shall direct the
21 appointing authority to take action in accordance with Minnesota
22 Statutes, section 43A.38, subdivision 7. The appointing
23 authority shall report actions taken to the commissioner within
24 ten calendar days.

25

26 Chapter Twelve: Statewide Affirmative Action Program

27 2 MCAR S 2.391 Affirmative action policy. It is the policy of
28 the state of Minnesota to implement and maintain an affirmative
29 action program designed to eliminate underutilization of
30 qualified protected group members within the state civil service
31 through a series of specific, result-oriented procedures
32 combined with good faith effort. A good faith effort minimally
33 includes consideration of affirmative action goals on all
34 staffing and personnel decisions.

35 2 MCAR S 2.392 Scope of chapter. This chapter applies to all

1 agencies in the executive branch and to classified and
2 unclassified positions of those agencies. In the event of a
3 conflict or duplication between requirements of this chapter and
4 federal regulations and at the request of the agency head, the
5 commissioner may permit an agency to substitute a federally
6 required procedure for a similar procedure otherwise required by
7 this chapter.

8 2 MCAR S 2.393 Duties of the agency head. The agency head shall
9 administer the agency's affirmative action program in compliance
10 with existing laws, federal regulations, and state rules. The
11 agency head is accountable for affirmative action compliance to
12 the governor and to the commissioner.

13 2 MCAR S 2.394 Requirements for agency affirmative action plans.

14 A. For agencies with 25 or more employees. The head of each
15 agency with 25 or more employees shall submit to the
16 commissioner an affirmative action plan for the agency. The
17 plan must at least:

- 18 1. identify the protected group or groups
19 underrepresented in the agency's work force and, therefore,
20 covered by the affirmative action plan;
- 21 2. designate those persons or groups responsible for
22 directing and implementing the agency affirmative action program
23 and the specific responsibility, accountability, and duties of
24 each person or group;
- 25 3. state the agency head's commitment to the affirmative
26 action program and to the implementation of the agency
27 affirmative action plan;
- 28 4. specify a readily accessible location for the posting
29 of the agency's affirmative action plan;
- 30 5. describe the methods by which the agency's affirmative
31 action program is communicated internally and externally to
32 employees and other interested persons;
- 33 6. describe internal procedures, which must comply with 2
34 MCAR S 2.395, for processing complaints of alleged
35 discrimination from applicants, eligibles, and employees;

1 7. set goals and timetables, which must be established
2 using the standards in 2 MCAR S 2.396;

3 8. identify and describe methods for developing programs
4 and program objectives designed to meet affirmative action goals;

5 9. describe methods of auditing, evaluating, and
6 reporting program success, including a procedure that requires a
7 preemployment review of all hiring decisions for goal units with
8 unmet affirmative action goals and prereview of all layoff
9 decisions to determine their effect on agencies' affirmative
10 action goals and timetables; and

11 10. include the official affirmative action transmittal
12 form which provides for section by section verification of the
13 plan's components.

14 At the discretion of the agency head, the affirmative
15 action plan may contain other provisions not in conflict with
16 this chapter.

17 B. For agencies with fewer than 25 employees. The head of
18 each agency with fewer than 25 employees shall submit to the
19 commissioner an affirmative action plan for the agency, which
20 must at least:

21 1. state the agency head's commitment to the affirmative
22 action program;

23 2. state the agency head's objective to hire members of
24 protected groups when vacancies occur if an apparent
25 underutilization of protected group members exists in the agency
26 work force; and

27 3. describe an internal procedure, which must comply with
28 2 MCAR S 2.395, for processing complaints of alleged
29 discrimination from applicants, eligibles, and employees.

30 2 MCAR S 2.395 Requirements for complaint procedures. In an
31 agency's internal procedure for processing complaints of alleged
32 discrimination from applicants, eligibles, and employees, the
33 initial step must provide for a determination of whether the
34 complaint is properly a discrimination complaint and, therefore,
35 appropriate to be addressed by the internal procedure. Time
36 limits on these determinations must be established to permit the

1 applicant, eligible, or employee to pursue a complaint
2 determined to be other than a discrimination complaint through
3 other appropriate grievance procedures in accordance with the
4 time limits of those procedures. Complaint procedures must also
5 provide for a final written answer within 60 days after a formal
6 complaint is filed. Disposition of complaints must be filed
7 with the commissioner within 30 days of final determination.

8 2 MCAR S 2.396 Requirements for goals and timetables.

9 A. General requirement. In establishing goals and
10 timetables for affirmative action plans, agency heads shall
11 comply with B.-F.

12 B. Labor force statistics. In establishing goals for
13 affirmative action plans, agency heads shall use labor force
14 statistics from census data when available to examine work force
15 participation. When an agency requests the authority to
16 substitute more specific data, the commissioner shall consider
17 alternative data sources and determine their applicability based
18 on the following criteria:

19 1. the objectivity of the supplying organization;

20 2. the reliability of statistical procedures used to
21 generate the data; and

22 3. the comparability of data categories (occupational
23 group, geographic location, handicapping condition, for example)
24 used.

25 C. Formula for determining underutilization. Agency heads
26 shall determine underutilization of protected groups using
27 statistical formulas based on the following criteria:

28 1. types of jobs within each agency and agency
29 subdivision;

30 2. number of employees in those jobs, by state class
31 title, and by protected group;

32 3. availability of protected group workers having the
33 qualifications for those jobs; and

34 4. geographic locations and applicable labor market areas
35 for each type of job in each agency and agency subdivision.

36 D. Numerical goals. Agency heads shall establish numerical

1 goals for the agency and for each agency subdivision that has 25
2 or more employees and that is in a geographic location with a
3 labor market area separate from that of the agency central
4 office.

5 E. Basis for goals. Agency heads shall establish goals for
6 each goal unit by protected group. The goals must be based on a
7 comparison of the composition of the agency or agency
8 subdivision work force with the composition of the relevant
9 civilian labor force in an identified labor market area. If the
10 comparison shows that a goal unit underutilizes a protected
11 group, the agency head shall establish a goal for that group in
12 that goal unit.

13 F. Timetables. Agency heads shall establish timetables for
14 meeting goals. Timetables must be based on turnover and hire
15 rates within each goal unit in the agency or within each agency
16 subdivision.

17 2 MCAR S 2.397 Reporting requirements.

18 A. Quarterly reports. Agency heads with 25 or more
19 employees shall submit quarterly to the commissioner a report of
20 the agency's efforts to meet affirmative action goals and the
21 progress resulting from those efforts. Agency heads with fewer
22 than 25 employees shall submit such a report to the commissioner
23 semiannually. Reports are due 30 days following the close of
24 the reporting period.

25 B. Biennial reports. Each agency head shall submit to the
26 commissioner, concurrently with the agency's biennial budget
27 request, a report on the results of the agency's affirmative
28 action plan. The commissioner shall submit these reports to the
29 governor and the legislature.

30

31 Chapter Thirteen: Social Security Rules

32 2 MCAR S 2.401 Authority and scope of chapter. This chapter is
33 promulgated under Minnesota Statutes, chapter 355, and applies
34 to the state, any political subdivision of the state, or any
35 coverage group to be included under the federal old age and

1 survivors insurance system.

2 2 MCAR S 2.402 Definitions.

3 A. Scope. The terms used in this chapter have the meanings
4 given them in 2 MCAR S 2.402.

5 B. Coverage group. "Coverage group" means the grouping of
6 positions in any political subdivision of the state as they are
7 brought under the provisions of the federal Social Security Act,
8 pursuant to Minnesota Statutes, chapter 355, and for which
9 contributions for each grouping are required by law to be
10 transmitted to the state agency.

11 C. Employee, employment. "Employee" and "employment" have
12 the meanings given them in Minnesota Statutes, section 355.01.

13 D. Federal Insurance Contributions Act. "Federal Insurance
14 Contributions Act" has the meaning given it in Minnesota
15 Statutes, section 355.01.

16 E. Federal old age and survivors insurance. "Federal old
17 age and survivors insurance" means the insurance system
18 established by title II of the federal Social Security Act,
19 United States Code, title 42, section 418.

20 F. Political subdivision. "Political subdivision" has the
21 meaning given it in Minnesota Statutes, section 355.01.

22 G. Reportable wages. "Reportable wages" means reportable
23 wages as provided by title II of the federal Social Security
24 Act. "Maximum reportable wages" means maximum reportable wages
25 as provided by title II of the federal Social Security Act.

26 H. Reporting unit. "Reporting unit" means the payroll
27 record unit of a state or political subdivision.

28 I. Social Security Act. "Social Security Act" has the
29 meaning given it in Minnesota Statutes, section 355.01.

30 J. State agency. "State agency" has the meaning given it in
31 Minnesota Statutes, section 355.01.

32 K. State agreement. "State agreement" means the agreement
33 or modification authorized by Minnesota Statutes, chapter 355,
34 entered into between the state and the secretary of health and
35 human services.

1 2 MCAR S 2.403 Employee account numbers.

2 A. When required. It is necessary for each covered employee
3 of a political subdivision to have a social security account
4 number when the political subdivision makes its first wage
5 report for federal old age and survivors insurance.

6 B. Obtaining a number. Each employee shall submit his or
7 her social security account number for the records of the
8 reporting unit. An employee who does not have a number shall
9 apply for a number with any field office of the Social Security
10 Administration within seven days after beginning work for the
11 reporting unit. However, if the employee leaves the employ of
12 the reporting unit before the seventh day, he or she must apply
13 for a number on or before the date of leaving. Application must
14 be made on social security administration form SS-5.

15 C. Keeping one number only. An employee must not have more
16 than one account number. Any employee whose name is changed by
17 marriage or otherwise, or who wishes to correct information
18 given on social security form SS-5, should report the change or
19 correction to a field office of the Social Security
20 Administration. The old name should be used for payroll and for
21 wage report purposes until the change has been processed by the
22 Social Security Administration.

23 D. Showing card. The political subdivision shall enter the
24 employee's name and account number on all records, returns,
25 reports, and claims exactly as shown on his or her account
26 number card. If a person fails to show the card when he or she
27 first performs services under an agreement, the political
28 subdivision that employs the person shall ask to see the
29 person's card.

30 2 MCAR S 2.404 Identification number for coverage groups. The
31 Social Security Administration will assign an employer
32 identification number to the state, each political subdivision
33 of the state, and each coverage group to be included under the
34 federal old age and survivors insurance system. If any
35 political subdivision maintains more than one payroll record
36 unit, a unit number will be assigned to each separate payroll

1 record within the coverage group. The identification number,
2 including the unit numbers assigned to payroll record units, if
3 any, must be entered on all reports, returns, forms, claims, and
4 correspondence.

5 2 MCAR S 2.405 Employee's and employer's contribution.

6 A. Amount subject to deduction. The employee's contribution
7 is measured by the amount of wages actually received on or after
8 the effective date of the state agreement with respect to
9 services performed in employment by the employee in a coverage
10 group included in the agreement. After an employee has been
11 paid the maximum reportable wages during a calendar year,
12 additional wages paid that employee during the remainder of the
13 calendar year are not subject to deductions for social security
14 taxes, and no further wage contributions are required.

15 B. Tax rates. The contribution rates established by title
16 II of the federal Social Security Act, United States Code, title
17 42, section 418, must be applied against the wages of employees
18 within the coverage group and matched with an equal amount by
19 the reporting unit. Taxes must be computed on the basis of the
20 rate effective at the time the wages are actually or
21 constructively received or paid.

22 C. Certain wages excepted. Wages received by an employee
23 after the effective date of coverage for services rendered in a
24 period before the effective date of coverage are not "wages
25 received for employment" and are not subject to tax. Therefore,
26 if the state agreement makes social security coverage effective
27 January 1 of a calendar year, wages received by an employee in
28 that calendar year for services rendered in the previous
29 calendar year are not "wages received for employment" and are
30 not subject to tax.

31 D. Records required. Any political subdivision or any
32 employee claiming refund, credit, or abatement of any tax or
33 interest collected shall present a detailed record to establish
34 the validity of the claim.

35 E. Controls. Each political subdivision shall establish a
36 system of controls so that no employee is taxed on wages in

1 excess of the maximum reportable wages as provided in United
2 States Code, title 42, section 418, for each calendar year.
3 These controls must be set up so that the tax will be withheld
4 on the exact amount of the reportable wages as provided in title
5 II of the federal Social Security Act received by an employee in
6 a calendar year. There shall be no prorating of the year's
7 total tax liability of the employees over the 12-month period.

8 F. Termination of reporting unit. Any political subdivision
9 whose existence is terminated by reorganization, consolidation,
10 or annexation or which is abolished by statute or other legal
11 action shall report this fact to the state agency at the time
12 the final report is submitted and also indicate at that time
13 where all records and documents will be stored or maintained and
14 the name of the person or officer responsible for the
15 safekeeping of the records and documents.

16 G. Wage and tax statement. Each political subdivision shall
17 furnish a written wage and tax statement to each individual
18 performing service in employment as an employee in a coverage
19 group included in the state agreement. The statement must show
20 the following information with respect to wages paid or
21 available for payment to the employee for the service on or
22 after the effective date of the agreement or modification:

- 23 1. the name and identification number of the political
24 subdivision or coverage group in which services were performed;
- 25 2. the name and account number of the employee;
- 26 3. the period covered by the statement;
- 27 4. the total amount of wages subject to contributions
28 paid during this period; and
- 29 5. the amount of employee's contribution withheld in
30 respect to wages.

31 The statement must be given to the employee not later than
32 January 31 of the year following the calendar year covered by
33 the statement unless the employee leaves employment in a
34 coverage group, in which case the final statement must be given
35 to the employee no later than 30 days after the last payment of
36 wages is made. Federal Internal Revenue Service form W-2,

1 Withholding Statement, shall be used to satisfy 1.-5.

2 2 MCAR S 2.406 Collecting and remitting tax.

3 A. Responsibility for collecting. The reporting unit shall
4 collect from each employee the amount of tax determined to be
5 due by deducting that amount from the employee's wages when
6 actually or constructively paid. The reporting unit shall
7 collect the tax even if the wages are paid in a medium other
8 than cash.

9 B. Schedule. After the reporting unit has provided the
10 matching amount, the total social security contribution must be
11 remitted to the state agency for credit to the social security
12 contributions fund in accordance with the following schedule:

13 1. For each month, the social security contributions due
14 on the wages paid must be forwarded to the state agency within
15 the 15-day period following the end of each month beginning with
16 July 1980. If the last day of the 15-day period is a legal
17 holiday or a nonwork day, the social security contribution
18 payment is due on the next work day.

19 2. Where the state assumes the responsibility for the
20 matching employer social security contribution under Minnesota
21 Statutes, section 355.46, subdivision 3, clause (b), the
22 payments under 1. must be equal to the required employee
23 contribution withheld only.

24 3. In lieu of remitting at the times indicated above, the
25 reporting unit may remit the required social security
26 contribution payment at the end of each payroll period or after
27 each salary payment made to the employees. In no event may the
28 contribution payment be made later than the times specified in 1.

29 4. With each contribution payment, the reporting unit
30 shall submit a completed approved remittance form prescribed by
31 the state agency.

32 5. If any monthly contribution payment is not received by
33 the state agency within the deadlines specified in 1., the state
34 agency shall charge interest to the reporting unit. The
35 interest rate must be six percent a year on the contributions
36 due for each month or part of a month from the due date, but in

1 no case may the interest charge be less than \$5.

2 2 MCAR S 2.407 Submitting contributions. A political
3 subdivision must not send social security contributions directly
4 to the Social Security Administration, a depository bank, or a
5 Federal Reserve Bank.

6 2 MCAR S 2.408 Liability for tax. The reporting unit is liable
7 to the state agency for the employee's share of the tax whether
8 or not the share has been withheld from the employee's wages.
9 Nevertheless, the employee remains liable for the employee's
10 share of the tax on all wages received by the employee not in
11 excess of the maximum reportable wages.

12 2 MCAR S 2.409 Reporting unit's failure to pay state agency. If
13 a reporting unit fails to make the social security contribution
14 payments required by law and this chapter, the state agency may
15 recover by bringing action in a court of competent jurisdiction
16 against every political subdivision liable for payments. The
17 state agency may recover either the delinquent payments due with
18 interest of six percent a year or the minimum penalty
19 established by this chapter, whichever is greater.
20 Alternatively, at the state agency's request, the delinquent
21 payments may be deducted from any other money payable to the
22 political subdivision by any department or agency of the state.

23 2 MCAR S 2.410 When employer may begin deducting. The state or
24 a political subdivision may not begin making deductions for
25 social security taxes from the earnings of employees until the
26 secretary of health and human services has approved the state
27 agreement on behalf of the federal government. However, as soon
28 as the state agreement is fully executed and approved, the
29 political subdivision shall make the necessary deductions from
30 earnings, retroactive to the effective date of the state
31 agreement, so that the total contribution payments required from
32 the effective date of the state agreement are transmitted to the
33 state agency along with initial reports before the initial
34 deadline determined by the state agency. The exact method and

1 time of deducting retroactive contributions from employees are
2 matters to be determined by each political subdivision
3 individually.

4 2 MCAR S 2.411 Sick pay.

5 A. Counting sick pay as wages for social security purposes.
6 -----
6 Effective January 1, 1982, payments made by the state or any
7 political subdivision to an employee absent from work because of
8 sickness or accident disability are wages for the first six
9 months after the last month the employee worked. Wages include
10 payments made by third parties, such as insurance companies,
11 under group sickness and accident policies. Payments to an
12 employee by either the governmental unit or a third party are
13 excluded from wages if they are made more than six months after
14 the last month in which the employee worked.

15 B. Employee's contributions to sick pay plan. If an
16 employee has contributed to a sick pay plan, the wages for
17 social security purposes do not include that portion of the
18 payment attributable to the employee's contribution.

19 C. Arrangements with party making payments. The reporting
20 unit shall arrange to have the third party, usually an insurance
21 company, withhold the employee contributions from the sick pay
22 payments, remit the amount withheld to the reporting unit, and
23 provide the wage data needed to prepare wage reports. The sick
24 pay employee contributions, matching employer contribution, if
25 any, and the corresponding wage data should be included on the
26 monthly social security contribution transmittal forms with all
27 other contributions and wages for that period.

28 2 MCAR S 2.412 Wage reports. Every political subdivision and
29 coverage group included in the state agreement shall make a wage
30 report to the state agency for each reporting period beginning
31 with the first reporting period with respect to which the state
32 agreement is effective until the subdivision or group files a
33 final report as required by law.

34 2 MCAR S 2.413 Quarterly reports before 1981.

35 A. General requirement. Quarterly reporting of covered

1 wages paid is required for periods prior to January 1, 1981.

2 B. Form and coverage. The original and one duplicate copy
3 of the consolidated quarterly payroll report must be submitted
4 on social security administration form SSA-3963 for each
5 reporting unit in conformity with the requirements of the
6 secretary of health and human services. Each quarterly report
7 must be a consolidated report, which must include all covered
8 wages paid to personnel employed by any department, board, and
9 commission reportable under the identification number assigned
10 to the political subdivision or coverage group. The summary
11 information must be shown at the bottom of page 1 of form
12 SSA-3963.

13 C. Report when no wages are paid. Even though no wages are
14 paid in a quarter, the reporting unit must file a report on form
15 SSA-3963 with the notation "no covered wages paid" made on the
16 body of the form.

17 D. Remittance. Each quarterly report must be accompanied by
18 a check or checks made payable to "State Treasurer, Contribution
19 Fund," or by a copy of the remittance form prescribed in 2 MCAR
20 S 2.406 B.4. The amount of the remittance must equal the sum of
21 both the required employer contribution of the political
22 subdivision and the required deductions from the earnings of all
23 personnel in the coverage group. In the payment of
24 contributions to the state agency, the reporting unit may
25 disregard a fractional part of a cent unless it amounts to
26 one-half cent or more, in which case it must be increased to the
27 nearest cent.

28 E. Date due. The initial quarterly reports and required
29 remittances for the period from the effective date of coverage
30 to the end of the quarter in which any political subdivision
31 becomes covered under the state agreement must be transmitted so
32 as to be received by the state agency on or before the date
33 fixed by the state agency for the filing of these initial
34 reports.

35 F. Interest on overdue reports. If any quarterly report is
36 not received by the state agency within the respective

1 established deadlines, interest will be charged to the reporting
2 unit at the rate of six percent a year on reportable
3 contributions for each month or part of a month from the date
4 due, but the interest charge or penalty shall not be less than
5 \$5.

6 2 MCAR S 2.414 Annual reports, 1981 and after.

7 A. General requirement. Annual reporting of covered wages
8 is required for calendar year 1981 and for each year thereafter.

9 B. Coverage. Each report must be a consolidated report
10 which must include all covered wages paid and reportable under
11 the identification number assigned to the political
12 subdivision. The information must be furnished on forms
13 prescribed by the Social Security Administration.

14 C. Remittance. The contribution payments remitted for each
15 calendar year pursuant to 2 MCAR S 2.405 must equal the social
16 security contributions due on the covered wages included on the
17 report submitted under B. Any differences must be fully
18 explained, and the additional contributions, if any, must be
19 remitted with the completed report.

20 D. Date due. Each report must be received by the state
21 agency not later than January 31 following the year for which
22 the report is made. Reports and contribution payments that have
23 not been prepared in accordance with state agency rules and
24 instructions are unacceptable and are subject to the penalties
25 imposed by this chapter.

26 E. Penalties. Wage reports received after the established
27 due date are delinquent. To cover the additional administrative
28 costs, a penalty of \$5 for the first day of the delinquency and
29 \$1 for each additional day that the report is delinquent will be
30 assessed against the reporting unit.

31 F. Summary data. In addition to the wage reports required
32 by A.-E., quarterly summary data as prescribed by federal social
33 security regulations must be submitted in accordance with state
34 agency instructions.

35 G. Combined wages from several employees. Where an employee
36 performs services during a calendar year for the state and one

1 or more political subdivisions or for two or more political
2 subdivisions, the wages paid in any calendar year to the
3 employee by the state and each political subdivision not in
4 excess of the maximum reportable wages shall be reported by the
5 state and each political subdivision, with the following
6 exception: where the state of Minnesota pays the matching
7 employer social security contributions tax, such as for teachers
8 in Minnesota public schools, then only the maximum reportable
9 wages paid to such individual in the aggregate are subject to
10 the social security tax and reported as wages.

11 2 MCAR S 2.415 Adjustment reports. If the reporting unit
12 determines that a wage report or a previously submitted
13 adjustment report was in error, the unit shall complete an
14 adjustment report, currently called "State's Report of
15 Adjustments," form SSA-3964, and shall forward the original and
16 one copy to the state agency. The following errors require that
17 the adjustment report be completed: wages omitted from the
18 report, not enough wages reported, excessive wages reported,
19 wages reported in excess of the maximum reportable wages, wages
20 shown on report for the wrong period, and wages reported for the
21 wrong person.

22 The adjustment report must be submitted before the
23 expiration of the time limitations established by the federal
24 statute of limitations set forth in the federal Social Security
25 Act, United States Code, title 42, sections 418 (q) and (r). The
26 reporting unit is liable for the payment of interest on any
27 adjustment report which is determined by the federal government
28 to be delinquent.

29 2 MCAR S 2.416 Records.

30 A. General requirement. Every political subdivision shall
31 keep accurate records of all wages, whether in cash or in a
32 medium other than cash, paid or available for payment to
33 employees of the political subdivision.

34 B. Forms and accounting systems. Each political subdivision
35 shall use forms and systems of accounting that will enable the

1 state agency, the state agency's authorized representatives, or
2 the agents of the secretary of health and human services to
3 ascertain whether the social security taxes for which the
4 political subdivision or coverage group is liable are correctly
5 computed and paid.

6 C. Contents of records. The records must show with respect
7 to each employee:

8 1. the name, address, and account number of the employee
9 and any additional information required by this chapter when the
10 employee does not show his or her social security account number
11 card;

12 2. the date of each wage payment, the total amount,
13 including any sum withheld from the total as contribution or for
14 any other reason, and the period of services covered by the
15 payment;

16 3. the amount of the wage payment which constitutes wages
17 subject to tax; and

18 4. the amount of employee's contributions withheld or
19 collected with respect to each total wage payment, and the date
20 collected if other than the time when the payment was made.

21 If the total wages in 2. and the amount of the wage payment
22 which is subject to tax in 3. are not equal, the reason for the
23 difference must be made a matter of record.

24 Political subdivisions shall keep accurate records of the
25 details of each adjustment or settlement made under any state
26 agency instructions or rules or federal regulations.

27 D. Copies of documents. A political subdivision shall keep
28 a copy of any return, report, schedule, statement, or any other
29 documents as a part of its records.

30 E. Records open for inspection. All records required by
31 this chapter and federal regulations must be kept at a
32 convenient and safe location accessible to representatives of
33 the secretary of health and human services and of the state
34 agency. The records must at all times be open for inspection by
35 these officials.

36 F. Retention of records. All records required by this

1 chapter and federal regulations must be kept for at least four
 2 years after the date when the contributions listed in the
 3 records became due or the date when the contributions were paid,
 4 whichever is later. Records required in 2 MCAR S 2.405 D. must
 5 be kept for at least four years after the date when the claim is
 6 filed. Records must not be destroyed or otherwise disposed of,
 7 even after the lapse of the four years, without the written
 8 consent required under Minnesota Statutes, section 138.17.

9 2 MCAR S 2.417 Administrative costs. Each department or agency
 10 of the state and each political subdivision included in the
 11 state agreement is liable for a pro rata share of the costs of
 12 administering Minnesota Statutes, chapter 355 as certified by
 13 the state agency. The amounts certified must be based upon the
 14 social security contribution tax paid or payable on wages paid
 15 to employees of the political subdivisions or coverage groups
 16 coming within the provisions of Minnesota Statutes, chapter
 17 355. In addition to the ordinary reimbursable expenses, the
 18 state agency may charge a political subdivision for any
 19 extraordinary costs of administration relating to matters
 20 affecting that particular political subdivision.

21 Notwithstanding the above provisions for determining the
 22 pro rata charges, there is a minimum pro rata charge of \$5 for
 23 each reporting unit that reports wages for any person during the
 24 period involved. The amounts certified are due and payable upon
 25 notice from the state agency, and all checks must be payable to
 26 "State Treasurer, State Agency Revolving Fund."

27

28 Repealer: The following personnel rules are repealed: 2 MCAR
 29 SS 2.001; 2.002; 2.003; 2.004; 2.011; 2.022; 2.023; 2.029;
 30 2.030; 2.038; 2.039; 2.040; 2.041; 2.042; 2.044; 2.046; 2.049;
 31 2.056; 2.061; 2.064; 2.065; 2.066; 2.067; 2.068; 2.084; 2.085;
 32 2.088; 2.090; 2.091; 2.096; 2.118; 2.165; 2.179; 2.182; 2.198;
 33 2.201; 2.202; 2.205; 2.208; 2.212; 2.2121; 2.215; 2.222; 2.224;
 34 ~~2.225~~; 2.227; 2.228; 2.229; 2.230; 2.231; 2.233; 2.236; 2.237;
 35 2.2371; 2.239; 2.2391; 2.245; 2.249; 2.2491; 2.251; 2.252;
 36 2.255; 2.256; 2.2561; 2.258; 2.259; 2.260; 2.2601; 2.261; 2.262;

1 2.263; 2.264; 2.290; 2.291; 2.292; 2.293; 2.294; 2.295.
