

**MINNESOTA STATE BOARD OF ASSESSORS**

**STATEMENT OF NEED AND REASONABLENESS**

Rule Amendment to

Minnesota Rules, Chapter 1950

Revisor ID: 04779

**November 20, 2023**

## I. Introduction

The Minnesota State Board of Assessors (“Board”) exists to “review, supervise, coordinate, and approve courses in assessment practices, and establish criteria for determining [property tax] assessor’s qualifications.” *Minnesota Statutes*, section 270.41, subdivision 1. One of the Board’s specific duties is to establish and issue different levels of licensure for property tax assessors. *Minnesota Statutes*, section 270.48. The Board is supported administratively by the Department of Revenue (“Department”), and considers other property tax assessment administration matters brought to it by the Commissioner of Revenue.

Property tax assessors regulated by the Board include the assessors’ deputies and assistants, as well as various county, city, and local assessors who establish values and classify property in Minnesota for purposes of the *ad valorem* property tax (*i.e.*, the property tax most property owners pay, which is proportionate to the value of the property).

The Board proposes to amend *Minnesota Rules*, Chapter 1950 (“Rule Amendment”). The Rule Amendment addresses assessor licensure, education, and conduct in seven ways:

1. Adds a definition of “felony”: The current rule states the Board may refuse to grant or revoke an assessor license if the applicant was convicted of a felony. Defining “felony” provides additional clarity to the public regarding the Board’s licensing standards.
2. Updates license reinstatement provisions to reflect adjusted licensure education and interview requirements: Using authority granted to the Board under *Minnesota Statutes*, sections 270.41 and 270.46, the Board adjusted licensure education and interview requirements for certain license categories since the last rule amendment to Chapter 1950 in 2020. Rule changes are proposed to ensure license reinstatement applicants meet the adjusted requirements.
3. Corrects provision governing temporary assessor license qualification for persons with “military status”: Persons with a military background that seek a temporary assessor’s license must provide the Board with proof of “military status.” The current rule incorrectly refers to the “temporary assessor’s license” as the “temporary military assessor’s license” and “temporary military certificate.” The proposed amendment corrects these misstatements.
4. Adds clarification regarding certified general appraisers (“CGAs”) seeking a temporary certified Minnesota assessor (“CMA”) license: The rule currently states that the Board shall grant a temporary CMA license to assessors with a Department-of-Commerce-issued CGA license. The Rule amendment clarifies that this temporary license type includes approval to appraise income-producing properties if the license holder has completed certain statutorily required coursework.
5. Eliminates the Certified Minnesota Assessor Specialist (“CMAS”) license due to changes to statutes governing assessor licensure: As a result of changes to statutes governing assessor licensure, the CMAS license no longer serves a meaningful function for individuals seeking licensure. Therefore, the Board proposes to eliminate the CMAS license category.
6. Adds text so rule subparts for each assessor license category similarly describe the acts each license category allows the assessor to perform: The rule currently describes acts that may be performed by a CMA, but does not do the same for an Accredited Minnesota Assessor (“AMA”) or Senior Accredited Minnesota Assessor (“SAMA”). The Rule Amendment provides descriptions for all license categories.

7. Eliminates subpart regarding licensing at a lower level due to changes to statutes governing assessor licensure: As a result of changes to statutes governing assessor licensure, currently licensed AMAs and SAMAs must maintain at least an AMA license, and can no longer qualify for the lower-level CMA license. Therefore, the Board proposes to delete the provision which states AMAs and SAMAs can qualify for the lower-level CMA license if they fail to meet the continuing education requirements for the higher-level AMA or SAMA license.

## **II. Purpose of this Statement of Need and Reasonableness**

This Statement of Need and Reasonableness (“SONAR”) has been prepared to establish the statutory authority for, need for, and reasonableness of the proposed rules. It is submitted pursuant to *Minnesota Statutes*, section 14.23, and *Minnesota Rules*, part 1400.2070.

## **III. Alternative Format**

Upon request, this SONAR will be made available in an alternative format, such as large print, braille, or audio recording. To make a request, contact:

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## **IV. Statutory Authority**

The Board’s sufficient statutory authority to adopt the Rule Amendment is found in *Minnesota Statutes*, section 270.47, which requires the Board to “adopt rules necessary to accomplish the purpose of section 270.41 to 270.50” and “establish criteria required of assessing officials in the state.” The same statute then clarifies that the Board may establish “separate criteria...depending upon the responsibilities of the assessor.” The Board also has authority for this rulemaking under *Minnesota Statutes*, section 270.41, subdivision 1, which requires the Board to “review, supervise, coordinate, and approve courses in assessment practices, and establish criteria for determining assessor’s qualifications.”

This statutory authority was adopted and effective prior to January 1, 1996. Therefore, *Minnesota Statutes*, section 14.125, which requires agencies to publish a notice of intent to adopt rules or a notice of hearing within eighteen months of the effective date authorized or requiring rules to be adopted, does not apply. See *Minnesota Laws* 1995, chapter 233, article 2, section 58.

## **V. Request for Comments**

On August 7, 2023, a Request for Comments was published in the *State Register*, and on both the Department and Board website. No substantive comments were received during the subsequent 60-day comment period.

## **VI. Regulatory Analysis**

As required by *Minnesota Statutes*, section 14.131, the Board considered these eight factors:

***“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”***

The classes of persons likely affected by the Rule Amendment includes licensed property tax assessors and persons wishing to become licensed assessors, including current and former members of the military and their spouses; county assessors, and their deputy and assistant assessors, employed by Minnesota local units of government; persons hired to assist assessors in making exemption, valuation, and classification decisions for *ad valorem* property tax purposes; and regional representatives and others employed by the Department’s Property Tax Division.

The Board has not identified any specific additional costs that will be imposed on these persons by the Rule Amendment.

The Board believes all the proposed rule changes and clarifications will benefit currently licensed property tax assessors, those who wish to become licensed, and those at the Board and Department who oversee licensure. The benefit – these clarifications and updates will create a rule that more efficiently and accurately communicates assessor licensure requirements.

***“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”***

The proposed changes are not expected to increase costs for the Board, any state agency, or any unit of local government. There will be no effect on state revenues.

***“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”***

Because the Board is statutorily required to establish rules for assessor licensure, and because the proposed changes are all necessary clarifications or updates, there are no less costly or intrusive methods for achieving the Rule Amendment’s purposes.

***“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”***

Because the Board is statutorily required to establish rules for assessor licensure, and because the proposed changes are all necessary clarifications or updates, there is no reasonable alternative method for achieving the Rule Amendment’s purposes.

***“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”***

As stated in response to factor (1) (see above), the Rule Amendment will not impose additional costs on affected parties.

***“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”***

The Board has not identified any specific probable costs of not adopting the Rule Amendment. The consequence of not adopting the changes is that the purposes of the Rule Amendment, which are generally described in the Introduction, will not be achieved.

***“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”***

No federal regulations apply to any of the licensing, continuing education, or conduct issues addressed in the Rule Amendment.

***“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule... ‘Cumulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”***

There are no significant and related state or federal rules regarding assessor licensing, continuing education, and conduct. Therefore, the Rule Amendment will not have a cumulative effect.

## **VII. Performance-Based Standards**

*Minnesota Statutes*, sections 14.002 and 14.131, require the SONAR to describe how the agency’s rulemaking process considered and implemented performance-based standards that emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and agency. Given that the Rule Amendment will create a rule that more efficiently and accurately communicates assessor licensure requirements, the Board believes this rulemaking complies with relevant performance-based standards.

## **VIII. Additional Notice**

*Minnesota Statutes*, section 14.23, requires the Board to describe the additional notice it provided under *Minnesota Statutes*, section 14.22. This rulemaking’s Additional Notice Plan, which was approved by the Office of Administrative Hearings in a July 27, 2023 letter from Administrative Law Judge James E. LaFave, consists of sending copies of the Request for Comments, Notice of Intent to Adopt Rules, and any other documents published in the State Register (“Public Notice Documents”) to: 1) all assessors, including county assessors, licensed by the Board; and 2) the Minnesota Association of Assessing Officers, which is the trade association for licensed Minnesota assessors.

The Additional Notice Plan also includes giving notice required by statute. Consistent with *Minnesota Statutes*, section 14.14, subdivision 1a, the Board will distribute the Public Notice Documents to those on the Department’s rulemaking mailing list. The Board will also give notice to the Legislature as required by *Minnesota Statutes*, section 14.116.

The Public Notice Documents will also be posted on both the Board’s website (<https://www.revenue.state.mn.us/minnesota-state-board-assessors>) and the Department’s rulemaking webpage (<https://www.revenue.state.mn.us/minnesota-administrative-rules>).

Because this rulemaking does not affect farming operations, our notice plan does not include notifying the Commissioner of Agriculture under *Minnesota Statutes*, section 14.111.

#### **IX. Minnesota Management and Budget and Local Government Impact**

Consistent with *Minnesota Statutes*, section 14.131, the Board consulted with Minnesota Management and Budget to “evaluate the fiscal impact and fiscal benefits of the proposed rule changes on units of local government.” In its letter to the Board dated October 12, 2023, Minnesota Management and Budget concludes that “the proposed changes would not result in a fiscal impact for any state or local unit of government.”

#### **X. Determination About Rules Requiring Local Implementation**

*Minnesota Statutes*, section 14.128, requires the Board to determine whether a local government must adopt or amend an ordinance or other regulation to comply with rule changes. The Rule Amendment does not require any local government to adopt or amend an ordinance or regulation.

#### **XI. Cost of Complying for Small Business or City**

*Minnesota Statutes*, section 14.127, requires the Board to determine if the cost of complying with the Rule Amendment in its first year will exceed \$25,000 for any small business or small city. A “small business” is defined as a for-profit or non-profit business with fewer than 50 full-time employees. A “small city” is one with less than ten full-time employees.

As stated in the Regulatory Analysis factors (1) and (5) above, the proposed rule will not impose additional costs on affected parties.

#### **XII. List of Witnesses**

If these rules go to a public hearing, the Board does not anticipate calling witnesses. However, it is possible that any such hearing could involve testimony from Board members, Board officers, and/or Department employees.

#### **XIII. Description of the “Need” for and “Reasonableness” of the Proposed Rule Changes**

*Minnesota Statutes*, Chapter 14, requires the Board to explain facts establishing the need for and reasonableness of the Rule Amendment. “Need” means a problem requires administrative attention. “Reasonableness” means there is a rational basis for the proposal.

As stated in the Introduction, the Rule Amendment makes seven categories of changes to the current rule. Before explaining the need for and reasonableness of each of the seven categories in more detail, the Board makes these two more general statements:

- Three of the rule changes described below -- see description of changes to *Minnesota Rules*, part 1950.1020, subpart 5; part 1950.1040; and part 1950.1080, subpart 4 – are necessary to implement 2013 legislation creating *Minnesota Statutes*, 270C.9901, which

mandated that anyone who appraises or physically inspects real property for property tax purposes must obtain an AMA license from the Board by July 1, 2019. See *Minnesota Laws* 2013, ch. 143, art. 4, sec. 11. This deadline was subsequently extended in 2017, such that a licensee must obtain an AMA license by July 1, 2022, or within five years of a licensee obtaining a CMA license. See *Minnesota Laws* 2017, ch. 1, art. 2, sec. 2. These 2013 and 2017 statutory changes will be referred to collectively as the “Recent Statutory Changes.”

- All changes are necessary and reasonable because they are consistent with modern appraisal practices, promote better assessor training, and better align Chapter 1950 with relevant statutes.

## **1950.1000 DEFINITIONS**

### **Subpart 17. Felony**

The current rule states the Board may refuse to grant or revoke an assessor license if the applicant has been convicted of a “felony,” but does not define the term. This amendment proposes adding a definition of “felony” that is consistent with definitions of felony in other Minnesota laws (*e.g.*, *Minnesota Rules* Part 6700.0700, subpart 1(F) and 7878.0110, subpart 1(C)). Adding this definition will provide additional clarity regarding the Board’s licensing standards.

## **1950.1020 LICENSURE**

### **Subpart 5. Reinstatement**

Since the last amendment to Chapter 1950 in 2020, the Board exercised its authority under *Minnesota Statutes* sections 270.41 and 270.46 to adjust licensure education and interview requirements to better reflect licensed assessor roles in light of the Recent Statutory Changes. To ensure those seeking license reinstatement after five or more years meet the same adjusted licensure training and interview requirements, the Board proposes two changes to the subpart 5 license reinstatement requirements. The first proposed change – requiring all those seeking reinstatement to take all courses required for the applicable license. Second, a new subpart 5(A)(5) has been added to ensure those seeking reinstatement of a SAMA license complete the interview required under Part 1950.1060, subpart 2, item (F).

## **1950.1035 TEMPORARY LICENSE**

### **Subpart 1. Military**

Persons with a military background that seek a temporary assessor’s license must provide the Board with proof of “military status.” The current rule incorrectly refers to the “temporary assessor’s license” as the “temporary military assessor’s license” (see subpart 1(A)) and “temporary military certificate” (subpart 1(a)(1)(c)). The Rule Amendment corrects both misstatements.

## **Subpart 2. Certified General Appraiser (CGA) level appraisers**

The rule currently states that the Board shall grant a temporary CMA license to assessors with a CGA license issued by the Department of Commerce. The Rule Amendment clarifies that this temporary license type includes approval to appraise income-producing properties if the license holder has completed coursework required by Minnesota Statutes, section 273.11, subdivision 13, or coursework deemed equivalent by the board.

### **1950.1040 CERTIFIED MINNESOTA ASSESSOR SPECIALIST**

As a result of the Recent Statutory Changes, *Minnesota Statutes*, section 270C.9901 now requires every individual who appraises or physically inspects real property to determine its valuation for property tax purposes to become an AMA by the later of: 1) July 1, 2022; or 2) within five years of becoming a licensed Minnesota assessor. Given the following two facts – those seeking initial licensure after July 1, 2022, must become an AMA and those with a CMA must now become an AMA (including those who were a CMA prior to July 1, 2022) – the CMAS license, which used to serve as an intermediate license between the CMA and the AMA, no longer serves a meaningful function. Therefore, the Board has decided to discontinue issuing CMAS licenses and therefore proposes to eliminate this subpart, which establishes the CMAS license category.

### **1950.1050 ACCREDITATED MINNESOTA ASSESSOR (AMA)**

The current rule describes acts that may be performed by a CMA, but does not do the same for AMA or SAMA. This proposed change provides in the AMA subpart what is already provided in the CMA subpart – a description of the acts that may be performed by an AMA. This change, along with a similar change for SAMAs that is described immediately below, will ensure all rule subparts that establish license categories will include a description of acts that may be performed under the licensee.

### **1950.1060 SENIOR ACCREDITATED MINNESOTA ASSESSOR (SAMA)**

The current rule describes acts that may be performed by a CMA, but does not do the same for AMA or SAMA. This proposed change provides in the SAMA subpart what is already provided in the CMA subpart – a description of the acts that may be performed by a SAMA. This change, along with a similar change for AMAs that is described immediately above, will ensure all rule subparts that establish license categories will include a description of acts that may be performed under the licensee.

### **1950.1080 CONTINUING EDUCATION**

#### **Subpart 4. Licensing at a lower level.**

This subpart has a single purpose – to allow AMAs and SAMAs to qualify for the lower-level CMA license if they fail to meet the continuing education requirements for the higher-level AMA or SAMA license. However, due to the Recent Statutory Changes, currently licensed AMAs and SAMAs must maintain at least an AMA license, and can no longer qualify for the lower-level CMA license. Therefore, it is necessary to delete this subpart.

