

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Safety Governing Drivers' Licensure Following Disqualification of Commercial Drivers.	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on January 28, 1991 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on January 24, 1991. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the agency.

(7) No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

(6) Based on the comments and evidence in the record before the agency, I find the following:

1. that Minnesota Rules, part 7409.0300, subpart 2, line 24, the word "notification" was amended to read "disqualification." The substitution of the word disqualification for notification is not a substantial change in the rule because it does not change the intent of the subpart. The amendment clarifies the meaning of the sentence. It is the disqualification that will be effective when administrative review is complete, not the notification.

2. that in Minnesota Rules, part 7409.0600, subpart 2, line the words, "by mail" were stricken and the words "of reinstatement" were added. Also the last sentence of subpart 2, on lines 22 through 24 have been stricken. The

modifications are not substantial.

The intent of subpart 2 is to state that the person will be given notice of reinstatement. However, the reinstatement notice is not always given by mail but can also be given to the person orally or in person. Therefore, a person's driving privilege is not only reinstated when the notice is sent to the person. For example, if a person personally appears at the department and completes the necessary reinstatement requirements, the department can reinstate the person's driving privileges at that time. The person does not have to wait for notice to be sent to their home address for reinstatement to be effective. Therefore, the rule, as modified, provides for a more efficient and faster method of giving notice of reinstatement.

3. that the above modifications are not substantial in that the modifications do not affect a new class of persons who did not have an opportunity to respond to the proposed rules as originally noticed.

4. that the above modifications are not substantial in that the modifications do not introduce significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding.

5. that the above modifications are not substantial in that the modifications do not make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

6. that the modifications of the above-captioned rules do not result in inadequate notice to affected parties.

7. that the above captioned rule is needed and reasonable. (8)

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule of the State Department of Public Safety Governing Drivers' Licensure Following Disqualification of Commercial Drivers as modified is adopted this 22 day of March 1991, pursuant to authority vested in me by Minnesota Statutes, sections 171.165 subdivision 5, 14.06 and 299A.01, subdivision 6. (9)

Ralph Church

Ralph Church, Commissioner

4/1 mJM

RULE REVIEW CHECKLIST

File No. 1816
DATE RECEIVED 3-28-91
REVIEW DATE ~~3-28-91~~ 3-28-91
DUE DATE 4-8-91
~~(DIS)~~APPROVED 4-11-91
WITHDRAWN

Docket No. 05,0009,0712
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 4-1-91
REVISOR (DIS)APPROVED 4-3-91
FILED W/SEC. OF STATE 4-15-91
RETURNED TO AGENCY 4-16-91

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
___ Date published in State Register
___ Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
___ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
171.165 subd 5 Statutory Authority
✓ Small Business Statement
N/A Expenditure of public money statement
not signed * Signature
not dated *

✓ Statement of Need and Reasonableness (if applicable)
Statement Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
January 24, 1991 Dated 30/25 days before adoption
Notice attached indicates it is attached
✓ Copy of rule or summary attached

✓ Publication in State Register
January 28, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ * See notes Effective date of law requiring rule (14.12) (both rules) amendments don't apply
end of comment period (§ 14.26) (rules without hearing)
✓ effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting
___ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
March 22, 1991 Date

Written Requests, Submissions or Comments

✓ Declaration of Attorney
Nancy Bode Name of SAAG representing agency

letters explaining delay past 180 day deadline enclosed

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: April 16, 1991

TO: KATHERINE BURKE MOORE
Department of Public Safety

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Drivers' Licensure Following Disqualification of Commercial Drivers

The above-referenced rule has been approved as to its legality by the Attorney General on April 11, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJM:sc
Enclosures
cc: Nancy Bode
William Brown, Chief Judge
MaryAnn Hruby

Department of Public Safety
Driver and Vehicle Services Division

Adopted Permanent Rules Relating to Drivers' Licensure Following Disqualification of Commercial Drivers

Rules as Adopted

7409.0100 DEFINITIONS.

Subpart 1. **Scope.** For this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commercial motor vehicle.** "Commercial motor vehicle" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 22.

A commercial motor vehicle does not include a farm truck, fire truck or other emergency fire equipment, or recreational equipment operated by a person within the scope of Minnesota Statutes, section 171.02, subdivision 2, paragraph (a).

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Public Safety, acting directly or through authorized officers and agents.

Subp. 4. **Conviction; convicted.** "Conviction" or "convicted" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 13.

Subp. 5. **Department.** "Department" means the Minnesota Department of Public Safety.

Subp. 6. **Disqualification; disqualify.** "Disqualification" or "disqualify" means the commissioner's removal of the privilege to drive commercial motor vehicles for a specific period under Minnesota Statutes, section 171.165.

Subp. 7. **License.** "License" means an operator's license or other license or permit to operate a motor vehicle issued or issuable by the commissioner including:

A. a temporary license or instruction permit;

B. the privilege of a person to drive a motor vehicle, whether or not that person holds a valid license;

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C. a nonresident's driving privilege; and

D. the plastic or paper license certificates.

Subp. 8. **Revocation.** "Revocation" means the commissioner's withdrawal of a person's driver's license and privilege to drive in this state for a specific minimum time under Minnesota Statutes, section 169.121, 169.123, or 171.17.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary withdrawal of a person's driver's license and privilege to drive in this state under Minnesota Statutes, section 169.121, subdivision 8, or 171.18.

7409.0200 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION.

Subpart 1. **Leaving accident scene.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted under Minnesota Statutes, section 169.09, subdivision 1 or 2, and the person was driving, operating, or in physical control of a commercial motor vehicle at the time of violation of section 169.09, subdivision 1 or 2. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 2 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 2. **Felony, using commercial vehicle.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of a felony in which a commercial motor vehicle was used, other than a felony described in subpart 4. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the commission of the felony;

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or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 3. **Out-of-state convictions.** Upon receiving a record of conviction from another state, the commissioner shall disqualify the convicted person from holding a commercial driver's license if the conviction would be grounds for disqualification under Minnesota Statutes, section 171.165, subdivision 1, clause (2) or (3). The disqualification is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 2, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 4. **Manufacture, sale, or distribution of controlled substance.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person is convicted under Minnesota Statutes, chapter 152, of the manufacture, sale, or distribution of a controlled substance or possession of a controlled substance with the intent to manufacture, sell, or distribute it, and it is found that a commercial motor vehicle was used in the commission of the felony. The disqualification period is for life.

Subp. 5. **Serious traffic violations.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of two or more serious traffic violations in a commercial motor vehicle within a three-year period. "Serious traffic violations" includes any combination of the following offenses:

A. operating the commercial motor vehicle at a speed

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15 miles per hour or more above the posted speed limit;

B. reckless or careless driving under Minnesota Statutes, section 169.13;

C. fleeing a peace officer under Minnesota Statutes, section 609.487; and

D. a violation of a moving traffic statute of Minnesota or another state, or an ordinance in conformity with a Minnesota statute, that arose in connection with a fatal accident.

The disqualification period is 60 days for two, or 120 days for three or more serious traffic violations occurring within a three-year period. The department shall use the date of the driving incident to establish the number of violations.

Subp. 6. **Reduction of lifetime disqualification.** The commissioner shall reduce the lifetime disqualification period imposed under subpart 1, item C, subpart 2, item C, or subpart 3, item C, to a minimum of ten years disqualification if the person demonstrates rehabilitated driving practices in the ten-year period following the effective date of the lifetime disqualification. A person is considered rehabilitated if during that ten-year period there is no revocation or conviction resulting from the operation of any type of vehicle for an offense listed in Minnesota Statutes, section 171.165, subdivision 1, or if the person's license is not revoked under Minnesota Statutes, section 169.123, or a statute or ordinance from another state in conformity with it. If rehabilitation is not so demonstrated during the initial ten-year period, the disqualification period remains lifetime.

7409.0300 NOTICE OF LICENSE ACTION.

Subpart 1. **Notice of possible disqualification.** The commissioner shall notify a person who is subject to possible disqualification under this chapter or when requirements from a previous disqualification have not been satisfied. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must

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contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, driver's license number, height, and weight;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that the person has a right to administrative review under Minnesota Statutes, section 171.166; and

I. the length of time during which administrative review is available under Minnesota Statutes, section 171.166.

Subp. 2. **Notice of disqualification.** The commissioner shall notify a person who is disqualified under Minnesota Statutes, section 171.165, subdivision 1, clause (2), (3), or (4); subdivision 3; or subdivision 4, or when requirements from a previous disqualification have not been satisfied. The ~~notification~~ disqualification will be effective when all available possibilities of administrative review under Minnesota Statutes, section 171.166, have been completed. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, height, weight, and driver's license number;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

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D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that by the effective date of disqualification, the person must surrender all license certificates or submit a sworn statement if a license was lost, stolen, or destroyed; and

I. a statement informing the person of the requirements to reinstate the commercial driver's license.

Subp. 3. **Notice to other states.** When a nonresident is convicted of driving incidents that occurred while driving, operating, or in physical control of a commercial motor vehicle, the commissioner shall report that conviction to the driver's state of residence.

7409.0400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person has been disqualified and received notification under part 7409.0300, subpart 2. If the person requests review of the disqualification under Minnesota Statutes, section 171.166, then the request to surrender the driver's license is effective upon receipt of the commissioner's decision. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license within 15 days of the notice given under part 7400.0300, subpart 2, the commissioner shall inform the local law enforcement agency. The department shall request that the agency obtain the license or written statement

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regarding the license's whereabouts. The disqualification period is in effect upon notifying the licensee, but credit must not be given toward the disqualification period until the license is surrendered.

Subp. 3. **Class C eligibility.** A person who is disqualified from holding a commercial driver's license but whose license is not otherwise under suspension, revocation, or cancellation and denial, must be issued a class C license. The class C license is valid until its expiration date or until the commercial driver's license is reinstated, whichever is earlier, if the driver's privileges are not suspended, revoked, or canceled and denied at any time during that period. If the class C license expires during the disqualification period, the person has the option of paying the commercial driver's license fee at the time of renewal for the classification under disqualification, but commercial motor vehicle privileges must not be reinstated until the requirements of part 7409.0600 are fulfilled.

Subp. 4. **Obtaining class C license.** A person who has been disqualified from operating commercial motor vehicles and is eligible for a class C license under subpart 3 must be issued a temporary class C license with the notice of disqualification. A paper license will be mailed by the department to the person at no cost. A person who would prefer a class C license card must apply for a duplicate class C license. The duplicate license fee must be paid and a receipt will be issued to the person showing the existence of class C driving privileges. The class C license card will be mailed to the person when it has been manufactured. A minimum of 90 days must be remaining in the disqualification period before a class C license card will be issued.

Subp. 5. **Class A, B, or CC license status.** The disqualified person will receive the original class A, B, or CC license when the person has fulfilled the reinstatement requirements under part 7409.0600, unless the license has expired and more than one year has elapsed since the expiration

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date. If the license has expired and more than one year has elapsed, the person must reapply and retest for a class A, B, or CC license.

7409.0500 ADMINISTRATIVE REVIEW.

The commissioner shall follow the review provided for in Minnesota Statutes, section 171.166.

7409.0600 REINSTATEMENT.

Subpart 1. **Reinstatement following disqualification.** The commissioner shall reinstate the commercial motor vehicle driving privileges of a person who has been disqualified from holding a commercial driver's license when:

A. the disqualification period has been served and expired;

B. the person has paid the reinstatement fee as required by Minnesota Statutes;

C. the requirements imposed during this or a previous disqualification period have been satisfied; and

D. if issued, the class C license card is returned to the department.

Subp. 2. **Reinstatement notice.** After the person completes the requirements for reinstatement, the department shall notify the person ~~by mail~~ of reinstatement. ~~The driving privilege is reinstated only when the notice is sent to the address shown on department records.~~

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

April 11 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 15 1991
Joan Anderson Growe
Secretary of State
4:11 P.M.

Stat Authority 171.165 subd 5
The commissioner shall adopt rules to administer this section. The rules must include procedures for issuing class C licenses to persons who have been disqualified from operating commercial motor vehicles but whose drivers licenses have not otherwise been revoked, suspended, canceled or denied

end of comment period stated as February 27

* Notice of Intent not signed, Commissioners' name is just written - same as other rule

mailed SOLAR to LCAR

* 180 Day (14.26)
This is not new material it is added to an existing rule 7400.

↓

letters explaining delay enclosed

① prev. adopted em rules for Com. Dr. License

prev. exit draft + subject. ② letter expl. why late. use 1. letter rules etc.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

IN THE MATTER OF THE PROPOSED RULE OF THE DEPARTMENT OF PUBLIC SAFETY GOVERNING THE DISQUALIFICATION OF COMMERCIAL MOTOR VEHICLE DRIVERS

STATEMENT OF NEED AND REASONABLENESS

GENERAL STATEMENT

Minnesota has approximately 225,000 licensed commercial motor vehicle drivers. The Minnesota Legislature has recognized the need to establish safeguards necessary to protect public safety as a result of driving violations. Minnesota Statutes, section 171.165, authorizes the Minnesota Department of Public Safety to disqualify commercial drivers under specified circumstances. The department has proposed a permanent addition of parts 7409.0100 through 7409.0600 to the Minnesota Rules to implement the statutory provision cited above.

Although the rule making authority in Minnesota Statutes, section 14.06, is broad, the department must establish safeguards that are necessary to protect the public from unsafe drivers. In addition, the proposed rules are needed to specify a standardized set of conditions and procedures for implementing the cited statute. The proposed rules ensure that all drivers are treated similarly when disqualification is imposed.

Minnesota Statutes, section 14.23, requires the department to make a factual statement that establishes the reasonableness of the proposed rules. The rules are reasonable if there is a rational basis for the department's proposed action. The department believes that proposed parts 7409.0100 through 7409.0600 are reasonable because driving privileges are limited only where necessary to enforce relevant statutes and to protect the rights of the affected individual and the general public.

STATUTORY AUTHORITY

Minnesota Statutes, section 171.165, subdivision 5, directs the Commissioner of Public Safety to "...adopt rules to administer this section [Commercial Driver's License, Disqualification.]. The rules must include procedures for issuing class C licenses to persons who have been disqualified from operating commercial motor vehicles but whose drivers' licenses have not otherwise been revoked, suspended, canceled, or denied." These rules spell out the

administration of disqualification together with procedures for issuing class C licenses when appropriate.

Additionally, other rights and procedures available to the public to perform driver's license administration are authorized by Minnesota Statutes, section 14.06, which reads, "Each agency shall adopt rules,...setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public."

EFFECT OF THE RULES

These rules will have a direct impact on:

(1) every person who uses a commercial motor vehicle in the commission of a felony and is convicted of that felony;

(2) every person who leaves the scene of an accident while operating a commercial motor vehicle;

(3) every person who is convicted of the manufacture, sale or distribution of a controlled substance when the use of a commercial motor vehicle is involved;

(4) every person who operates a commercial motor vehicle and is convicted of a serious traffic violation; and

(5) every person convicted in another state for a violation of a state statute or ordinance in conformity with one of the Minnesota provisions described above.

In addition, businesses whose employees drive within the scope of employment may be indirectly affected by these rules if its employee is disqualified from operating commercial motor vehicles.

SMALL BUSINESS CONSIDERATIONS

The rules governing the disqualification of commercial motor vehicle drivers will have an indirect effect on small businesses. A significant part of the motor carrier industries covered by the Commercial Motor Vehicle Act of 1986 and subject to disqualification under Minnesota Statutes, section 171.165, is made up of small businesses. These businesses range from one-person, one-truck operators to small fleet operators. An example of an adverse indirect effect on small business is when an employee is disqualified from operating commercial motor vehicles in compliance with section 171.165, under part 7409.0200. Even if the person is eligible for a class C license under part 7409.0400, the licensee would be prohibited from operating commercial motor vehicles. Under these circumstances, the trucking company would have to replace the disqualified person for the duration of the disqualification period.

Unsafe drivers pose the same threat whether they are employed by a large or small business. Therefore, the rules are equally applicable to the small business component of the industry. Exempting small businesses or proposing less stringent compliance with these rules for employees of small businesses would be contrary to the statutory objective of disqualifying commercial motor vehicle drivers who pose a threat to the safety of the general public. Since the rule parallels the legislative mandate of section 171.165, the department has not placed any undue burden on small businesses. The department is merely implementing legislative requirements.

FEES IMPOSED BY THE RULES

The rules do not fix any fees nor do the statutes authorizing promulgation of the rules require that any fees by fixed. Therefore, no approval from the Commissioner of Finance is required.

FISCAL IMPACT

Adoption of these rules will not require the expenditure of public money by local public bodies.

ENVIRONMENTAL EFFECTS

Adoption of these rules will not affect the quality of air or water in the state nor will the rules affect the quality and amount of agricultural land.

RULE BY RULE ANALYSIS

7409.0100 DEFINITIONS.
This part provides definitions necessary for the chapter. Several of the terms defined in this part require definitions for clarity and consistency. Other terms are substantive and have special significance as used in this chapter. This part includes subparts defining terms used in the statutes and throughout the rules. Some of these definitions are taken directly from the statutes, and some pertain to terms that are used throughout the rules that are not defined in the statutes. Some of the definitions taken from the statutes have been expanded to address problems not addressed in the statutory definition.

Subpart 1. Scope. This definition is necessary to specify the limits within which the definitions are applicable. This provision is reasonable because the limits set for the

definitions coincide with the chapter in which they are contained.

Subp. 2. Commercial motor vehicle. This reference to the statutory definition of commercial motor vehicle is both necessary and reasonable to include. The new sanctions which were created by the Commercial Driver License Act during the 1989 Minnesota Legislative session are applicable only when the driver is operating a commercial motor vehicle. These rules will only be comprehensible if it is clear what a commercial motor vehicle is.

The final paragraph of this definition is necessary to exempt some specific vehicles from the definition and therefore the license sanctions that are imposed against persons driving commercial motor vehicles. These vehicles were exempted by the legislature when it specified that they could be operated in Minnesota with a class C driver's license by the language set out in Minnesota Statutes, section 171.02, subd. 2, paragraph (a), clauses (1), (2), and (3). Without this exemption, the vehicles specified in those clauses could fall within the definition found under section 171.01, subdivision 22, which would be contrary to the directive of the legislature.

Subp. 3. Commissioner. This definition is necessary to identify the Commissioner of Public Safety as referred to throughout the rule.

Subp. 4. Conviction; convicted. This definition is the same as the definition contained in Minnesota Statutes, section 171.01, subdivision 13. It is reasonable to refer to the statutory definition to clarify the term which is used throughout the rules.

Subp. 5. Department. This definition is necessary to specifically identify the department of public safety as is referred to throughout the rules.

Subp. 6. Disqualification; disqualified. This definition is necessary to define the new sanction that can be imposed against a driver under Minnesota Statutes, section 171.165. This sanction is different from the other types of sanctions. Disqualification is imposed on the driver and not against the driver's license. In addition, it is only used when the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation. The disqualification periods differ from the other license sanctions. A disqualification only affects the person's privilege to operate a commercial motor vehicle.

Subp. 7. License. This definition is necessary to explain what constitutes a "license" for the purpose of issuance of driving privileges. The definition follows and further

clarifies the definition of license in Minnesota Statutes, section 171.01, subdivision 14. Item D. is added to the rule definition clarify that a paper license certificate is equivalent to a plastic license certificate.

Subp. 8. Revocation. This definition is necessary because the term is used in the rules without definition elsewhere. The definition also specifies the statutory authority under which the commissioner revokes driver's licenses following convictions.

Subp. 12. Suspension. This definition is necessary because the term is used in the rules without definition elsewhere. The definition is reasonable because is informs a person under what statutory authority the commissioner shall suspend drivers' licenses.

7409.0200 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION. The following subpart sets out the violations which will result in disqualification with the corresponding disqualification periods. Although these violations are spelled out in statute, it is reasonable to include them in rule organizing them in such a way that clarifies the progression of the corresponding disqualification periods. In addition, it is necessary for all the subparts to clarify when the commissioner shall disqualify a person. It is reasonable for subparts 1 through 5 to require that the commissioner disqualify upon receiving a record of conviction to assure consistency in the implementation of the disqualification periods.

Subp. 1. Leaving the scene of the accident. This subpart implements the disqualification set forth in Minnesota Statutes, section 171.165, subdivision 1, clause (2).

Item A. implements the disqualification period as spelled out in section 171.165, subdivision 1.

Item B. implements the disqualification period spelled out in section 171.165, subdivision 3, clause (1).

Item C. implements and further specifies the disqualification period spelled out in section 171.165, subdivision 3, clause (2). That clause calls for a disqualification period of "not less than ten years...". The rule specifies the disqualification period as lifetime. A lifetime disqualification is necessary to comply with the federal regulation found in 49 CFR Ch. III, section 383.51, setting out the disqualification period for subsequent offenders as lifetime. Under the Commercial Motor Vehicle Safety Act of 1986 (Title XII, Public Law 99-570), Minnesota is required to adopt the federal standards regarding commercial motor vehicles and the persons who drive such vehicles or lose a portion of federal highway funds.

Subp. 2. Felony, using commercial motor vehicle. This subpart implements the disqualification set forth in Minnesota Statutes, section 171.165, subdivision 1, clause (3).

The need and reasonableness of Items A., B., and C. is based on the argument set forth above to substantiate the need and reasonableness of part 7409.0200, subpart 1, Items A., B., and C.

Subp. 3. Out-of-state convictions. This subpart implements the disqualification set forth in Minnesota Statutes, section 171.165, subdivision 1, clause (4).

The need and reasonableness of Items A., B., and C. is based on the argument set forth above to substantiate the need and reasonableness of part 7409.0200, subpart 1, Items A., B., and C.

Subp. 4. Manufacture, sale, or distribution of controlled substance. This subpart implements the disqualification set forth in Minnesota Statutes, section 171.165, subdivision 3, clause (3).

Subp. 5. Serious traffic violations. This subpart implements the disqualification set forth in Minnesota Statutes, section 171.165, subdivision 4.

This subpart is also necessary to specify how the two- or three-year period will be determined for counting the number of serious traffic violations. It is reasonable for the department to use the driving incidents from which the violations arise because conviction records may not truly represent the time frame in which the offenses occurred. The date of the driving incident is recorded by the department and truly reflects the time frame in which the offenses occurred.

Subp. 7. Reduction of lifetime disqualification. The federal standards allow states to reduce lifetime disqualifications to a minimum of ten years disqualification if the person can demonstrate that the driving practices that led to lifetime disqualification have been rehabilitated. See Commercial Motor Vehicle Act of 1986 (Title XII, Public Law 99-570, Section 12008). The department has elected to offer a reduction in the lifetime disqualification. It is necessary to state what constitutes demonstrable rehabilitation allowing the department to consistently reduce the lifetime disqualification. When a person is disqualified, he or she is not eligible to drive commercial motor vehicles; therefore, the operation of a person's private passenger vehicle should be the only conduct the department has to evaluate. Minnesota Statutes, section 171.165, subdivisions 1 and 2, include the following violations and revocations:

1. Driving under the influence, M.S. 169.121;
2. Alcohol-related driving, M.S. 169.1211;

3. Leaving the scene of an accident, M.S. 169.09, subd. 1 and 2;
4. Use of a commercial motor vehicle in the commission of a felony;
5. Implied consent revocation; and
6. Similar violation or revocation in another state.

If during the initial ten years of a person's disqualification period, one of the violations or revocations listed above appears on the driver's record, it is evident that that person has not made any changes in his or her driving practices. This is a reasonable conclusion when you look again at the violations and revocations listed above. They are not petty misdemeanors nor violations that are common to the majority of drivers. They are serious offenses. However, if the person has no such violations or revocations on his or her record during that ten year period, it is reasonable for the department to believe that driving practices have been rehabilitated and that issuing a commercial driver license to that person no longer poses a threat to public safety.

7409.0300 NOTICE OF LICENSE ACTION.

Subp. 1. Notice of possible disqualification. This subpart is necessary to set out the contents of the form required to serve notice of possible disqualification when the department serves notice pursuant to Minnesota Statutes, section 171.166, subdivision 2. Such notice is also necessary to inform the persons of their due process rights. It is reasonable to include the contents of the form so that all persons subject to possible disqualification receive consistent, uniform, and effective notice.

Item A. is necessary to identify the person upon whom notice is served.

Item B. is necessary to further identify the person.

Item C. is necessary to compute the effective date of the disqualification period in compliance with the administrative review process set out in Minnesota Statutes, section 171.166.

Item D., together with item G., provide the means for computing the date on which the disqualification period expires.

Item E. requires the form to include the reason for the disqualification, and is necessary to invoke disqualification under the applicable subdivision of Minnesota Statutes, section 171.165, subdivisions 1, 3, or 4. In addition this item indicates that the department

fulfilled the review of conviction requirement under section 171.166, subdivision 1.

Item F. is necessary to record that the person was driving a commercial motor vehicle at the time of the incident. The type of vehicle being driven is a critical detail to include in the notice of possible disqualification because it is a legal element of disqualification. See Minnesota Statutes, section 171.165.

Item. H. requires the form to include information referring to the right to administrative review of disqualification. This item is necessary because the legislature provided administrative review under Minnesota Statutes, section 171.166, therefore all persons subject to disqualification must be informed of their rights to and procedures for administrative review.

Item I. is necessary to inform the person of the duration during which administrative review is available. This item implements the requirements of Minnesota Statutes, section 171.166, while informing the person that the right to administrative review has a time limitation.

Subp. 2. Notice of disqualification. This subpart is necessary to set out the contents of the form required to serve notice of disqualification when the department serves notice pursuant to Minnesota Statutes, section 171.166, subdivisions 3 or 4. Such notice is also necessary to inform the persons of their due process rights. It is reasonable to include the contents of the form so that all persons subject to possible disqualification receive consistent, uniform, and effective notice.

The need and reasonableness of a number of the items which comprise this notice are based on the arguments set out above to substantiate the need and reasonableness of the items comprising the form for notice of possible disqualification in part 7409.0300, subpart 1 above.

The need and reasonableness of items A., through G., are based on the arguments set forth above to substantiate the need and reasonableness of part 7409.0300, subpart 1, items A. through G.

Item H. is necessary to give the person notice of the statutory requirement to surrender his or her driver's license upon disqualification. See Minnesota Statutes, section 171.20. Including this information on the form is a reasonable means of protecting the person form the ignorance of the consequences for failing to surrender the license and it encourages persons to surrender their licenses after disqualification. In addition this item is necessary to inform the person that the submission of a sworn statement that the person does not have a driver's license is

acceptable to fulfill the requirements of Minnesota Statutes, section 171.20, subdivision 1. This is a reasonable manner to address the situation where a person's license is no longer in his or her possession and cannot be recovered.

Item I. is necessary to inform the person of the reinstatement requirements found in part 7409.0400. It is reasonable to include these requirements in the notice so the person is informed of what conditions must be met before commercial motor vehicle driving privileges can be restored.

Subp. 3. Notice to other states. This subpart implements the mandate of Minnesota Statutes, section 171.15, subdivision 1, which authorizes the agency to forward the report of a conviction under Minnesota law to other jurisdictions. Furthermore, it is reasonable that this conviction be reported to the person's state of residence, as it is the state of residence that is authorized to take action against the person's driver's license and/or full driving privileges.

7409.0400 DRIVER'S LICENSE SURRENDER.

Subp. 1. License surrender. This subpart is necessary to implement the legislative mandate of Minnesota Statutes, section 171.20, with the unique timing of the notice of disqualification under section 171.166. Unlike other driver license sanctions, such as revocation or suspensions, the a person disqualified under this chapter is notified before the disqualification is effective. Therefore the surrender of the driver's license is not required until the effective date of the disqualification. This provision is also necessary to outline a procedure for the person who has misplaced his or her license. An affidavit explaining the loss of the license is a reasonable method for the department to use so a person who does not have a license to surrender has an alternative method of fulfilling this requirement.

Subp. 2. Refusal to surrender license. This subpart outlines the process the department will follow should a person refuse to surrender a license. The department's authority for this action is contained in Minnesota Statutes, section 171.20, subdivision 1. It is reasonable to require the surrender of the license before crediting time toward a disqualification period to implement section 171.20 and subpart 1.

Subp. 3. Issuing class C license. This subpart is necessary to implement the legislative mandate that the agency include in rule the eligibility requirements for a class C license for those persons disqualified. The first sentence of this

subpart restates the basic eligibility requirements set out in Minnesota Statute, section 171.165, subdivision 5. Furthermore, disqualification only affects the commercial driving privilege not a person's privilege to drive other vehicles. See the definition of disqualification in part 7409.0100, subpart 6, above. That unique feature of disqualification necessitates a procedure by which the department can issue the class C license to a person who maintains those driving privileges. Since the class C license is in actuality the driving privilege remaining after disqualification, it is reasonable that license be valid for the earlier of either the period of disqualification or license validity. However, it is imperative that the person realize that although the disqualifying incident may not have invoked a suspension, revocation, or cancellation of the full driving privilege, any license withdrawal during the disqualification period will result in the loss of the class C license.

Additionally, since a disqualification under these rules will result in a disqualification period of 60 days to lifetime, the person's license may expire during the disqualification period. If the license expires, the licensee has to make a decision at renewal. The license fee for the original commercial privilege (class A, B, or CC) may be paid or the person may pay only the class C fee therefore relinquishing the commercial driving privilege. If the choice is made to pay the class A, B, or CC license fee, the fee element of reinstatement has been satisfied, but the person's commercial driving privileges will not be reinstated until all requirements are met. This is necessary to implement and reinforce the reinstatement requirements of part 7409.0600 and the imposed disqualification period. Subpart 5 below further explains the effect of disqualification on the class A, B, or CC license status.

Subp. 4. Obtaining class C license. This subpart is necessary to explain how a disqualified person can obtain a paper class C license or a class C license card. It sets out the two methods by which a person may receive a class C license. If the agency is mailing notice of disqualification to the person, the paper class C will be enclosed with that notice. It is reasonable for the class C to accompany the notice of disqualification for three reasons. First, the person is disqualified upon receipt of notice, therefore the class A, B, or CC license is no longer valid though class C driving privileges still exist. Secondly, it is more convenient for the licensee to receive the paper class C by mail than to require a trip to a driver license examination station. Thirdly, the cost to the agency is minimized if the notice and paper class C can be mailed simultaneously.

Due to the fact that a license card serves as a picture identification for its holder, most persons prefer to have a class C card instead of a paper license. Therefore, this

subpart is also necessary to set out the process for obtaining a class C license card. The requirement to make application for the card is reasonable because the information listed on an application is used in the manufacture of the card. Requiring the payment of a duplicate fee is reasonable, because that fee was set to cover the cost of producing the card. Mailing the class C license to the person is convenient for the person and the agency alike. Limiting the issuance of a class C license card to those persons with a minimum of 90 days remaining in the disqualification period is necessary, due to the time factor involved in manufacturing a license card. It would be unreasonable to require the agency to process, manufacture, and distribute a license card and for a person to pay for a license card which will be used only a period of a few weeks or less.

Subp. 5. Class A, B, or CC license status. The first sentence of this subpart is necessary to reinforce the reinstatement requirements of part 7409.0600, while conveniently returning the commercial driver license to the person. Minnesota Statutes, section 171.27, allows for the renewal of an expired license only on or before expiration or within one year after expiration. It is necessary to comply with that statutory section by requiring a person to reapply and retest for a commercial class license if more than one year has elapsed since the expiration date.

7409.0500 ADMINISTRATIVE REVIEW.

This part is necessary as a reference to Minnesota Statutes, section 171.166, which sets out the administrative review process for those persons who are disqualified under this chapter. It is reasonable to include this citation in the rule so that everyone is informed of the availability of and procedures for administrative review.

7409.0600 REINSTATEMENT.

Subp. 1. Reinstatement following disqualification. This subpart is necessary to set out the requirements to be fulfilled by a disqualified driver, before his or her commercial driving privileges can be reinstated. Items A and B set out the requirements which are found in statute. Item C logically requires all disqualification requirements to be satisfied. Item D requires the return of class C license if issued as is necessary to comply with Minnesota Statutes, section 171.02, subpart 1, prohibiting persons from possessing more than one license.

Subp. 2. Reinstatement notice. This subpart is necessary to inform the public when reinstatement becomes effective. It is reasonable to require the department to mail notification to the person because it is the department that records each requirement as it is fulfilled. Additionally, it is essential that the person not be reinstated until the department has sent the notice to verify that the reinstatement requirements have been met to implement subpart 1.

DRIVER AND VEHICLE SERVICES DIVISION
MOTOR VEHICLE OFFICE
TRANSPORTATION BUILDING
612-296-6911

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
SAINT PAUL 55155

March 25, 1991

3-28-91

Ms. Patricia Nolte, Legal Assistant
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Drivers' Licensure Following Disqualification of Commercial Drivers. Minnesota Rules, Part 7409.

Dear Ms. Nolte:

On March 22, 1991, The Minnesota Department of Public Safety adopted the above-captioned rules governing Drivers' Licensure Following Disqualification of Commercial Drivers. Enclosed for your review are the following documents:

1. A copy of the Notice of Solicitation of Outside Opinion as published in the State Register,

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. A copy of the Notice of Intent to Adopt the Rule Without a Public Hearing as mailed,

4. A copy of the Statement of Need and Reasonableness,

5. The Affidavit of Mailing the Notice of Intent to Adopt the Rule Without a Public Hearing and Certification of the Mailing List,

6. The Affidavit of Mailing the Rule and Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules,

7. A copy of the Notice of Intent to Adopt the Rule Without a Public Hearing as published in the State Register,

8. Four copies of the Rule as adopted,

9. A copy of the Findings of Fact, Conclusions of Law, and Order adopting the rule, and

10. The Declaration of Counsel.

There were no written requests, submissions, or comments received by the agency except for requests solely for copies of the rule or statement of need and reasonableness.

If you should have any questions regarding these rules, please do not hesitate to contact me at 296-2608. Thank you.

Yours truly,

Laura Nehl-Trueman

Laura Nehl-Trueman

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF DRIVER AND VEHICLE SERVICES

In the Matter of the Proposed Rules of the State Department of Public Safety Governing the Disqualification of Commercial Motor Vehicle Drivers	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

(1) NOTICE IS HEREBY GIVEN that the State Department of Public Safety proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 171.165, subdivision 5.

(2) Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON MONDAY, MARCH 25, 1991, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUESTS, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF PUBLIC SAFETY. To verify whether a hearing will be held, please call the Department of Public Safety between 8:00 A.M. and 4:30 P.M. at (612) 297-5755.

People who want to submit comments or a written request for a public hearing must submit such comments or requests to:

Katherine Burke Moore
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155
(612) 297-5755

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Wednesday, February 27, 1991.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available on request for your review from Katherine Burke Moore at the address and telephone number listed above.

These rules govern disqualification imposed against persons involved in incidents while operating commercial motor vehicles. The rules include disqualification periods and reinstatement requirements. Also included in the rule are the required notices of disqualification, procedures for administrative review, and the procedures for issuing class C licenses to persons who have been disqualified.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied on to support the proposed rule has been prepared and is available on request from Katherine Burke Moore at the address and telephone number listed above.

You are hereby advised, pursuant to Minnesota Statutes, section 14.115, "Small business considerations in rule making," that the proposed rules may affect small businesses indirectly. Because unsafe drivers pose a threat to the public whether they are employed by a small or large business, exempting small businesses or proposing less stringent sanctions for employees of small businesses would be contrary to legislative requirements.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered

to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Katherine Burke Moore, Department of Public Safety, 211 Transportation Building, St. Paul, MN 55155.

Ralph Church, Commissioner
Department of Public Safety

In the Matter of the Proposed Adoption of the Rule of the State Department of Public Safety Governing the Disqualification of Commercial Motor Vehicle Drivers	NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room D, 5th Floor, Veterans Service Building, 20 West 12th Street, St. Paul, MN 55155, on Monday, March 25, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF PUBLIC SAFETY. To verify whether a hearing will be held, please call the Department of Public Safety from February 28, 1991, through March 22, 1991, between 8 a.m. and 4:30 p.m. at (612) 297-5755.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included

in the hearing record may be mailed to: Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rule making record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 to 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge at the address listed above or by calling (612) 349-2544.

These rules govern disqualification imposed against persons involved in incidents while operating commercial motor vehicles. The rules include disqualification periods and reinstatement requirements. Also included in the rule are the required notices of disqualification, procedures for administrative review, and the procedures for issuing class C licenses to persons who have been disqualified.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 171.165, subdivision 5.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of Minnesota Statutes, section 14.11.

You are hereby advised, pursuant to Minnesota Statutes, section 14.115, "Small business considerations in rule making," that the proposed rules may affect small businesses indirectly. Because unsafe drivers pose a threat to the public whether they are employed by a small or large business, exempting small businesses or proposing less stringent sanctions for employees of small businesses would be contrary to legislative requirements.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to or calling: Katherine Burke Moore, Department of Public Safety, 211 Transportation Building, St. Paul, MN 55155, (612) 297-5755.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Katherine Burke Moore at the address or telephone number listed above.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612)296-5148.

Ralph Church, Commissioner
Department of Public Safety

Department of Public Safety
Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Drivers' Licensure Following Disqualification of Commercial Drivers

Rules as Proposed (all new material)

7409.0100 DEFINITIONS.

Subpart 1. **Scope.** For this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commercial motor vehicle.** "Commercial motor vehicle" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 22.

A commercial motor vehicle does not include a farm truck, fire truck or other emergency fire equipment, or recreational equipment operated by a person within the scope of Minnesota Statutes, section 171.02, subdivision 2, paragraph (a).

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Public Safety, acting directly or through authorized officers and agents.

Subp. 4. **Conviction; convicted.** "Conviction" or "convicted" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 13.

Subp. 5. **Department.** "Department" means the Minnesota Department of Public Safety.

Subp. 6. **Disqualification; disqualify.** "Disqualification" or "disqualify" means the commissioner's removal of the privilege to drive commercial motor vehicles for a specific period under Minnesota Statutes, section 171.165.

Subp. 7. **License.** "License" means an operator's license or other license or permit to operate a motor vehicle issued or issuable by the commissioner including:

A. a temporary license or instruction permit;

B. the privilege of a person to drive a motor vehicle, whether or not that person holds a valid license;

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C. a nonresident's driving privilege; and

D. the plastic or paper license certificates.

Subp. 8. **Revocation.** "Revocation" means the commissioner's withdrawal of a person's driver's license and privilege to drive in this state for a specific minimum time under Minnesota Statutes, section 169.121, 169.123, or 171.17.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary withdrawal of a person's driver's license and privilege to drive in this state under Minnesota Statutes, section 169.121, subdivision 8, or 171.18.

7409.0200 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION.

Subpart 1. **Leaving accident scene.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted under Minnesota Statutes, section 169.09, subdivision 1 or 2, and the person was driving, operating, or in physical control of a commercial motor vehicle at the time of violation of section 169.09, subdivision 1 or 2. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 2 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 2. **Felony, using commercial vehicle.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of a felony in which a commercial motor vehicle was used, other than a felony described in subpart 4. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the commission of the felony;

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or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 3. **Out-of-state convictions.** Upon receiving a record of conviction from another state, the commissioner shall disqualify the convicted person from holding a commercial driver's license if the conviction would be grounds for disqualification under Minnesota Statutes, section 171.165, subdivision 1, clause (2) or (3). The disqualification is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 2, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 4. **Manufacture, sale, or distribution of controlled substance.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person is convicted under Minnesota Statutes, chapter 152, of the manufacture, sale, or distribution of a controlled substance or possession of a controlled substance with the intent to manufacture, sell, or distribute it, and it is found that a commercial motor vehicle was used in the commission of the felony. The disqualification period is for life.

Subp. 5. **Serious traffic violations.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of two or more serious traffic violations in a commercial motor vehicle within a three-year period. "Serious traffic violations" includes any combination of the following offenses:

A. operating the commercial motor vehicle at a speed

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15 miles per hour or more above the posted speed limit;

B. reckless or careless driving under Minnesota Statutes, section 169.13;

C. fleeing a peace officer under Minnesota Statutes, section 609.487; and

D. a violation of a moving traffic statute of Minnesota or another state, or an ordinance in conformity with a Minnesota statute, that arose in connection with a fatal accident.

The disqualification period is 60 days for two, or 120 days for three or more serious traffic violations occurring within a three-year period. The department shall use the date of the driving incident to establish the number of violations.

Subp. 6. **Reduction of lifetime disqualification.** The commissioner shall reduce the lifetime disqualification period imposed under subpart 1, item C, subpart 2, item C, or subpart 3, item C, to a minimum of ten years disqualification if the person demonstrates rehabilitated driving practices in the ten-year period following the effective date of the lifetime disqualification. A person is considered rehabilitated if during that ten-year period there is no revocation or conviction resulting from the operation of any type of vehicle for an offense listed in Minnesota Statutes, section 171.165, subdivision 1, or if the person's license is not revoked under Minnesota Statutes, section 169.123, or a statute or ordinance from another state in conformity with it. If rehabilitation is not so demonstrated during the initial ten-year period, the disqualification period remains lifetime.

7409.0300 NOTICE OF LICENSE ACTION.

Subpart 1. **Notice of possible disqualification.** The commissioner shall notify a person who is subject to possible disqualification under this chapter or when requirements from a previous disqualification have not been satisfied. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must

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contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, driver's license number, height, and weight;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that the person has a right to administrative review under Minnesota Statutes, section 171.166; and

I. the length of time during which administrative review is available under Minnesota Statutes, section 171.166.

Subp. 2. **Notice of disqualification.** The commissioner shall notify a person who is disqualified under Minnesota Statutes, section 171.165, subdivision 1, clause (2), (3), or (4); subdivision 3; or subdivision 4, or when requirements from a previous disqualification have not been satisfied. The notification will be effective when all available possibilities of administrative review under Minnesota Statutes, section 171.166, have been completed. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, height, weight, and driver's license number;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

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D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that by the effective date of disqualification, the person must surrender all license certificates or submit a sworn statement if a license was lost, stolen, or destroyed; and

I. a statement informing the person of the requirements to reinstate the commercial driver's license.

Subp. 3. **Notice to other states.** When a nonresident is convicted of driving incidents that occurred while driving, operating, or in physical control of a commercial motor vehicle, the commissioner shall report that conviction to the driver's state of residence.

7409.0400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person has been disqualified and received notification under part 7409.0300, subpart 2. If the person requests review of the disqualification under Minnesota Statutes, section 171.166, then the request to surrender the driver's license is effective upon receipt of the commissioner's decision. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license within 15 days of the notice given under part 7400.0300, subpart 2, the commissioner shall inform the local law enforcement agency. The department shall request that the agency obtain the license or written statement

Approved
by Revisor _____

regarding the license's whereabouts. The disqualification period is in effect upon notifying the licensee, but credit must not be given toward the disqualification period until the license is surrendered.

Subp. 3. **Class C eligibility.** A person who is disqualified from holding a commercial driver's license but whose license is not otherwise under suspension, revocation, or cancellation and denial, must be issued a class C license. The class C license is valid until its expiration date or until the commercial driver's license is reinstated, whichever is earlier, if the driver's privileges are not suspended, revoked, or canceled and denied at any time during that period. If the class C license expires during the disqualification period, the person has the option of paying the commercial driver's license fee at the time of renewal for the classification under disqualification, but commercial motor vehicle privileges must not be reinstated until the requirements of part 7409.0600 are fulfilled.

Subp. 4. **Obtaining class C license.** A person who has been disqualified from operating commercial motor vehicles and is eligible for a class C license under subpart 3 must be issued a temporary class C license with the notice of disqualification. A paper license will be mailed by the department to the person at no cost. A person who would prefer a class C license card must apply for a duplicate class C license. The duplicate license fee must be paid and a receipt will be issued to the person showing the existence of class C driving privileges. The class C license card will be mailed to the person when it has been manufactured. A minimum of 90 days must be remaining in the disqualification period before a class C license card will be issued.

Subp. 5. **Class A, B, or CC license status.** The disqualified person will receive the original class A, B, or CC license when the person has fulfilled the reinstatement requirements under part 7409.0600, unless the license has expired and more than one year has elapsed since the expiration

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date. If the license has expired and more than one year has elapsed, the person must reapply and retest for a class A, B, or CC license.

7409.0500 ADMINISTRATIVE REVIEW.

The commissioner shall follow the review provided for in Minnesota Statutes, section 171.166.

7409.0600 REINSTATEMENT.

Subpart 1. **Reinstatement following disqualification.** The commissioner shall reinstate the commercial motor vehicle driving privileges of a person who has been disqualified from holding a commercial driver's license when:

A. the disqualification period has been served and expired;

B. the person has paid the reinstatement fee as required by Minnesota Statutes;

C. the requirements imposed during this or a previous disqualification period have been satisfied; and

D. if issued, the class C license card is returned to the department.

Subp. 2. **Reinstatement notice.** After the person completes the requirements for reinstatement, the department shall notify the person by mail. The driving privilege is reinstated only when the notice is sent to the address shown on department records.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Drivers' Licensure Following Disqualification of Commercial Drivers

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7409

The attached rules are approved for publication in the State Register

Ron Ray

Ron Ray
Senior Assistant Revisor

Department of Public Safety

Driver and Vehicle Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Non-Alcohol-Related Driver's License Withdrawal Including No-Fault Insurance

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the non-alcohol-related driver's license withdrawal including no-fault insurance. The adoption of the rule is authorized by *Minnesota Statutes*, section 169.795, which requires the agency to adopt rules to assure proof of motor vehicle insurance.

On November 13, 1989, the Department of Public Safety published notice in the *State Register* soliciting outside opinion regarding proposed rules on non-alcohol-related driver's license withdrawal including commercial driver disqualification and license reinstatement. The Department has made the decision to include the proof of motor vehicle insurance rule in this proposed rule and is again publishing notice to ensure that all persons are given the opportunity to comment on all sections of the proposed rule.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Carol Manteuffel
Driver & Vehicle Services
208 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2608 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is October 2, 1990.

PIPELINE SAFETY ADVISORY COUNCIL
Dept. of Public Safety, 211 Transportation Bldg., St. Paul 55155. 612-296-6642.
Minnesota Statutes 299J.06

APPOINTING AUTHORITY: Commissioner of Public Safety. COMPENSATION: $55 per diem plus expenses.
VACANCY: One member: a representative of the gas pipeline industry.

The council advises the commissioner, director and other appropriate federal, state, and local government agencies and officials on matters relating to pipeline safety and operation. The council consists of nine members including one member from the hazardous liquid pipeline industry, one member from the gas pipeline industry, one member from personnel who design or construct pipelines, three members who are state or local government employees, and three members who are state residents unaffiliated with state or local government or the pipeline or utility industries.

MN BOARD OF CHIROPRACTIC EXAMINERS PEER REVIEW COMMITTEE
2700 University Ave. W., Suite 20, St. Paul 55114-1089. 612-642-0591.
Minnesota Statutes 148.01-148.106

APPOINTING AUTHORITY: Executive Director, State Board of Chiropractic Examiners. COMPENSATION: $55 per diem.
VACANCY: Two professional members: licensed Minnesota chiropractors.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF DRIVER AND VEHICLE SERVICES

In the Matter of the Proposed Rules of the State Department of Public Safety Governing the Disqualification of Commercial Motor Vehicle Drivers

AFFIDAVIT OF MAILING THE NOTICE OF PUBLIC HEARING

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

Brenda Klecker, being sworn says:

I hereby certify that on this 24th day of January, 1991, at the City of St. Paul, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the Department of Public Safety mailing list, and to all persons and associations that have expressed, to the agency, interest in the agency's rule making procedures.

Brenda J. Klecker

Subscribed and sworn to before me this 24th day of January, 1991.

Patricia I. Harris
Notary Public

PATRICIA I. HARRIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JULY 7, 1996

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF DRIVER AND VEHICLE SERVICES

In the Matter of the Proposed Rules of the State Department of Public Safety Governing the Disqualification of Commercial Motor Vehicle Drivers

CERTIFICATE OF THE MAILING LIST

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Katherine Burke Moore, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, that their names be placed on the State Department of Public Safety rule making mailing list is accurate, complete, and current as of this 24th day of January, 1991, at the City of St. Paul, State of Minnesota.

Katherine Burke Moore

Subscribed and sworn to before me on this 24th day of January, 1991.

Patricia I Harris
Notary Public

PATRICIA I. HARRIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JULY 7, 1996

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF DRIVER AND VEHICLE SERVICES

In the Matter of the Proposed Rules of the State Department of Public Safety Governing the Disqualification of Commercial Motor Vehicle Drivers

AFFIDAVIT OF MAILING THE RULE AND STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Brenda Klecker, being sworn says:

I hereby declare that the above-captioned rule and its corresponding statement of need and reasonableness were mailed to the Legislative Commission to Review Administrative Rules in compliance with Minnesota Statutes, section 14.23, on this 24th day of January, 1991. The mailing was done through the interoffice mail of the State of Minnesota.

Brenda J Klecker

Subscribed and sworn to before me this 24th day of January, 1991.

Patricia I Harris
Notary Public

PATRICIA I. HARRIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JULY 7, 1996

Subp. 5. **Scope of RFRA.** In addition to meeting the requirements of *Minnesota Statutes*, sections 115B.17, subdivision 1, paragraph (a), and 115B.18, subdivision 3, the RFRA shall include the following components:

A. reference to issuance of the notice letter; and

B. a time frame for consent order negotiations if required under part 7047.0005.

Subp. 6. **RFRA effective upon issuance.** The RFRA, including the schedule for response actions, is effective upon issuance.

7047.0005 CONSENT ORDERS.

Subpart 1. **Consent order negotiations.** If the recipient of a notice letter has notified the commissioner in writing within 30 days of receipt of the notice letter that the recipient intends to negotiate a consent order or that the recipient is uncertain regarding negotiations, the board shall specify a time frame in the RFRA during which the agency staff shall negotiate a consent order. If the recipient has notified the commissioner in writing within 30 days of receipt of the notice letter that the recipient does not intend to enter into consent order negotiations or has failed to notify the commissioner within that period, the board will not include a time frame for negotiating a consent order in the RFRA. If the time frame specified in a RFRA has expired without execution by the responsible person of a consent order that the agency staff agree to recommend to the board for its approval, or if no time frame has been specified in a RFRA, the agency staff are not required to negotiate a consent order.

Subp. 2. **Scope of consent order.** A consent order negotiated after issuance of a RFRA must provide for a scope of response actions substantially equivalent to that requested in the RFRA or for those response actions remaining to be implemented when the consent order is executed.

Subp. 3. **Execution of consent order.** If a consent order is executed by the agency and a responsible person after issuance of a RFRA, the consent order, instead of the RFRA, shall govern the response actions to be taken by the responsible person.

7047.0006 DETERMINATION ON ACTIONS REQUESTED.

Subpart 1. **Issuance of a DOAR.** If the commissioner determines that a responsible person will not take the response actions requested in a RFRA in the manner and within the time requested, the commissioner shall request that the board issue a DOAR with respect to the responsible person.

Subp. 2. **Effect of DOAR.** Issuance of a DOAR to known responsible persons constitutes the action required under *Minnesota Statutes*, section 115B.17, subdivision 1, paragraph (a), clause (3) as a prerequisite to taking removal or remedial action under *Minnesota Statutes*, section 115B.17, subdivision 1, paragraph (a). A DOAR may include a finding by the agency that a responsible person has failed to take response actions or to make reasonable progress in completing response actions requested in a RFRA, for the purpose of authorizing the commissioner to request the attorney general to commence legal action against the responsible person under *Minnesota Statutes*, section 115B.18, subdivision 1 or 2.

7047.0007 AUTHORITY OF ATTORNEY GENERAL NOT LIMITED.

Except to the extent that issuance of a RFRA is required before an action may be brought under *Minnesota Statutes*, section 115B.18, subdivision 1 or 2, nothing in parts 7047.0001 to 7047.0007 shall be interpreted to limit or set any condition upon the commencement of any legal action which the attorney general is authorized to bring under *Minnesota Statutes*, chapter 115B.

Department of Public Safety

Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Drivers' Licensure Following Disqualification of Commercial Drivers

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, section 171.165, subdivision 5.

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.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE that If Twenty-Five or More Persons Submit Written Requests for a Public Hearing Within the 30-Day Comment Period, a Hearing Will Be Held on Monday, March 25, 1991, Unless a Sufficient Number Withdraw Their Requests, in Accordance With the Notice of Public Hearing on These Same Rules Published in This *State Register* and Mailed to Persons Registered With the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety between 8:00 a.m. and 4:30 p.m. at (612) 297-5755.

People who want to submit comments or a written request for a public hearing must submit such comments or requests to:

Katherine Burke Moore
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155
(612) 297-5755

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Wednesday, February 27, 1991.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available on request for your review from Katherine Burke Moore at the address and telephone number listed above.

These rules govern disqualification imposed against persons involved in incidents while operating commercial motor vehicles. The rules include disqualification periods and reinstatement requirements. Also included in the rule are the required notices of disqualification, procedures for administrative review, and the procedures for issuing class C licenses to persons who have been disqualified.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied on to support the proposed rule has been prepared and is available on request from Katherine Burke Moore at the address and telephone number listed above.

You are hereby advised, pursuant to *Minnesota Statutes*, section 14.115, "Small business considerations in rule making," that the proposed rules may affect small businesses indirectly. Because unsafe drivers pose a threat to the public whether they are employed by a small or large business, exempting small businesses or proposing less stringent sanctions for employees of small businesses would be contrary to legislative requirements.

Adoption of these rules will not result in additional spending by local public bodies in the excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

If no hearing is required on adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to Katherine Burke Moore, Department of Public Safety, 211 Transportation Building, St. Paul, MN 55155.

Ralph Church, Commissioner
Department of Public Safety

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room D, 5th Floor, Veterans Service Building, 20 West 12th Street, St. Paul, MN 55155, on Monday, March 25, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

PLEASE NOTE, However, that the Hearing Will Be Cancelled If Fewer than Twenty-Five Persons Request a Hearing in

Response to the Notice of Intent to Adopt These Same Rules Without a Public Hearing Published in this *State Register* and Mailed to Persons Registered With the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety from February 28, 1991, through March 22, 1991, between 8 a.m. and 4:30 p.m. at (612) 297-5755.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Steve M. Mihalchick, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rule making record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge at the address listed above or by calling (612) 349-2544.

These rules govern disqualification imposed against persons involved in incidents while operating commercial motor vehicles. The rules include disqualification periods and reinstatement requirements. Also included in the rule are the required notices of disqualification, procedures for administrative review, and the procedures for issuing class C licenses to persons who have been disqualified.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, section 171.165, subdivision 5.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes*, section 14.115, "Small business considerations in rule making," that the proposed rules may affect small businesses indirectly. Because unsafe drivers pose a threat to the public whether they are employed by a small or large business, exempting small businesses or proposing less stringent sanctions for employees of small businesses would be contrary to legislative requirements.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to or calling: Katherine Burke Moore, Department of Public Safety, 211 Transportation Building, St. Paul, MN 55155, (612) 297-5755.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Katherine Burke Moore at the address or telephone number listed above.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials;

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.

or

(b) who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ralph Church, Commissioner
Department of Public Safety

Rules as Proposed (all new material)

7409.0100 DEFINITIONS.

Subpart 1. **Scope.** For this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commercial motor vehicle.** "Commercial motor vehicle" has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision 22.

A commercial motor vehicle does not include a farm truck, fire truck or other emergency fire equipment, or recreational equipment operated by a person within the scope of *Minnesota Statutes*, section 171.02, subdivision 2, paragraph (a).

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Public Safety, acting directly or through authorized officers and agents.

Subp. 4. **Conviction; convicted.** "Conviction" or "convicted" has the meaning given it in *Minnesota Statutes*, section 171.01, subdivision 13.

Subp. 5. **Department.** "Department" means the Minnesota Department of Public Safety.

Subp. 6. **Disqualification; disqualify.** "Disqualification" or "disqualify" means the commissioner's removal of the privilege to drive commercial motor vehicles for a specific period under *Minnesota Statutes*, section 171.165.

Subp. 7. **License.** "License" means an operator's license or other license or permit to operate a motor vehicle issued or issuable by the commissioner including:

A. a temporary license or instruction permit;

B. the privilege of a person to drive a motor vehicle, whether or not that person holds a valid license;

C. a nonresident's driving privilege; and

D. the plastic or paper license certificates.

Subp. 8. **Revocation.** "Revocation" means the commissioner's withdrawal of a person's driver's license and privilege to drive in this state for a specific minimum time under *Minnesota Statutes*, section 169.121, 169.123, or 171.17.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary withdrawal of a person's driver's license and privilege to drive in this state under *Minnesota Statutes*, section 169.121, subdivision 8, or 171.18.

7409.0200 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION.

Subpart 1. **Leaving accident scene.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted under *Minnesota Statutes*, section 169.09, subdivision 1 or 2, and the person was driving, operating, or in physical control of a commercial motor vehicle at the time of violation of section 169.09, subdivision 1 or 2. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 2 or 3, or *Minnesota Statutes*, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 2. **Felony, using commercial vehicle.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of a felony in which a commercial motor vehicle was used, other than a felony described in subpart 4. The disqualification period is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the commission of the felony; or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 3, or *Minnesota Statutes*, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 3. **Out-of-state convictions.** Upon receiving a record of conviction from another state, the commissioner shall disqualify the convicted person from holding a commercial driver's license if the conviction would be grounds for disqualification under *Minnesota Statutes*, section 171.165, subdivision 1, clause (2) or (3). The disqualification is:

A. one year, for the first conviction;

B. three years, if the person was transporting hazardous materials at the time of the violation; or

C. life, if the person has a previous disqualification under this subpart, subpart 1 or 2, or *Minnesota Statutes*, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 4. **Manufacture, sale, or distribution of controlled substance.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person is convicted under *Minnesota Statutes*, chapter 152, of the manufacture, sale, or distribution of a controlled substance or possession of a controlled substance with the intent to manufacture, sell, or distribute it, and it is found that a commercial motor vehicle was used in the commission of the felony. The disqualification period is for life.

Subp. 5. **Serious traffic violations.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of two or more serious traffic violations in a commercial motor vehicle within a three-year period. "Serious traffic violations" includes any combination of the following offenses:

A. operating the commercial motor vehicle at a speed 15 miles per hour or more above the posted speed limit;

B. reckless or careless driving under *Minnesota Statutes*, section 169.13;

C. fleeing a peace officer under *Minnesota Statutes*, section 609.487; and

D. a violation of a moving traffic statute of Minnesota or another state, or an ordinance in conformity with a Minnesota statute, that arose in connection with a fatal accident.

The disqualification period is 60 days for two, or 120 days for three or more serious traffic violations occurring within a three-year period. The department shall use the date of the driving incident to establish the number of violations.

Subp. 6. **Reduction of lifetime disqualification.** The commissioner shall reduce the lifetime disqualification period imposed under subpart 1, item C, subpart 2, item C, or subpart 3, item C, to a minimum of ten years disqualification if the person demonstrates rehabilitated driving practices in the ten-year period following the effective date of the lifetime disqualification. A person is considered rehabilitated if during that ten-year period there is no revocation or conviction resulting from the operation of any type of vehicle for an offense listed in *Minnesota Statutes*, section 171.165, subdivision 1, or if the person's license is not revoked under *Minnesota Statutes*, section 169.123, or a statute or ordinance from another state in conformity with it. If rehabilitation is not so demonstrated during the initial ten-year period, the disqualification period remains lifetime.

7409.0300 NOTICE OF LICENSE ACTION.

Subpart 1. **Notice of possible disqualification.** The commissioner shall notify a person who is subject to possible disqualification under this chapter or when requirements from a previous disqualification have not been satisfied. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, driver's license number, height, and weight;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that the person has a right to administrative review under *Minnesota Statutes*, section 171.166; and

I. the length of time during which administrative review is available under *Minnesota Statutes*, section 171.166.

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

Subp. 2. **Notice of disqualification.** The commissioner shall notify a person who is disqualified under *Minnesota Statutes*, section 171.165, subdivision 1, clause (2), (3), or (4); subdivision 3; or subdivision 4, or when requirements from a previous disqualification have not been satisfied. The notification will be effective when all available possibilities of administrative review under *Minnesota Statutes*, section 171.166, have been completed. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

A. the person's full name, date of birth, height, weight, and driver's license number;

B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;

C. the date the notice is mailed;

D. the effective date of the disqualification order;

E. the reason for the disqualification;

F. the type of vehicle being operated at the time of the driving incident;

G. the length of the disqualification period;

H. a statement that by the effective date of disqualification, the person must surrender all license certificates or submit a sworn statement if a license was lost, stolen, or destroyed; and

I. a statement informing the person of the requirements to reinstate the commercial driver's license.

Subp. 3. **Notice to other states.** When a nonresident is convicted of driving incidents that occurred while driving, operating, or in physical control of a commercial motor vehicle, the commissioner shall report that conviction to the driver's state of residence.

7409.0400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person has been disqualified and received notification under part 7409.0300, subpart 2. If the person requests review of the disqualification under *Minnesota Statutes*, section 171.166, then the request to surrender the driver's license is effective upon receipt of the commissioner's decision. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license within 15 days of the notice given under part 7400.0300, subpart 2, the commissioner shall inform the local law enforcement agency. The department shall request that the agency obtain the license or written statement regarding the license's whereabouts. The disqualification period is in effect upon notifying the licensee, but credit must not be given toward the disqualification period until the license is surrendered.

Subp. 3. **Class C eligibility.** A person who is disqualified from holding a commercial driver's license but whose license is not otherwise under suspension, revocation, or cancellation and denial, must be issued a class C license. The class C license is valid until its expiration date or until the commercial driver's license is reinstated, whichever is earlier, if the driver's privileges are not suspended, revoked, or canceled and denied at any time during that period. If the class C license expires during the disqualification period, the person has the option of paying the commercial driver's license fee at the time of renewal for the classification under disqualification, but commercial motor vehicle privileges must not be reinstated until the requirements of part 7409.0600 are fulfilled.

Subp. 4. **Obtaining class C license.** A person who has been disqualified from operating commercial motor vehicles and is eligible for a class C license under subpart 3 must be issued a temporary class C license with the notice of disqualification. A paper license will be mailed by the department to the person at no cost. A person who would prefer a class C license card must apply for a duplicate class C license. The duplicate license fee must be paid and a receipt will be issued to the person showing the existence of class C driving privileges. The class C license card will be mailed to the person when it has been manufactured. A minimum of 90 days must be remaining in the disqualification period before a class C license card will be issued.

Subp. 5. **Class A, B, or CC license status.** The disqualified person will receive the original class A, B, or CC license when the person has fulfilled the reinstatement requirements under part 7409.0600, unless the license has expired and more than one year has elapsed since the expiration date. If the license has expired and more than one year has elapsed, the person must reapply and retest for a class A, B, or CC license.

7409.0500 ADMINISTRATIVE REVIEW.

The commissioner shall follow the review provided for in *Minnesota Statutes*, section 171.166.

7409.0600 REINSTATEMENT.

Subpart 1. **Reinstatement following disqualification.** The commissioner shall reinstate the commercial motor vehicle driving privileges of a person who has been disqualified from holding a commercial driver's license when:

A. the disqualification period has been served and expired;

B. the person has paid the reinstatement fee as required by *Minnesota Statutes;*

C. the requirements imposed during this or a previous disqualification period have been satisfied; and

D. if issued, the class C license card is returned to the department.

Subp. 2. **Reinstatement notice.** After the person completes the requirements for reinstatement, the department shall notify the person by mail. The driving privilege is reinstated only when the notice is sent to the address shown on department records.

Department of Public Safety

Proposed Permanent Rules Relating to Driver's License Revocation and Disqualification for Incidents Involving Alcohol or Controlled Substances

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt Rule With a Public Hearing If Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, sections 14.06 and 171.165, subdivision 5.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE That If Twenty-Five or More Persons Submit Written Requests for a Public Hearing Within the 30-Day Comment Period, a Hearing Will Be Held on Monday, March 25, 1991, Unless a Sufficient Number Withdraw Their Request, in Accordance With the Notice of Public Hearing on These Same Rules Published in This *State Register* and Mailed to Persons Registered With the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety between 8 a.m. and 4:30 p.m. at (612) 297-5755.

People who want to submit comments or a written request for a public hearing must submit such comments or requests to:

Katherine Burke Moore
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155
(612) 297-5755

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on Wednesday, February 27, 1991.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available for your review on request from Katherine Burke Moore at the address and telephone number listed above.

These rules govern the driver and driver's license sanctions that are imposed against persons involved in incidents involving alcohol or controlled substances. The rules include revocation, suspension, cancellation, denial and disqualification periods and reinstatement requirements. Also included in the rule are the required notices of license or driver action and procedures for administrative review of revocation or disqualification. The procedures for issuing class C licenses to persons who have been disqualified are also contained in the rule.

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

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES

In the Matter of the Adoption of the Rule of the State Department of Public Safety Governing Drivers' Licensure Following Disqualification of Commercial Drivers.

DECLARATION OF COUNSEL

I, NANCY J. BODE, ~~Special~~ Assistant Attorney General, do hereby declare that on March 28, 1991 I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General Billing purposes, the four-digit docket client code is 0712.

Nancy J. Bode

~~Special~~ Assistant
Attorney General

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

April 8, 1991

Ms. Patricia Nolte, Legal Assistant
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Drivers' Licensure Following Disqualification of Commercial Drivers. Minnesota Rules, Chapter 7409.

Dear Ms. Nolte:

Enclosed please find copies of two letters dated November 13, 1989, and June 5, 1990, sent to Maryanne V. Hruby of the Legislative Commission To Review Administrative Rules (LCRAR). The letters notified the LCRAR that the rules would not be promulgated within the 180-day deadline and explaining the reason for the delay. The November 13, 1989, letter was also sent to Governor Perpich.

If you have any questions or suggestions regarding the Department's notification regarding the delay in promulgating these rules, please let me know.

This letter is also to inform you that I am the new Rules Coordinator for the Department of Public Safety. If you need to call me, you can reach me at 296-2631.

Yours very truly,

David Elre

David E. Orren

enclosures

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

November 13, 1989

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, section 171.165, subdivision 5, effective June 2, 1989, directs the Commissioner of Public Safety to adopt rules to administer the section on disqualification of commercial vehicle drivers and issuance of class C license to disqualified drivers who are so eligible. These rules have not yet been promulgated and will not be promulgated within 180 days of the effective date. The delay is due to the amount of staff discussion and research that has been devoted to ascertaining the most efficient and fair procedures for the department and the affected drivers alike. In addition, the final Federal regulation on disqualification standards was not promulgated until October 3, 1989. We anticipate the promulgation of these rules by May, 1990.

If you have any question or wish to discuss this matter further, please contact me at your convenience.

Respectfully,

Katherine Burke Moore

Katherine Burke Moore
Rules Coordinator

CC: Rudy Perpich, Governor
Room 130 State Capitol
St. Paul, MN 55155

J. Gary Cunningham
Commercial Driver License Coordinator
Assistant Division Director
Driver & Vehicle Services
Room 161 Transportation Building
St. Paul, MN 55155

OFFICE OF THE COMMISSIONER
211 Transportation Building
Telephone: 297-5755

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

June 5, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, section 171.165, subdivision 5, effective June 2, 1989, directs the Commissioner of Public Safety to adopt rules to administer the section on disqualification of commercial vehicle drivers and issuance of class C license to disqualified drivers who are so eligible. In a letter to your commission dated November 2, 1989, I requested an extension of that 180-day deadline to May, 1990. I would now like to further extend that deadline.

This additional extension is required for two reasons. First, the implementation of the Commercial Driver License Program, a federally mandated licensing program, expended a great deal of Driver & Vehicle Services staff and staff time. Promulgating rules when the implementation of the program was in progress and procedures were still being refined proved ineffective. Simultaneously, the Driver and Vehicle Services Division had a vacancy in its rule writing section, which was not filled until May of 1990.

With the Commercial Driver License Program in place and another rulewriter on staff, we anticipate the promulgation of these rules by December, 1990.

If you have any question or wish to discuss this matter further, please contact me at your convenience.

Respectfully,

Katherine Burke Moore

Katherine Burke Moore
Rules Coordinator

CC: Marlene Swanson, Director
Driver & Vehicle Services
161 Transportation Building
St. Paul, MN 55155

J. Gary Cunningham
CDL Coordinator
Assistant Division Director
Driver & Vehicle Services
161 Transportation Building
St. Paul, MN 55155

FAX MEMORANDUM

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
Driver and Vehicle Services Division
208 Transportation Building
395 John Ireland Boulevard
St. Paul, Minnesota 55155

DATE: April 11, 1991

TO: Mary Jo Murray

FROM: Dave Orren DEO

PHONE: (612) 296-2631

RECEIVING FAX: 297-2576 SENDING FAX: (612) 296-5316

TIME OF DAY 9:15 am TOTAL PAGES (including this page) 4

SUBJECT: The Proposed Rules Governing Drivers' Licensure Following Disqualification Of Commercial Drivers. Minnesota Rules, Chapter 7409.

The original of the letter to you and a copy of the letter to the LCRAR are being sent to you through interoffice mail. As we discussed, please disregard my fax and letter of April 10, 1991, which were in error about the Department's notification of the LCRAR.

OFFICE OF THE COMMISSIONER
211 Transportation Building
Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY
SAINT PAUL 55155

April 11, 1991

Ms. Mary Jo Murray
Special Assistant Attorney General
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Drivers' Licensure Following Disqualification of Commercial Drivers. Minnesota Rules, Chapter 7409.

Dear Ms. Murray:

Enclosed please find a copy printed from computer disk of the letter dated December 28, 1990, sent to Maryanne V. Hruby of the Legislative Commission To Review Administrative Rules (LCRAR). Copies of the letter were sent to the Governor and the chairs of the Senate and House Transportation Committees. The letter notified the LCRAR of the status of the rules and the planned date of publication.

As we discussed, please disregard my fax and letter to you of April 10, 1991, which were in error about the Department's notification of the LCRAR.

If you have any questions or suggestions regarding the enclosed letter, please let me know. You can reach me at 296-2631.

Yours very truly,

David E Orren

David E. Orren
Rules Coordinator

enclosures

December 28, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, section 171.165, subdivision 5, effective June 2, 1989, directs the Commissioner of Public Safety to adopt rules to administer the section on disqualification of commercial vehicle drivers and issuance of class C license to disqualified drivers who are so eligible. This rule, which will be adopted in two different chapters, is near completion; but the notice of intent to adopt will not be published in December as anticipated.

One portion of the rule will be amendments to Chapter 7503, Driver's License Revocation for Incidents Involving Alcohol or Controlled Substances. That rule is in the form as approved by the Revisor of Statutes and has a completed Statement of Need and Reasonableness. However, the second portion of the rule will be adopted as all new material. That rule is in the revisor's preliminary draft form. The statement and rule draft are being revised for the final time.

Because both sets of rules contain similar issues regarding Commercial Driver's Licenses, it has been decided to combine the rule hearing, if one is requested. Therefore, the notice of intent to adopt will be published for both sets of rules when the latter is completed. We anticipated publication in February, 1991, if not earlier.

If you have any questions or wish to discuss this matter further, please contact me at your convenience.

Respectfully,

Katherine Burke Moore
Rules Coordinator

CC: Rudy Perpich, Governor
Room 130 State Capitol
St. Paul, MN 55155

Senator Clarence M. Purfeerst
Room 303 State Capitol
St. Paul, MN 55155

Marlene Swanson, Director
Driver & Vehicle Services
161 Transportation Building
St. Paul, MN 55155

Senator Gary M. DeCramer
303 State Capitol
St. Paul, MN 55155

Rep. Henry J. Kalis
343 State Office Bldg.
St. Paul, MN 55155

Dick Martin, Asst. Comm.
211 Transportation Bldg.
St. Paul, MN 55155

J. Gary Cunningham
CDL Coordinator
Assistant Division Director
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161 Transportation Building
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