

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Minnesota
Department of Transportation
Transportation Building
St. Paul, Minnesota 55155

May 17, 1983

Phone 296-0220

Hubert H. Humphrey, III
Attorney General
Room 102, Capitol Building
St. Paul, Minnesota 55155

Attention: Judith Wehrwein

Dear Mr. Humphrey:

The Department of Transportation submits its Adopted Rules Governing Operating Standards for Special Transportation Service for your approval as required by Minn. Stat. section 14.26 and 1 MCAR § 1.203. The rule is adopted without a public hearing. We received no requests for a hearing.

The following documents are enclosed:

1. The rules as adopted - six copies.
2. Order Adopting the Rule - 2 copies.
3. Notice of Intent to solicit outside opinion.
4. Letters received in response to notice (2).
5. Order for notice of intent to adopt a rule without public hearing.
6. Notice of intent to adopt a rule without public hearing.
7. Affidavit of mailing notice of intent to adopt a rule without public hearing.
8. Mailing list certificate.
9. Rule as proposed.

10. Findings of Fact and Conclusions (attached as part of Order adopting the rule).
11. Statement of Need and Reasonableness.
12. Written comments on the rule (2).
13. Certificate of compliance with rulemaking procedures.
14. Notice of Submission to the Attorney General.
15. Affidavit of Mailing Notice of Submission to the Attorney General.

We have today submitted a copy of the rule as adopted to the Revisor of Statutes as required by Minn. Stat. section 14.08.

Very truly yours,

for Richard B. Braun

cc: Douglas H. Differt
Gordon W. Boldt
Betsy Parker

Our File No. 921

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-25
DATE FOR REVIEW 6-3
DATE DUE 6-8

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

Approved 6-8-83 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 6-9-83 Revisor approved 5/27/83
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR

✓ Order Adopting 5.17.83 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 6.21.1982 + comments

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
4.4.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
4.11.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

? Notice of Submission to the Attorney General
comment period misstated

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : Richard P. Braun, Commissioner
Attn: JEAN STEPAN
Special Assistant Attorney General

DATE: June 8, 1983

FROM : TED A. MARTINEZ TAM
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Operating Standards for Special Transportation Service.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

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

AG copy

Department of Transportation

Adopted Rules Governing Operating Standards for Special Transportation Service

Rules as Adopted

14 MCAR S 1.7001 Scope.

A. Service criteria. Except as provided in B. and C., the standards set forth in 14 MCAR SS 1.7001-1.7013 apply to special transportation service as defined in 14 MCAR S 1.7003 and provided by a person receiving grants or other financial assistance from the state or federal government, or both, to provide or assist in providing the service.

B. Care facilities. The standards set forth in 14 MCAR SS 1.7001-1.7013 apply to nursing homes licensed under Minnesota Statutes, section 144A.02, boarding care facilities licensed under Minnesota Statutes, section 144.50, and day care and group home facilities licensed under Minnesota Statutes, sections 245.781 to 245.812, when:

1. the facility or program provides special transportation as described in A.;

2. the facility or program transports nonresidents on a regular basis; and

3. the facility receives reimbursement other than per diem payments for that service under rules promulgated by the commissioner of public welfare.

repeats statutory language

C. Exemptions. The standards set forth in 14 MCAR SS 1.7001-1.7013 do not apply to transportation provided by:

1.-3. [Unchanged.]

4. A school bus as defined in Minnesota Statutes, section 169.01, subdivision 6; or

5. An ambulance providing life support transportation service regulated under Minnesota Statutes, chapter 144. However, these standards apply to ambulances when they are providing special transportation services.

14 MCAR S 1.7003 Definitions.

A. Ambulance. "Ambulance" has the meaning given to it in Minnesota Statutes, section 144.801, subdivision 2.

B. Attendant. "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

C. Commissioner. "Commissioner" means the commissioner of transportation.

D. Common carrier. "Common carrier" means a "regular route common carrier" as defined in Minnesota Statutes, section 221.011, subdivision 9.

D. Disabled. "Disabled" means handicapped.

E. Elderly. "Elderly" means age 55 and older.

F. Handicapped. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

G. Major life activities. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

H. Motor vehicle. "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

I. Municipality. "Municipality" has the meaning given to it in Minnesota Statutes, section 466.01, subdivision 1.

J. Person. "Person" means every natural person, firm, partnership, corporation, association, and body politic.

K. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction, and alcoholism.

L. Provider. "Provider" means a public or private entity or person who operates special transportation service vehicles.

M. Regular basis. "Regular basis" means providing more than

an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

N. School bus. "School bus" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 6.

O. Semiambulatory. "Semiambulatory" means having the ability to walk with difficulty or with the aid of an artificial limb or personal assistance device such as a brace, a cane, a crutch, or a walker.

P. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled and who are unable to use regular means of transportation.

Q. State. "State" has the meaning given to it in Minnesota Statutes, section 3.732, subdivision 1, clause (1).

R. Variance. "Variance" means permission to comply in a manner other than that specified.

S. Vehicle. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR S 1.7005 Certification.

A. Forms. Application for a certificate of compliance must be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Department of Transportation district office. All applications must be delivered or mailed to the Minnesota Department of Transportation, Division of Program Management, Transportation Building, St. Paul, Minnesota 55155.

B. Required information. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. [Unchanged.]

b. the name, address, telephone number, and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule, or other;

d. whether the passengers served are elderly, handicapped, or disabled;

e. for each vehicle used:

(1)-(3) [Unchanged.]

f. if the vehicle will carry an occupied wheelchair:

(1) [Unchanged.]

(2) the date that the wheelchair securement device was approved by the commissioner of public safety, and the number on the certificate issued by the commissioner of public safety;

g. [Unchanged.]

h. the name and address of each driver, stating whether each complies with the standards set forth in 14 MCAR SS 1.7001-1.7013.

This information must be provided annually when the application for a certificate of compliance is filed.

2. [Unchanged.]

C. When granted. A certificate of compliance must be granted when the applicant complies with the standards set forth in 14 MCAR SS 1.7001-1.7013.

D. Processed in 30 days. All applications are to be processed and a certificate of compliance issued or denied in writing within 30 days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. Information on certificate. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. Record. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed, or revoked.

14 MCAR S 1.7007 Inspection.

A. Complaint received. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in 14 MCAR SS 1.7001-1.7013, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection must be conducted within four weeks of receipt of the complaint.

B. Record. All complaints must be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint, and the result of the inspection.

C. On-site inspection. The commissioner shall conduct the inspection at the provider's office or garage.

D. Items examined. Inspections conducted under these standards must comprise:

1. [Unchanged.]

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR S 1.7009 B. and may include inspection of any part of the vehicle subject to regulation under Minnesota Statutes, chapter 169, when a complaint has been made about the condition of any component of the vehicle.

E. Failure to permit inspection. Failure to permit an inspection as provided in this rule is grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR S 1.7008 Enforcement.

A. Notice. Any provider found in violation of any provision of 14 MCAR SS 1.7001-1.7013 shall be given a 30-day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from operation immediately.

B. Violation determination. At the expiration of 30 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. The provider may mail evidence of compliance to the department.

C. Suspension. If the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the provisions of 14 MCAR SS 1.7001 -1.7013. No suspension shall occur unless the commissioner has held a hearing, after 30 days notice to the provider, at which the provider has had the opportunity to show cause why the certificate of compliance should not be suspended. Repeated violations may result in revocation of the certificate.

D. Enforcement hearing. An enforcement hearing conducted under the standards set forth in 14 MCAR SS 1.7001-1.7013 must be conducted in accordance with Minnesota Statutes, chapter 14.

14 MCAR S 1.7009 Standards for operation of vehicles.

A. Personnel.

1.-6. [Unchanged.]

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which must include instruction in the elements listed in 14 MCAR S 1.7009 A.6.a., b., c., and f.

8. [Unchanged.]

9. A driver or attendant who has not completed the required training prior to providing special transportation service, shall do so within 90 days after beginning to provide the service. Copies of certificates indicating successful completion of courses must be maintained in the provider's files.

10. [Unchanged.]

B. Equipment.

1. Each vehicle when in use must carry the following safety equipment:

a. [Unchanged.]

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit must contain at least the following

items:

(1) [Unchanged.]

(2) two soft roll bandages 3" to 6" x 5 yards;

(3)-(4) [Unchanged.]

c.-h. [Unchanged.]

2.-3. [Unchanged.]

4. A vehicle which is equipped with a wheelchair lift and which carries semiambulatory persons who use the wheelchair lift must be equipped with either a wheelchair lift with an adjustable or removable railing which is 28 inches to 36 inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters must comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR S 1.608 C.

C. Operation.

1. All vehicles must be operated in compliance with Minnesota Statutes, chapter 169, and rules adopted under that chapter.

2.-6. [Unchanged.]

D. [Unchanged.]

APPROVED AS TO LEGALITY

June 8 19 83

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Ted A Mathews
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN -9 1983
Joan Anderson Growe
Secretary of State
9:45 AM

Rules as Proposed

14 MCAR S 1.7001 Scope.

A. ~~These~~ Service criteria. Except as provided in B. and C., the standards set forth in 14 MCAR SS 1.7001-1.7013 apply to special transportation service ~~provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation~~ as defined in 14 MCAR S 1.7003 and provided by a person receiving grants or other financial assistance from the state or federal government, or both, to provide or assist in providing the service.

B. Care facilities. The standards set forth in 14 MCAR SS 1.7001-1.7013 apply to nursing homes licensed under Minnesota Statutes, section 144A.02, boarding care facilities licensed under Minnesota Statutes, section 144.50, and day care and group home facilities licensed under Minnesota Statutes, sections 245.781 to 245.812, when:

1. the facility or program provides special transportation as described in A.;

2. the facility or program transports nonresidents on a regular basis; and

3. the facility receives reimbursement other than per diem payments for that service under rules promulgated by the commissioner of public welfare.

~~B.~~ C. Exemptions. ~~These~~ The standards set forth in 14 MCAR SS 1.7001-1.7013 do not apply to transportation provided by:

1.-3. [Unchanged.]

4. A school bus as defined in Minnesota Statutes, section 169.01, subdivision 6; or

5. An ambulance providing life support transportation service regulated under Minnesota Statutes, chapter 144. However, these standards ~~shall~~ apply to ambulances when they are providing special transportation services.

14 MCAR S 1.7003 Definitions.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

A. Ambulance. "Ambulance" has the meaning given to it in Minnesota Statutes, section 144.801, subdivision 2.

B. Attendant. "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

C. Commissioner. "Commissioner" means the commissioner of transportation.

D. Common carrier. "Common carrier" means a "regular route common carrier" ~~operating on fixed routes and schedules~~ as defined in Minnesota Statutes, section 221.011, subdivision 9.

~~E.~~ D. Disabled. "Disabled" means handicapped.

~~F.--"Economically disadvantaged" means eligible for any form of public assistance provided for by state law.~~

~~G.~~ E. Elderly. "Elderly" means age 55 and older.

~~H.~~ F. Handicapped. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

~~I.~~ G. Major life activities. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

~~J.~~ H. Motor vehicle. "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

~~K.~~ I. Municipality. "Municipality" has the meaning given to it in Minnesota Statutes, section 466.01, subdivision 1.

~~L.~~ J. Person. "Person" means every natural person, firm, partnership, corporation, association, and body politic.

~~M.~~ K. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction, and alcoholism.

~~N.~~ L. Provider. "Provider" means a public or private entity or person who operates special transportation service vehicles.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

~~O.~~ M. Regular basis. "Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

~~P.~~ N. School bus. "School bus" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 6.

~~Q.~~ O. Semiambulatory. "Semiambulatory" means having the ability to walk with difficulty or with the aid of an artificial limb or personal assistance device such as a brace, a cane, a crutch, or a walker.

~~R.~~ P. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled ~~or economically disadvantaged~~ and who are unable to use regular means of transportation.

~~S.~~ Q. State. "State" has the meaning given to it in Minnesota Statutes, section 3.732, subdivision 1, clause (1).

~~T.~~ R. Variance. "Variance" means permission to comply in a manner other than that specified.

~~U.~~ S. Vehicle. "Vehicle" means a motor vehicle used to provide special transportation service.

14 MCAR S 1.7005 Certification.

A. Forms. Application for a certificate of compliance ~~shall~~ must be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Department of Transportation district office. All applications ~~shall~~ must be delivered or mailed to the Minnesota Department of Transportation, Division of ~~Public Transportation~~ Program Management, Transportation Building, St. Paul, Minnesota 55155.

B. Required information. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. [Unchanged.]

b. the name, address, telephone number, and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule, or other;

d. ~~the category of passengers served (elderly, handicapped, disabled or economically disadvantaged)~~ whether the passengers served are elderly, handicapped, or disabled;

e. for each vehicle used:

(1)-(3) [Unchanged.]

f. if the vehicle will carry an occupied wheelchair~~;~~:

(1) [Unchanged.]

(2) the date that the wheelchair securement device was approved by the commissioner of public safety, and the number on the certificate issued by the commissioner of public safety;

g. [Unchanged.]

h. the name and address of each driver, stating whether each complies with the standards set forth in ~~these rules~~ 14 MCAR SS 1.7001-1.7013.

This information ~~shall~~ must be provided annually when the application for a certificate of compliance is filed.

2. [Unchanged.]

C. When granted. A certificate of compliance ~~shall~~ must be granted when the applicant complies with the standards set forth in ~~these rules~~ 14 MCAR SS 1.7001-1.7013.

D. Processed in 30 days. All applications ~~shall~~ are to be processed and a certificate of compliance issued or denied in writing within 30 days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. Information on certificate. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. Record. The commissioner shall maintain a record of all

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

certificates of compliance showing the date issued, renewed, or revoked.

14 MCAR S 1.7007 Inspection.

A. Complaint received. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in ~~these rules~~ 14 MCAR SS 1.7001-1.7013, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection ~~shall~~ must be conducted within four weeks of receipt of the complaint.

B. Record. All complaints ~~shall~~ must be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint, and the result of the inspection.

C. On-site inspection. The commissioner ~~shall notify any provider not less than 1 week in advance of an inspection and~~ shall conduct the inspection at the provider's office or garage.

D. Items examined. Inspections conducted under these standards ~~shall~~ must comprise:

1. [Unchanged.]

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR S 1.7009 B. and may include inspection of any part of the vehicle subject to regulation under Minnesota Statutes, chapter 169, when a complaint has been made about the condition of any component of the vehicle.

E. Failure to permit inspection. Failure to permit an inspection as provided in this ~~section shall be~~ rule is grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR S 1.7008 Enforcement.

A. Notice. Any provider found in violation of any provision of ~~these rules~~ 14 MCAR SS 1.7001-1.7013 shall be given a 30-day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from

RECEIVED IN THE REVISOR'S OFFICE BY:

operation immediately.

B. Violation determination. At the expiration of 30 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. ~~In the case of violations other than those involving vehicle equipment,~~ The provider may mail evidence of compliance to the department.

C. Suspension. If the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the provisions of 14 MCAR SS 1.7001 ~~to 14 MCAR S~~ 1.7013. No suspension shall occur unless the commissioner has held a hearing, after 30 days notice to the provider, at which the provider has had the opportunity to show cause why the certificate of compliance should not be suspended. Repeated violations may result in revocation of the certificate.

D. Enforcement hearing. ~~Any~~ An enforcement hearing conducted ~~pursuant to these~~ under the standards ~~shall~~ set forth in 14 MCAR SS 1.7001-1.7013 must be conducted in accordance with Minnesota Statutes, chapter ~~15~~ 14.

14 MCAR S 1.7009 Standards for operation of vehicles.

A. Personnel.

1.-6. [Unchanged.]

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which ~~shall~~ must include instruction in the elements listed in 14 MCAR S 1.7009 A.6.a., b., c., and f.

8. [Unchanged.]

9. A driver or attendant ~~hired after October 1, 1981,~~ who has not completed the required training prior to providing special transportation service, shall do so within 90 days after beginning to provide ~~such~~ the service. Copies of certificates indicating successful completion of courses ~~shall~~ must be

maintained in the provider's files.

10. [Unchanged.]

B. Equipment.

1. Each vehicle when in use ~~shall~~ must carry the following safety equipment:

a. [Unchanged.]

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit ~~shall~~ must contain at least the following items:

(1) [Unchanged.]

(2) two soft roll bandages 3" to 6" x 5 yards;

(3)-(4) [Unchanged.]

c.-h. [Unchanged.]

2.-3. [Unchanged.]

4. A vehicle which is equipped with a wheelchair lift and which carries semiambulatory persons who use the wheelchair lift ~~shall~~ must be equipped with either a wheelchair lift with an adjustable or removable railing which is 28 inches to 36 inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

5. Vehicles which carry occupied stretchers or litters ~~shall~~ must comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR S ~~1.603-C.4. and-C.1.-b.~~ 1.608 C.

C. Operation.

1. All vehicles ~~shall~~ must be ~~maintained and~~ operated in compliance with Minnesota Statutes, chapter 169, and rules adopted ~~pursuant to~~ under that chapter.

2.-6. [Unchanged.]

D. [Unchanged.]

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD312

Agency: Department of Transportation

Division: Program Management

Agency Contact: Betsy Parker

Rule Numbers: 14 MCAR SS 1.7001; 1.7003; 1.7005; 1.7007-1.7009

Title: Proposed Rules Relating to Department of Transportation Operating Standards for Special Transportation Service

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language:

Rule Number:	Statutory Section Duplicated:
14 MCAR S 1.7001	Minnesota Statutes 1982, section 174.30, subdivision 1

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Ron Ray
Assistant Revisor
Phone: 296-0945
Date: February 21, 1983

Exhibit H-2

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed) Adoption of Rules of the De-) partment of Transportation) Governing Operating Standards) for Special Transportation) Service 14 MCAR §§ 1.7001-) 1.7013.)

FINDINGS OF FACT AND ORDER ADOPTING RULES

- -

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on April 11, 1983 and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes section 14.14 subdivision 1 on April 4, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules, the Commissioner makes the following:

FINDINGS OF FACTS

1. The Department received a letter from Rod Pieper, President, Minnesota Emergency Care Association requesting that the following sentence in 14 MCAR § 1.7001 C. 5, be deleted. "However, these standards apply to ambulances

when they are providing special transportation service." The Department did not propose to amend this language which is part of the current rule. The language is necessary because it distinguishes ambulances providing special transportation service from ambulances providing life support (emergency) service. Minn. Stat. section 174.30 subdivision 1 exempts emergency ambulances regulated under chapter 144 from these rules. However when an ambulance provides special transportation service it is not an emergency (life support ambulance) and is not subject to Chapter 144. Therefore, the Department must regulate according to the requirements of section 174.30. Accordingly, the Department will not adopt the recommendation of Mr. Pieper.

2. The Department received a letter from Mr. Bill Olson and Bruce Rivers. They suggested that the Department amend 14 MCAR § 1.7013 c. by adding the words "qualified EMT-Instructor" and suitable in-service media/texts." It appears that they meant to propose the Amendment to 14 MCAR § 1.7012 c. which deals with instructors. The Department declines to adopt this amendment. It is unnecessary because section 1.7012 c. 1. now allows emergency medical technicians (EMT's) to teach first aid courses. Section 1.7012 c. 2. allows any health professionals with work experience with physical disabilities, aging and communications disorders to teach passenger assistance

technique training. EMT's are health professionals who are certified by their own national accreditation organization and also by the Minnesota Department of Health. There is nothing which prevents an EMT with work experience from teaching passenger assistance training. The department does not regulate the texts or other materials used to teach these courses.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Operating Standards for Special Transportation Service are adopted this 17 day of May, 1983 pursuant to authority vested in me by Minnesota Statutes section 174.30.

for Richard P. Braun
Commissioner of Transportation

which are unclear. In addition, the department is seeking information or opinions from sources outside the agency in preparing to recommend the repeal of State Board of Education rules which have become unnecessarily costly or burdensome to school districts. The promulgation of these rules is authorized by Minnesota Statutes § 121.11, subd. 12, which permits the board to adopt rules.

The State Department of Education requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Dr. E. Raymond Peterson, Associate Commissioner
Department of Education
713 Capitol Square Building—550 Cedar
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2414 and in person at the above address.

All statements of information and comment shall be accepted until August 15, 1982. Any written material received by the State Department of Education shall become part of the record in the event that the rules are promulgated.

June 8, 1982

Department of Public Safety
Driver & Vehicle Services Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Appointment of Deputy Registrars and Regulation of Deputy Registrar Facilities

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing deputy registrars. The rules must cover such subjects as volume and location criteria for establishing a new deputy registrar facility, requirements for layout and security of deputy registrar facilities, and general rules of operation for deputy registrars.

The promulgation of these rules is authorized by Minnesota Statutes § 168.33, which authorizes the Commissioner of Public Safety to appoint deputy registrars and for cause discontinue such appointments.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Marlene Swanson
Room 161 Transportation Bldg.
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-2001 and in person at the above address.

All statements of information and comment shall be accepted until July 5, 1982. Any written material received by the State Department of Public Safety shall become part of the record in the event that the rules are promulgated.

John P. Sopsic
Commissioner of Public Safety

Department of Transportation
Program Management Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Standards for Special Transportation Service

Notice is hereby given that the Department of Transportation is seeking information or opinions from sources outside the agency in preparing to amend or promulgate new rules governing Operating Standards for Special Transportation Services. The

promulgation of these rules is authorized by Minnesota Statutes § 174.30, subd. 2, which requires the department to "adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service."

The Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gordon W. Boldt
Acting Director—Office of Motor Carrier Safety and Compliance
404 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-0331 and in person at the above address.

All statements of information and comment shall be accepted until 4:30 p.m., July 26, 1982. Any written material received by the Department of Transportation shall become part of the record in the event that the rules are promulgated.

June 14, 1982

Richard P. Braun
Commissioner

Department of Transportation

Petition of the County of Lac Qui Parle for a Variance from State Aid Standards for Design Speed and Bridge Width

Notice is hereby given that the County Board of Lac Qui Parle County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for CSAH 40 from the State Line to CSAH 14, for CSAH 34 from T.H. 75 to Co. Rd. 67 and for CSAH 19 from CSAH 26 to Louisburg, and for a variance from minimum bridge width for CSAH 40.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit a minimum design speed of 43 miles per hour instead of a minimum design speed of 45 miles per hour and to permit a bridge width of 19 feet instead of a required width of 23 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested hearing has been held on the request.

Dated this 10th day of June, 1982.

Richard P. Braun
Commissioner of Transportation

Petition of the County of Todd for a Variance from State Aid Standards for Design Speed and Bridge Width

Notice is hereby given that the County Board of Todd County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for CSAH 1 from West County Line to CSAH 10 and for CSAH 15 from the South County Line to Co. Rd. 100.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit minimum design speeds of 40 and 30 miles per hour instead of a minimum design speed of 45 miles per hour and to permit an 18 foot wide bridge to remain as is instead of widening same to the inplace pavement width of 24 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

Exhibit B-2

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Operating Standards for Special Transportation Service	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 28 day of March, 1983 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Transporation for that purpose and be published in the State Register.

Richard P. Braun
Commissioner of Transportation

Subscribed and sworn to before me

this 28 day of March, 1983.

Kathryn E. Hofstedt
Notary Public
Anoka County, Minnesota.

My Commission expires Aug. 25, 1987

KATHRYN E. HOFSTEDT
Notary Public · Minnesota
ANOKA COUNTY
My Commission Expires
August 25, 1987

Exhibit D-2

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Operating Standards for Special Transportation Service	)	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

NOTICE is hereby given that the Minnesota Department of Transportation proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20 (1982).

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

In the Matter of the Proposed Adoption)
of Rules of the Department of Trans-)
portation Governing Operating)
Standards for Special)
Transportation Service)

Betsy Parker

Office of Motor Carrier Safety

and Compliance

Minnesota Department of Transportation

416A Transportation Building

St. Paul, Minnesota 55155

Telephone (612) 296-7108.

Authority for the adoption of these rules is contained in Minnesota Statutes section 174.30. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office of Motor Carrier Safety and Compliance upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Betsy Parker, Office of Motor Carrier Safety and Compliance.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING - Page Three.

In the matter of the Proposed Adoption)
of Rules of the Department of Trans-)
portation Governing Operating)
Standards for Special)
Transportation Service)

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Office of Motor Carrier Safety and Compliance.

Dated this 28 day of March, 1983.

Richard P. Braun
Commissioner of Transportation

Subscribed and sworn to before me
this 28 day of March, 1983.

Kathryn E. Hofstedt
Notary Public

Anoka, County, Minnesota.

My Commission expires Aug 25, 1987.

KATHRYN E. HOFSTEDT
Notary Public Minnesota
ANOKA COUNTY
My Commission Expires
August 25, 1987

Exhibit A

Department of Transportation

Program Management Division

Notice of Intent to Solicit Outside)
Opinion Regarding Proposed Rules Governing)
Standards for Special Transportation Service.)

- -

Notice is hereby given that the Department of Transportation is seeking information or opinions from sources outside the agency in preparing to amend or promulgate new rules governing Operating Standards for Special Transportation Services. The promulgation of these rules is authorized by Minnesota Statutes § 174.30, subd. 2, which requires the department to "adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service."

The Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gordon W. Boldt
Acting Director - Office of Motor Carrier
Safety and Compliance
404 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-0331 and in person at the above address.

All statements of information and comment shall be accepted until 4:30 p.m., July 26, 1982. Any written material received by the Department of Transportation shall become part of the record in the event that the rules are promulgated.

Richard P. Braun
Commissioner

14th day of June, 1982

Subscribed and sworn to before me
this 14th day of June, 1982

Colette E. Prokop
Notary Public

Ramsey County, Minnesota

My Commission expires 9-13-86.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

Exhibit F

AFFIDAVIT OF MAILING

In the Matter of the Proposed)
Adoption of Rules of the De-)
partment of Transportation)
Governing Operating Standards)
for Special Transportation)
Service.)

- -

Kenneth H. Bjork, being first duly sworn deposes and says:

That on the 4th day of April, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Commissioner of Transporation for the purpose of receiving notices concerning proposals for or proposed rules of the Department of Transportation.

AFFIANT

Kenneth H. Bjork

Kenneth H. Bjork, Manager
Administrative Procedures &
Documentation Section
Office of Systems &
Support Services

Subscribed and sworn to before me

this 4th day of April, 1983.

Colette E. Prokop
Notary Public

Ramsey County, Minnesota.

My Commission expires 9-13-86.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

STATE OF MINNESOTA

Exhibit E

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Operating Standards for Special Transportation Service.	CERTIFICATE AS TO COMPLETENESS OF MAILING LIST FOR RULE - MAKING

- -

I, Kenneth H. Bjork, Manager - Administrative Procedures and Documentation Section, do certify that attached and included in the Affidavit of Mailing of the Notice to all persons on the Department of Transportation mailing list, there is a complete list of persons, associations, and other interested groups who as of 4:30 p.m., April 4, 1983 requested pursuant to Minn. Stat. § 14.14 and 14.22 that their names be placed on file with the Commissioner of Transportation for the purpose of receiving notice on proposed rules on the subject captioned above.

Dated this 4th day of April, 1983.

AFFIANT

Kenneth H. Bjork, Manager
Administrative Procedures &
Documentation Section
Office of Systems &
Support Services

Subscribed and sworn to before me
this 4th day of April, 1983.

Colette E. Prokop
Notary Public

Ramsey County, Minnesota.

My Commission expires 9-13-86

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

P. 1470

APR 1983
RECEIVED
SYSTEMS
&
SUPPORT

STATE REGISTER

STATE OF MINNESOTA



VOLUME 7, NUMBER 41

April 11, 1983

Pages 1445-1500

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 7		
42	Monday Apr 4	Monday Apr 11	Monday Apr 18
43	Monday Apr 11	Monday Apr 18	Monday Apr 25
44	Monday Apr 18	Monday Apr 25	Monday May 2
45	Monday Apr 25	Monday May 2	Monday May 9

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.051. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Rudy Perpich
Governor

Sandra J. Hale
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

Cover graphic: ***Minnesota State Capitol,*** **ink drawing by Ric James.**

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
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Issue 52, cumulative for 1-52

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*Published in *MCAR 1982 Reprint*

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Higher Education Coordinating Board

Proposed Rules Governing State Scholarships and Grants-In-Aid; Part-Time Student Grants; Work-Study Grants; Area Vocational-Technical Institute Tuition Subsidy; Assistance for Student Dependents of Minnesota Veterans; State Student Loans; Private College Contracts; and Private Institutions Registration and Approval of Degrees and Names

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Higher Education Coordinating Board proposes to adopt the above-entitled rules without a public hearing. The Executive Director has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 14.13-14.15 (1982).

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

Rose Herrera Hamerlinck
Minnesota Higher Education Coordinating Board
400 Capitol Square building
550 Cedar Street
St. Paul, Minnesota 55101
612/296-7963

Authority for the adoption of these rules is contained in Minnesota Statutes sections 136A.111, 136A.121, 136A.132, 136A.233, 136A.236, 136A.141, 136A.20, 136A.70 (1982). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Rose Herrera Hamerlinck, Higher Education Coordinating Board, upon request.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ ~~outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ ~~outs~~ indicate deletions from proposed rule language.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Rose Herrera Hamerlinck, Higher Education Coordinating Board.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Rose Herrera Hamerlinck at the above address.

Clyde R. Ingle, Executive Director
Minnesota Higher Education Coordinating Board

Rules as Proposed

5 MCAR § 2.0604 Terms of loans and grants.

A. Conditions for conversion of loans. Each eligible institution shall be authorized and be responsible for informing any foreign students who receives funds or ~~residing~~ residency status pursuant to the program that the funds are provided initially as a loan and will not be converted to a grant until the student submits written, documentable evidence that the student has returned to his home country within one year of completion of the student's education and has not returned to the United States for five years as a permanent resident.

B. Emergency scholarship funds. Prior to the annual report on which appears a loan cancellation involving emergency scholarship funds, the board must approve evidence submitted to the institution by the student. The board shall approve a loan cancellation when the evidence shows that the student has met the requirements in A. The evidence may be notarized statements by the student, notarized statements by persons who know the student, letters from the students with postmarks of the student's country, or similar writings.

B.-F. [Reletter as C.-G.]

5 MCAR § 2.0606 Disbursement of funds.

A.-B. [Unchanged.]

C. Accountability. Each participating ~~institution~~ school shall be accountable for any funds disbursed to students under the provisions of these rules ~~and regulations~~ as long as loan balances are outstanding.

D. Time for return of funds. Any emergency scholarship fund disbursement plus accrued interest which is outstanding six years after the documented date the student left school shall be remitted to the board according to the procedures established to implement B.

Rules as Proposed (all new material)

5 MCAR § 2.0100 Definitions for higher education programs.

A. Applicability. For the purposes of 5 MCAR §§ 2.0100-2.2705 the terms defined in this rule have the meanings given them unless specifically provided otherwise.

B. Board. "Board" means the Higher Education Coordinating Board.

C. Educational costs. "Educational costs" means tuition, required fees, room and board, books, and miscellaneous expenses.

D. Eligible student. "Eligible student" means a student who meets, at a minimum, all of the following requirements:

1. has not earned a baccalaureate degree and has not entered a graduate school program as a full-time graduate student;
2. is a resident of Minnesota;
3. qualifies for resident tuition other than through a tuition reciprocity agreement;
4. is enrolled or is intending to enroll as a full-time student in an eligible school;
5. is in good standing and making satisfactory progress, as determined by the school; and
6. is a permanent resident of the United States, if the student is not a United States citizen.

E. Executive director. "Executive director" means the executive director of the Higher Education Coordinating Board.

F. Financial need. "Financial need" means the amount of monetary assistance necessary for a student to meet educational

costs after parental and student contributions, determined by the financial need analysis, are subtracted from the student's educational costs. "Financial need analysis" means a system for analyzing a family's financial strength to determine the expected parental and student contributions to educational costs. The system is a federally approved system or an equivalent need analysis system adopted each year by the board for the appropriate processing year.

G. Minnesota resident. "Minnesota resident" means, for a dependent student, a student whose parent or legal guardian resides in Minnesota on the date of application. "Dependent" student means a student who:

1. lives with the parent or legal guardian for at least six weeks; or

2. receives support from the parent or legal guardian; or

3. is claimed as a tax exemption by the parent or legal guardian in the calendar year prior to or during the calendar year in which the application is made.

"Minnesota resident" means, for an independent student, a student who has resided in Minnesota for other than educational purposes for at least 12 consecutive months prior to the date of application. "Independent" student means a student who is not a dependent student.

State Scholarships and Grants-in-aid

5 MCAR § 2.2101 Scope.

Rules 5 MCAR §§ 2.2101-2.2106 govern state scholarships and grants-in-aid.

5 MCAR § 2.2102 Eligible schools.

Annually by July 31, the board shall adopt by resolution a list of schools at which a state scholarship or grant-in-aid may be used. To be eligible a school must meet the following requirements:

1. is located in Minnesota; and

2. offers at least one program that:

   a. is vocational or academic in nature; and

   b. leads to a certificate or degree; and

   c. is ten weeks long; and

   d. involves at least 12 academic credits or 300 clock hours; and

3. is one of the following:

   a. accredited by a federally recognized accrediting agency or association; or

   b. approved to offer degrees or use terms in its name according to 5 MCAR § 2.2805; or

   c. is licensed by an appropriate state agency.

5 MCAR § 2.2103 Application dates and student eligibility.

A. Date. Annually the board shall adopt by resolution a date by which all applications must be filed to be given priority for an award. The date may not be before February 15.

B. Eligibility for initial scholarship. To be eligible for an initial scholarship a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and all of the following:

1. be a Minnesota resident on the priority application date;

2. will be a first-year student, without any previous post-secondary education; and

3. rank in the upper quarter of the class at the end of the junior year of senior high school, or the equivalent, based on the student's cumulative scholastic record in senior high school.

C. Eligibility for initial grant-in-aid. To be eligible for an initial grant-in-aid a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and all of the following:

1. is a Minnesota resident on the priority application date;

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2. has not earned a baccalaureate degree and has not completed the number of semesters or quarters normally required to complete a baccalaureate degree;

3. demonstrates financial need;

4. if applying for a nursing grant, is enrolled or will be enrolled in a program leading to licensure as a registered nurse or a licensed practical nurse.

D. Renewal awards. A scholarship or grant-in-aid is renewable for a maximum of six semesters, nine quarters, or the equivalent. To be eligible to renew a scholarship or grant-in-aid a student must apply each year and continue to meet the requirements for an initial scholarship or grant-in-aid, except B.2. A student must have made satisfactory progress as determined by the school and have been enrolled in a post-secondary school as a full-time student for no more than four years or the equivalent.

5 MCAR § 2.2104 Ranking applicants.

A. Classification and ranking of applicants. Each applicant shall be placed in at least one of the following classifications: renewal scholarship, renewal grant-in-aid, initial scholarship, initial grant-in-aid. Grant-in-aid applicants are ranked according to parental contribution; applicants with the least parental contribution are awarded first. Scholarship applicants are ranked according to class rank as a junior in high school; applicants with the highest class rank are awarded first.

B. Priority of classes of applicants. Applicants renewing scholarships shall be given first priority. Applicants renewing grants-in-aid shall be given second priority. Applicants for initial scholarships shall be given third priority. Applicants for initial grants-in-aid shall be given fourth priority.

C. Awards based on need. Awards determined by financial need shall be assigned each applicant in descending order of rank until available funds are exhausted.

5 MCAR § 2.2105 Awards.

A. Monetary awards. Scholarship and grant-in-aid awards range from a minimum of $100 to a maximum of $1,400 but may not exceed one-half of financial need. If a federal Pell grant and a state scholarship or grant-in-aid exceeds 75 percent of financial need, the state scholarship or grant-in-aid must be reduced so that the combination of the two awards does not exceed 75 percent of financial need. The state scholarship or grant-in-aid must be further reduced if additional gift assistance, in combination with a federal Pell grant and a state scholarship or grant-in-aid, exceeds 100 percent of financial need.

B. Adjustments to awards. If financial need decreases because a recipient chooses a different school after the scholarship or grant-in-aid award is offered, the award shall be reduced. If a change in schools causes financial need to increase, the award shall be increased only if funds are available.

C. Nonmonetary awards. Honorary scholarships, which are nonmonetary awards, shall be granted to all applicants who have no financial need or did not request financial aid and who rank equally with or above the last monetary scholarship recipient.

5 MCAR § 2.2106 Method of payment.

A. Payments to schools. After a scholarship and grant-in-aid award is determined, the award shall be sent by the executive director to the school chosen by the recipient. The school shall apply the award to the recipient's educational costs in the following order: tuition, fees, books, supplies, and other expenses. The costs must be prorated for each term of the academic year. The school shall notify each recipient that the award has been received by the school.

B. Return and refund. A scholarship and grant-in-aid is awarded for full-time attendance at a specified school for the academic year which commences with the fall term. If a recipient fails to enroll or ceases to be a full-time student, the school must return the unused portion of the award. A refunded award must be sent by the school to the board's scholarship or grant-in-aid account. Refunded awards are available for reassignment to other qualified applicants.

C. School accounting requirements. Schools shall maintain separate accounts for scholarship and grant-in-aid funds. Refunds to the board shall be made by separate checks for scholarships and grants-in-aid. Schools shall provide evidence, prepared according to generally accepted accounting principles, that all awards have either been distributed or returned to the board. Books and records relating to state scholarships and grants-in-aid must be made available for audit by representatives of the board or the State Auditor.

Part-time Student Grants

5 MCAR § 2.2201 Scope.

Rules 5 MCAR §§ 2.2201-2.2206 govern state grants-in-aid for part-time students.

5 MCAR § 2.2202 Eligible schools.

Schools eligible for part-time student grants are the same schools eligible for state scholarships and grants-in-aid under 5 MCAR § 2.2102.

5 MCAR § 2.2203 Application and distribution of funds for grants.

A. Application by schools. A school desiring funds for part-time student grants must request funds by June 30 each year. The school must submit its estimate of the amount needed to meet eligible student needs for the school year.

B. Allocation formula.

1. Funds shall be allocated to each school according to the following formula:

a. part-time enrollment of each school, divided by the total part-time enrollment of all eligible participating schools;

b. multiplied by the current fiscal year's appropriation for part-time student grants; and

c. multiplied by the percent of funds for part-time student grants actually used by that school during the prior school year.

2. "Part-time enrollment" means the sum of all enrolled resident, extension, and unclassified part-time students reported as lower division, upper division, and vocational in the fall term of the school year prior to the fiscal year the funds are allocated and as published by the board in its annual enrollment survey.

C. Notification. The board shall notify each school of the amount allocated to it.

D. Accountability. Each participating school shall be accountable for any funds disbursed to students for grants-in-aid for part-time students. Funds may be used only during the fiscal year of disbursement. When a student does not use a grant because the student does not enroll or withdraws from school, the school may use the funds for other eligible students or return them to the board.

E. Unused funds. When requested by the board, each school shall report its use of funds and shall return unused funds. The board shall reallocate unused funds to schools desiring additional funds.

5 MCAR § 2.2204 Eligible students.

A. Determination of eligibility. A school shall determine if a student is eligible for a part-time student grant. To be eligible a student must be an eligible student as defined in 5 MCAR § 2.0100 D., except that the student need not be a full-time student, and all of the following:

1. is pursuing a program or course of study leading to a degree, diploma, or certificate; and

2. is not eligible for state or federal financial aid, other than a Pell grant; and

3. is not reimbursed for tuition and fees by any source other than a Pell grant; and

4. demonstrates financial need.

B. Family income. A student has financial need if the student's family income is no more than the income levels annually established by the board. Family income shall take into consideration the number of dependents in the student's family.

C. Income for year tax return filed and exceptions. Family income is determined according to the base year. The base year is the most recent tax year in which a tax return has been filed. In any of the following circumstances estimated income for the current year shall be used instead of the base year:

1. a parent or spouse who provided income in the base year has died during the base year or the current year;

2. a parent, spouse, or applicant who provided income in the base year experiences a complete loss of all employment for at least ten weeks in the current year;

3. a parent, spouse, or applicant who provided income in the base year is unable to pursue normal income-producing activities in the current year for at least ten weeks due to disability occurring in the base year or the current year or due to a natural disaster that occurred in the current year;

4. a parent or applicant became separated or divorced during the current year;

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5. the applicant, who was employed for an average of 35 hours per week for at least 30 weeks in the base year, is no longer employed full-time in the current year; or

6. no tax return was filed for the most recent tax year.

5 MCAR § 2.2205 Amount and term of grants.

A school shall award a grant to each eligible student, to the extent institutional funds are available and the student shows need. The amount of the grant, when combined with a student's Pell grant, shall not exceed the lesser of the cost of resident tuition and fees at the school or the cost of resident tuition and fees for an equivalent program at the University of Minnesota. A grant is for one quarter, semester, or the equivalent at the school and is not automatically renewable. The recipient of an award may apply for a grant for subsequent terms.

5 MCAR § 2.2206 Reports of data.

To prepare summary data, each school must annually solicit demographic, educational, and financial data from eligible students requesting grants. Each school shall provide the summary data upon request by the board.

Work-Study Grants

5 MCAR § 2.2301 Scope.

Rules 5 MCAR §§ 2.2301-2.2307 govern state work-study grants.

5 MCAR § 2.2302 Eligible schools.

Schools eligible for work-study grants are the same schools eligible for state scholarships and grants-in-aid under 5 MCAR § 2.2102.

5 MCAR § 2.2303 Application and distribution of funds for grants.

A. Application by schools. A school desiring funds for work-study grants must request funds by June 30 each year. The school must submit its estimate of the amount needed to meet eligible student needs for the following school year.

B. Allocation formula.

1. Funds shall be allocated to each school according to the following formula:

a. full-time equivalent enrollment of each school, divided by the total full-time equivalent enrollment of all participating eligible schools;

b. multiplied by the current fiscal year's appropriation for work-study grants; and

c. multiplied by the percent of funds for work-study grants actually used by that school during the prior school year.

2. "Full-time equivalent enrollment" means the enrollment in the fall term determined by the board in its annual enrollment survey in the year prior to the academic year for which work-study funds are allocated.

C. Modification of allocations. The board shall allocate funds equal to a school's estimated need if the estimated need is less than the amount determined by the allocation formula.

D. Accountability. Each participating school shall be accountable for any funds disbursed to students for work-study grants. Funds may be used only during the fiscal year of disbursement. At schools where the proportion of grants to students employed by off-campus employers is significantly less than the proportion at other schools, the executive director may require the school to document its efforts to place students with off-campus employers. The percent of the school's allocation provided to graduate students shall not exceed the percent of graduate students in the total enrollment at the participating school.

E. Unused funds. When requested by the board, the school must immediately return funds which the school determines will not be used. The board shall reallocate the funds to other participating schools requesting additional funds.

5 MCAR § 2.2304 Eligible students.

A school shall determine if a student is eligible for a work-study grant. To be eligible a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., except that the student may be a graduate student.

5 MCAR § 2.2305 Employment terms; amount of grants.

A. Eligible employers. A work-study grant recipient may be employed on-campus by the school or off-campus by any of the following:

1. a nonprofit, nonsectarian agency located in Minnesota;

2. a person who has a physical or mental impairment which substantially limits at least one life activity and who could benefit from student assistance in or about the home; or

3. a person over 65 years old who could benefit from student assistance in or about the home.

B. Amount. The maximum a student may earn through a work-study grant is the amount of the student's financial need. If a school finds it necessary to replace any portion of a student's family contribution with a work-study grant, the school must place written documentation supporting the decision in the student's file at the school.

C. Hourly wages. Not less than 20 percent of the amount earned by a student shall be paid by the employer, with the actual percentage determined by the school in consultation with the employer. A student shall be paid for hours actually worked at an hourly rate agreed to by the employer and the student, with the approval of the school. However, the student must be paid at least the state minimum wage, if the federal minimum wage is not applicable. Student earnings must be paid according to federal regulations governing payment of student earnings under the federal work-study program.

5 MCAR § 2.2306 Contracts with employers.

A. Off-campus employer contract. Before a student begins work, the school and off-campus employer shall sign a contract affirming the eligibility of the employer and agreeing to abide by applicable law and rules.

B. Contents of work contract. The student, school, and employer shall sign a contract setting forth the nature of the work, number of hours of employment, hourly rate of pay, percentage of earnings to be paid by the employer, maximum payment by the employer, pay and time records, payroll, and workers' compensation. Time records must be signed by the student and the employment supervisor.

C. Review and comment. All contracts signed by the school and employers are subject to review and comment by the executive director.

D. Supervision. The school, with the employer, must develop for each work-study assignment a program of supervision consistent with the nature of the assignment and the needs of the individual student. Upon request of the board, the school must submit the program of supervision to the executive director for review and comment.

5 MCAR § 2.2307. Report by school.

When requested by the board, each school shall report demographic information and program activity about work-study grants.

AVTI Tuition Subsidy

5 MCAR § 2.2401 Scope.

Rules 5 MCAR §§ 2.2401-2.2405 govern the tuition subsidy program for students in area vocational-technical institutes.

5 MCAR § 2.2402 Eligible schools.

Schools eligible for tuition subsidies are area vocational-technical institutes (AVTI's) established pursuant to Minnesota Statutes, section 121.21.

5 MCAR § 2.2403 Application and distribution of funds for tuition subsidies.

A. Application by AVTI. By June 30 an AVTI desiring funds for tuition subsidies must request funds on the participation request form supplied by the board. The AVTI must submit its estimate of the amount needed to meet eligible student needs for the following school year.

B. Allocation formula.

1. Funds shall be allocated to an AVTI according to the following formula:

   a. average daily membership in the AVTI divided by the total average daily membership of all AVTI's;

   b. multiplied by the current fiscal year's appropriation for tuition subsidies; and

   c. multiplied by the percent of funds for tuition subsidies actually used by that AVTI during the prior school year.

2. "Average daily membership" means the average daily membership for an AVTI as approved by the Department of Education for the year prior to the fiscal year the funds are allocated.

C. Notification. The board shall notify each AVTI of the amount allocated to it.

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D. Accountability. Each participating school shall be accountable for any funds disbursed to students for tuition subsidies. Funds may be used only during the fiscal year of disbursement. When a student does not use a subsidy because the student withdraws from the AVTI, the AVTI may use the funds for other eligible students or return the funds to the board.

E. Unused funds. When requested by the board, the AVTI must immediately return funds which the school determines will not be used. The board shall reallocate the funds to other participating AVTI's requesting additional funds.

F. Return of funds. Within 30 days of the end of the fiscal year each AVTI shall return unused funds to the board.

5 MCAR § 2.2404 Eligible students.

A. Determination of eligibility. An AVTI shall determine if a student is eligible for a tuition subsidy. To be eligible a student must be an eligible student, as defined in 5 MCAR § 2.0100 D., and both of the following:

1. has not been awarded a state scholarship or grant-in-aid for the time period for which the tuition subsidy is awarded; and

2. demonstrates financial need.

B. Financial need. A student's financial need is that portion of educational costs which remain after subtracting the expected family contribution, the Pell grant, and other assistance the student is receiving or will receive.

C. Application. A student may apply for a tuition subsidy before or while attending an AVTI. A student may defer paying tuition during the application process.

5 MCAR § 2.2405 Tuition subsidy.

A. Amount of subsidy. The amount of a tuition subsidy is based on the student's financial need. A student whose financial need does not exceed five percent of the cost of tuition may not receive a tuition subsidy. A subsidy may not exceed 75 percent of the cost of tuition for the period of the tuition subsidy.

B. How subsidy is credited. An AVTI shall reduce the tuition charged to each recipient by the amount of the tuition subsidy.

C. Educational programs extending across fiscal years. A tuition subsidy is awarded for the fiscal year of disbursement only. For an educational program extending across fiscal years, a tuition subsidy is prorated to the end of the fiscal year. Reapplication is necessary to obtain a tuition subsidy for the remainder of the educational program. A subsequent subsidy is contingent upon availability of funds, continued demonstration of financial need, and continued eligibility.

D. When subsidy begins. For a recipient who applied before the first day of classes, tuition reduction shall begin on the first day of the recipient's classes. For a recipient who applied after the first day of classes, tuition reduction shall begin on the day the recipient applied for a subsidy.

E. Obligation for tuition when tuition payment deferred. If a student defers tuition payment during the application process, the student is responsible for tuition which accrued during the application process. However, if a student does not receive a subsidy and promptly withdraws from school, tuition for the period shall be forgiven. A student who does not receive a subsidy and does not promptly withdraw from school is responsible for tuition which accrued during the application process.

F. Scholarship or grant-in-aid awards. A recipient of a state scholarship or grant-in-aid is eligible for a tuition subsidy only for the period of an educational program which does not coincide or overlap with the period of a state scholarship or grant-in-aid.

G. Transfer to another AVTI. Tuition subsidies are not transferable to other AVTI's. A recipient may apply for another subsidy if the recipient transfers to another AVTI. A recipient must meet the eligibility requirements in 5 MCAR § 2.2404 A.

Assistance for Student Dependents of Minnesota Veterans

5 MCAR § 2.2501 Scope.

Rules 5 MCAR § 2.2501-2.2503 govern state financial assistance for students in postsecondary school who are dependents of prisoners of war and persons missing in action.

5 MCAR § 2.2502 Eligible students and verification.

A. Eligibility. To be eligible for financial assistance for dependents of prisoners of war and persons missing in action, all of the following requirements must be met:

1. The student must be registered for an undergraduate program leading to a bachelor's degree or certificate of completion.

2. The student must attend a school located in Minnesota. The school may be a state university, community college, public area vocational-technical institute, or the University of Minnesota. If the school is a private school it must be eligible to participate in the state student loan program according to 5 MCAR § 2.2602.

3. The student must be one of the following:

a. the spouse of a prisoner of war or person missing in action;

b. a child born before or during the time the parent served as a prisoner of war or was declared a person missing in action; or

c. a child legally adopted or in the legal custody of the parent before and during the time the parent served as a prisoner of war or was declared a person missing in action.

B. Verification of status. In cooperation with the Commissioner of Veterans' Affairs, a school must verify, on behalf of a student applying for assistance, that the student meets the requirements in A.3. A prisoner of war or person missing in action means a person who was a Minnesota resident at the time of entering service of the United States Armed Forces, or whose official residence is within Minnesota, and who, while serving in the United States Armed Forces, has been declared to be a prisoner of war or a person missing in action as established by the Secretary of Defense after August 1, 1958. Verification must include the determination of residency. A discharge form, notarized statement from the student's parent, or other documentation may be required to show residency. In addition, a student may be required to provide a copy of a birth certificate, marriage certificate, or other document showing the student meets the requirement of A.3. No situation, including return or reported death of the parent or spouse, can remove a person who qualifies as a dependent from the provisions or benefits provided by law.

5 MCAR § 2.2503 Amount of assistance.

A. State-supported school. A state-supported school shall waive full tuition and fees for an eligible student.

B. Private school. A private school shall request payment from the board for each eligible student. The payment to the private school for each student shall not exceed $250 per 12 months.

State Student Loans

5 MCAR § 2.2601 Scope.

Rules 5 MCAR §§ 2.2601-2.2605 govern state loans to postsecondary students.

5 MCAR § 2.2602 Eligible schools.

Schools eligible for funds for student loans are public or private postsecondary schools in any state, approved by the United States Secretary of Education in accordance with requirements of the Higher Education Act of 1965, as amended.

5 MCAR § 2.2603 Eligible students.

A. General. To be eligible for a state student loan, a student must meet all of the following requirements:

1. is eligible for the guaranteed student loan program created by the Higher Education Act of 1965, as amended;

2. demonstrates financial need;

3. is enrolled at least half-time;

4. is in good standing, as determined by the school;

5. lives in Minnesota during the school period for which the loan is approved, for a student who is not a Minnesota resident;

6. has a loan refusal letter from a commercial lender when applying for a loan for the first time as an undergraduate student; and

7. is one of the following:

a. enrolled in an eligible school in Minnesota; or

b. a Minnesota resident enrolled in an eligible school in any other state.

B. Loans previously obtained in other states. A student who is not a Minnesota resident and who has previously obtained a student loan from a lender in another state is required to submit evidence that a request for a further loan through that program was denied.

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C. Students in default. A student is not eligible for a loan if the student is currently in default on a student loan or has a default claim filed with the guarantee agency at the time of application unless the student has made repayment arrangements satisfactory to the guarantee agency and the board.

5 MCAR § 2.2604 School agreements and student applications.

A. Origination agreement. Before approving loans to students at a school, the school and executive director shall execute a loan origination agreement. A school is considered to have originated a loan if the school determines who receives a loan and the amount or if the school, at the request of the lender, verifies the identity of the borrower or completes forms normally completed by the lender. The origination agreement must specify the school's responsibility for proper delivery of loans to students. It must also designate a school representative who is responsible for performance of the following activities:

1. complete and certify the school section of a loan application;
2. assist the board by providing loan counseling to students;
3. assist the board by counseling students about their obligations when accepting a loan;
4. deliver loan disbursements to students; and
5. promptly notify the board when a borrower does not attend school at least half-time.

B. Termination. The executive director may terminate an agreement with a school upon determining that continuation of the agreement is not in the best interests of the state student loan program.

C. Application, guarantee, and note. The student and school must complete appropriate parts of the application and send it to the board for its review. The board must complete the lender's part of the application and send it to the guarantee agency. The guarantee agency must determine the loan amount it will guarantee. The board must send a promissory note to a student for a loan amount not to exceed the amount guaranteed. After the student signs and returns the promissory note, the board must send the loan amount to the school made payable to the student.

5 MCAR § 2.2605 Amount, terms, and payment.

A. Maximum and minimum amounts. The maximum loan for a loan period and the aggregate principal balance of loans shall be those prescribed in the Higher Education Act of 1965, as amended. The minimum amount of a loan shall be $250.

B. Duration. A loan shall not be approved for a loan period in excess of 12 months.

C. Repayment. The interest rate, terms, and conditions of repayment shall be that prescribed by the Higher Education Act of 1965, as amended.

D. Date of payments. No check shall be dated more than 30 days before the beginning of the loan period for which the loan is made. A school shall not deliver a check to a student until after the loan period has begun. No payment shall be made after the loan period expires.

E. Failure to enroll, transfer, or withdrawal. The school shall return checks for students who have not enrolled within 30 days of the date enrollment is determined. If a student transfers to another school or withdraws from school before a check is received, the loan is cancelled. A student may reapply for a loan at another school. If a student who has received a check does not attend school for the intended loan period, the loan shall be immediately due and payable.

F. Refunds. Refunds from schools to the board are allocable in a percentage greater than or equal to the percentage of the total cost of education funded by state student loans.

Private College Contracts

5 MCAR § 2.2701 Scope.

Rules 5 MCAR §§ 2.2701-2.2705 govern the state program of contracts with private colleges for education of Minnesota residents.

5 MCAR § 2.2702 Eligible schools.

Annually the board shall adopt by resolution a list of schools eligible for a contract. To be eligible a school must meet all of the following requirements:

1. be a private institution of higher education;
2. be located in Minnesota;
3. not be operated for profit;
4. not be an institution or department or branch of an institution whose program is specifically to prepare students to become ministers of religion, to enter upon some other religious vocation, or to prepare to teach theological subjects;

5. grant an associate degree or higher degree; and

6. be either of the following:

a. fully accredited or making satisfactory progress toward full accreditation by the North Central Association of Secondary Schools and Colleges; or

b. determined by the board to maintain programs and standards substantially equivalent to the institutions in Minnesota which are fully accredited.

5 MCAR § 2.2703 Contracts.

A. Content. The executive director shall offer contracts to all eligible schools. The contract must specify the responsibilities of the school, the services it is to provide, and the terms and conditions of receiving payment for the services.

B. Students eligible. The contract must be for students who meet all the following requirements:

1. are enrolled full-time in the fall term according to the standards of the school, but for not less than 12 credits or the equivalent;

2. are enrolled in an eligible program; and

3. are either one of the following:

a. dependent upon the financial support of parents or guardians who have resided in Minnesota for not less than 12 months prior to admission at the school; or

b. independent of parental or guardian's financial support and have resided in Minnesota, for purposes other than obtaining an education, for not less than 12 consecutive months prior to admission at the school.

C. Eligible programs notarized. As a condition of the contract, the chief executive officer and an officer of the governing board of each school must provide a notarized statement that programs included in the contract meet the following criteria:

1. must lead to an associate or bachelor degree or to a prebaccalaureate diploma;

2. must be at least one academic year in duration;

3. may provide for the scholarly study of religion as a discipline of knowledge in a manner similar to that provided for any field of study, but it may not require a student to:

a. take courses based upon a particular set of religious beliefs;

b. receive instruction intended to propagate or promote any religious beliefs;

c. participate in religious activities;

d. maintain affiliation with a particular church or religious organization; or

e. attest to any particular religious beliefs.

5 MCAR § 2.2704 Certification of the number of eligible students.

The chief executive officer of each school must certify as of the tenth class day of the fall term the exact number of Minnesota residents who are enrolled in programs meeting the criteria in 5 MCAR § 2.2703 C. Each school must maintain adequate records demonstrating the method of calculating the number of students. The records and underlying documents must be available to the board for inspection.

5 MCAR § 2.2705 Payment.

A. Amount of payment. The executive director shall pay, for each eligible student who is not a state grant-in-aid recipient, $120 per student in a school granting an associate degree but not a bachelor's degree and $150 per student in a school granting a bachelor's degree. In addition, the executive director shall pay, for each eligible student who is a state grant-in-aid recipient, $400 per student in a school which grants an associate degree but not a bachelor's degree and $500 per student in a school which grants a bachelor's degree. However, if the appropriation is insufficient to pay the full amount, the executive director shall reduce the payments in a manner which maintains the ratios among the four categories of students.

B. Time of payment. Ninety percent of the payment shall be made in the winter. It shall be calculated by using the number of

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eligible students, certified by the school and verified by the executive director, and the preliminary number of fall grant-in-aid recipients. The final payment shall be made in the spring. It shall be based on the final number of fall grant-in-aid recipients and shall include any required adjustments.

Private Institutions Registration and Approval of Degrees and Names

5 MCAR § 2.2801 Scope.

Rules 5 MCAR §§ 2.2801-2.2811 govern a state program for registration of private and non-Minnesota public postsecondary institutions and approval of degrees granted and names used.

5 MCAR § 2.2802 Definitions.

A. Applicability. For the purposes of 5 MCAR §§ 2.2801-2.2811 the terms defined in this rule have the meanings given them.

B. Degree. "Degree" means any award given by a school which signifies or is generally taken to signify completion of a program or course and which is designated by the terms degree, associate, bachelor, baccalaureate, master, doctor, or education specialist.

C. School.

1. "School" means an individual, partnership, company, firm, society, trust, association, corporation, or any combination thereof operating or doing business in Minnesota which:

a. is, owns, or operates a private, nonprofit postsecondary education institution;

b. provides a postsecondary instructional program or course leading to a degree whether or not for profit;

c. is, owns, or operates a private postsecondary educational institution which uses the term "academy," "college," "institute," or "university" in its name or advertising; or

d. operates for profit and provides programs or courses which are intended to allow an individual to fulfill in part or totally the requirements necessary to maintain a license to practice an occupation.

2. "School" also means, except in 5 MCAR § 2.2804 B., a public or private postsecondary educational institution located outside Minnesota which offers programs, courses, or educational activities to residents of Minnesota and which does not require the student to leave the state for the major portion of the program, course, or activities.

5 MCAR § 2.2803 Who must register.

All schools shall register annually with the Higher Education Coordinating Board. Annually the board shall adopt by resolution and publish a list of registered schools. A school need not be approved to be registered.

5 MCAR § 2.2804 Requirements for registration.

A. Fees. The initial registration fee is $200 and the annual renewal fee is $150. Neither fee is refundable.

B. Plan to preserve permanent records. Each school located in Minnesota shall maintain permanent records for all students enrolled at any time. Records include school transcripts, documents, and files containing student data relating to academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan which meets all of the following:

1. at least one copy of the records held in a secure depository;

2. an appropriate official designated to provide a student with copies of records or a transcript upon request;

3. a method of complying with 1. and 2. should the school cease to exist; and

4. if the school has no binding agreement for preserving student records, a continuous surety bond in an amount not to exceed $20,000 or a trust arrangement should the school cease to exist.

C. Information. Each school shall submit the following information accompanied by an affidavit attesting to its accuracy and truthfulness:

1. articles of incorporation, constitution, bylaws, or other operating documents;

2. a duly adopted statement of the school's mission and goals;

3. evidence of current school or program licenses granted by departments or agencies of any state;

4. a fiscal balance sheet on an accrual basis, or a certified audit of the immediate past fiscal year or, if the school is a public institution outside Minnesota, an income statement for the immediate past fiscal year;

5. all promotional and recruitment materials and advertisements;

6. the current school catalog and, if not contained in the catalog:

a. the members of the board of trustees or directors, if any;

b. the current institutional officers;

c. current full-time and part-time faculty with degrees held or applicable experience;

d. a description of all school facilities;

e. a description of all current course offerings;

f. all requirements for satisfactory completion of courses, programs, and degrees;

g. the school's policy about freedom or limitation of expression and inquiry;

h. a current schedule of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

i. the school's policy about refunds and adjustments;

j. the school's policy about granting credit for prior education, training, and experience; and

k. the school's policy about student admission, evaluation, suspension, and dismissal.

D. Additional information. If the board is unable to determine the nature and activities of a school on the basis of the information in C., the board shall notify the school of additional information needed.

E. Verification of information. The board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary.

F. Public information. All information submitted to the board is public information except financial records and information. The board may disclose financial records or information to defend its decision to approve or disapprove granting of degrees or the use of a name or its decisions to revoke such approval at a hearing under Minnesota Statutes, chapter 14, or other legal proceedings.

G. Unauthorized representations. No school or any of its officials or employees shall advertise or represent in any manner that a school is approved or accredited by the board or the state of Minnesota. A school may represent that it is registered with the board by using the following language: "(Name of school) is registered with the Minnesota Higher Education Coordinating Board. Registration is not an endorsement of the institution. Registration does not mean that credits earned at the institution can be transferred to other institutions or that the quality of the educational programs would meet the standards of every student, educational institution, or employer."

5 MCAR § 2.2805 Approval of names and degrees.

A. In General. A school must be registered if it uses the term "academy," "institute," "college," or "university" in its name or if it grants a degree to a student in Minnesota, where the student has not left Minnesota for the major portion of the program or course leading to the degree. It also must substantially meet the criteria in B. In addition, it must meet the requirements in D. and E., as applicable. Annually the board shall adopt, by resolution, and publish a list of the schools approved to use regulated terms in their names and a list of schools approved to grant degrees with a list of the approved specified degrees.

B. Criteria for approval. The information submitted for registration is used to determine whether the following criteria are substantially met:

1. The school has an organizational framework with administrative and teaching personnel to provide the educational programs it purports to offer.

2. The school has financial resources sufficient to meet the school's financial obligations including refunding tuition and other charges consistent with its stated policy if the institution is dissolved or if claims for refunds are made, to provide service to the students as purported, and to provide educational programs leading to degrees as purported.

3. The school operates in conformity with generally accepted budgeting and accounting procedures, such as the standards adopted by the National Association of College and University Business Officers.

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4. The school provides an educational program leading to the degree it purports to offer.

5. The school provides appropriate and accessible library, laboratory, and other physical facilities to support the educational program offered.

6. The school has a policy on freedom or limitation of expression and inquiry for faculty and students which is published or available on request.

7. The school uses for promotion and student recruitment only publications and advertisements which are truthful and do not give any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school, its personnel, programs, services, or occupational opportunities for its graduates.

8. The school's compensated recruiting agents who are operating in Minnesota identify themselves as agents of the school when talking to or corresponding with students and prospective students.

9. The school provides information to students and prospective students concerning:

a. comprehensive and accurate policies relating to student admission, evaluation, suspension, and dismissal;

b. clear and accurate policies relating to granting credit for prior education, training, and experience and for courses offered by the school;

c. current schedules of fees, charges for tuition, required supplies, student activities, housing, and all other standard charges;

d. policies regarding refunds and adjustments for withdrawal or modification of enrollment status; and

e. procedures and standards used for selection of recipients and the terms of payment and repayment for any financial aid program.

C. Failure to meet criteria. Failure to meet any one of these criteria does not necessarily prevent a school from being approved. Rather, a judgment shall be made on the basis of a pattern which in the whole supports a legitimate educational program, sufficient finances, and sound institutional policies and practices.

D. Requirements for degree approval. The following additional requirements must be met by a school for each degree it offers to a student, where the student does not leave Minnesota for the major portion of the program or course leading to the degree:

1. qualified teaching personnel to provide the educational programs for each degree for which approval is sought;

2. appropriate educational programs leading to each degree for which approval is sought;

3. appropriate and accessible library, laboratory, and other physical facilities to support the educational program for each degree for which approval is sought; and

4. a rationale showing that degree programs are consistent with the school's mission and goals.

E. Requirements for name approval.

1. A school may use the term "academy" or "institute" in its name without meeting any additional requirements.

2. A school may use the term "college" in its name if it offers at least one program leading to an associate degree.

3. A school may use the term "university" in its name if it offers at least one program leading to a baccalaureate, master's, or doctorate degree.

4. A school, organized, operating, and using the term "academy," "institute," "college," or "university" in its name on or before August 1, 1975, may continue using such term whether or not it offers a program leading to a degree.

F. Conditional approval. The board may grant conditional approval for a degree or use of a term in its name for a period of less than one year if doing so would be in the best interests of currently enrolled students or prospective students.

G. Special advisory committee. The executive director may appoint a special advisory committee to review staff recommendations prior to board action upon the request of the school applying for board approval.

5 MCAR § 2.2806 Disapproval and appeal.

If a school's degree or use of a term in its name is disapproved by the board, the school may request a hearing under Minnesota Statutes, chapter 14. The request must be in writing and made to the board within 30 days of the date the school is notified of the disapproval.

5 MCAR § 2.2807 Withdrawal of approval.

A. Notice and hearing. The board may refuse to renew, revoke, or suspend approval of a school's degree or use of a

regulated term in its name by giving written notice and reasons to the school. The school may request a hearing under Minnesota Statutes, chapter 14. If a hearing is requested, no disapproval shall take effect until after the hearing.

B. Reasons for withdrawal. Withdrawal of approval may be for one or more of the following reasons:

1. violating the provisions of Minnesota Statutes, sections 136A.61 to 136A.71 or 5 MCAR § 2.2801-2.2811;

2. providing false, misleading, or incomplete information to the board;

3. presenting to prospective students information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect;

4. refusing to allow reasonable inspection or to supply reasonable information after a written request by the board has been received.

5 MCAR § 2.2808 Information, forms, and procedures.

The executive director may issue public information, design application forms, review applications, secure information, make recommendations, set guidelines, and approve uses pursuant to 5 MCAR § 2.2805 E.4., and establish visitation teams.

5 MCAR § 2.2809 Schools licensed by another agency or department.

The board shall accept as final and not inquire into the substantive basis for a license granted to a school by any agency or department of the state or any other state.

5 MCAR § 2.2810 Schools licensed by commissioner of education.

A school required to be licensed by the commissioner of education is exempt from registration and approval unless it grants degrees.

5 MCAR § 2.2811 Voluntary compliance.

A school or educational program which is exempt under Minnesota Statutes, section 136A.653 is exempt from 5 MCAR §§ 2.2801-2.2810 but may voluntarily waive its exemption by registering. Upon registration the school or educational program is subject to all applicable requirements of Minnesota Statutes, sections 136A.61 to 136A.71 and 5 MCAR §§ 2.2801-2.2810.

Repealer. Rules 5 MCAR §§ 2.0101-2.0108; 2.0201-2.0209; 2.0301-2.0310; 2.0501-2.0507; 2.0701-2.0706; 2.0801-2.0806; 2.0901-2.0918; 2.0990; 2.1001-2.1008 are repealed.

Department of Labor and Industry Occupational Safety and Health Division

Proposed Revisions to the Occupational Safety and Health Standards

Request for Comments

Notice is hereby given that the Department of Labor and Industry proposes to adopt the following revisions to the Minnesota Occupational Safety and Health Codes, as authorized under Minn. Stat. § 182.655 (1982), establishing, modifying or revoking the Occupational Safety and Health Standards described below. This is an action to adopt standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration.

Complete copies of the specific standards, changes, additions, deletions and corrections are available by writing: Occupational Safety and Health Division, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101; or by calling: (612) 297-3254.

Interested persons are hereby afforded a period of 30 days to submit written data or comments on the standards proposed. Any interested person may file with the commissioner written objections to the proposed standards stating the grounds therefor and such person may request a public hearing on those objections.

Steve Keefe
Commissioner of Labor and Industry

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Rules as Proposed

8 MCAR § 1.7001 Adoption of federal Occupational Safety and Health Standards by reference. The Minnesota Department of Labor and Industry Occupational Safety and Health Codes and rules are amended by incorporating and adopting by reference, and thereby making a part thereof, Title 29 of the Code of Federal Regulations as follows:

Part 1910—Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions and corrections made up to November 7, 1978; and subsequent changes made prior to ~~December 31, 1981~~ December 31, 1982:

—Federal Register, Vol. 47, No. 173, dated 9/7/82—"Hazardous Materials; Attendant Exemption and Latch-Open Devices: 1910.106(g)(2) and 1910.106(g)(3)(vi)

—Federal Register, Vol. 47, No. 219, dated 11/12/82—"Occupational Exposure to Lead; Respirator Fit Testing: 1910.1025(f)(3)."

—Federal Register, Vol. 47, No. 228, dated 11/26/82—"Exemption of Educational/Scientific Diving from Part 1910, Subpart T."

—Federal Register, Vol. 47, No. 233, dated 12/3/82—"Occupational Exposure to Lead; Administrative Stay of Compliance Plans for Certain Industries: 1910.1025(e)(3)(i)(B) and (E)."

Part 1915—Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the Federal Register on April 20, 1982 consolidating Part 1915, Part 1916 and Part 1917 into one, comprehensive standard designated as Part 1915.

Part~~s 1915, 1916, 1917 and~~ 1918—Safety and Health Regulations for ~~Maritime Employment~~ Longshoring as published in Part II, Volume 39, No. 119 of the Federal Register on June 19, 1974 which incorporates changes, additions, deletions and corrections made up to June 3, 1974; and subsequent changes made prior to ~~February 1, 1980~~ December 31, 1982:

—Federal Register, Vol. 42, No. 141, dated 7/22/77—"Commercial Diving Operations, which added section~~s 1915.59, 1916.59, 1917.59 and~~ 1918.99."

—Federal Register, Vol. 43, No. 88, dated 5/5/78—"Occupational Exposure to Benzene, supersedes standards included in Part~~s 1915, 1916, 1917 and~~ 1918."

Summary of Standards: The following summaries of the standards being proposed for adoption are very brief; complete copies of these standards are available as noted above.

A. "Hazardous Materials; Attendant Exemption and Latch-Open Devices—1910.106(g)(2) and 1910.106(g)(3)(vi) respectively." On September 7, 1982, the Federal Occupational Safety and Health Administration (Federal OSHA) revoked a standard that exempts employers with private service stations (not accessible to the public) from having to provide a service station attendant—1910.106(g)(2). This exemption is unnecessary because there is no provision in the OSHA Standards that requires either public or private service stations to have an attendant. This requirement was originally adopted from the 1969 edition of the National Fire Protection Association Standard (NFPA-30) which contained both the exemption and a requirement that public service stations have an attendant. However, OSHA chose to adopt only the exemption since the requirement for service station attendants in public service stations was considered relevant to public safety and not directly related to employee safety. Therefore, since the standard, as adopted, did not require an attendant, the exemption is unnecessary.

In addition, Federal OSHA revised its standard on gasoline nozzles to permit the use of latch-open devices on delivery nozzles used by the public in self-service gasoline stations—1910.106(g)(3)(vi). The original standard, which prohibited latch-open devices unless dispensing was done by a service station attendant, was part of the National Fire Protection Association Standard (NFPA-30) "Flammable and Combustible Liquids Code, 1969 Edition," adopted by Federal OSHA in 1971. When this standard was adopted, the self-service operation of gasoline pumps was rather limited; gasoline delivery, for the most part, was done by service station attendants. However, since 1969 a significant increase in the number of self-service gasoline outlets in the United States has resulted in changes to national concensus standards for flammable and combustible liquids including the lifting of the ban on the use of approved latch-open devices on pumps to be used by the public at self-service operations. This change became necessary because the public had begun using unapproved or unlisted prop-open devices such as gas caps, penknives, etc. which, in some cases, resulted in the improper function of the atuomatic-closing valve in the gasoline dispensing nozzles creating a potential for a hazardous spill. Therefore, Federal OSHA lifted the ban on latch-open devices because it believed that the ban imposed a burdensome requirement on the American consumer, it was unnecessary for employee safety since employees were already permitted to use latch-open devices on full-service nozzles, and

it addressed the area of public protection which is outside OSHA's jurisdiction. Further, the revised standard does not make the use of latch-open devices mandatory, but merely makes their use permissible; the final decision as to whether these devices will be installed and used will be made by the employer along with applicable local codes.

Minnesota OSHA hereby proposes to adopt the revisions described above; these revisions were adopted by Federal OSHA on September 7, 1982 and published at Federal Register, Volume 47, No. 173, on September 7, 1982.

B. "Occupational Exposure to Lead; Respirator Fit Testing—1910.1025(f)(3)." This amendment to the Occupational Exposure to Lead Standard allows employers to choose between quantitative fit testing or one of three qualitative fit test protocols—isoamyl acetate, saccharin solution aerosol, or irritant fume—to select appropriate and effective negative pressure half-mask respirators for lead-exposed employees.

The Occupational Exposure to Lead Standard, in part, requires employers to provide employees with respirators where engineering and work practice controls do not reduce employee exposure below the permissible exposure limit of 50 ug/m^3 (micrograms of lead per cubic meter of air). Respirators are a primary means of protecting employees under this rule because engineering controls and work practice requirements are phased-in over a period of years.

In order to help assure that respirators will provide employees with necessary protection, the standard requires employers to periodically perform quantitative fit tests (QNFT) on all users of negative pressure respirators. A quantitative fit test is a method for numerically measuring any leakage of the seal between the respirator facepiece and the wearer's face and is used to determine if the respirator assigned to the employee provides the protection factor specified in the respirator selection table found in Section 1910.1025(f)(2)(i). A qualitative fit test (QLFT) assesses the adequacy of the respirator fit by determining whether or not an individual wearing the respirator can detect the odor, taste, or irritation of a contaminant introduced into the vicinity of the wearer's head; if the contaminant is subjectively detected, the respirator fit is considered to be inadequate. Federal OSHA, in promulgating the Occupational Exposure to Lead Standard, decided to require QNFT rather than QLFT based on the conclusion that the former is more accurate than the latter.

In 1980, Federal OSHA was petitioned to reconsider or modify this provision in light of new information on improved forms of QLFT that may be an effective and less burdensome alternative to QNFT. Federal OSHA reopened the record to admit new updated information. All participants in the rulemaking were given an opportunity to comment on specific protocols or to suggest new ones. Only those protocols specified in the final rule have been adequately tested and, therefore, verified as being appropriate procedures. The specific qualitative fit test protocols included in the revised standard are: isoamyl acetate, saccharin solution aerosol, and irritant fume. Very specific protocols are required because the term "qualitative fit testing" would otherwise be so vague as to be virtually unenforceable and would be of little help in determining how to comply with the standard. The testing protocols must be performed exactly as listed in the Appendices to the standard because it is only these protocols which have had their performance substantiated quantitatively; failure to use all the steps and employ all the proper test conditions amounts to the use of different testing protocols with uncertain results and would not comply with the standard.

Minnesota OSHA hereby proposes to adopt this revision to the Occupational Exposure to Lead Standard, 1910.1025(f)(3), as published in the Federal Register, Volume 47, No. 219 on November 12, 1982.

C. "Educational/Scientific Diving Exemption; Subpart T of Part 1910." By final rule published on November 26, 1982, Federal OSHA is exempting scientific diving from coverage of 29 CFR Part 1910, Subpart T, "Commercial Diving," provided that the scientific diving is under the direction and control of a diving program utilizing a diving safety manual and a diving control board meeting certain specified criteria. This exemption is consistent with U.S. Coast Guard rules which exempt diving performed solely for scientific research and development purposes by educational institutions.

Comments, data and other information submitted to Federal OSHA substantiate a significant difference between commercial diving and scientific diving and verify that diving programs followed by the scientific community have resulted in an effective system of self-regulation. The educational/scientific diver is an observer and data gatherer who chooses the work area and diving conditions which will minimize environmental stresses and maximize the safety and efficiency of gathering data. By contrast, the commercial diver is an underwater construction worker, builder and trouble shooter whose work area and diving conditions are determined by the location and needs of the project.

The final rule defines scientific diving as "diving performed solely as a necessary part of a scientific, research, or educational activity by employees whose sole purpose for diving is to perform scientific research tasks. Scientific diving does not include performing tasks usually associated with commercial diving such as: placing or removing heavy objects underwater; inspection

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of pipelines and similar objects; construction; demolition; cutting or welding; or the use of explosives." The standard also sets forth elements a scientific diving program must have in order to be exempted from Subpart T. First, the diving program must have a diving safety manual which includes, at a minimum, procedures covering all diving operations specific to the program, procedures for emergency care including recompression and evacuation, and criteria for diver training and certification. Secondly, the program shall include a diving control board (with the majority of its members being active divers) which shall have the authority to approve and monitor diving projects, review and revise the diving safety manual, ensure compliance with the manual, certify the depths to which a diver has been trained, take disciplinary action for unsafe practices, and assure adherence to the buddy system for SCUBA diving.

By this notice, Minnesota OSHA proposes to adopt this exemption of educational/scientific data from the requirements of Subpart T of 29 CFR Part 1910 as published in the Federal Register, Volume 47, No. 228, on November 26, 1982.

D. "Occupational Exposure to Lead—Administrative Stay of Compliance Plans for Certain Industries." On December 3, 1982, Federal OSHA administratively stayed the requirements of paragraphs 1910.1025(e)(3)(ii)(B) and (E) for primary and secondary lead smelting industries and the battery manufacturing industry. This portion of the Occupational Exposure to Lead Standard requires, among other things, that employers establish and implement a written compliance program to reduce employee exposures to or below permissible exposure limits by means of engineering and work practice controls in accordance with the implementation schedule included in 1910.1025(e)(1). To prepare such a written plan would involve the development of extensive information about specific means of implementing engineering controls and necessitate the expenditure of substantial monies to obtain the information through engineering studies and the likely expenditure of large sums for construction and implementation of engineering controls. This requirement is being stayed because Federal OSHA is presently reconsidering the Lead Standard which is directed, among other objectives, at improving the cost-effectiveness of the standard and at re-evaluating the feasibility of the standard in some industries. The resultant standard may make current requirements unnecessary. The imposition of this stay does not effect the required permissible exposure limit of 50 ug/m^3 nor will it adversely affect the health of employees whose blood-lead levels have been, and continue to be, reduced by a combination of engineering, work practice and respirator protection controls.

Minnesota OSHA hereby proposes to stay the requirements of 1910.1025(e)(3)(ii)(B) and (E) as published in the Federal Register, Volume 47, No. 233, on December 3, 1982 pending publication of the reconsidered standard.

E. "Occupational Safety and Health Standards for Shipyard Employment—Part 1915." On April 20, 1982 Federal OSHA consolidated the existing standards pertaining to shipyard employment into a single, comprehensive standard in an effort to eliminate duplicative and overlapping provisions. In addition, nonsubstantive changes are also included. This action combines 29 CFR Part 1915 "Ship Repairing," Part 1916 "Shipbuilding," and Part 1917 "Shipbreaking" into one standard designated as Part 1915 "Occupational Safety and Health Standards for Shipyard Employment." The new, consolidated Part 1915 will apply to all three shipyard operations which are presently addressed separately in Parts 1915, 1916 and 1917. Editorial and other nonsubstantive language changes have been made to the individual standards to consolidate requirements pertaining to ship repairing, shipbuilding and shipbreaking. The substantive requirements of the specific standards, as well as their scope and application, have not been changed. Each standard in new Part 1915 will apply equally to ship repairing, shipbuilding and shipbreaking operations; where a certain standard or requirement applies to only one or two shipyard activities, the scope and application language has been added to delineate the precise coverage of the involved standard or requirement. In addition to editorial changes, minor changes include: 1) clarification of statutory authority; 2) changes to reflect the transfer of functions among Federal agencies; and 3) renumbering of the sections.

By this notice, Minnesota OSHA proposes to adopt the new, consolidated Part 1915 as published in the Federal Register, Volume 47, No. 76 on April 20, 1982. Adoption of this revised Part will replace existing Parts 1915, 1916 and 1917.

Department of Revenue
Property Equalization Division

Proposed Amendment to Rules Governing the Valuation and Assessment of Electric, Gas Distribution and Pipeline Companies (Utility Companies)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be

modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Ronald Cook
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5137

Authority for the adoption of these rules is contained in Minnesota Statutes section 270.06 (14); 270.11, subd. 1 and 6; 273.33, subd. 2; 273.37, subd. 2; and 273.38. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook at the above mentioned address, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Ronald Cook, at the above mentioned address.

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on utilities. The present rules deal generally with the valuation, allocation and apportionment of property of electric, gas distribution, pipelines and cooperative electric companies. The proposed rules if adopted would: modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the notice and the proposed rules are available and may be obtained by contacting Ronald Cook at the above-mentioned address.

March 31, 1983

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.0003 Valuation.

A.-C. [Unchanged.]

D. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, ~~8.75~~ 9.75 percent; gas distribution companies, ~~9.0~~ 10.0 percent; and pipeline companies, ~~9.25~~ 10.25 percent. The income indicator of value computed in accordance with D. will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a pipeline company:

	1980	1981	1982
1. Net Operating Income	$468,000	$385,700	$450,000
2. Capitalized Income @ ~~9~~ 10%	~~5,200,000~~	~~4,285,600~~	~~5,000,000~~
	4,680,000	3,857,000	4,500,000

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3. Weighting Factor	25 percent	35 percent	40 percent
4. Weighted Capitalized Income	~~1,300,000~~ 1,170,000	~~1,500,000~~ 1,349,950	~~2,000,000~~ 1,800,000
5. Total Income Indicator of Value			~~4,800,000~~ 4,319,950

E. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value.

The following is an example of the computation of the unit value for a pipeline company:

1. Cost Indicator of Value:

$$\$5,000,000 \times 75\% = \$3,750,000$$

2. Income Indicator of Value:

~~$4,800,000~~ 4,319,950 × 25% = ~~$1,200,000~~ 1,079,987

3. Unit Value of Pipeline Company:

100% ~~$4,950,000~~ 4,829,987

Any company whose cost indicator was modified under 13 MCAR § 1.0003 C. to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

F.-H. [Unchanged.]

Department of Revenue
Property Equalization Division

Proposed Amendments to Rules Governing the Valuation and Assessment of Railroad Operating Property

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

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

Wayne Gerwing
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5144

Authority for the adoption of these rules is contained in Minnesota Statutes sections 270.06 (14); 270.11, subd. 1 and 6; and 270.81, subd. 1 and 5. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed revised rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for

review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Wayne Gerwing, at the above mentioned address.

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on railroads. The present rules deal generally with the valuation, allocation and apportionment of operating property of railroads. The proposed rules if adopted would modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the notice and the proposed rules are available and may be obtained by contacting Wayne Gerwing at the above-mentioned address.

March 31, 1983

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.0024 Valuation.

A.-B. [Unchanged.]

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as determined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider:

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.
3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

For ~~1979~~ 1983 and subsequent years this capitalization rate will be ~~11%~~ 12 percent.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income		
1974	$ ~~1,500,000~~	1,712,750
1975	~~2,000,000~~	2,212,750
1976	~~2,600,000~~	2,812,750
1977	~~3,001,000~~	3,213,750
1978	~~2,600,250~~	2,813,000
Total	~~$11,701,250~~	12,765,000
Average	$ ~~2,340,250~~	2,553,000

Five year average Net Railway Operating Income Capitalized at ~~11%~~ 12 percent (~~2,340,250~~ 2,553,000 ÷ ~~11~~ 12%) equals $21,275,000.

The income indicator of value computed in accordance with this rule shall be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in 13 MCAR § 1.0024 F.; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75% percent.

D.-F. [Unchanged.]

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Department of Transportation

Proposed Rules Governing Operating Standards for Special Transportation Service

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Transportation proposes to adopt the above-entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20 (1982).

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

Betsy Parker
Office of Motor Carrier Safety and Compliance
Minnesota Department of Transportation
416A Transportation Building
St. Paul, Minnesota 55155
Telephone (612) 296-7108.

Authority for the adoption of these rules is contained in Minnesota Statutes section 174.30. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office of Motor Carrier Safety and Compliance upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Betsy Parker, Office of Motor Carrier Safety and Compliance.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Office of Motor Carrier Safety and Compliance.

Dated this 28th day of March, 1983.

Richard P. Braun
Commissioner of Transportation

Rules as Proposed

14 MCAR § 1.7001 Scope.

A. ~~These~~ Service criteria. Except as provided in B. and C., the standards set forth in 14 MCAR §§ 1.7001-1.7013 apply to special transportation service ~~provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation~~ as defined in 14 MCAR § 1.7003 and provided by a person receiving grants or other financial assistance from the state or federal government, or both, to provide or assist in providing the service.

B. Care facilities. The standards set forth in 14 MCAR §§ 1.7001-1.7013 apply to nursing homes licensed under Minnesota Statutes, section 144A.02, boarding care facilities licensed under Minnesota Statutes, section 144.50, and day care and group home facilities licensed under Minnesota Statutes, sections 245.781 to 245.812, when:

1. the facility or program provides special transportation as described in A.;

2. the facility or program transports nonresidents on a regular basis; and

3. the facility receives reimbursement other than per diem payments for that service under rules promulgated by the commissioner of public welfare.

~~B.~~ C. Exemptions. ~~These~~ The standards set forth in 14 MCAR §§ 1.7001-1.7013 do not apply to transportation provided by:

1.-3. [Unchanged.]

4. A school bus as defined in Minnesota Statutes, section 169.01, subdivision 6; or

5. An ambulance providing life support transportation service regulated under Minnesota Statutes, chapter 144. However, these standards ~~shall~~ apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7003 Definitions.

A. Ambulance. "Ambulance" has the meaning given to it in Minnesota Statutes, section 144.801, subdivision 2.

B. Attendant. "Attendant" means a person who assists in the transportation of passengers in special transportation service vehicles, but who does not drive the vehicle.

C. Commissioner. "Commissioner" means the commissioner of transportation.

D. Common carrier. "Common carrier" means a "regular route common carrier" ~~operating on fixed routes and schedules~~ as defined in Minnesota Statutes, section 221.011, subdivision 9.

~~E.~~ D. Disabled. "Disabled" means handicapped.

~~F. "Economically disadvantaged" means eligible for any form of public assistance provided for by state law.~~

~~G.~~ E. Elderly. "Elderly" means age 55 and older.

~~H.~~ F. Handicapped. "Handicapped" means having a physical or mental impairment that limits one or more major life activities.

~~I.~~ G. Major life activities. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

~~J.~~ H. Motor vehicle. "Motor vehicle" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 3.

~~K.~~ I. Municipality. "Municipality" has the meaning given to it in Minnesota Statutes, section 466.01, subdivision 1.

~~L.~~ J. Person. "Person" means every natural person, firm, partnership, corporation, association, and body politic.

~~M.~~ K. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition or anatomical loss; any mental or psychological disorder and specific learning disabilities and includes but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, mental retardation, emotional illness, drug addiction, and alcoholism.

~~N.~~ L. Provider. "Provider" means a public or private entity or person who operates special transportation service vehicles.

~~O.~~ M. Regular basis. "Regular basis" means providing more than an average of 12 round trips per month in any calendar year in a single vehicle or transporting more than 30 passengers per month, whichever is less.

~~P.~~ N. School bus. "School bus" has the meaning given to it in Minnesota Statutes, section 169.01, subdivision 6.

~~Q.~~ O. Semiambulatory. "Semiambulatory" means having the ability to walk with difficulty or with the aid of an artificial limb or personal assistance device such as a brace, a cane, a crutch, or a walker.

~~R.~~ P. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, or disabled ~~or economically disadvantaged~~ and who are unable to use regular means of transportation.

~~S.~~ Q. State. "State" has the meaning given to it in Minnesota Statutes, section 3.732, subdivision 1, clause (1).

~~T.~~ R. Variance. "Variance" means permission to comply in a manner other than that specified.

~~U.~~ S. Vehicle. "Vehicle" means a motor vehicle used to provide special transportation service.

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14 MCAR § 1.7005 Certification.

A. Forms. Application for a certificate of compliance ~~shall~~ must be made on forms provided by the commissioner. Application forms for certificates of compliance may be obtained from any Department of Transportation district office. All applications ~~shall~~ must be delivered or mailed to the Minnesota Department of Transportation, Division of ~~Public Transportation~~ Program Management, Transportation Building, St. Paul, Minnesota 55155.

B. Required information. Applicants shall submit the following information to the commissioner:

1. A provider application form containing the following information:

a. [Unchanged.]

b. the name, address, telephone number, and area served by the provider;

c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule, or other;

d. ~~the category of passengers served (elderly, handicapped, disabled or economically disadvantaged)~~ whether the passengers served are elderly, handicapped, or disabled;

e. for each vehicle used:

(1)-(3) [Unchanged.]

f. if the vehicle will carry an occupied wheelchair~~;~~:

(1) [Unchanged.]

(2) the date that the wheelchair securement device was approved by the commissioner of public safety, and the number on the certificate issued by the commissioner of public safety;

g. [Unchanged.]

h. the name and address of each driver, stating whether each complies with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013.

This information ~~shall~~ must be provided annually when the application for a certificate of compliance is filed.

2. [Unchanged.]

C. When granted. A certificate of compliance ~~shall~~ must be granted when the applicant complies with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013.

D. Processed in 30 days. All applications ~~shall~~ are to be processed and a certificate of compliance issued or denied in writing within 30 days of the receipt of the complete application by the commissioner and receipt of the certificate of insurance.

E. Information on certificate. When a certificate is granted, the provider shall be issued a numbered certificate of compliance which lists each certified vehicle and shows the month and year in which the certification expires.

F. Record. The commissioner shall maintain a record of all certificates of compliance showing the date issued, renewed, or revoked.

14 MCAR § 1.7007 Inspection.

A. Complaint received. Upon receipt of a complaint that any certified provider does not comply with the standards set forth in ~~these rules~~ 14 MCAR §§ 1.7001-1.7013, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection ~~shall~~ must be conducted within four weeks of receipt of the complaint.

B. Record. All complaints ~~shall~~ must be documented and a record maintained of the name and address of the person making the complaint, the date and reason for the complaint, and the result of the inspection.

C. On-site inspection. The commissioner ~~shall notify any provider not less than 1 week in advance of an inspection and~~ shall conduct the inspection at the provider's office or garage.

D. Items examined. Inspections conducted under these standards ~~shall~~ must comprise:

1. [Unchanged.]

2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B. and may include inspection of any part of the vehicle subject to regulation under Minnesota Statutes, chapter 169, when a complaint has been made about the condition of any component of the vehicle.

E. Failure to permit inspection. Failure to permit an inspection as provided in this ~~section shall be~~ rule is grounds for immediate suspension of the provider's certificate of compliance until the provider permits the inspection.

14 MCAR § 1.7008 Enforcement.

A. Notice. Any provider found in violation of any provision of ~~these rules~~ 14 MCAR §§ 1.7001-1.7013 shall be given a 30-day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from operation immediately.

B. Violation determination. At the expiration of 30 days, the commissioner may conduct an inspection to determine whether the violation has been corrected. ~~In the case of violations other than those involving vehicle equipment,~~ The provider may mail evidence of compliance to the department.

C. Suspension. If the violation has not been corrected, the commissioner shall suspend the certificate of compliance until the provider complies with the provisions of 14 MCAR §§ 1.7001 ~~to 14 MCAR §~~ -1.7013. No suspension shall occur unless the commissioner has held a hearing, after 30 days notice to the provider, at which the provider has had the opportunity to show cause why the certificate of compliance should not be suspended. Repeated violations may result in revocation of the certificate.

D. Enforcement hearing. ~~Any~~ An enforcement hearing conducted ~~pursuant to these~~ under the standards ~~shall~~ set forth in 14 MCAR §§ 1.7001-1.7013 must be conducted in accordance with Minnesota Statutes, chapter ~~15~~ 14.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1.-6. [Unchanged.]

7. By January 1, 1982, each driver and attendant who transport elderly and physically handicapped passengers who do not use wheelchairs or who transport passengers who do not transfer from a wheelchair to a seat in the vehicle shall complete a minimum of four hours training in the techniques of transporting and assisting elderly and physically handicapped passengers, which ~~shall~~ must include instruction in the elements listed in 14 MCAR § 1.7009 A.6.a., b., c., and f.

8. [Unchanged.]

9. A driver or attendant ~~hired after October 1, 1981,~~ who has not completed the required training prior to providing special transportation service, shall do so within 90 days after beginning to provide ~~such~~ the service. Copies of certificates indicating successful completion of courses ~~shall~~ must be maintained in the provider's files.

10. [Unchanged.]

B. Equipment.

1. Each vehicle when in use ~~shall~~ must carry the following safety equipment:

a. [Unchanged.]

b. an emergency first aid kit in a dustproof container, labeled "FIRST AID," and stored in a location visible to the driver. The kit ~~shall~~ must contain at least the following items:

(1) [Unchanged.]

(2) two soft roll bandages 3″ to 6″ × 5 yards;

(3)-(4) [Unchanged.]

c.-h. [Unchanged.]

2.-3. [Unchanged.]

4. A vehicle which is equipped with a wheelchair lift and which carries semiambulatory persons who use the wheelchair lift ~~shall~~ must be equipped with either a wheelchair lift with an adjustable or removable railing which is 28 inches to 36 inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

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5. Vehicles which carry occupied stretchers or litters ~~shall~~ must comply with securement device requirements of the Minnesota Department of Health contained in 7 MCAR § ~~1.603 C.4. and C.1. b.~~ 1.608 C.

C. Operation.

1. All vehicles ~~shall~~ must be ~~maintained and~~ operated in compliance with Minnesota Statutes, chapter 169, and rules adopted ~~pursuant to~~ under that chapter.

2.-6. [Unchanged.]

D. [Unchanged.]

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Commerce
Office of Consumer Services

Adopted Rules Governing the Practice of Cosmetology

The rules proposed and published at *State Register*, Volume 7, Number 17, pages 625-649, October 25, 1982 (7 S.R. 625) are adopted with the following modifications:

Rules as Adopted

4 MCAR § 10.100 Definitions.

M. Demonstration. "Demonstration" means a presentation of less than eight hours duration, conducted by a recognized expert in the field, for the purposes of training cosmetology students or specialization by current licensees. The same demonstration may be repeated successive times which total more than eight hours. Demonstrations pursuant to nonretail sales are ~~not covered by this definition or~~ exempt from these rules.

Q. Licensed services. "Licensed services" means those services defined as the practice of cosmetology under Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2 and includes the fitting of wigs and hair pieces on the head and the dressing of wigs and hair pieces while on the head.

U. ~~Unlicensed~~ Unregulated service. "~~Unlicensed~~ Unregulated service" means those services not defined as the practice of cosmetology under Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2 and includes ear piercing, body wrapping, permanent depilitation, tattooing, artificial tanning of the skin; personal services incidental to performance in theatrical or musical productions or media appearances; any personal services performed incidental to mortuary practice; and massage services.

4 MCAR § 10.102 Requirements for obtaining individual licenses.

C. Requirement for a manager. In addition to the requirements of A., the applicant shall provide documentation of a current ~~Minnesota~~ cosmetologist or manicurist license, and at least 2700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

D. Requirements for an instructor. In addition to the requirements of A., the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

3. a current ~~Minnesota~~ cosmetologist, manicurist, or esthetician license; and

4. at least 1800 hours of experience as a licensed cosmetologist, manicurist, or esthetician ~~in Minnesota~~ in a ~~Minnesota~~ licensed salon, supervised by a licensed manager, within the three years prior to this application.

5. individuals whose practitioner license is as manicurist or esthetician shall be restricted to instruction in the area of their practitioner license only.

E. Reactivation of license. An individual who has an "inactive" Minnesota license and/or whose most recent active license has expired by more than three years who wishes to resume the practice of cosmetology shall document completion of a refresher program of a minimum of 155 hours for a cosmetologist, 60 hours for an esthetician, or 35 hours for a manicurist in a licensed ~~Minnesota~~ school of cosmetology. The documentation shall include a certification of skills.

4 MCAR § 10.103 Requirements for obtaining a license on the basis of reciprocity.

B. Compliance with state rules. The applicant shall demonstrate compliance with 4 MCAR § 10.102 A.~~2. 6.~~ 2., 3., 5., and 6. and shall successfully complete a written examination demonstrating knowledge of Minnesota Statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

d. Specific requirements for instructor. An applicant for an instructor's license shall provide evidence of 48 hours of training comparable to the requirement of 4 MCAR § 10.102 D.2., and 1800 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon within the three years prior to application.

4 MCAR § 10.105 License renewal for individuals.

B. Practical and educational requirements. The licensee shall establish that his or her knowledge and skills are up to date, by meeting the following requirements no later than the expiration of his or her current license:

1. a cosmetologist, manicurist, esthetician, or manager shall provide documentation of having ~~either~~ practiced in a licensed salon, or school for school managers, for at least 1800 hours at any time within the three years prior to the license expiration, or 400 hours acquired through approximately regular weekly experience within each of the last three years, or successfully completed an approved refresher course, of at least 40 hours, within the three years prior to the license expiration;

2. an instructor shall pay the processing fee and shall provide evidence of having successfully completed 45 hours of continuing education approved by the office, including at least 15 hours of teaching-related material and 15 hours related to analysis and use of professional clinical products;

~~3. a salon manager shall pay the examination fee and shall successfully pass a written examination covering Minnesota laws and rules pertinent to cosmetology salons prior to license renewal;~~

~~4. a school manager shall pay the examination fee and shall pass a written examination covering Minnesota laws and rules pertinent to cosmetology schools and salons prior to license renewal.~~

~~D. Health examination. The licensee shall provide evidence on a standardized form from a physician that he or she is free from communicable diseases and parasites.~~

~~E.~~ D. Method of determining timely renewal. The postmark date on the transmittal envelope of the renewal request and fee shall be determinative in ascertaining whether receipt was prior to the current license expiration date.

~~F.~~ E. An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of A., C., and ~~E~~D. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, ~~chapter~~ section 155A.03, subdivision 2.

4 MCAR § 10.106 Lapsed practitioner license.

A. Failure to renew. Failure to renew a practitioner license prior to its expiration date results in a lapsed license. The applicant shall comply with the requirements of 4 MCAR § 10.105 B. ~~and D.,~~ and:

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2. if more than 30 days have elapsed, the individual shall not practice cosmetology until he or she has applied for and received a new license in accordance with the provisions of 4 MCAR § 10.102 A.3.-6. and, if applicable, E.

C. Penalty. The manager of a salon or school shall pay a penalty of $25 for each ~~licensee whose license is past the expiration date and who is~~ individual practicing in the salon or school who was not properly licensed at the time he or she commenced this practice.

~~4 MCAR § 10.107 Retail sales.~~

~~It is not a violation of Minnesota Statutes, chapter 155A or these rules for an individual to demonstrate the application of a beauty coloring product, incidental to the original retail selling efforts for the product, if:~~

~~1. the individual is employed by a manufacturer, wholesaler, retailer, or distributor;~~

~~2. the individual has received a minimum of 16 hours of color application, safety, and sanitation training before conducting any application demonstrations on the public in accordance with Minnesota law;~~

~~3. the store in which the individual is employed shall maintain documentation of training;~~

~~4. appropriate sanitation procedures are followed:~~

~~a. purchasers themselves apply disposable headbands or other disposable items to secure their hair if necessary for the demonstration;~~

~~b. applicators for the products are either disinfected or disposed of after each purchaser;~~

~~c. the individual who is demonstrating the products cleanses his or her hands immediately before each application;~~

~~d. a used disposable towelette is thrown away or a clean towel is used for each hand cleansing; and~~

~~e. an appropriate receptacle is used for the disposal of items; and~~

~~5. no direct skin contact application of the product is performed on a purchaser or potential purchaser except by the purchaser.~~

~~In the alternative, if the product is applied only to a model who is also employed as part of the sales process, then the product application is not violative of Minnesota Statutes, chapter 155A and these rules.~~

4 MCAR § 10.109 Reinstatement after denial, suspension, revocation of license.

A. after suspension of license, by meeting the following requirements:

4. if the suspended license has expired by no more than 30 days, an individual applicant shall comply with 4 MCAR § 10.105 B. ~~D~~ C.; a salon shall comply with 4 MCAR § 10.120; and a school shall comply with 4 MCAR § 10.135;

B. after revocation or if the suspended license has expired by more than 30 days, by meeting the following requirements:

2. the applicant shall make application for relicensure, in writing and on forms provided by the office ~~as if no license had been previously issued~~;

3. the applicant shall pay the reinstatement fee and the license fee; ~~and~~

4. the salon or school applicant shall meet the requirements for initial licensure; and

5. the individual applicant shall meet the requirements of 4 MCAR § 10.102 A.3.-6. and, if applicable, E., and the renewal requirements of 4 MCAR § 10.105 B.

4 MCAR § 10.111 Requirements for salon licensure.

A. General requirements for all salon licenses. The requirements of 4 MCAR §§ 10.111-10.115~~,~~ and 10.117~~, and 10.118~~ shall be met by all applicants proposing to establish a salon. Upon compliance, the office will issue a provisional license which will enable the salon to open for business. The salon's compliance with all applicable provisions of Minnesota Statutes, chapter 155A and these rules shall be confirmed by an operational inspection by the office staff. A permanent license for the balance of the three-year license cycle shall be issued upon confirmation of the salon's compliance.

B. Application. The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

1. the name of the salon, its address, and names and addresses of all owners of sole proprietorships or partnerships and controlling officers of corporations;

2. notarized signatures of the owners of sole proprietorships or partnerships and the controlling officers of corporations;

4. evidence of the salon's compliance with local ~~fire, zoning, health, and building codes, or in the absence of~~

~~local codes, with the corresponding state codes~~ zoning requirements and the regulations of the Minnesota Department of Health, State Building Code and Standards, and the State Fire Marshall;

D. Evidence of workers' compensation insurance. If applicable, the applicant shall provide evidence of his or her compliance with Minnesota Statutes, section 176.182.

4 MCAR § 10.113 Physical requirements.

B. Entrance and exits. Each salon shall have at least two entrance/exit points ~~which shall comply with state fire code requirements and local building code requirements. A salon located in a basement may have a window for one of its two exits.~~

F. Plumbing, water supply.

1. ~~All plumbing fixtures shall be of impervious material, and installed in accordance with local plumbing ordinances, and shall not constitute a cross-connection.~~

~~2.~~ There shall be clean, hot, and sanitary running water provided in the work area, dispensary area, and toilet facilities.

~~3.~~ 2. Each salon shall provide ~~adequate~~ toilet facilities, on its premises or in an adjacent common area, which are not used for ~~no other~~ any unrelated purpose such as storage or as a dispensary. The toilet facilities shall ~~comply with the requirements of the state building code and the Occupational Safety and Health Administration~~ be clean and sanitary and shall contain, at a minimum, a commode, lavatory, soap dispenser, single-service sanitary towels, and a waste basket. The door shall be kept closed at all times ~~or the rest room shall be screened from view~~.

~~**4 MCAR § 10.115 Supplies and materials.**~~

~~A salon shall meet the following minimum requirements:~~

~~A. brush rollers shall not be allowed; and~~

~~B. there shall be at least two dozen clean towels per operator per day.~~

4 MCAR § 10.116 Operational requirements for salons.

A. Operational requirements. It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

2. all combs and brushes and brush rollers shall be cleaned and disinfected after use on each person. Hair shall be removed from all implements before disinfecting;

8. all electrical tools and implements shall be kept on stands or hangers or otherwise be stored properly when not in use. One six-foot grounded ~~heavy duty~~ extension cord may be used in a work station if necessary to service a client with an implement actually in use. The extension cord shall not extend beyond the area of the work station;

18.

b. the current shop license~~, a copy of the salon's most recent inspection report,~~ and the salon rules shall be conspicuously posted together in the reception area at approximately eye level;

19. no animals, birds, or pets shall be allowed in a salon. This ~~excludes~~ prohibition does not apply to guide dogs;

20. if a salon receives compensation for child care services, the following requirements shall be met:

a. the ~~unlicensed~~ unregulated service shall be identified in compliance with 4 MCAR § 10.122;

B. Salon supervision.

2. Only one person shall be designated as manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence. The responsible person shall be a licensed cosmetologist in a cosmetology salon or licensed manicurist in a manicure salon.

5. The manager shall maintain, on the salon premises, the work ~~hour~~ time records of each employee, as required by Minnesota Statutes, section 177.30. Time records shall be provided upon written request to the licensee or to the office.

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4 MCAR § 10.117 Additional requirements for specific types of salon licenses.

In addition to the requirements of 4 MCAR §§ 10.113-10.116, the requirements contained in A.-~~E~~F. shall be met.

D. Licensed health care facilities.

3. If the licensed health care facility chooses to have a licensed salon on the premises, all the requirements for a salon ~~must~~ shall be met.

E. Salons in private residences. Salons may be established in private residences, if the following conditions are met:

3. ~~the salon entrance/exit shall not lead through any residential area or through a garage;~~

~~4.~~ all cosmetology services offered by the salon shall be available within the salon;

~~5.~~ 4. laundry tubs shall not be used as shampoo bowls; and

~~6.~~ 5. the primary residential toilet facilities shall not be used for salon clients.

~~4 MCAR § 10.118~~ F. Requirements for a booth license. A Minnesota licensed cosmetologist or manicurist manager may lease work space from a licensed salon and operate that space as an independent business upon obtaining a booth license. An applicant for a booth license shall meet the following requirements:

~~A.~~ 1. the applicant shall hold a current Minnesota manager license;

~~B.~~ 2. the applicant shall provide documentation of leased work space from a licensed Minnesota salon. The work space shall be at least 50 square feet for a cosmetologist or 35 square feet for a manicurist. The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties;

~~C.~~ 3. the applicant shall provide evidence of coverage by professional liability insurance in the amount required for salon licensees. It shall be acceptable for the salon owner's professional liability policy to cover the booth licensee;

~~D.~~ 4. the applicant shall be responsible for operating his or her work space in full compliance with these rules.

4 MCAR § 10.120 Salon license renewal.

D. Workers' compensation insurance coverage. If applicable, the licensee shall provide evidence of continued compliance with Minnesota Statutes, section 176.182.

4 MCAR § 10.122 ~~Unlicensed~~ Unregulated services.

A. Disclosure. All services not licensed as the practice of cosmetology offered within a salon or school clinic shall be clearly identified as "~~unlicensed~~ unregulated services" and listed on a sign conspicuously posted in the reception area. The sign shall contain lettering at least two inches high and shall state: "Unregulated services. The following services offered by (salon or school name) are not ~~licensed~~ regulated by the state of Minnesota:

. . . . . .
. . . . . .
. . . . . ."

B. Disclosure of courses relating to ~~unlicensed~~ unregulated services. Each school shall clearly identify those courses and clinical experiences in its curriculum which are not required by the office and which pertain to services not licensed by the state. These courses shall be clearly identified in all recruitment advertising and written material used for the purposes of soliciting prospective students.

Nonrequired courses and ~~unlicensed~~ unregulated services shall be conspicuously identified in all written material, in type of the same size as the course or service name.

Instructional time and clinical experience in ~~unlicensed~~ unregulated services shall not be included in the minimum hours of schooling required for licensure.

4 MCAR § 10.123 Advertising.

D. no salon or school advertisement stating licensure by the state of Minnesota shall include reference to any ~~unlicensed~~ unregulated services;

4 MCAR § 10.124 Inspections.

F. Posting of reports. The most recent inspection report shall be posted in the dispensary area. A 5″ × 7″ notice shall be posted in the reception area stating in boldface letters: "THIS (SALON OR SCHOOL) HAS BEEN LICENSED AND

INSPECTED BY THE STATE OF MINNESOTA. A COPY OF THE MOST RECENT INSPECTION REPORT IS AVAILABLE FOR YOUR REVIEW UPON REQUEST."

4 MCAR § 10.125 General requirements for schools.

F. Separation of school from ~~business~~ salon.

4 MCAR § 10.126 Requirements for school licensure.

A. Application contents. The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

1. the name of the school, its address, and the names and addresses of all owners of sole proprietorships or partnerships and controlling officers of corporations;

2. notarized signatures of the owners of sole proprietorships or partnerships, controlling officers of corporations, and manager;

5. evidence of the school's compliance with local ~~fire, zoning, health, and building codes, or in the absence of local codes, with the corresponding state codes~~ zoning requirements and the regulations of the Minnesota Department of Health, State Building Code and Standards, and the State Fire Marshall;

B. Evidence of liability insurance coverage. The applicant shall provide evidence of the school's coverage by professional liability insurance, of at least $25,000 per incident and an accumulation of ~~$75,000~~ $150,000 for each premium year ~~for each teaching station in the clinical operation of the school~~.

D. Surety bond. The applicant shall file with the director of the office a continuous corporate surety bond in ~~an~~ the amount ~~equal to the full tuition for all of the maximum potential enrollees in the school~~ of $10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is cancelled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed ~~the full tuition for all of the maximum potential enrollees in the school~~ $10,000. The surety of the bond may cancel it upon giving 60 days notice in writing to the director of the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

4 MCAR § 10.128 Physical requirements.

B. Entrances and exits. Each school shall have at least two entrance/exit points ~~which meet state fire code requirements and local building code requirements. A school located in a basement shall not be allowed to use a window as one of the required exits~~.

D. Toilet facilities. Each school shall provide adequate toilet facilities on its premises or in an adjacent common area for the use of students, staff, and customers. Separate restroom facilities must be provided for women and men. ~~Each facility shall meet the same requirements designated for those in salons in 4 MCAR § 10.113 F.3.~~

4 MCAR § 10.129 Fixtures, furniture, equipment.

H. there shall be at least one time clock or other reliable method of recording time to be used by the students when checking in and out of school. Each ~~student~~ student's hours shall ~~punch his or her own card~~ be recorded at the beginning and end of each day and before and after lunch;

4 MCAR § 10.131 General operational requirements for schools.

B. Manager.

1. There shall be a manager responsible for each school at all times. There shall be only one person designated as manager for each school. No manager may concurrently be responsible for more than one school nor for a school and a salon. When the manager is not on duty, he or she shall specify a responsible person on the premises. The responsible person shall be an instructor licensed in accordance with these rules.

C. Instructors.

1. There shall be at least two licensed instructors on the school premises ~~for the first~~ during the time students are

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present; and each school shall have a minimum ratio of one instructor for each 1 to 20 students to be accommodated; and ~~one additional licensed instructor for each additional 1 to 20 students to be accommodated~~ all students shall be under the direct supervision of an instructor at all times when in a classroom, clinic, or other area in which they are performing cosmetology services.

4. All instructors shall wear identification badges at all times while providing training, stating their full name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white or gold.

K. Full course of instruction required. No student, unless licensed under provisions of Minnesota Statutes, chapter 155A, shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except for a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn ~~unlicensed~~ unregulated services, and reciprocity applicants who require additional schooling.

4 MCAR § 10.133 School curricula.

B. Cosmetologist training.

1. Cosmetologist training consists of a course of training of at least 1,550 hours. This course shall consist of the full manicurist course content, the full esthetician course content, and the balance in hairdressing, including the approximate breakdown of hours specified in 4.a. and the clinical exercises in provision of cosmetology services specified in 4.a.

2. The first 240 hours shall be preclinical instruction in the sciences of anatomy, dermatology, trichology, manicuring, and chemistry as related to cosmetology; electricity and light; sanitation; safety procedures related to the practice of cosmetology; and Minnesota Statutes and rules which pertain to the regulation of the practice of cosmetology; and elementary service skills.

3. There shall be instruction in applied science and skills in shampooing, scalp and hair conditioning, hair design and shaping, chemical hair control, hair coloring, hair styling, facials, and makeup, and manicuring and nail care of approximately 1130 hours and instruction in related theory and sciences of approximately 420 hours.

4. There shall be planned clinical instruction and experience in the applied sciences.

a. Each student shall be required to complete the following minimum number of clinical exercises in ~~each category:~~ column II. Clinical exercises may be performed upon customers in the school clinic, fellow students, models, or manikins in the classroom.

	Column I Hours	Column II Service Exercises
(1) shampooing	50	300
(2) scalp and hair conditioning	80	150
(3) hair design shaping	150	75
(4) chemical hair control (including 6 chemical relaxing exercises)	200	60
(5) hair coloring	100	50
(6) hair styling	200	300
(7) facials and makeup	200	60
(8) manicures (including 10 applications of artificial nails, of which 3 are sculptured on the nail)	150	50
skill hours	1130	
related theory and lecture	420	
total	1550	

C. Esthetician training.

2. The first 120 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to skin care; electricity and light; sanitation; safety procedures related to the practice of skin care; and Minnesota Statutes and rules which pertain to the regulation of the practice of skin care; and elementary service skills.

4. There shall be planned clinical instruction and experience of approximately 200 hours in the applied sciences.

D. Manicurist training.

2. The first 50 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to manicuring; electricity and lights; sanitation; safety procedures related to the practice of manicuring; and Minnesota Statutes and rules which pertain to the practice of manicuring; and elementary service skills.

4. There shall be planned clinical instruction and experience of approximately 150 hours in applied sciences and skills.

G. A licensed esthetician or a licensed manicurist who returns to school for an additional license shall not perform any clinical services in the area for which he or she is already licensed.

4 MCAR § 10.134 Requirements for maintaining a school license.

A. Display of documents. Each school license and all personnel licenses shall be conspicuously displayed in the school or clinic reception area~~. A copy of the school's most recent inspection report shall be conspicuously posted~~ at approximately eye level ~~in the clinic reception area~~.

4 MCAR § 10.142 Intoxicants and controlled substances.

No licensee or student shall perform cosmetology services while consuming or under the influence of an intoxicant or controlled substance~~, or serve them to a client during business hours~~.

4 MCAR § 10.143 Compliance by present licensees and students.

A. General requirements. All individual licenses in effect on the effective date of these rules shall continue to be valid under the following circumstances.

1. cosmetologist, manicurist, and esthetician and manager licenses shall be valid until their expiration date. Licenses which expire before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.~~F~~E. Licenses which expire on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.1., and C.~~F~~E.;

2.

a. Senior instructor licenses shall be renewed as instructor licenses. Licenses which expire before January 1, 1988 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.~~F~~E. Licenses which expire on or after January 1, 1988 shall be renewed upon compliance with 4 MCAR § 10.105 A., B.2., and C.~~F~~E.

4.

~~a. Current salon manager licenses shall remain valid until expiration. Licenses expiring before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C. F. Licenses expiring on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.3., and C. F.~~

~~b.~~ In addition to the provisions of ~~4.a.~~ A.1., licenses of manager of schools shall be conditioned upon the licensee's successful passage of a written examination covering Minnesota laws and rules related to cosmetology schools before December 31, 1983;

5. Salons and booths licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.113 A.-B.; D.2. until replacement; ~~F.3. provided that the toilet facilities are used for no other purposes, the door is kept closed, the room is clean and sanitary, and it contains a commode, lavatory, soap dispenser, single service sanitary towels, and a waste basket;~~ G. until July 1, 1984.

c. Rule 4 MCAR § 10.117 A. continuous footage provision only; E.2. permanent solid partition requirement only; ~~E.3.;~~ E.65. ~~provided that the toilet facilities meet the requirements of A.5.a. of this section.~~;

~~d. Rule 4 MCAR § 10.118 B.~~ F.2. square footage requirement and lease provision requirements until expiration of current lease;

6. Schools licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.128 A.4.-5.; ~~D. provided that there are separate toilet facilities for men and women and that~~

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~~they meet the requirements of A.5.a. of this rule;~~ E. ~~school~~ schools shall have the same time extensions for compliance with 4 MCAR § 10.113 D.2. and G. as provided for salons in A.5.a. of this rule.

B. Interpreter for certain students. Foreign language students whose enrollment registration is on file in the office on the effective date of these rules may use an interpreter at the examinations, provided that they have first demonstrated to the director that they have a sufficient grasp of the English language to read, comprehend, and follow chemical product labels and instructions.

C. Students enrolled on effective date. Cosmetology and manicure students whose enrollment registration is on file in the office on the effective date of these rules and who graduate after July 1, 1983 shall be exempt from the requirement of 4 MCAR § 10.102 A.2. and shall be required to complete 1500 hours for a cosmetologist license and 250 hours for a manicurist license. The minimum number of clinical exercises they will be required to complete will be adjusted in relation to their date of graduation, but shall not be less than 75 percent of the requirements stated in 4 MCAR § 10.133 B.4.a. or D.4.a.

D. Variances. The director may grant to schools a variance from physical requirements not otherwise exempted by this rule upon receipt of documentation demonstrating an existing physical limitation or economic hardship in excess of reasonably anticipated costs of meeting the requirement. All requests for variance shall be submitted prior to May 15, 1983.

4 MCAR § 10.144 Separability of rules.

If any provision of these rules or the application thereof to any party or circumstances is held invalid, the remainder of the rules and the application of these provisions to other parties or circumstances shall not be affected thereby.

Repealer. 4 MCAR §§ 10.001, 10.002, 10.003, 10.004, 10.005, 10.006, 10.007, 10.008, 10.020, 10.021, 10.022, 10.023, 10.024, 10.025, 10.026, 10.027, 10.028, 10.029, 10.030, 10.040, 10.041, 10.042, 10.060, 10.061, 10.062, 10.063, 10.065, 10.081, 10.082, 10.083, 10.084, 10.085, 10.086, 10.087, 10.088, 10.089, and 10.90 are repealed.

Effective dates. ~~Rules~~ 4 ~~MCAR~~ ~~§§ 10.106; 10.107; 10.110; 10.111; 10.112; 10.113; 10.114; 10.115; 10.116; 10.117; 10.118; 10.119; 10.120; 10.121; 10.125; 10.126; 10.127; 10.128; 10.129; 10.130; 10.131; 10.132; 10.134; 10.135; 10.136; 10.137; 10.138; and 10.142, are effective April 1, 1983.~~

Rules 4 MCAR §§ 10.102; 10.103; 10.104; 10.105; 10.108 A.-C.; 10.109; 10.122; 10.123; ~~10.124;~~ and 10.133, are effective July 1, 1983.

Department of Natural Resources

Commissioner's Order No. 2139

Regulations for the Taking of Bear during 1983

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of bear during 1983.

Section 1. DEFINITIONS.

a. Legal firearms. A firearm or ammunition may be used to take bear if it meets the following requirements:

(1) Handguns, rifles, shotguns and all projectiles used therein shall be at least 23/100ths of an inch in caliber;

(2) All firearms shall be loaded only with ammunition containing single projectiles;

(3) All projectiles shall be of a soft point or an expanding bullet type;

(4) All ammunition shall have a case length of at least 1.285 inches; and

(5) Muzzleloaders must be incapable of being loaded at the breech. Smooth-bore muzzleloaders shall be at least .45 caliber and rifled muzzleloaders shall be at least .40 caliber.

It is unlawful to take bear with a .30 caliber M-1 carbine cartridge or with any other firearm or ammunition which does not meet the requirements set forth in this section.

b. Legal bow and arrow. Bows must have a pull of no less than 40 pounds at or before full draw. It shall be unlawful to hunt bear with a bow and arrow while in possession of or having under control any firearm, to hunt with any bow drawn, held, or released by a mechanical device, or to hunt with any poisoned arrow or arrow with explosive tip. Arrow heads must be made of all steel barbless design, the blade or blades of hicarbon steel not less than one inch wide for single two edge blade and not less than three inch circumference for three or more blades, minimum weight of all types of 110 grain. Provided, that arrow

heads with blades of mill tempered spring steel containing a plastic core or ferrule, conforming to the above dimensions, and with a minimum weight of 90 grain may be used. All arrow heads used for bear hunting shall be kept sharp.

c. Drawing. Computerized random drawing conducted by the Department of Natural Resources to determine those who will be eligible to apply for a bear license.

Sec. 2. BEAR HUNT DRAWING AND LICENSING.

a. Persons desiring to hunt bear must take part in one of the license application drawings. A drawing will be held for each of the permit areas described in Section 3, and will be subject to the quotas set forth in Section 4.

b. Anyone, resident or nonresident, who is at least 12 years old prior to September 1, 1983, and whose big game hunting privileges are not suspended pursuant to M.S. Section 98.52 is eligible to enter the drawing. Preference will be given to applicants who applied correctly for a bear hunting license in 1982 but were not selected.

c. Applications for the drawing must be made on the form provided by the Department of Natural Resources and all information requested must be supplied. A driver's license number or a Department of Public Safety identification number is necessary if an unsuccessful applicant is to gain preference in the next season's drawing.

d. Each applicant may apply only once and for only one of the permit areas. Any person who submits more than one application in any one year shall be ineligible to receive a bear license in that year and shall be guilty of a misdemeanor.

e. Applications must be returned to the DNR License Center in St. Paul. If mailed, applications must be submitted in envelopes and postmarked no later than May 2, 1983. If hand-delivered, applications must be delivered no later than 4:30 p.m., May 2, 1983.

f. Persons may apply individually or as part of a group totaling no more than four persons. Those who wish to apply as a group must submit their applications for the drawing together in one envelope. All applications submitted in one envelope will be treated as a group provided they are all for the same permit area. The individual within a group with the lowest preference rating will determine the preference rating of the group. Either all members of the group will be drawn or none will.

g. Successful drawing applicants will receive a license application with instructions for obtaining their licenses. Successful applicants who do not return the license application and the fee by the deadline specified on the application or who do not provide all of the requested information will be disqualified and replaced from a list of alternate applicants. Anyone 15 years of age and under must have a firearms safety certificate before applying for the license. No person may hunt bear without having first received a bear hunting license.

Sec. 3. BEAR HUNT PERMIT AREAS.

a. North East (NE) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Highway 53 at the eastern boundary of the state; thence along U.S. Hwy. 53 to State Trunk Highway (STH) 37; thence along STH 37 to STH 135; thence along STH 135 to STH 169 at Tower; thence along STH 169 to County State Aid Highway (CSAH) 18, Lake County; thence along CSAH 18 to Forest Route 438; thence along Forest Route 438 to the public access at Moose Lake; thence due north to the northwestern shore of Moose Lake; thence northeasterly along the shores of Moose Lake, Newfound Lake and Sucker Lake to the northern boundary of the state near prairie portage; thence along the northern and eastern boundaries of the state to the point of beginning.

b. North Central (NC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Hwy. 53 at the junction with State Trunk Hwy. (STH) 194; thence along U.S. Hwy. 53 to STH 37; thence along STH 37 to STH 135; thence along STH 135 to STH 169 at Tower; thence along STH 169 to County State Aid Highway (CSAH) 18, Lake County; thence along CSAH 18 to Forest Route 438; thence along Forest Route 438 to the public access at Moose Lake; thence due north to the northwestern shore of Moose Lake; thence northeasterly along the shores of Moose Lake, Newfound Lake and Sucker Lake to the northern boundary of the state near prairie portage; thence along the northern boundary of the state to a point due north of the junction of U.S. Hwy. 71 and STH 11 at Pelland; thence due south to said junction; thence along U.S. Hwy. 71 to STH 6; thence along STH 6 to U.S. Hwy. 2; thence along U.S. Hwy. 2 to STH 194; thence along STH 194 to the point of beginning.

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c. North West (NW) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning at the junction of U.S. Hwy. 71 and State Trunk Highway (STH) 11 at Pelland; thence along U.S. Hwy. 71 to STH 6; thence along STH 6 to STH 1; thence along STH 1 to the western boundary of the state; thence along the western and northern boundaries of the state to a point due north of the point of beginning; thence due south to the point of beginning.

d. West Central (WC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on State Trunk Highway (STH) 1 at the western boundary of the state; thence along STH 1 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Hwy. 169; thence along U.S. Hwy. 169 to STH 101; thence along STH 101 to Interstate Highway 94; thence along I-94 to the western boundary of the state; thence along the western boundary of the state to the point of beginning.

e. East Central (EC) Bear Hunt Permit Area.

That portion of the state lying within the following described boundary:

Beginning on U.S. Hwy. 53 on the eastern boundary of the state; thence along U.S. Hwy. 53 to State Trunk Highway (STH) 194; thence along STH 194 to U.S. Hwy. 2; thence along U.S. Hwy. 2 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Hwy. 169; thence along U.S. Hwy. 169 to STH 101; thence along STH 101 to Interstate Highway 94; thence along I-94 to U.S. Hwy. 12; thence along U.S. Hwy. 12 to the eastern boundary of the state; thence along the eastern boundary of the state to the point of beginning.

Sec. 4. BEAR HUNT PERMIT AREA QUOTAS.

The following quotas on hunter numbers are established for each bear hunt permit area:

Permit Area	Quota
North East (NE)	480
North Central (NC)	780
North West (NW)	610
West Central (WC)	830
East Central (EC)	850
TOTAL	3,550

The quota of licenses listed for any permit area may be modified in order to accommodate party members if the last applicant to be selected is a member of a party.

Sec. 5. SEASON DATES, METHOD AND HOURS.

Bear may be taken by licensed hunters using legal firearms or legal bow and arrow from September 1, 1983 to October 16, 1983, both dates inclusive, between one-half hour before sunrise and sunset each day. However, no person shall hunt bear while having in possession or having under control both a firearm and a bow and arrow. Each hunter may hunt only within the permit area designated in his or her license.

Sec. 6. BAG LIMIT.

a. No person shall take more than one bear during any calendar year whether by firearm or bow and arrow. Bear taken may be of either sex or any age except that cub bear may not be taken. Cub bear are any bear less than one year of age.

b. Party hunting for bear is not permitted. No hunter shall affix the locking seal provided with his or her license to a bear which he or she did not take. No hunter shall affix to a bear the locking seal of another hunter.

Sec. 7. BAIT STATIONS.

A bait station is defined as any location at which any materials are placed for the purpose of attracting or attempting to attract bear. This definition shall not be construed to include a dump regularly and primarily used for the disposal of garbage or other refuse.

a. No person shall establish, service or maintain any bait station prior to August 19, 1983.

b. No person shall establish a bait station without first registering the site by mailing the following information to the Division of Enforcement, Department of Natural Resources, Box 47, Centennial Building, Saint Paul, Minnesota 55155:

(1) Name, address and telephone number of person establishing the bait station.

(2) County, township, range and section in which the bait station is located.

c. Any person placing bait for bear shall display a sign at the site as follows:

(1) The sign shall be made of plastic, wood or metal and shall be at least 6 inches by 10 inches in size.

(2) The sign shall contain the full name and Minnesota driver's license number or the full name, address and telephone number, all in the English language, of the person placing the bait.

(3) Letters and numbers shall be legibly printed and either painted or impressed on the sign material.

(4) The sign shall be prominently displayed between 6 and 10 feet above the natural ground level and within 20 feet of the bait.

d. No person shall hunt bear within 100 yards of a bait station that is not registered and marked with a sign pursuant to this order.

Sec. 8. SPECIAL PROVISIONS.

a. Locking Seal. Every person killing a bear must affix to the carcass the locking seal provided with his or her bear hunting license. The seal must be fastened around the bear's sternum (breast bone) in such a way that the seal cannot be removed without breaking the lock. The seal must be so affixed at the time the bear is brought into any hunting camp, dwelling, farm yard, or other place of abode of any kind occupied overnight, or before the bear is placed wholly or partially on a motor vehicle of any kind, or upon a conveyance towed by a motor vehicle of any kind.

b. Registration. Every person taking a bear shall register it at an official bear registration station, obtain at the registration station a Big Game Possession Tag and attach the possession tag to the bear in the same manner as the locking seal is attached, all within 48 hours after the bear is taken.

c. Garbage Dumps. No person shall take or attempt to take bear within one-half mile of a garbage dump or a designated municipal or county garbage collection point. No person who is licensed to take bear may be in possession of an uncased weapon legal for taking bear while within one-half mile of a garbage dump or a designated municipal or county garbage collection point.

d. Solid Waste. No person shall take or attempt to take bear by using solid waste containing bottles, cans, plastic, paper, metal or any other materials that are not readily biodegradable as a bait or lure for attracting the bear.

e. No person shall take or molest any bear in a den.

f. No person shall take or attempt to take bear with the aid of dogs.

g. No bear shall be taken in any manner in any area of the state except as herein expressly provided or as otherwise provided by Commissioner's Order.

h. None of the provisions of this order shall be construed as modifying or superseding any order establishing game refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks.

i. All animals taken pursuant to this order must be killed before being removed from the site where taken.

Dated at Saint Paul, Minnesota, this 18th day of March, 1983.

Joseph N. Alexander, Commissioner
Department of Natural Resources

SUPREME COURT

Decisions Filed Friday, April 1, 1983

Compiled by Wayne Tschimperle, Clerk

C2-82-1624 State of Minnesota, Appellant, v. Steven Leonard Boyd. Faribault County.

In prosecution of defendant for criminal sexual conduct in the third degree for sexually penetrating a 14-year-old girl, scientific evidence that defendant is the father of a baby which was subsequently born to the victim is admissible to prove that sexual penetration occurred, provided however that the expert evidence must not take the form of statistical evidence suggesting, by quantification, satisfaction of the requirement that guilt be established beyond a reasonable doubt.

Remanded for trial. Amdahl, C. J.

C4-82-1642 State of Minnesota v. Glenn Melvin Peterson, Appellant. Ramsey County.

Trial court, in computing defendant's criminal history score for the purpose of determining defendant's presumptive sentence, properly assigned defendant one point for his juvenile record.

Affirmed. Amdahl, C. J.

C0-82-102 In Re the Marriage of: Judith M. Janssen, Petitioner, v. George R. Janssen, Appellant. Hennepin County.

A nonvested, unmatured pension right is marital property within the meaning of Minn. Stat. § 518.54, subd. 5 (1982), and this contingent interest may be divided in a proceeding for marital dissolution.

The judgment is affirmed in part, vacated in part, and remanded for further proceedings not inconsistent with this opinion. Peterson, J.

C1-82-609 Waseca Mutual Insurance Company, Appellant, v. David Noska and Donald Noska, individually and d.b.a. Don's Store, *et al.*, Lawrence John Smith and Iona Marie Smith, Harlan F. Killian and Myrna Killian, State Farm Fire and Casualty Company and George A. Melin, Jr., and Sylvia Melin, Shelby Mutual Insurance Company, State of Minnesota, Melvin Etzler, *et al.* Todd County.

Under the unusual circumstances of this case, where the injury is causally connected both to the use of a motor vehicle and to nonvehicle-related acts at the insured's homestead, both the automobile liability policy insurer and the homeowner's policy insurer have a duty to defend insured and to indemnify him, up to their respective policy limits, for judgments which may be rendered against him.

The amount of coverage under the homeowner's policy is limited to the preexisting coverage rather than coverage in an increased amount which was procured following a fire giving rise to a claim against the insured, since the finding of the trial court negativing fraud on the part of the insured necessarily precludes a finding of the meeting of the minds essential to formation of a contract of insurance.

Affirmed in part as modified; reversed in part. Peterson, J. Took no part, Simonett, J.

C4-82-927 Shirlee Maland, as personal representative of the Estate of Thilmer J. Maland, Relator, v. The Commissioner of Revenue. Minnesota Tax Court.

There is a presumption in favor of the constitutionality of any tax.

This court will not find that a differentiation between residents and non-residents violates the Privileges and Immunities Clause, U.S. Const. art. IV, § 2, cl. 1, where there is a substantial reason for the differing treatment.

The denial of a partial marital deduction to spouses for non-residents reflected a legitimate concern on the part of the legislature that, since non-residents are only taxed on tangible personal property located in Minnesota, such non-residents might be taxed at a lower rate than residents on assets of equivalent value.

The concern that non-residents would enjoy a lower tax rate than residents constitutes a substantial reason for a statutory differentiation that, in turn, does not violate the Privileges and Immunities Clause.

Affirmed. Yetka, J.

C1-81-1345 State of Minnesota v. Michael Risken, Appellant. Dakota County.

Court did not err in accepting guilty plea where defendant freely admitted his guilt and thereby established a factual basis for the plea, and postconviction court did not err in refusing to permit petitioner to withdraw his plea 6½ years later notwithstanding the claim of recantation by certain witnesses who would have testified against petitioner if he had gone to trial rather than pleaded guilty.

Affirmed. Scott, J.

C0-82-469 Milbank Mutual Insurance Company v. United States Fidelity and Guaranty Company, *et al.*, Appellants, Philip Carlton Solum, Township of Cromwell, Charles Virgil Jensen, by Delores Winjum, his guardian ad litem, Rebecca Marie Jensen, by Charles B. Odegaard, her guardian ad litem, *et al.* Clay County.

Under Minn. Stat. § 170.54 (1982), when an owner of a motor vehicle, either himself or by an authorized agent, initially consents to its use by a permittee, subsequent use by the permittee, short of conversion or theft, remains permissive, notwithstanding the subsequent use was not within the contemplation of the parties or was outside any limitations placed uopn the initial grant of permission. Thus, under the statute the owner is vicariously liable for the permittee's negligence in the operation of the vehicle.

When an automobile liability insurance policy contains an omnibus clause extending coverage to persons who have permission

of the named insured to operate the insured vehicle, Minnesota follows the "initial permission" rule which makes the insurer liable to defend and indemnify the permittee, absent conversion or theft.

Affirmed. Kelley, J.

C5-82-1214, C7-82-1215 State of Minnesota v. Robert Junior Banks, Appellant. Ramsey County.

In sentencing defendant for two offenses using the so-called *Hernandez* method of computing defendant's criminal history score, the trial court properly concluded that the two offenses were not committed as part of a single behavioral incident or course of conduct.

Comments by the prosecutor to the trial court at the time of sentencing, while technically in violation of a promise by the prosecutor not to make any recommendation as to the sentence defendant should receive, clearly did not affect the sentence defendant received and therefore do not require a remand for resentencing.

Affirmed. Kelley, J. Dissenting, Wahl, J., and Coyne, J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Governor's Residence Council

Request for Letter of Interest for Interior Design Contract

The Governor's Residence Council is seeking proposals from interior design firms for implementation of an interior design plan for the residence. The amount available for this contract can not exceed $10,000. The contract period will be from June 1, 1983-May 31, 1984.

Prospectus and copies of the master plan may be obtained from: Marnie Luknic, Coordinator; 1006 Summit Avenue, St. Paul, MN 55155, or telephone 612/296-2961. Proposals will be accepted until May 1, 1983. There will be no extensions to the deadline.

March 31, 1983

Department of Public Welfare
Anoka State Hospital

Notice of Request for Proposal for Medical Services

Notice is hereby given that the Anoka State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking services which are to be performed as requested by the administration of Anoka State Hospital. Contracts may be written for the period of July 1, 1983 through June 30, 1984, with option to renew for the one year period ending June 30, 1985 or they may be written for the period of July 1, 1983 through June 30, 1985.

1) Services of a consulting firm to furnish:

A) A qualified EEG technician and equipment necessary to give EEG tests at Anoka State Hospital.

B) A tracing and neurological interpretation of each EEG test, and

C) A qualified neurologist to conduct examinations and consultations at Anoka State Hospital. Neurologist must be

accepted as a member of the clinical staff of Anoka State Hospital. The estimated amount of the contract will not exceed $10,000 annually.

2) Services of a radiologist to interpret x-rays, do fluoroscopy examinations and special procedures as required, consult with members of medical staff regarding problem patients, provide emergency services as requested by medical director. Radiologist providing services must be board certified and accepted as a member of the clinical staff of the hospital. Service is required 8 hours per week, total estimated amount of contract will not exceed $16,000 annually.

3) Psychiatric services. Responsibilities will include psychiatric assessments, psychiatric treatment, attendance at Medical Staff meetings, participation in the Utilization Review program, appearances at Special Review Board hearings, probate court hearings off campus, and in-service education. The estimated total amount for all psychiatric contracts will not exceed $105,000 annually.

Responses must indicate whether services are offered for one year with option to renew, or for two years.

Responses must be received by May 2, 1983. Direct inquiries to:

Mark Wilcox, Deputy Administrator
Anoka State Hospital
3300 4th Avenue North
Anoka, MN 55303

Department of Public Welfare
Cambridge State Hospital

Notice of Request for Proposals for Medical Services

Notice is hereby given that the Cambridge State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking services which are to be performed as requested by the Administration of Cambridge State Hospital. Contracts may be written for the period July 1, 1983 through June 30, 1984, with option to renew for one year period ending June 30, 1985, or they may be written for the period July 1, 1983 thru June 30, 1985.

1. Services of a neurologist to provide consultation in neurology to the residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed $8,000 for the two-year period.

2. Services of an orthopedist to provide consultation in orthopedics on the residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed $6,000 for the two-year period.

3. Services of a pathologist to provide pathological services and autopsies as needed by the Cambridge State Hospital and to provide a review of the hospital's laboratory tests, check quality control and provide consultation and supervision of the hospital laboratory. Estimated amount of the contract will not exceed a total of $12,000 for the two-year period.

4. Services of a physiatrist to provide consultation in physical medicine and rehabilitation on residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed a total of $7,500 for the two-year period.

5. Services of a psychiatrist to provide consultation on residents of the Cambridge State Hospital. Estimated amount of the contract will not exceed a total of $48,000 for the two-year period.

6. Services of a radiologist to interpret x-rays of Cambridge State Hospital residents as requested. The estimated amount of the contract will not exceed a total of $13,000 for the two-year period.

Responses must indicate whether for one year with option to renew, or for two years.

Responses must be received by Monday, May 2, 1983.

Direct inquiries to:

Norbert K. Johnson, Assistant Administrator
Cambridge State Hospital
Cambridge, MN 55008
Phone: (612) 689-2121, Ext. 204

Department of Public Welfare
Faribault State Hospital

Notice of Request for Proposals for Radiological Services and Physician Services

Notice is hereby given that Faribault State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period of July 1, 1983-June 30, 1984; these services as requested by the Chief Executive Officer of the Faribault State Hospital.

1. A radiological consultant group to provide services at the Faribault State Hospital upon the request of the medical director, at times mutually agreed upon by both parties. The duties shall involve radiological consultations for residents/patients of Faribault State Hospital, which consists of interpretation and diagnosis of x-ray films of chest, skull, skeleton, abdomen, gall bladder, kidneys, etc., performance of fluoroscopic examination of chest, stomach, intestines, colon, etc., as requested by staff physicians. In addition, supervision of the X-Ray department in regard to equipment, methodology, safety, etc., will be included in this consultation service. The estimated amount of this contract will not exceed $13,000.00.

2. The services of a physician or physician group to provide weekend coverage at Faribault State Hospital upon request of the medical director, by making rounds in the medical hospital and taking all emergency calls, the preceding service to be performed at the Faribault State Hospital. The estimated amount of this contract will not exceed $15,000.00.

Response for the above services must be received by May 3, 1983. Direct inquiries to:

Richard Fick, Accounting Supervisor
Faribault State Hospital
Faribault, Minnesota 55021
(507) 332-3530

Department of Public Welfare
Moose Lake State Hospital

Notice of Request for Proposals for Medical Services

Notice is hereby given that the Moose Lake State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the services which are to be performed as requested by the administration of the Moose Lake State Hospital. Contracts may be written for the period July 1, 1983 through June 30, 1984, with option to renew for one year period ending June 30, 1985 or they may be written for the period July 1, 1983 through June 30, 1985.

1) Services of a radiologist to interpret X-Ray films taken by the hospital's X-Ray technician. The estimated amount of the contract will be $11,000.00 for the first year with an option to renew for the second year.

2) Services of a psychiatrist to perform consultation services in psychiatry two days each week at the Moose Lake State Hospital. Other consultations will occur via phone or mail as needed and as deemed appropriate. The estimated amount of the contract is $41,500.00 for the first year with an option to renew for the second year.

3) Services of a specialist in physical and internal medicine to perform consultation services at the Moose Lake State Hospital. The estimated amount of the contract is $21,000.00 for the first year with an option to renew for the second year. Responses to the above services must be received by May 2, 1983.

Direct inquiries to:

Frank R. Milczark
Chief Executive Officer
Moose Lake State Hospital
Moose Lake, MN 55767
(218) 485-4411, Ext. 242

Department of Public Welfare
Willmar State Hospital

Notice of Request for Proposals for Medical Services and Chaplain Services

Notice is hereby given that the Willmar State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1983 through June 30, 1984 with option to renew for one year period ending June 30, 1985. These services are to be performed as requested by the Administration of the Willmar State Hospital:

1. Services of radiologists to interpret X-ray films; provide radiological supervision and X-ray consultation; provide specialized X-ray procedures. Estimated amount of the contract will not exceed $11,440.00, first year, with option to renew for one year.

2. Services of physicians to provide medical and surgical consultations, as needed to patients/residents of Willmar State Hospital at Willmar State Hospital. Estimated amount of the contract will not exceed $14,000.00, first year, with option to renew for one year.

3. Services of psychiatrist to provide consultation to Adolescent Treatment Unit, Psychiatric Rehabilitation Unit and Chemically Dependent Unit; special skills in adolescent and chronic mental illness psychiatry. Estimated amount of the contract will not exceed $26,790.00, first year, with option to renew for one year.

4. Services of a full time Protestant Chaplain; to conduct services and other ministries to mentally ill, mentally retarded and chemically dependent patients. Estimated amount of the contract will not exceed $11,340.00, first year, with option to renew for one year.

5. Services of a part-time Catholic Chaplain; to conduct services and other ministries to mentally ill, mentally retarded and chemically dependent patients. Estimated amount of the contract will not exceed $5,035.00, first year, with option to renew for one year.

Responses for the above services must be received by May 4, 1983.

Direct Inquiries to:

Lester E. Johnson, Chief Executive Officer
Willmar State Hospital
Box 1128
Willmar, MN 56201
(612) 231-5100, Ext. 205

Iron Range Resources and Rehabilitation Board

Notice of Request for Proposals for a Municipal Refuse Incineration Study

The Commissioner of Iron Range Resources and Rehabilitation Board is seeking proposals to examine the financial, technical, legal, environmental and social feasibility of establishing a facility to incinerate municipal refuse.

Estimated cost of the study should not exceed $40,000.00. For formal *Request For Proposal* documents, interested parties should contact:

Mr. Phillip Landborg
Deputy Commissioner
Iron Range Resources and Rehabilitation Board
P.O. Box 441
Eveleth, Minnesota 55734

Proposals must be submitted no later than 3:00 p.m., May 10, 1983.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Health
Emergency Medical Services Section

Notice of Request for Proposals for Regional Emergency Medical Services Implementation Grants

The Commissioner of Health is requesting proposals for one year regional emergency medical services (EMS) grants for the EMS regions of Minnesota. These regions are defined in the map attached as Exhibit I. Grants for the first year of a three year implementation period will be available for the southeastern, south central, and west central regions of the state, at an annual rate of $100,000, following successful completion of current planning projects.

Regional EMS implementation grants will provide financial support for the initial implementation and development of regional systems of emergency care. Development of these regional EMS projects must be based on a recently developed or updated regional EMS plan. The end product of these grants, a regional system of emergency care, will be a functional organization incorporating trained personnel, transportation, communications, public involvement, public safety coordination, and continued system management into ongoing EMS program.

Transitional implementation grants will be available for the northeastern, northwestern, central, and southwestern regions of the state at an annual rate of $50,000, beginning June 30, 1983. Transitional EMS regional grants will provide financial support for regional EMS projects that have completed three years of regional EMS system development (as described above) and are in the process of developing a structure that will provide on-going EMS system maintenance. These projects will therefore be in transition between regional EMS development and regional EMS system maintenance. Transitional grants will be awarded for a one year period, following which these regions will be eligible for on-going maintenance grants.

A regional EMS maintenance grant will be available to the metropolitan region of the state at an annual rate of $25,000. Regional EMS maintenance grants will provide funding for on-going system maintenance for those regions that have fully completed the regional EMS system development process.

This request for proposal (RFP) does not obligate the commissioner to fund the projects and the commissioner reserves the right to cancel the solicitation if she considers it to be in the best interest of the state to do so.

I. Scope of the Project.

The purpose of these grants is to implement and maintain regional EMS programs in the aforementioned regions of the state. Additional funding in subsequent years will presumably be available to complete the implementation of, and maintain regional EMS programs.

II. Objective

The ultimate objective of these grants is to reduce death and disability due to medical emergencies by promoting the prevention of medical emergencies and by improving the quality of emergency medical care. In particular, improvements are expected in the cost-effective care of trauma and out-of-hospital cardiac arrest patients.

III. Grantee Qualifications

Applications will be considered from not-for-profit corporations or governmental entities. Proprietary corporations are ineligible as the primary grantee under the federal block grant legislation which supports this program. The regional EMS project must provide services in all counties in the region, and will have demonstrated support of most local boards of health/CHS agencies and other organizations and agencies that are actively involved in EMS in the region.

IV. Proposal Contents

Respondents must include the following minimum contents in proposals. Please note that item D., Updated Regional EMS plan, pertains only to transitional and maintenance grants.

A. Executive Summary

B. Grantee Information

1. Project Administration/Management

a. Administrative structure

b. Qualifications of:

(1) Project Staff

(2) Medical Director

(3) Clinical Consultants (trauma, cardiac)

c. Regional Advisory Committees

C. Budget

1. Program Budget—task and line item breakdown

2. Budget narrative

D. Updated Regional EMS Plan (Transitional and Maintenance grants only)

1. Updated regional EMS plans should address the following EMS program components as identified in the State EMS Plan:

a. Trained personnel (physicians, nurses, EMTs, EMT-Is, paramedics, first responders, dispatchers)

b. Transportation

c. Public safety coordination

d. Communications

(1) Systems access (911)

(2) Regional EMS radio communications planning approach

(3) Regional medical control

(4) Medical control resource hospital

e. Public involvement

f. Facilities access (address critical care systems planning for trauma and cardiac illness)

g. System management

In addressing the program components listed under 1, above, respondents should include sections on: current status; desired status; needs/problems; steps in progress; objectives; and evaluation measures (input, process, outcome) for each program component.

E. Work plan

1. Description of methods proposed to achieve the objectives listed in the regional EMS plan

2. Timetable for completing objectives

F. Appendices (all grants)

1. Letters of support

2. Articles of incorporation, joint powers agreements, etc. (if appropriate)

V. Submission of Proposals

Interested parties must submit proposals to the commissioner according to the schedule described in Table 1 below. Proposals should be addressed directly to Mr. Stoffels in the EMS Section. Three copies of the proposal must be submitted to the Minnesota Department of Health. Prices and terms of the proposal as stated must be valid for the length of the program.

Table 1

Proposal Submission Schedule for Regional EMS grants by EMS Region

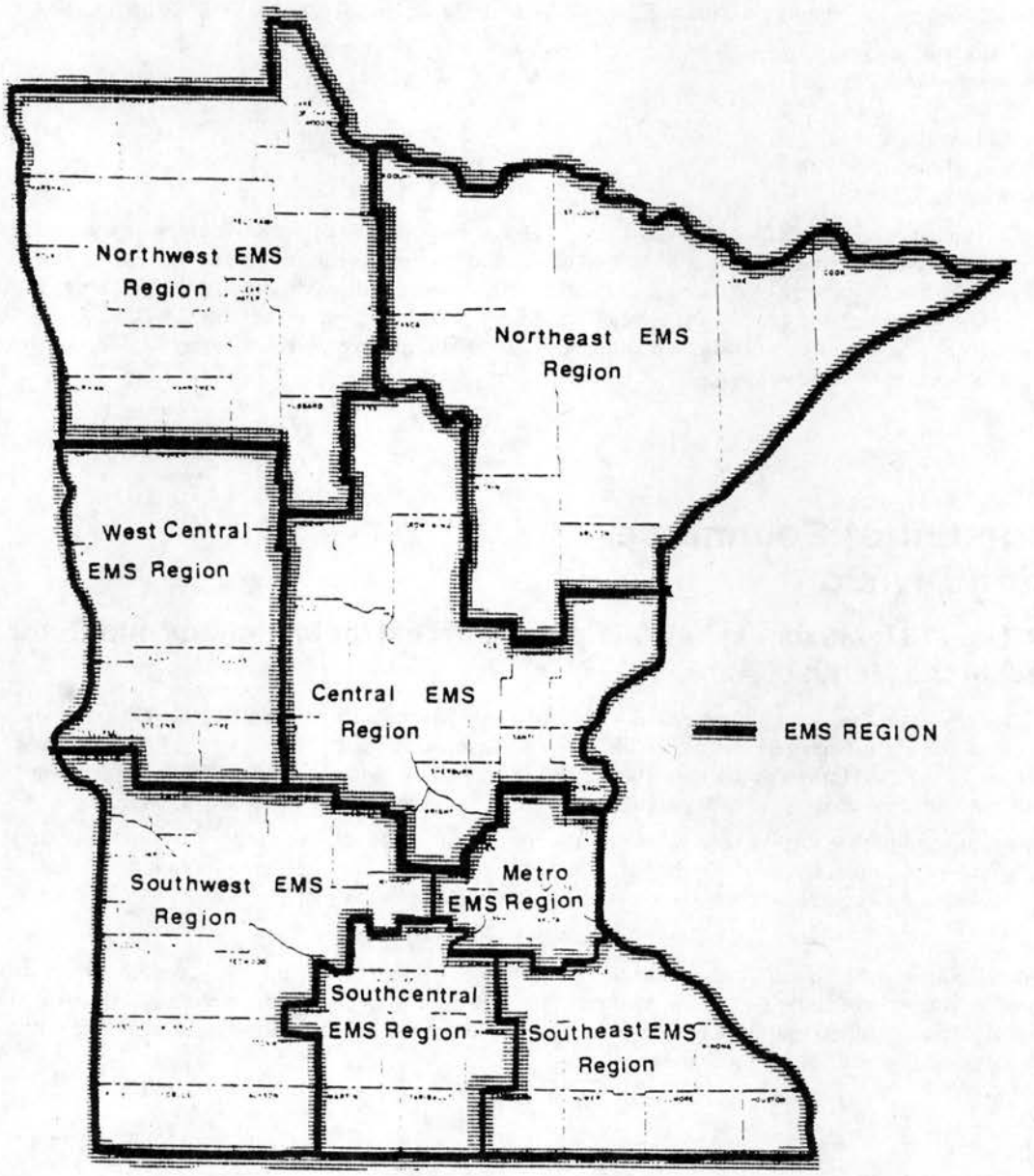
EMS Region	Submission Date
West Central	December 31, 1983
South Central	December 16, 1983
Southeast	February 17, 1984
Northwest	May 13, 1983
Northeast	May 13, 1983
Central	May 13, 1983
Southwest	May 13, 1983
Metro	November 12, 1983

VI. Department Contacts

Prospective responders who have questions regarding this RFP may call or write:

Jim Stoffels, Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
612/623-5518

Exhibit I
Minnesota EMS Regions



Department of Agriculture
Agronomy Services Division

Notice of Special Local Need (SLN) Registration for "D-B Green plus Vitavax"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on March 24, 1983, issued a Special Local Need (SLN) Registration for "D-B Green plus Vitavax," manufactured by Agsco, Inc. and Uniroyal Chemical respectively.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the blending of these two individual products into one ready-to-use seed treatment formulation.

The application and other data required under Minnesota Statutes §§ 18A.22, subdivision 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN83-0007) is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
Saint Paul, Minnesota 55107
Telephone: (612) 296-8312

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purposes of revoking, amending, or upholding this registration.

March 24, 1983.

Jim Nichols, Commissioner

Department of Commerce
Banking Division

Bulletin No. 2737: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of April 1983

Notice is hereby given that pursuant to section 47.20, subd. 4a, Minnesota Statutes 1982, the maximum lawful rate of interest for conventional home mortgages for the month of April 1983 is thirteen and three-quarters (13.75) percentage points. Further, pursuant to section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of April 1983 is thirteen and three-quarters (13.75) percentage points. This is the same rate as set for March 1983.

It is important to note that this maximum lawful rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

IMPORTANT NOTICE

The Federal National Mortgage Association has discontinued its biweekly free-market auctions on which Minnesota's conventional mortgage loan and contract for deed maximum rates have been based. Therefore, as provided in section 47.20, subd. 4a, Minnesota Statutes, the rate of 13.75 percent will remain the maximum lawful interest rate until Minnesota law is amended to replace the rate setting mechanism.

March 29, 1983

John D. Chisholm
Commissioner of Banks

Department of Education
Instruction Division

Public Meeting Notice

The Minnesota Special Education Advisory Council will hold a meeting on April 22nd. The meeting is scheduled to begin at 9:00 a.m. in the Walnut Room of the Capp Towers Best Western Hotel in Downtown St. Paul. Agenda items include: Review Public Hearing Comments on the Draft of FY84-86 State Plan; Legislative Update; Review of Rules Hearing; Report on Complaint Proceedings; Review of Developmental Adaptive Physical Education Guidelines; Update on Discretionary/Low Incidence Priorities and Planning Efforts.

For additional information contact Barbara S. Burke, Special Education Section, at (612) 296-8588.

Department of Energy, Planning and Development
Energy Division

Notice Regarding Cycle V of the Institutional Building Grants Program

Schools and hospitals are eligible to compete for approximately $3.5 million in maxi-audit (Technical Assistance) and Energy Conservation Measures grants. Federal grants for fifty percent of project costs will be awarded on a competitive basis. The remaining fifty percent must be provided by local, non-federal resources. Some hardship grants of up to ninety percent federal funding will be available. Local governments and public care institutions are NOT eligible for grants in this cycle. The Cycle V application deadline is Friday, May 13, 1983 at 4:30 p.m.

For more information call (612) 297-2103 or write: IBGP, Energy Division, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

Minnesota Pollution Control Agency
Water Quality Division

Notice of Approval of Metropolitan Council's 208 Plan (Part 2) and Recommendation for Certification by the Governor

On March 22, 1983, pursuant to Section 208(a)(4) and 40 CFR Part 35, the Minnesota Pollution Control Agency (MPCA) approved the Metropolitan Council's 208 Water Quality Management Plan (WQMP), Part 2, and recommended it to the governor for certification as conditioned. The MPCA approval of the plan is conditioned on the fact that it is to be a guidance document for Watershed Management Organizations in the development of watershed plans pursuant to Minn. Stat. § 473.875 *et seq.* (1982).

It is expected that the governor will certify the plan and forward it to the U.S. Environmental Protection Agency (EPA) by April 21, 1983. Once the plan has been certified by the governor the plan becomes the state certified plan which is to be used as guidance material by Watershed Management Organizations in the Metropolitan Area. The plan contains discretionary guidance material by the Watershed Management Organizations which may be of assistance in the development of their watershed plans pursuant to Minn. Stat. § 473.875 *et. seq.* (1982). The plan also includes policies that will be used by the Metropolitan Council in their review of project proposals.

Copies of the Metropolitan Council's 208 Plan (Part 2) are on file at the MPCA (contact Dave L. Johnson, 296-7209) and the Metropolitan Council (Marcel Jouseau, 291-6402).

March 31, 1983

Sandra S. Gardebring
Executive Director

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA COMMISSIONER OF TRANSPORTATION

In the Matter of Proposed Amendments to Rules Relating to Operating Standards for Special Transportation Services

STATEMENT OF NEED AND REASONABLENESS

The Commissioner of Transportation, pursuant to Minn. Stat. §14.23, presents facts establishing the need for and reasonableness of proposed amendments to rules relating to operating standards for special transportation services, 14 MCAR §1.7001 to 14 MCAR §1.7013.

A. Statutory Authority

Minnesota Statutes section 174.30, subdivision 2, requires the Commissioner of Transportation to adopt by rule standards for the operation of vehicles used to provide special transportation services which are reasonably necessary to protect the health and safety of individuals using that service.

The law was enacted in 1979. Rules were adopted pursuant to that authority on March 25, 1981. Minn. Stat. §14.02, subd. 4 provides that " 'Rule' means every agency statement of general applicability and future effect, including amendments . . ." The authority to adopt rules includes the authority to amend the rules at a later date.

B. Need and Reasonableness

In 1982, the legislature amended the Special Transportation Service law to limit the application of the standards. Laws 1982, Ch. 556, Sec. 2.

The amendments to these rules are proposed to conform the rules to the law, to make several minor changes which will make enforcement easier and to correct the form to comply with the drafting requirements of the Office of the Revisor of Statutes. Changes made in the draft by the Revisor's office include the addition of headnotes, changing "shall" to "must", striking references to "these rules" and "these standards" and inserting the rule numbers, and correcting grammar, punctuation and obsolete citations. These changes will not be individually justified as they are all necessary to bring the rule into conformance with the form required by the Revisor's Office.

The Department published a Notice of Intent to Solicit Outside Opinion in the State Register on June 21, 1982 (6 S.R. 2345). Two written comments were received. Both persons requested that certified emergency medical technicians not be required to take additional first aid training in order to drive special transportation vehicles. The rules will not require additional training of emergency medical technicians because their training exceeds that required by the operating standards.

In May, 1981, when the rules became effective, some persons believed the rules were too strict and requested a hearing before the

Legislative Commission to Review Administative Rules (LCRAR). Hearings were held by the LCRAR and on October 16, 1981 the LCRAR directed the Department to amend the rules by adopting numerous amendments drafted by LCRAR staff after several meetings with interested parties. In March, 1982, the legislature amended the Special Transportation Service Law. In October, 1982, the Department notified the LCRAR that most of the amendments which it had been directed to adopt by rule were in conflict with the amended Special Transportation Service Law. On November 15, 1982, the LCRAR met and voted to withdraw its recommendations of October 18, 1981 regarding the rule amendments. A letter from the Chairman of the LCRAR to the Commissioner of Transportation stated "The Department is thus free to develop rules pursuant to the amended statute."

The primary purpose of these amendments is to bring the rules into conformance with the statute.

14 MCAR §1.7001 A. and B.

All changes made in these two sections amend the rule to conform to the law. The language of the statute is duplicated in the rule because most providers do not refer to the statutes and rely exlusively on the rules for guidance as to what is required of them. Since 1979 when the law was enacted, through the 1982 session and the LCRAR hearings, the scope of application of the rules has been the primary point of confusion and disagreement. Therefore, the Department has not attempted to paraphrase or explain the

applicability limitations. The scope is explicitly restated in the rule because providers do not always understand that the rule applies to the providers that the statute says it applies to. Therefore, the duplication of this language is crucial to the ability of the persons affected by the rules to comprehend its meaning and effect.

14 MCRA §1.7001. C.5

It is necessary to add the phrase "providing life support transportation service" to distinguish those ambulances which are regulated by the Department of Health from ambulances providing special transportation service which are subject to these rules. Some providers have assumed that because almost all ambulance services are regulated by the Health Department, that all ambulances are therefore exempt from compliance with these rules. It is necessary to specifiy that only ambulances providing life support services are exempt. This is reasonable because it aids the provider in understanding the application of the rules.

14 MCAR §1.7003 F.

The definition of "economically disadvantaged" is stricken because it is not necessary. The legislature removed all references to economically disadvantaged persons when it amended the statute in 1982.

14 MCAR §1.7003 P.

The words "economically disadvantaged" are stricken so that the definition of "special transportation service" will conform to the definition in the statute.

14 MCAR §1.7005 A.

"Public Transportation" is stricken and "Program Management" inserted because the name of the division was changed in 1982.

14 MCAR §1.7005 B.1.d.

It is necessary to strike the reference to "economically disadvantaged" in this section, so that the rule will conform to the statute.

14 MCAR §1.7007 C.

It is necessary to strike the requirement that not less than one week notice of inspection be given so that inspections can be conducted unannounced or on shorter notice. The possibility of unannounced or short notice inspections serves as an incentive to the providers to maintain the vehicle in the condition required by law and these rules. When the rules were first proposed in 1980, the Department proposed to conduct occasional, unannounced inspections. Some providers objected, claiming that it would disrupt the scheduling of their vehicles and impede service. The Department adopted the "one week notice" rule as a compromise. However, in a few cases the Department has received

complaints from employees or riders of special transportation services that the provider repairs or corrects violations or problems with the vehicle (for example, bad exhaust system or bad brakes) only after he receives notice of inspection. The possibility of an inspection serves as an incentive to properly maintain the vehicle all the time. Both this department and the Department of Public Safety which inspects wheelchair securement devices as required by the special transportation service law, have a long history of conducting unannounced, random inspections with very little disruption of the drivers' activities. This rule is reasonable because it does unnecessarily burden providers. In consideration of the special kind of service provided in the vehicles subject to these rules, the rules provide that the inspection must be conducted at the providers's office or garage. The department may not stop any vehicle on the road to conduct an inspection. It is necesssary to strike the one week notice requirement and allow unannounced or short notice inspections to assure safer vehicles for the elderly and handicapped riders. Because there are hundreds of vehicles and only eight department employees to enforce these rules, it is unlikely that most providers will ever be inspected without notice. However, it is necessary that the Department have the ability to make unannounced inspections at the provider's office or garage when they are needed.

14 MCAR §1.7007 D.2.

This section is amended to add language which makes it clear that vehicles may be inspected to determine whether they comply with the

requirements of Chapter 169. This addition is necessary to resolve disagreement about whether the Department may inspect anything other than the items listed in 14 MCAR §1.7009 B. Section 1.7009 B. lists safety equipment which must be carried on the vehicle. Providers have argued that this rule (section 1.7007 D.) says that inspections shall comprise examination of records and examination of vehicles to determine compliance with section 1.7009 B.

Section 1.7009 C. states that all vehicles must be maintained and operated in compliance with Chapter 169. However, there is no explicit authority in that section or in 1.7007 D. for the department to inspect vehicles to determine compliance with Chapter 169. Therefore, this amendment is necessary to specifically authorize inspection of vehicles in cases where someone has made a complaint about the condition of the vehicle. This is a reasonable safety regulation to allow the purpose of the statute to be achieved. Minn. Stat. §174.30, subd. 4. provides that "The Commissioner shall provide in the rules procedures for determining compliance and issuing certificates. The procedures may include inspection of vehicles and examination of drivers."

14 MCAR §1.7008 B.

The amendment in this section strikes language which limits the circumstances in which providers may mail evidence of compliance to the department. When a provider is directed to correct a deficiency or violation involving vehicle equipment, the department wishes to

know whether the violation was corrected. In many cases a receipt for work done on the vehicle or a receipt from the purchase of required safety equipment such as a fire extinguisher or warning triangles is adequate evidence of compliance. Because the current rule states that "In the case of violations other than those involving vehicle equipment, the provider may mail evidence of compliance to the department," the department has required its representatives to make a second inspection to determine compliance with vehicle equipment rules. This is time-consuming and expensive and not always necessary. The department and providers agree that this is unnecessary. If the department doubts the truth of the mailed evidence of compliance, it can verify the information or can conduct an inspection under the preceding sentence which says ". . . the commissioner may conduct an inspection to determine whether the violation has been corrected." This is a more reasonable and flexible use of resources to assure the safety of the passengers.

14 MCAR §1.7009 A.9.

The phrase ". . . hired after October 1, 1981" is stricken because it is no longer necessary. All drivers are now hired after October 1, 1981, so the distinction is no longer necessary and is being removed.

14 MCAR §1.7009 B.1.b.(2)

The provision which specifies the size of soft rolled bandages is amended to allow a range of widths. This change is reasonable and

necessary because it accomodates the needs of providers and makes it easier for them to comply with the rule. This is the same bandage size range allowed under Department of Health Life Support Transportation Service Rules. It will allow providers who operate both life support ambulances and special transportation service vehicles to meet requirements with one purchase which may be used in either vehicle. It is reasonable because it allows flexiblity without diminishing safety.

14 MCAR §1.7009 B.4.

This section amends the height requirement for adjustable railings for wheelchair lifts. Transportation providers and manufacturers of wheelchair lifts have told the department that it is very difficult to comply with the 36 inch requirement. Therefore, the department proposes to allow a range of heights which are still high enough to protect passengers. This change is necessary to allow providers to comply with the rule and is reasonable because it permits some flexibility without compromising safety. The Metropolitan Transit Commission which operates Metro Mobility vehicles equipped with wheelchair lifts has asked that we allow railings less than 36 inches high. The manufacturer of its vehicles has told the MTC that a lift with a 36 inch rail can't be folded into the vehicle unless the rail is removed. As we have received many requests to allow a range of heights from 28 to 36 inches and have no evidence which shows that railings as short as 28 inches are not safe, we propose to allow the range.

Exhibit J

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed) Adoption of Rules of the De-) partment of Transportation) Governing Operating Standards) for Special Transportation) Service 14 MCAR §§ 1.7001-) 1.7013.)	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

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I, Special Assistant Attorney General Jean Stepan _____, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below:

Jean Stepan
Signature
Special Assistant Attorney General

Dated this 24th day of May, 1983.

Exhibit K

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Operating Standards for Special Transportation Service 14 MCAR §§ 1.7001-1.7013.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

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KENNETH H. BJORK, being first duly sworn, deposes and says:

That on the 25th day of May, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Kenneth H. Bjork

Kenneth H. Bjork, Manager
Administrative Procedures &
Documentation Section
Office of Systems & Support Services
Minnesota Department of Transportation

Subscribed and sworn to before me this 25th day of May, 1983.

Colette E. Prokop
Notary Public

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

Ramsey, County, Minnesota.

My Commission expires 9-13-86.

Exhibit L

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed) Adoption of Rules of the De-) partment of Transportation) Governing Operating Standards) for Special Transportation) Service 14 MCAR §§ 1.7001-) 1.7013.)	NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

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Pursuant to your request and in accordance with Minnesota Statutes, section 14.16:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, May 25, 1983, for review as to form and legality. Pursuant to 1 MCAR section 1.206 B., the Attorney General will not approve the rules for at least Twenty calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612)296-1288. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what charges, if any, were made in the proposed rules after (the

hearing/publication in the State Register) and before submission to the Attorney General, you may contact Betsy Parker, Office of Motor Carrier compliance and Safety, 419 Transportation Bldg., St. Paul, Minnesota 55155 (Telephone: 296-7108)

for Richard P. Braun
Commissioner of Transportation