



MINNESOTA CODE OF AGENCY RULES

RULES OF THE DEPARTMENT OF TRANSPORTATION

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DEPARTMENT OF TRANSPORTATION

Chapter One: 14 MCAR §§ 1.3001-1.3005: Definitions, Procedural Rules, Contested Cases, Taxation, Applications for Financial Aid.

14 MCAR § 1.3001 Definitions.

A. Aeronautics instructor. Any individual engaged in giving instruction or offering to give instruction in aeronautics either in flying or ground subjects, or both, for hire or compensation, without advertising such occupation, without calling facilities an "air school" or anything equivalent thereto, and without employing or using other instructors and without operating an aircraft for compensation or hire for the purpose of flight instruction.

B. Airport. An area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities, if any.

C. Airport elevation. The established elevation of the highest point on the usable landing area measured in feet above mean sea level.

D. Airport hazard. Any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

E. Air Carrier Operating certificate. A certificate issued by the Federal Aviation Administration that entitles the holder to conduct charter operations according to the operating specifications in the certificate.

F. Balloon. A lighter-than-air aircraft that is not engine driven.

G. Edge marker. An object or device clearly visible from traffic pattern altitude under normal conditions during daylight hours, which is used to outline the perimeter of a landing area.

H. CAB (Civil Aeronautics Board). The agency of the federal government that has regulatory authority over scheduled, supplemental, and charter air carriers providing air transportation.

I. Commissioner. Any reference to the term "Commissioner" in these rules shall mean the Commissioner of the Minnesota Department of Transportation.

J. Dwelling. Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

K. FAA. The capital letters "FAA" shall mean the Federal Aviation Administration of the United States.

L. Flight instructor. A pilot who possesses a valid flight instructor certificate as issued by the FAA.

M. Glider. A heavier-than-air aircraft that is supported in flight by the dynamic reaction of the air against its lifting surfaces and whose free flight does not depend principally on an engine.

N. Gradient. The angular degree, from horizontal, of an ascending or descending uniformly smooth slope. With regard to runways:

1. Transverse gradient refers to the degree of slope across the width of the runway, and

2. Longitudinal gradient refers to the degree of slope along the length of the runway.

O. Height. For the purpose of determining the height limits set forth in these rules, the datum shall be mean sea level elevation as determined by U.S. Geological Survey.

P. Helicopter. A rotorcraft, that for its horizontal motion, depends principally on its engine-driven rotors.

Q. IFR. The symbol used to designate instrument flight rules.

R. Letter of authority. "Letter of authority" shall be included in the term "license" as used herein.

S. Night. The time between the end of evening civil twilight and the beginning of morning civil twilight, as published in the American Air Almanac, converted to local time.

T. Nonprecision instrument runway. A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities planned or indicated on an approved planning document.

U. Passenger. An occupant of an aircraft who is not assigned to perform duty necessary for operating the aircraft.

V. Person. The term "person" when used herein shall include an individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes a trustee, receiver, assignee, administrator, executor, guardian or other representative.

W. Planned. As used in these rules, refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Commissioner.

X. Precision instrument runway. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Micro-

wave Landing System (MLS), or a Precision Approach Radar (PAR). Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Y. Rotorcraft. A heavier-than-air aircraft that depends principally for its support in flight on the lift generated by one or more rotors.

Z. Runway. Any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and taking off of aircraft.

AA. Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

BB. Structure. An object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, earth formations and overhead transmission lines.

CC. Sunset and sunrise. The mean solar times of sunset and sunrise as published in the American Air Almanac, converted to local time.

DD. Traffic pattern. The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport.

EE. Traverse ways. Roads, railroads, trails, waterways, or any other avenue of surface transportation.

FF. Tree. Any object of natural growth.

GG. Utility runway. A runway that is constructed for and intended to be used by aircraft of 12,500 pounds maximum gross weight and less.

HH. VFR. The symbol used to designate visual flight rules.

II. Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

JJ. Water surfaces. For the purpose of these rules, water surfaces shall have the same meaning as land.

14 MCAR § 1.3002 Procedural rules as to structure heights.

A. When a permit is required under Minn. Stat. §§ 360.81-360.91, and amendments made subsequent hereto, application shall be made to the Commissioner on a form furnished by him.

B. The Commissioner shall make such investigation as may be necessary.

C. Any person interested in the granting or denial of a permit may intervene in the matter of the application. A person desiring intervention shall notify the Commissioner of his interest. Such notification shall be in writing.

D. Before issuing or denying a permit, the Commissioner may request an informal appearance of the applicant or any person who has intervened in the matter of the application.

E. All hearings, notices, orders, and other procedural rules, regarding this subject shall be in accordance with Chapters 360 and 15 of the Minn. Stat., these rules, and any other applicable law.

14 MCAR § 1.3003 Hearings in contested cases.

A. This rule does not include hearings in rule making and is supplementary to statutory provisions concerning the subject of contested cases.

B. Hearings in contested cases shall be in conformance with Chapters 360 and 15 of the Minn. Stat. and in conformance with the "Rules for Contested Cases" then in effect as promulgated by the Office of Administrative Hearings of the State of Minnesota.

14 MCAR § 1.3004 Taxation of converted military aircraft. When a military aircraft is purchased for civilian use and enters the State of Minnesota, it will be given a base value for taxation purposes according to its age, condition, weight, and performance characteristics.

14 MCAR § 1.3005 Applications for state and federal aid.

A. The Commissioner will make a substantive decision as to merit or necessity of each project and project application. A substantial aeronautical requirement must be shown by the municipality whereby the contemplated or existing airport is a necessary part of a system of public airports adequate to meet the present and anticipated needs of civil aviation in Minnesota.

B. The airport must be able to handle air traffic safely and adequately. The public interest and aeronautical progress of the state must be reflected in each project and project application.

C. The municipality must show that sufficient funds are available for that portion of the project costs to be borne by the municipality and that the project will be completed without undue delay, and that the municipality submitting the project application has legal authority to engage in the development as proposed.

Chapter Two: 14 MCAR §§ 1.3006-1.3016: Airport Licensing, Airport Zoning, Obstructions to Air Navigation.

14 MCAR § 1.3006 General provisions for airport licensing.

A. Airport. The term "airport" as used herein shall also include seaplane bases, heliports, and all other designated areas.

B. License. Every airport before operating as such, shall be approved and licensed by the Commissioner. (Airports owned or operated by public corporations formed pursuant to the Metropolitan Airports Commission Act need not be licensed.)

1. **Application.** Application for license shall be made on forms supplied by the Commissioner and accompanied by the appropriate fee and renewed annually.

Type of License	Fee
Public Airport (privately or publicly owned)	\$5.00
Private Airport (restricted use)	\$5.00
Personal-use Airport	None

2. **Inspection.** The applicant for any license shall offer full cooperation in respect to any inspection which may be made of the airport premises upon proper demand at reasonable hours by any authorized representative of the Commissioner, prior to or subsequent to the issuance of a license.

3. **Ownership.** The applicant shall show that he has right of access to and control of the land, or right of access to the water area to be licensed, as owner, co-owner, tenant, or by any other right of entry.

4. **Agency approvals.** No airport shall be licensed unless the applicant meets the requirements of other federal or state government agencies or their political subdivisions.

C. Restricted operation. A letter of authority granting temporary or restricted operation may be issued pending full compliance with the provisions of these rules and shall have an expiration date.

D. License display. The license issued under this section shall be posted in a prominent place at the airport.

E. Nontransferability. Licenses shall not be transferable.

F. Alteration or change of operational status. The licensee shall immediately notify the Commissioner of any proposed construction, alteration, or change in the operational status of the airport. The licensee is also responsible for properly notifying the Federal Aviation Administration of such alterations or changes.

G. Danger area or closed airport. Any part of the landing strip or runway which has become temporarily unsafe, or for any reason is not available for use, shall be marked by suitable warning flags and/or flares which shall clearly show the boundaries of the danger area. Upon the closing, abandonment or

cessation of any airport, the licensee shall immediately notify the Commissioner, return the current license, and mark the landing area in a manner that clearly indicates that the airport is closed to air traffic. All markings indicating a usable runway must be obliterated. An "X" must be placed at a central location, the minimum size to be 3' x 30', and of contrasting colors to the surrounding surface where the "X" is placed. In the event that the licensee fails to do the above, then and in such case, and without excusing the licensee, the Commissioner may go upon the premises and remove the markings that indicate a usable runway and may also mark the airport as indicated above.

H. Exceptions. In any case where it is determined that the public interest and safety will not be adversely affected, the Commissioner may waive any of the requirements stated in 14 MCAR §§ 1.3006-1.3016 subject to such conditions or limitations as may be necessary. Conversely, where it is determined that the public interest and safety will be adversely affected, the Commissioner may deny the issuance of a license, despite compliance with rules herein.

14 MCAR § 1.3007 Licensing of a public airport.

A. Public airport. A public airport is any airport, whether privately or publicly owned, the public use of which for aeronautical purposes is invited, permitted, or tolerated by the owner or person having right of access and control. The requirements of this section do not apply to the licensing of public seaplane bases or public heliports. Specific requirements for the licensing of a public seaplane base are found in 14 MCAR § 1.3008. Specific requirements for the licensing of a public heliport are found in 14 MCAR § 1.3009.

B. Requirements. A public airport shall be granted a license when it has shown that it has met the general provisions of 14 MCAR § 1.3006 and the following minimum requirements:

1. Size. At least one runway with a minimum usable length of 2,500 feet. The minimum width of a turf runway shall be 75 feet. The minimum width of a hard-surfaced runway shall be 60 feet. All runway widths shall include an area 75 feet either side of the runway centerline which is clear of all obstructions as defined in 14 MCAR § 1.3015 that are or may create an airport hazard.

2. Surface. The landing surface shall be smooth and free from hazards or obstructions.

a. The longitudinal gradient on any part of the landing area shall not exceed 2%.

b. The transverse gradient shall not exceed 3%.

c. In addition, runway grade changes shall be such that any two points 5 feet above the runway centerline will be mutually visible for the entire runway length.

3. Obstructions. The minimum obstruction clearance requires that no structure, tree or mobile object which creates a hazard, other than those necessary and incidental to airport operation, shall penetrate the imaginary airspace surfaces described in 14 MCAR § 1.3015, paragraphs E. 1., E. 4., and E. 5. The standards of this section shall also apply to traverse ways only after their heights have been increased as described in 14 MCAR § 1.3015 B.

4. Edge markers. Turf runways shall be outlined with effective edge markers and end markers which shall be constructed of a durable material and installed in such a manner so as to be clearly visible from traffic pattern altitude.

5. Buildings. Buildings and structures on a public airport shall not be closer than 250' to the centerline of the runway. For height limitations see 14 MCAR § 1.3015 E.

6. Wind indicator. All public airports shall be equipped with a wind sock, 3' x 12', blaze orange in color, which must be operable and clearly visible from the pattern altitude when within one mile of the airport during daylight hours. If the airport is lighted for night operations, the wind indicator must also be lighted.

7. Fencing. Such adequate fencing or barriers shall be constructed as will prevent all persons not engaged in flight activities from having access to a position of danger with relation to aircraft in the vicinity of building areas and on the flight line.

8. Lighting. If the airport is lighted for night operations and is advertised as lighted for night operations, the lights shall be kept on from dusk to dawn. Any object in the approach zone of a lighted visual utility runway that extends above a slope of 30:1, shall be marked and lighted in accordance with the standards for obstruction marking and lighting where requested by the Commissioner in the interest of safety.

9. Tiedowns. Facilities must be furnished for at least three more aircraft than regularly use the facilities. The tiedowns are to be marked and maintained so as to be readily located.

10. Toilets. A sanitary public toilet facility shall be provided at all public airports, except where it can be demonstrated that it is impracticable to install such a facility. An enclosed portable chemical toilet, properly maintained and serviced, shall be acceptable.

11. Aviation fuel. All aviation fuel dispensed on any airport shall be filtered to be free of solid matter in excess of 5 microns particle size and to have a free water content less than 30 parts per million parts of fuel.

12. Fire extinguishers. At least one properly maintained fire extinguisher shall be available in the vicinity of the fuel pump or on the flight line if fuel is dispensed. It must be a minimum of 20 B. rating or equivalent.

13. Telephone. When feasible, a telephone shall be made available for public use. Telephone numbers for the appropriate Flight Service Station, for emergency assistance, and for aircraft servicing shall be prominently posted.

14. Bulletin board. A weather-protected bulletin board shall be prominently located on the airport. Posted thereon shall be the airport license, safety and traffic rules, and an area map showing danger or restricted areas.

14 MCAR § 1.3008 Licensing of a public seaplane base.

A. Public seaplane base. A public seaplane base shall mean any seaplane base, whether privately- or publicly-owned, the public use of which for aeronautical purposes is invited, permitted, or tolerated by the operator or the person having right of access and control.

B. Operation. In case the body of water to be used for landing and taking off is under the jurisdiction of any federal, state, municipal port or other authority, the operations on such body of water shall be in conformity with the marine traffic rules and regulations of such authority, to the extent that such rules and regulations do not interfere with the safe operations of aircraft.

C. Separate licenses. The license issued to a seaplane base shall apply to the land area from which operations are conducted. Where two or more bases located on the same body of water are under different ownership or control, each base shall obtain a separate seaplane base license.

D. Use. The use of such body of water for aeronautical purposes shall in no way impair or deny the right of the public to the use of these public waters.

E. Requirements. A public seaplane base shall be granted a license when it has shown it has met the general provisions of 14 MCAR § 1.3006 and the following minimum requirements:

1. Size. The body of water shall have a minimum usable length of at least one mile and shall be of sufficient width and depth to permit the safe operation of aircraft on the surface. All approaches to the landing area shall be sufficiently clear of obstructions to permit a 20:1 glide angle to the nearest point of the usable landing area, provided that if any structure on the land is located within 300 feet of the centerline of the approach path, such glide angle shall be computed so as to provide a clearance of at least 100 feet above such structure.

2. Boundary markers. The outline of that part of the area available for landing, takeoff and taxiing when required in the interest of safety, shall be marked. All hazards, including underwater obstructions in the landing, approach, departure and taxi areas shall be marked. All such markers shall be constructed of a durable material and in such a manner so as to be clearly visible from traffic pattern altitude.

3. Wind indicator. Each public seaplane base shall be equipped with a wind sock 3' x 12', blaze orange in color, which must be operable and clearly visible from the pattern altitude when within one mile of the seaplane base during daylight hours. If night operations are conducted at the base, the wind sock must be lighted.

4. Dock. A dock or float, suitable for the loading and unloading of seaplanes, shall be so located as to afford the maximum degree of operational safety.

5. Ramp. A ramp, or equivalent substitute, for beaching of aircraft, shall be provided. Tie-down or storage area shall be so arranged that the ramp is normally clear for the beaching of incoming aircraft.

6. Toilets. A sanitary public facility shall be provided at all public seaplane bases, except where it can be demonstrated that it is impracticable to install such facility. An enclosed portable chemical toilet, properly maintained and serviced shall be acceptable.

7. Telephone. When feasible, a telephone should be made available for public use. Telephone numbers for the appropriate Flight Service Station, for emergency assistance, and for aircraft servicing will be prominently posted.

8. Bulletin board. A weather-protected bulletin board shall be prominently located on the seaplane base. Posted thereon shall be the seaplane base license, safety and traffic rules, and an area map showing danger or restricted areas.

9. Beaching or mooring. Beaching or mooring facilities must be provided for at least three more seaplanes than regularly use the facilities.

10. Life preserver. At least one life preserver shall be immediately available for use at all times.

11. Boat. A boat and operable motor shall be immediately available for use at all times that flights are in progress.

12. Lines. An adequate supply of lines for heaving, towing, securing and rescue operations shall be kept available.

13. Fuel filters. All aviation fuel dispensed at a public seaplane base shall be filtered to be free of solid matter in excess of 5 microns particle size and to have a free water content less than 30 parts per million parts of fuel.

14. Fire extinguishers. At least one properly maintained fire extinguisher shall be available in the vicinity of the fuel pump or at the ramp or dock. It must be a minimum of 20 B. rating or equivalent.

14 MCAR § 1.3009 Licensing of a public heliport.

A. Public heliport. A public heliport is any heliport, whether privately or

publicly owned, the public use of which for aeronautical purposes is invited, permitted, or tolerated by the owner or person having right of access and control.

B. Requirements. A public heliport shall be granted a license when it has met the general provisions of 14 MCAR § 1.3006 and the following minimum requirements:

1. **Landing and takeoff area.** That specific area in which the helicopter actually lands and takes off, including the touchdown area. The minimum landing and takeoff area length shall be 2.0 times the overall length of the largest helicopter expected to use the heliport, and the width of the area shall be 1.5 times the overall length of the largest helicopter expected to use the heliport.

2. **Touchdown area.** The minimum length and width of the touchdown area shall be equal to the rotor diameter of the largest helicopter expected to use the heliport.

3. **Peripheral area.** A peripheral area surrounding the landing and takeoff area, with a minimum width of one-quarter the overall length of the largest helicopter expected to use the heliport, but not less than 10 feet, is recommended as an obstruction-free safety zone.

4. **Obstructions.** An object will be considered an obstruction to a public heliport if it is of greater height than any of the following heliport imaginary surfaces.

- a. **Heliport primary surface.** The primary surface of a heliport coincides in size and shape with the designated takeoff and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.

- b. **Heliport approach surface.** The heliport approach surface begins at each end of the primary surface, with the same width as the primary surface and extends outward and upward at a slope of 8:1 for a horizontal distance of 4,000 feet where its width is 500 feet.

- c. **Heliport transitional surface.** The heliport transitional surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2:1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

5. **Approach-departure paths.** Approach-departure paths are selected to provide the most advantageous lines of flight to and from the landing and takeoff area. These paths begin at the edge of the landing and takeoff area and should be aligned as directly as possible into the prevailing winds.

- a. **Approach-departure paths** coincide in size with the imaginary surfaces described in B. 4. above, except that an approach-departure path may be curved.

(1) If the approach-departure path is curved, its centerline must have a turning radius of not less than 700 feet.

(2) If the approach-departure path is curved, the curved portion of the path must begin at a distance not less than 300 feet from the landing and takeoff area.

b. A public heliport must have at least two approach-departure paths which must be separated by an arc of at least 90 degrees. These two paths must be obstruction-free.

c. Emergency landing areas must be available along the approach-departure paths.

6. Fuel filters. All aviation fuel dispensed on any public heliport shall be filtered to be free of solid matter in excess of 5 microns particle size and to have a free water content of less than 30 parts per million parts of fuel.

7. Fire extinguishers. At least one properly maintained fire extinguisher shall be available. It must be a minimum of 20 B. rating or its equivalent.

8. Wind indicator. All public heliports shall be equipped with an operable wind sock, 3' x 12' blaze orange in color. If the heliport is lighted for night operations, the wind indicator must also be lighted.

9. Safety barriers. Access to the landing and takeoff area and the peripheral area, if any, shall be fenced or protected to keep unauthorized persons out of these areas. Suitable placards warning of the dangers of turning rotors shall be prominently displayed in pedestrian access areas. If a fence is used, it shall not penetrate the heliport imaginary surfaces described in B. 4. above.

10. Rooftop egress. Rooftop heliports should have two exits, one at each side of the landing and takeoff area, which should be provided in accordance with local building codes.

C. Applicability. The regulations contained in B. 3., 4., and 5. above, are predicated upon VFR operations by helicopters certificated in the normal category. The Commissioner may set additional requirements for heliports which will conduct IFR operations and/or operations by transport category heliports.

14 MCAR § 1.3010 Licensing of a private airport.

A. Private airport. A private airport is a restricted airport. The persons who may use the airport are determined by the owner of the airport. The private airport shall not be held out for public use nor shall it be displayed on aeronautical charts except as a restricted facility.

B. Requirements. A private airport shall be granted a license when it has

met the general provisions of 14 MCAR § 1.3006 and the following minimum requirements.

1. Size. At least one runway with a minimum usable length of 2,000 feet. The minimum width of a turf runway shall be 75 feet. The minimum width of a hard-surfaced runway shall be 60 feet. All runway widths shall include an area 75 feet either side of the runway centerline which is clear of all obstructions as defined in 14 MCAR § 1.3015 that are or may create an airport hazard.

2. Surface. The landing surface shall be smooth and free from hazards or obstructions.

3. Obstructions. The minimum obstruction clearance requires that no structure, tree or mobile object which creates a hazard, other than those necessary and incidental to airport operation, shall penetrate the imaginary airspace surfaces described below:

a. Primary surface. An imaginary surface longitudinally centered on a runway and:

(1) At the same elevation as the elevation of the nearest point on the runway centerline.

(2) Extending to the ends of each runway.

(3) The width of the primary surface is 200 feet.

b. Approach surface. An imaginary surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

(1) 20:1 for a horizontal distance of 10,000 feet.

(2) Expanding uniformly to a width of 2,250 feet.

4. Edge markers. Turf runways shall be outlined with effective edge markers and end markers which shall be constructed of a durable material and installed in such a manner so as to be clearly visible from traffic pattern altitude.

5. Wind indicator. All private airports shall be equipped with a wind sock.

6. Aviation fuel. All aviation fuel dispensed for sale shall be filtered to be free of solid matter in excess of 5 microns particle size and to have a free water content less than 30 parts per million parts of fuel.

7. Fire extinguishers. At least one properly maintained fire extinguisher

shall be available in the vicinity of the fuel pump or on the flight line if fuel is dispensed for sale. It must be a minimum of 20 B. rating or equivalent.

C. Hazards. A private airport shall not impose undue hazards upon adjoining property or its occupants or endanger the user or use of existing surface transportation or power and communication transmission lines.

D. Use. A private airport may be used for limited commercial operations as provided for in 14 MCAR § 1.3019.

14 MCAR § 1.3011 Licensing of a private seaplane base.

A. Private seaplane base. A private seaplane base is a restricted seaplane base. The persons who may use this seaplane base are determined by its owner. The private seaplane base shall not be held out for public use nor shall it be displayed on aeronautical charts except as a restricted facility.

B. Requirements. A private seaplane base will be granted a license when it has shown that it has met the following minimum requirements.

1. Operation. In case the body of water to be used for landing and taking off is under the jurisdiction of any federal, state, municipal port or other authority, the operations on such body of water shall be in conformity with the marine traffic rules and regulations of such authority, to the extent such rules and regulations do not interfere with the safe operation of aircraft.

2. Separate licenses. The license issued to a seaplane base shall apply to the land area from which operations are conducted. Where two or more bases located on the same body of water are under different ownership or control, each base shall obtain a separate seaplane base license.

3. Use. The use of such body of water for aeronautical purposes shall in no way impair or deny the right of the public to the use of public waters.

4. Size. The body of water shall be of sufficient length, width and depth to permit safe operation by the aircraft intended to use it. The approaches to the landing area shall be sufficiently clear of obstructions to permit a 20:1 glide angle to the nearest point of the usable landing area, provided that if any structure on the land is located within 300 feet of the centerline of the approach path, such glide angle shall be computed so as to provide a clearance of at least 100 feet above such structure.

5. Markers. All hazards in the approach or landing area, including underwater obstructions, shall be marked.

6. Wind indicator. All private seaplane bases shall be equipped with a wind sock.

7. Fuel filters. All aviation fuel dispensed for sale shall be filtered to be

free of solid matter in excess of 5 microns particle size and to have a free water content less than 30 parts per million parts of fuel.

8. Fire extinguishers. At least one properly maintained fire extinguisher shall be available in the vicinity of the fuel pump or at the ramp or dock. It must be a minimum of 20 B. rating or equivalent.

C. Hazards. A private seaplane base shall not impose undue hazards upon adjoining property or its occupants or endanger the user or use of existing surface transportation or power and communication transmission lines.

D. Use. A private seaplane base may be used for limited commercial operations as provided for in 14 MCAR § 1.3019.

14 MCAR § 1.3012 Licensing of a private heliport.

A. Private heliport. A private heliport is a restricted heliport. The persons who may use this heliport are determined by its owner. The private heliport shall not be held out for public use nor shall it be displayed on aeronautical charts except as a restricted facility.

B. A private heliport shall be granted a license when it has met the general provisions of 14 MCAR § 1.3006 and the following minimum requirements.

1. Landing and takeoff area. That specific area in which the helicopter actually lands and takes off, including the touchdown area. The minimum landing and takeoff area length shall be 2.0 times the overall length of the largest helicopter expected to use the heliport, and the width of the area shall be 1.5 times the overall length of the largest helicopter expected to use the heliport.

2. Touchdown area. The minimum length and width of the touchdown area shall be equal to the rotor diameter of the largest helicopter expected to use the heliport.

3. Peripheral area. A peripheral area surrounding the landing and take-off area, with a minimum width of one-quarter the overall length of the largest helicopter expected to use the heliport, but not less than 10 feet, is recommended as an obstruction-free safety zone.

4. Obstructions. An object will be considered an obstruction to a private heliport if it is of greater height than any of the following heliport imaginary surfaces.

a. Heliport primary surface. The primary surface of a heliport coincides in size and shape with the designated takeoff and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.

b. Heliport approach surface. The heliport approach surface begins

at each end of the primary surface, with the same width as the primary surface and extends outward and upward at a slope of 8:1 for a horizontal distance of 4,000 feet where its width is 500 feet.

c. Heliport transitional surface. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2:1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

5. Approach-departure paths. Approach-departure paths are selected to provide the most advantageous lines of flight to and from the landing and takeoff area. These paths begin at the edge of the landing and takeoff area and should be aligned as directly as possible into the prevailing winds.

a. Approach-departure paths coincide in size with imaginary surfaces described in B. 4. above, except that an approach-departure path may be curved.

(1) If the approach-departure path is curved, its centerline must have a turning radius of not less than 700 feet.

(2) If the approach-departure path is curved, the curved portion of the path must begin at a distance not less than 300 feet from the landing and takeoff area.

b. A private heliport must have at least two approach-departure paths which must be separated by an arc of at least 90 degrees. These two paths must be obstruction-free.

c. Adequate emergency landing areas must be available along the approach-departure paths.

6. Fuel filters. All aviation fuel dispensed on any private heliport shall be filtered to be free of solid matter in excess of 5 microns particle size and to have a free water content of less than 30 parts per million parts of fuel.

7. Fire extinguishers. At least one properly maintained fire extinguisher shall be available. It must be a minimum of 20 B. rating or its equivalent.

8. Wind indicator. All private heliports shall be equipped with a wind sock.

9. Safety barriers. Access to the landing and takeoff area and the peripheral area, if any, shall be fenced or protected to keep unauthorized persons out of these areas. Suitable placards warning of the dangers of turning rotors shall be prominently displayed in pedestrian access areas. If a fence is used, it shall not penetrate the heliport imaginary surfaces described in B. 4. above.

C. Hazards. A private heliport shall not impose undue hazards upon ad-

joining property or its occupants or endanger the user or use of existing surface transportation or power and communication transmission lines.

D. Use. A private heliport may be used for limited commercial operations as provided in 14 MCAR § 1.3019.

14 MCAR § 1.3013 Licensing of personal-use airports, seaplane bases and heliports.

A. Personal-use airport. A personal-use airport shall mean any landing area on land or water from which aircraft are, or will be, regularly based or operated. There are three types of licenses:

1. Personal-use Airport License.
2. Personal-use Seaplane Base License.
3. Personal-use Heliport License.

B. Requirements. Personal-use airports shall be granted a license when they have met the general provisions of 14 MCAR § 1.3006 and the following general requirements.

1. Size. A personal-use airport shall be of sufficient length and width and the approaches shall be sufficiently clear of obstructions to permit safe operations by the aircraft intended to use it.

2. Surface. The landing surface shall be smooth and free from hazards or obstructions.

C. Operation. A personal-use airport shall not interfere with the safe operation of any public airport or with the safety of any federal airways.

D. Restrictions. A personal-use airport shall not be operated except in accordance with the restrictions set forth below:

1. A personal-use airport shall not be held out as available for public use, nor shall the public use of a personal-use airport be invited, permitted, or tolerated.

2. A personal-use airport shall not be used for commercial activities which include the operation of aircraft for the purpose of carrying passengers, providing air charter, flight instruction, aircraft rental and/or leasing or other operations deemed similar in character by the Commissioner. However, a personal-use airport may be used for commercial activities which include the operation of aircraft for the purpose of aerial spraying and dusting, banner towing, balloon operations, aerial photography, pipeline/powerline patrol or other operations deemed similar by the Commissioner.

3. A personal-use airport shall not be displayed on any chart for public distribution.

E. Hazards. A personal-use airport shall not impose undue hazards upon adjoining property or its occupants or endanger the user or use of existing surface transportation or power and communication transmission lines.

F. In addition to the general requirements listed heretofore for the licensing of personal-use airports, the following specific requirements must be met before a personal-use airport license can be granted for a personal-use seaplane base or a personal-use heliport:

1. Personal-use Seaplane Base License.

a. A personal-use seaplane base license shall apply to the land area from which operations are conducted.

b. When two or more bases located on the same body of water are under different ownership or control, each base shall obtain a separate personal-use seaplane base license.

c. A personal-use seaplane base license will not be granted for those lakes upon which seaplane operations are prohibited by 14 MCAR § 1.3018.

2. Personal-use heliport license.

a. 14 MCAR § 1.3009 B., except that the landing and takeoff area minimum length and width shall be 1.5 times the overall length of the helicopter expected to use the heliport.

b. 14 MCAR § 1.3009 C., D.

c. 14 MCAR § 1.3009 F., except that a personal-use heliport must have as a minimum one approach-departure path meeting those requirements.

d. Safety barrier. Access to the landing and takeoff area and the peripheral area, if any, shall be fenced or protected to keep unauthorized persons out of these areas.

14 MCAR § 1.3014 Unlicensed landing areas.

A. Unlicensed landing area. An unlicensed landing area shall mean any area of land or water, other than a licensed airport which is used or is made available for the landing and takeoff of aircraft for the purpose and in the manner described herein. No person shall use or make available such unlicensed landing area except in compliance with the provisions of this section.

B. Temporary operations. Any area of land or water may be used as an unlicensed landing area for temporary operations by the following for the purpose designated:

1. A person holding a private pilot's certificate, or higher rating, for private use for temporary operations.

2. A person, firm or corporation holding a license as a commercial operator for temporary operations in connection with commercial operations.

C. Requirements for use of unlicensed landing areas. No person shall use or make available the use of an unlicensed landing area except in conformity with the following conditions:

1. Aircraft shall not be stored or regularly based at an unlicensed landing area.

2. The landing area proposed to be used shall be of sufficient length and width and free from obstructions, and the surface shall be in suitable condition to permit the safe operation of the type of aircraft to be used thereon.

3. The aircraft owner or operator shall have the permission of the landowner to use the landing area or any facilities that will be used in his operation for the purpose and time intended.

4. The use of the land and operating area shall in no way endanger persons or property, and suitable safeguards necessary to protect the safety of passengers and public shall be provided.

5. Where it uses an unlicensed water landing area, the aircraft shall carry an approved type of life preserver for the pilot and each passenger.

D. Hazards. An unlicensed landing area shall not impose undue hazards upon adjoining property or its occupants or endanger the user or use of existing surface transportation or power and communication transmission lines.

14 MCAR § 1.3015 Criteria for determining obstructions to air navigation. (NOTE: See Minn. Stat. §§ 360.061 et seq., for airport zoning statutes and Minn. Stat. §§ 360.81 et seq., for regulations of structure heights.)

A. Obstruction. An existing object, including a mobile object, is, and a future object would be, an obstruction to air navigation if it is of greater height than any of the heights or surfaces established herein.

B. Traverse ways. Except for traverse ways whose activities are coordinated with adjacent controlled airports, the standards of this section apply only after the heights of traverse ways are increased by:

1. 17 feet for interstate highways.

2. 15 feet for all other public roadways.

3. 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads.

4. 23 feet for railroads.

5. For waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

C. Notification. Any sponsor who proposes any construction or alteration that would exceed a height of 200 feet above ground level at the site, or any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of 100:1 from the nearest point of the nearest runway of a public airport shall notify the Commissioner at least 30 days in advance.

D. General obstructions. The following objects will be considered general obstructions to air navigation:

1. Objects extending more than 500 feet above ground level at the site of the object.

2. Objects more than 200 feet above the ground or more than 200 feet above the established airport elevation, whichever gives the higher elevation, within three nautical miles of the nearest runway of an airport, and increasing in height in the proportion of 100 feet for each additional nautical mile of distance from the airport but not exceeding a maximum of 500 feet above ground.

3. Objects which would increase the minimum obstruction clearance altitude of a federal airway or approved off-airway route.

4. Objects whose elevation will increase a precision or nonprecision instrument approach flight altitude minimum of flight visibility minimum.

E. Obstructions to public airports. An object will be considered an obstruction to a public airport (excluding heliports) if it is of greater height than any of the following airport imaginary surfaces:

1. Primary surface. An imaginary surface longitudinally centered on a runway and:

a. Extending 200 feet beyond each end of a runway with a specially prepared hard surface or planned hard surface; or

b. Coinciding with each end of other runways.

The width of the primary surface is:

c. 250 feet for visual utility runways; or

d. 500 feet for nonprecision instrument runways and for visual runways other than utility; or

e. 1,000 feet for precision instrument runways and for nonprecision instrument runways having visibility minimums as low as three-fourths of a statute mile.

The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

2. Horizontal surface. An imaginary horizontal surface with its height 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

a. 10,000 feet for precision instrument runways and for nonprecision instrument runways having visibility minimums as low as three-fourths of a statute mile, or

b. 6,000 feet for all other runways.

When a 6,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 6,000-foot arc shall be disregarded in the construction of the perimeter of the horizontal surface.

3. Conical surface. An imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.

4. Approach surface. An imaginary surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of:

a. 20:1 for a horizontal distance of 10,000 feet for visual utility runways; or

b. 40:1 for a horizontal distance of 10,000 feet for nonprecision instrument runways and for all visual runways other than utility.

The approach surface expands uniformly to a width of:

c. 2,250 feet for other visual utility runways (10:1 flare ratio); or

d. 2,500 feet for visual runways other than utility (10:1 flare ratio);
or

e. 3,500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile (20:3 flare ratio); or

f. 4,000 feet for nonprecision instrument runways having visibility minimums as low as three-fourths of a statute mile (20:3 flare ratio).

5. Precision instrument approach surface. An imaginary surface longi-

tudinally centered on the extended centerline at the end of a precision instrument runway. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward for a horizontal distance of 10,000 feet at a slope of 50:1, expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1, expanding uniformly to an ultimate width of 16,000 feet.

6. Transitional surface. An imaginary surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface. Transitional surface for those portions of the instrument approach surface which project through and beyond the limits of the conical surface extend a distance of 5,000 feet measured horizontally from the sides of the approach surface and at right angles to the extended instrument runway centerline.

F. Obstructions to public heliports. An object will be considered an obstruction to a public heliport if it is of greater height than any of the following heliport imaginary surfaces:

1. Heliport primary surface. The primary surface of a heliport coincides in size and shape with the designated takeoff and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.

2. Heliport approach surface. The heliport approach surface begins at each end of the primary surface, with the same width as the primary surface and extends outward and upward at a slope of 8:1 for a horizontal distance of 4,000 feet where its width is 500 feet.

3. Heliport transitional surface. The heliport transitional surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2:1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

G. The standards for marking and lighting structures are contained in FAA Advisory Circular 70/7460-1D, Obstruction Marking and Lighting, and any subsequent changes, except that spherical markers shall be a diameter of not less than 30 inches, and except that the colors of the markers shall be aviation orange, white, and chrome yellow, and be installed in that sequence.

14 MCAR § 1.3016 Airport zoning standards.

A. Airport zoning. Contained herein are minimum standards for the zoning of public airports as to airspace, land use safety, and noise sensitivity.

B. Airport zoning powers. Any person or governmental body having air-

port zoning powers under Minn. Stat. §§ 360.061 to .074 may adopt airport zoning ordinances, orders, or regulations more restrictive than the minimum zoning standards set forth herein or in any other applicable law.

C. **Airspace zones.** The following airspace zones are established with relation to an airport and each runway:

1. **Primary zone.** All that land which lies directly under an imaginary primary surface as defined in 14 MCAR § 1.3015 E. 1.

2. **Horizontal zone.** All that land which lies directly under an imaginary horizontal surface as defined in 14 MCAR § 1.3015 E. 2.

3. **Conical zone.** All that land which lies directly under an imaginary conical surface as defined in 14 MCAR § 1.3015 E. 3.

4. **Approach zone.** All that land which lies directly under an imaginary approach surface as defined in 14 MCAR § 1.3015 E. 4.

5. **Precision instrument approach zone.** All that land which lies directly under an imaginary precision instrument approach surface as defined in 14 MCAR § 1.3015 F. 5.

6. **Transitional zone.** All that land which lies directly under an imaginary transitional surface as defined in 14 MCAR § 1.3015 E. 6.

D. **Height restrictions.** Except as necessary and incidental to airport operation, no structure or tree shall be constructed, altered, or allowed to grow in any airport zone so as to project above any of the imaginary airspace surfaces as established in paragraph C.

E. **Land use safety zones.** The following land-use safety zones are established with relation to an airport and each runway:

1. **Safety Zone A.** In the approach zones of a runway, Safety Zone A extends outward from the end of the primary surface a distance equal to two-thirds the runway length or planned runway length.

2. **Safety Zone B.** In the approach zones of a runway, Safety Zone B extends outward from Safety Zone A a distance equal to one-third the runway length or the planned runway length.

3. **Safety Zone C.** All that land which is enclosed within the perimeter of the horizontal zone defined in paragraph C. 2. and which is not included in Zone A or Zone B.

F. **Use restrictions.** In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from an airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property

in case of accident, the following use restrictions are applied to the land use safety zones:

1. General. No use shall be made of any land in any of the safety zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. Zone A. Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, raising of livestock, animal husbandry, wildlife habitat, light outdoor recreation (nonspectator), cemeteries and auto parking.

3. Zone B. Zone B shall be restricted in use as follows:

a. Each use shall be on a site whose area shall not be less than three acres.

b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.

c. Each site shall have no more than one building plot upon which any number of structures may be erected.

d. A building plot shall be single, uniform and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at Least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (sq. ft.)	Max. Site Population (15 persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,600	90
	10	8:1		
10		6:1	72,500	150
	20	6:1		
20	and up	4:1	218,000	300

e. The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of public or semipublic assembly.

4. Zone C. Zone C is subject only to the general restrictions contained in paragraph F. 1.

5. Existing residential neighborhoods. The provisions of paragraphs F. 2. and F. 3. above shall not apply to land uses, in "established residential neighborhoods in built-up urban areas." Such "established residential neighborhoods in built-up areas" shall be subject to the use restrictions contained in this paragraph F. 5.

a. Statement of purpose: Airport Safety Zoning balances the public interest involved in safety for persons on the ground, safety of persons traveling in aircraft and the public interest in maintaining existing land uses. The legislature has mandated special protection for existing land uses in "established residential neighborhoods in built-up urban areas." The provisions of paragraphs F. 1.-4. above strike the appropriate balance with regard to other land uses and areas and shall therefore be applied in those cases.

b. "Established residential neighborhoods in built-up urban areas." Each governmental authority having airport zoning powers shall determine which areas located in Safety Zones A and B of each airport within its jurisdiction are also located in "established residential neighborhoods in built-up urban areas." In making such determination, the factors enumerated in subparagraph d. below shall be considered. Such neighborhoods located in whole or part in Safety Zones A or B shall be specifically located on the airport zoning map and shall be legally-described in the airport zoning ordinance. Each governmental authority having airport zoning powers shall submit its proposed zoning map and ordinance to the Commissioner of Transportation for review and approval prior to holding a public hearing or taking other action thereon.

c. No land use in Safety Zones A or B and in an area designated as having been an "established residential neighborhood in a built-up urban area" shall be prohibited by an airport zoning ordinance except as provided in subparagraph e. below. In addition, any isolated low-density residential building lot or low-density residential structure which existed on January 1, 1978, in an "established residential neighborhood in a built-up urban area," must either be allowed to continue as a conforming use under the terms of the local zoning ordinance or must be acquired, altered or removed as provided in subparagraph e. (2) below. For this purpose, a low-density residential structure shall mean a single-family or two-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

d. In determining what constitutes an "established residential neighborhood in a built-up urban area" the governmental unit having zoning powers shall apply and consider the following criteria in relation to the neighborhood as it existed on the effective date of these rules:

- (1) location of the airport;

- (2) nature of the terrain within Safety Zones A and B;
- (3) existing land uses and character of the neighborhood around the airport;
- (4) population of the community;
- (5) that the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;
- (6) population density near the airport compared with population density in other areas of the community;
- (7) the age and the economic, political and social stability of the neighborhood and the community as a whole;
- (8) the proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;
- (9) presence or absence of public utilities including, but not limited to public central sanitary sewer system electric service and gas mains;
- (10) whether or not the factors listed in subparagraphs (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;
- (11) whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and
- (12) Other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban and built-up.

e. Safety hazards.

(1) The following land uses if they exist in Safety Zones A or B and in an "established residential neighborhood in a built-up urban area" are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances:

(a) any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zone A and within 1000 feet of the end of the primary zone:

(b) any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zone A or B and which penetrates an imaginary approach surface as defined by 14 MCAR § 1.3015 E. 4.;

(c) any land use in Safety Zone A or B which violates any of the following standards;

(i) the land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;

(ii) the land use must not make it difficult for pilots to distinguish between airport lights and other lights;

(iii) the land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

(d) any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subparagraphs e. (1) (a), (b) or (c) above. An "isolated" residential building lot is one located in an area in which the predominant land use is single-family or two-family residential structures; and

(e) any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:

(i) possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other object;

(ii) possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;

(iii) tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;

(iv) effect of the land use on availability of clear areas for emergency landings; and

(v) flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

(2) In the case of any land use prohibited by paragraph e. (1) above and which is located in an "established residential neighborhood in a built-up urban area" as defined by the local government unit and reviewed and approved by the Commissioner, the prohibited land use must be acquired, altered or removed at public expense by the governmental body which owns the airport. This may be accomplished by an exchange of land, purchase of development rights, acquisition of easements or other method to be negotiated with the landowner or by outright purchase or exercise of eminent domain, if necessary.

(3) The prohibited uses enumerated in paragraph e. (1) above are only those which present the most severe safety hazards to the air-traveling public or persons on the ground, as the case may be. Local governmental units may also prohibit other land uses in Safety Zones A and B as being unsafe to the public. The use restrictions contained in 14 MCAR § 1.3016 F. 1.-4. provide guidance as to what uses the Commissioner deems not to be public interest in these Safety Zones. See also subparagraphs e. (1) (c) and e. (1) (e) above. The local governmental unit must note the requirement of Minn. Stat. § 360.066, subd. 1a (a) and (d) (1978) that certain prohibited land uses must be acquired, altered or removed at public expense.

f. In the event that the provisions of this section F. 5., as reflected in a proposed local zoning ordinance, would require the acquisition, alteration or removal of any land use, then, in such event, at least sixty (60) days prior to the first hearing on adoption of the ordinance, the local zoning authority shall so notify the airport owner. The airport owner shall then consider the alternatives of closing a runway, runway realignment or relocation, runway extension or shortening and displaced thresholds and shall then promptly notify the local zoning authority in writing, if it proposes to take any of such alternative actions.

g. These rules shall be effective five working days after publication in the State Register, except as provided above as to isolated, low-density residential building lots and low-density residential structures.

G. Land-use noise sensitivity zones shall be established when requested by the Commissioner or by the governmental unit having airport zoning powers. The governmental unit having zoning powers, when required by the Commissioner, shall secure a study as to the boundaries of the area to be zoned for this purpose and the uses permitted therein.

Chapter Three: 14 MCAR §§ 1.3017-1.3018: Seaplane Operations.

14 MCAR § 1.3017 Seaplane operations.

A. Compliance with marine traffic rules and regulations. All seaplanes must comply with marine traffic rules and regulations to the extent that such rules and regulations do not interfere with the safe operations of aircraft.

B. Approaches and take-offs. All approaches to and take-offs from the water area shall be made in such a manner as to clear all structures on the land by at least 100 feet, and wherever the area of the body of water will permit, such landing and take-offs shall be made at a distance of not less than 300 feet, both laterally and vertically, from any boat or person on the surface of the water, or as near to 300 feet as the area of the water will permit.

14 MCAR § 1.3018 Seaplane operations within the seven-county metropolitan area.

A. Scope. 14 MCAR § 1.3018 covers seaplane operations on all public waters within the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

B. Seaplane operations are permitted only on the following public waters within the seven-county metropolitan area.

1. Anoka County

- a. Centerville Lake
- b. Clear Lake
- c. Coon Lake
- d. George Watch Lake
- e. Ham Lake
- f. Howard Lake
- g. Lake George
- h. Linwood Lake
- i. Martin Lake
- j. Mississippi River
- k. Mud Lake
- l. Otter Lake
- m. Peltier Lake
- n. Pickerel Lake
- o. Reshenav Lake
- p. Rice Lake
- q. Round Lake

2. Carver County

- a. Goose Lake
- b. Hazeltine Lake
- c. Lake Minnewashta

- d. Lake Pettersen
- e. Lake Riley
- f. Lake Waconia
- g. Lundsten Lake
- h. Mud Lake
- i. Oak Lake
- j. Parley Lake
- k. Pierson Lake
- l. Tiger Lake
- 3. Dakota County
 - a. Alimagnet
 - b. Byllesby Reservoir
 - c. Crystal Lake
 - d. Lake Marion
 - e. Mississippi River
 - f. Orchard Lake
 - g. St. Croix River
- 4. Hennepin County
 - a. Bryant Lake
 - b. Diamond Lake
 - c. Eagle Lake
 - d. Fish Lake
 - e. French Lake
 - f. Lake Independence
 - g. Lake Minnetonka, except the following areas:
Black Lake, Emerald Lake, French Lake, Forest Lake, Gray's Bay, Libb's Lake, Peavy Lake, Seton Lake, Tanager Lake

h. Lake Sarah

i. Medicine Lake

j. Mississippi River

k. Schmidt Lake

l. Whaletail Lake

5. Ramsey County

a. Bald Eagle Lake

b. Lake Owasso

c. Lone Lake

d. Mississippi River

e. Turtle Lake

f. White Bear Lake

6. Scott County

a. Cedar Lake

b. Geis Lake

c. Pleasant Lake

d. Prior Lake East

e. Prior Lake West

f. Spring Lake

7. Washington County

a. Big Carnelian Lake

b. Big Marine Lake

c. Forest Lake

d. Lake Elmo

e. Mississippi River

f. Oneka Lake

g. St. Croix River

C. Prohibited operations. Seaplane operations are prohibited on all public waters within the seven-county metropolitan area not listed in paragraph B. of this section. NOTE: See paragraph E. of this section.

D. Further restrictions. All seaplane operations are prohibited from 11 a.m. (CDST) to 6 p.m. (CDST) on Saturdays, Sundays, and national legal holidays between June 1 and September 15 on the following public waters:

1. Lake Minnetonka and all bays and lakes therein.
2. White Bear Lake and all bays and lakes therein.
3. Lake Owasso and all bays and lakes therein.

However, this restriction contained in D. shall not apply to the holder of a Private or Personal-use Seaplane Base License issued under 14 MCAR § 1.3011 and § 1.3013 while operating to and from his licensed base subject to the following conditions:

1. Such operations are limited to a maximum of one takeoff and one landing during these restricted hours; and
2. Such operations are authorized only when lake traffic and use permit such operations to be conducted in a safe and reasonable manner.

E. Emergency use. Nothing in 14 MCAR § 1.3018 shall be construed to prohibit the landing or taking off of a seaplane in case of a bona fide emergency.

F. Ski-equipped aircraft. When lakes are frozen, aircraft equipped with either wheels or skis may operate on the lakes if such operations can be conducted in a safe and reasonable manner relative to lake traffic and use.

Chapter Four: 14 MCAR §§ 1.3019-1.3028: Licensing of Commercial Operations.

14 MCAR § 1.3019 General commercial operations rules.

A. Commercial operations. "Commercial Operations" means any operation of an aircraft for compensation or hire, any services performed incidental to the operation of any aircraft for which a fee is charged or compensation received, the servicing, maintaining and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, aerial photography and surveys, air shows or expositions, and the operation

of aircraft for fishing. "Commercial Operations" also means brokering or selling of any of the aforesaid services but does not include any operations of aircraft as common carriers by the federal government or the services incidental thereto. NOTE: Shared expense flights as defined in the Federal Aviation Regulations are not commercial operations as defined in this chapter.

B. License. Every person who does in fact provide or who advertises, represents or holds themselves out as giving or offering to provide such service, must be licensed by the Commissioner. The license shall contain endorsements showing the type or types of commercial operations the licensee is authorized to perform. Such persons must be licensed by the Commissioner before they advertise, represent or hold themselves out as giving or offering to provide such service or services.

C. Application. Application for license shall be made on forms supplied by the Commissioner.

D. Fee. The fee shall be \$10.00 annually and must accompany the application.

E. Duration and renewal. The license issued under this section shall be effective for one year from the date of issuance thereof and shall be renewed annually. Application for renewal shall be made 30 days before the expiration of the current license.

F. Nontransferability. The license shall not be transferable to other persons.

G. Display. The license issued under this section shall be posted in a prominent place in the office of the licensee.

H. Notice of change. The licensee shall immediately notify the Department of Transportation in writing of any change in the status of such commercial operation relating to ownership, activities, aircraft or key personnel.

I. Place of business.

1. Each applicant for a commercial operations license must have a place of business.

2. In addition, if the commercial activity includes the operation of aircraft for the purpose of carrying passengers, providing air charter, flight instruction, aircraft rental and/or leasing, then such applicant's base of operations shall be on:

a. An airport licensed for public use by the Commissioner as provided by law or an airport owned by the Metropolitan Airports Commission, or:

b. A private airport licensed by the Commissioner if that airport meets the requirements of 14 MCAR §§ 1.3007, 1.3008 and 1.3009.

3. If the commercial activity is limited to aircraft servicing, maintaining and repairing, then such base of operation may be on a public or private airport licensed by the Commissioner as provided by law.

4. A personal-use airport licensed by the Commissioner may be used for commercial operations which are not included in paragraphs 2. and 3. above.

J. Airport authorization. If the applicant does not own the airport, he or she must submit evidence from the owner that he or she meets the airport owner's minimum standards for such commercial operation and is authorized to operate from such airport.

K. Aircraft. Each aircraft used by a licensee for commercial operations shall be currently registered with the Department of Transportation, or be taxed as flight property by the Department of Revenue, as required by laws of this state. Such flight property tax payments must be current.

L. Records. Each licensed commercial operator shall maintain basic records which must be kept up-to-date as follows:

1. Each flight made in equipment owned by a licensee shall be recorded. The register shall show the pilot's name, identification of the aircraft, and the date, time and duration of the flight.

2. An accurate list of airman personnel employed by the commercial operator, together with the airman certificate type, number of ratings, address and date of last physical examination.

3. A list of aircraft used in the commercial operation and the current Minnesota Department of Transportation registration decal number.

M. Compliance with the law. A person engaged in commercial operations shall comply with all laws, rules and regulations of the State of Minnesota and and the Federal Government.

N. Aircraft maintenance. An applicant whose commercial activity includes the operation of an aircraft and who is also not licensed to perform aircraft servicing, maintaining, and repairing must have a contract or agreement with a commercial operator licensed to perform these services for all aircraft used in the commercial activity, or employ a mechanic certificated by the FAA for the type of servicing, maintaining and repairing to be performed.

O. Cooperation. The applicant for a commercial operations license shall offer full cooperation with respect to any inspection which may be made of his operation upon proper demand at reasonable hours by the Commissioner or any authorized representative of the Commissioner prior to or subsequent to the issuance of a license.

P. Endorsements. To receive an endorsement to a commercial operations

license, the applicant must meet and comply with the requirements of 14 MCAR § 1.3019, unless specifically exempted therefrom, and must also comply with the appropriate regulation for the type or types of commercial operations applied for.

Q. Insurance.

1. Unless otherwise specified in this chapter, the applicant for a commercial operations license, whose operation will involve the use of aircraft must hold insurance contracts valid and in force for the duration of the license which provide coverage for each aircraft in the types and amounts as specified in the appropriate rule for the type or types of commercial operations applied for.

2. The applicant shall ensure that the insurance company or companies which hold the insurance contracts are authorized by the Insurance Commissioner to do business in the State of Minnesota.

3. Any contract of insurance to be approved by the Commissioner shall carry an endorsement stating that such contract cannot be cancelled by the insurer until five days' notice in writing of such cancellation has been given the Commissioner by the insurer. In any case, where an insurance contract is cancelled, notice of such cancellation shall immediately thereafter be given to the Commissioner by the insurer.

14 MCAR § 1.3020 Flight school.

A. Flight school. Any person engaged in giving or offering to give dual flight instruction leading to a pilot's certificate or rating or giving or offering to give solo flight instruction leading to a pilot's certificate or rating for hire or compensation, or advertising, representing, or holding himself out as giving or offering to give such instruction, shall be considered to be operating a flight school, except:

1. Company instruction. A company engaged in flight operation giving flight instruction to its own employees in furtherance of their duties in conjunction with that flight operation.

2. Public schools. Any public school, the University of Minnesota, or any institution of higher learning accredited by the North Central Association of Colleges and Secondary Schools and approved by it for carrying on collegiate work.

3. Aeronautics instructor. Any individual engaged in giving flying or ground subjects, or both, for hire or compensation, without advertising such occupation, without calling facilities on "air school" or anything equivalent thereto, without employing or using other instructors and without operating an aircraft for compensation or hire for the purpose of flight instruction.

B. Minimum requirements. To be eligible for a flight school endorsement, an applicant shall show compliance with the following minimum requirements:

1. Office. The flight school operator shall show that he or she has an office of adequate size with the necessary facilities and equipment for the operation of the school.

2. Records. The flight school operator shall keep and maintain complete and adequate records of the flight instruction given to all enrolled students, showing the date, the amount of dual or solo instruction, the maneuvers given, the aircraft used and the name of the instructor of each dual flight. These records shall be available for inspection at the flight school office and shall be retained for at least one year from the date of the last entry.

3. Curriculum. The applicant must show a course outline so organized for each course offered as to ensure that the student completing the course of ground and flight instruction will meet all the requirements of the United States Department of Transportation, Federal Aviation Administration (FAA) at 14 CFR § 61. All course outlines shall include a review of Minnesota Statutes and Rules relating to Aeronautics that are pertinent to that course.

a. In the case of an FAA approved school, the FAA approved course outline is acceptable, if the review of Minnesota Statutes and Rules is included.

b. The flight instruction given to each regularly enrolled student shall be in accordance with such course outline, a copy of which shall be made available to each student.

4. Rules. The flight school operator shall establish and enforce the rules which shall govern the flight school operation, including rules relating to the traffic pattern, practice areas, taxi rules, flight rules and other safety procedures. A diagram of the traffic pattern and the practice area shall be posted on a bulletin board at the flight school. Other rules and safety procedures of the school shall be readily available to all students. A copy of the rules shall be submitted with the application.

5. Insurance. The minimum insurance coverage for each aircraft shall be of the following types and amounts:

a. \$75,000 per passenger seat for passenger liability.

b. \$100,000 per person and \$300,000 per occurrence for bodily injury, excluding passengers.

c. \$100,000 per plane for property damage.

d. Each flight school operator shall advise the student as to whether or not he or she is specifically covered under the flight school's insurance policy and the type and extent of coverage, if any. The flight school operator must then obtain a signed statement of acknowledgement of this disclosure from the student.

6. Faithful performance bond covering students. The applicant must file with the Commissioner a continuous corporate surety bond to the State of Minnesota in the sum of \$5,000 conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association or corporation, or their agent.

a. The aggregate liability for the surety for all breaches of conditions of the bond in no event shall exceed the principal sum of \$5,000.

b. The surety of any such bond may cancel such bond upon giving sixty days' notice in writing to the Commissioner and thereafter the surety shall be relieved of liability for any breach of conditions occurring after the effective date of cancellation, provided, however, that whenever a bond under this section ceases to be in effect for any reason, the flight school license shall be revoked.

c. The bond form shall be provided by the Commissioner.

d. A copy of the executed bond certificate shall be attached to the application.

C. The applicant must meet the requirements of 14 MCAR § 1.3019.

14 MCAR § 1.3021 Ground school and aeronautical correspondence school.

A. Ground school and aeronautical correspondence school. A ground school or aeronautical correspondence school shall be any person giving or offering to give instruction in aeronautical ground subjects leading to a pilot's certificate or rating, for hire or compensation, except any public school, the University of Minnesota, or any institution of higher learning accredited by the North Central Association of Colleges and Secondary Schools and approved by it for carrying on collegiate work.

B. Requirements. To be eligible for a ground school or an aeronautical correspondence school endorsement, the applicant shall meet the following minimum requirements:

1. Classroom. The applicant shall maintain a suitable classroom with adequate seating facilities for the maximum number of students enrolled in each class. Such classrooms shall be properly heated, lighted and ventilated, and the students shall have access to proper sanitary facilities. This requirement shall not apply to aeronautical correspondence schools.

2. Records. The applicant shall maintain adequate records of the instruction given, which shall show the date, the hours of attendance, the subjects covered, the examination given and the grade achieved by each student. Such records shall be maintained for at least one year from the date of last entry and shall be available for inspection.

3. Curriculum. Each school shall show a curriculum so organized as to

properly qualify each student completing the particular course for the grade of pilot certificate he or she is seeking. All course outlines shall include a review of the Minnesota Statutes and Rules relating to Aeronautics that are pertinent to that course. In the case of an FAA approved school, the FAA approved curriculum will be acceptable, if the review of the Minnesota Statutes and Rules is included.

4. Faithful performance bond covering ground school and aeronautical correspondence school students. The applicant must file with the Commissioner a continuous corporate surety bond to the State of Minnesota in the sum of \$5,000 conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association or corporation, or their agent.

a. The aggregate liability for the surety for all breaches of the conditions of the bond in no event shall exceed the principal sum of \$5,000.

b. The surety on any such bond may cancel such bond upon giving sixty days' notice in writing to the Commissioner and thereafter the surety shall be relieved of liability for any breach of conditions occurring after the effective date of cancellation, provided, however, that whenever a bond under this section ceases to be in effect for any reason, the ground school or aeronautical correspondence school license shall be revoked.

c. The bond form shall be provided by the Commissioner.

d. A copy of the executed bond certificate shall be attached to the application.

5. Instructor. The applicant must have at least one FAA certificated flight or ground instructor to certify training reports.

6. Certification. The applicant must be able to certify to the student that he or she has satisfactorily completed the course of instruction or home study in the appropriate knowledge areas for the rating sought.

C. The applicant must meet the requirements of 14 MCAR § 1.3019.

14 MCAR § 1.3022 Aircraft charter.

A. Charter operations. Any person engaged in flying persons or property from place to place, or offering to provide such service for hire or compensation, who does not hold a certificate of public convenience and necessity from the Civil Aeronautics Board or its successor, or who does not hold a license as a commuter air carrier under 14 MCAR § 1.3027, shall be deemed to be engaged in a charter operation and shall have an endorsement on their commercial operations license to certify their authority to engage in charter operations.

B. Air carrier operating certificate. The applicant shall be the holder of an

air carrier operating certificate with operating specifications as issued by the Federal Aviation Administration, and a valid letter of registration from the Civil Aeronautics Board. A copy of this certificate with operating specifications shall be attached to the application.

C. Insurance. The minimum insurance coverage for each aircraft shall be the types and amounts as specified by the Civil Aeronautics Board.

D. The applicant must meet the requirements of 14 MCAR § 1.3019.

14 MCAR § 1.3023 Aircraft rental or leasing.

A. Aircraft rental or leasing. Any person renting or leasing aircraft or offering to rent or lease aircraft for hire or compensation shall be deemed to be in the business of renting or leasing aircraft and must have an endorsement on their commercial operations license certifying their authority to engage in such activity, except that no commercial operations license shall be required of a person who owns his own aircraft and leases or rents his aircraft to a party who holds a commercial operators license.

B. Records. The holder of a commercial operations license with an aircraft rental or leasing endorsement shall keep and maintain a complete and adequate set of records to show the following:

1. The name of the pilot renting or leasing an aircraft.

2. The identification of the aircraft rented or leased.

3. The date, time and duration of the flight for which the aircraft was rented or leased.

C. Qualifications of lessee. The commercial operator shall determine before initially renting or leasing any aircraft that the lessee is properly licensed and rated to fly the type of aircraft to be rented or leased. When in the interest of safety, the operator determines that a flight check is necessary or desirable, such flight shall be given the lessee by a person holding an effective commercial pilot, flight instructor or airline transport pilot certificate. The commercial operator shall assure that a designated person capable of determining an aircraft is properly serviced is present when an aircraft is checked out.

D. Insurance. The minimum insurance coverage for each aircraft shall be of the following types and amounts:

1. \$75,000 per passenger seat for passenger liability.

2. \$100,000 per person and \$300,000 per occurrence for bodily injury, excluding passengers.

3. \$100,000 per plane for property damage.

4. Each commercial operator who rents or leases aircraft shall advise the renter pilot or lessee as to whether or not they are specifically covered under the flight school's insurance policy and the type and extent of coverage, if any. The commercial operator must then obtain a signed statement of acknowledgement of this disclosure from the renter pilot or lessee.

E. The applicant must meet the requirements of 14 MCAR § 1.3019.

14 MCAR § 1.3024 Air ambulance service.

A. Air ambulance service. Any person engaged in flying ambulance stretcher cases from place to place, or offering to provide such service for hire or compensation, shall be deemed to be engaged in air ambulance service and shall have an endorsement on their commercial operations license certifying their authority to engage in air ambulance service.

B. Aircraft. Each aircraft to be used as an ambulance for the purpose of transporting stretcher cases shall have ample area to accommodate a regulation ambulance cot or aircraft ambulance stretcher in a horizontal position, and shall be designed to permit loading without excessive tilting. The aircraft shall be equipped with at least one safety belt for securing the person and cot or stretcher to the aircraft.

C. Department of Health requirements. The air ambulance services shall comply with Minnesota Department of Health rules and requirements.

D. Insurance. The minimum insurance coverage for each aircraft shall be the types and amounts as specified by the Civil Aeronautics Board.

E. Transportation of human remains. The provisions contained in this section shall also apply to the transportation of human remains by aircraft. Such remains shall be enclosed in a suitable container as specified by the Minnesota Department of Health and if not casketed shall be transported on the type of cot or stretcher described in B above.

F. Air carrier operating certificate. The air ambulance service shall be the holder of an air carrier operating certificate with operating specifications as issued by the Federal Aviation Administration and a letter of registration from the Civil Aeronautics Board. A copy of this certificate with operating specifications shall be attached to the application.

G. The applicant must meet the requirements of 14 MCAR § 1.3019.

14 MCAR § 1.3025 Aerial spraying or dusting.

A. Aircraft spraying or dusting. Any person applying or offering to apply chemicals or other substances from an aircraft shall be deemed to be engaged in aerial spraying or dusting.

B. Emergency provision. If the Governor of the State of Minnesota de-

clares an emergency as a result of a natural disaster affecting agriculture (such as insect infestation), these licensing provisions shall be lifted during the period of the emergency declarations.

C. Department of Agriculture certification. No commercial operations license to engage in agricultural spraying or dusting will be issued until the applicant furnishes evidence that the requirements of the Minnesota Department of Agriculture are met.

D. Aircraft and pilot safety equipment. Every aircraft used for aerial spraying or dusting in this state shall be provided with a positive method of shutting off distribution of chemicals or other substances which shall prevent material from leaking or dropping except over the areas of intended application. Each pilot shall wear a seat belt, shoulder harness and protective headgear during flight operations.

E. Nonresident applicant. Every nonresident commercial operation applicant shall provide on the application a permanent address for the business.

F. Aircraft. In the application, the aerial applicator must inform the Commissioner of all aircraft (by factory make, model, year, "N" number, and the current Minnesota registration decal number) that the aerial applicator intends to use within the state.

G. Certificate. The applicant shall certify that he or she is the holder of an FAA commercial agricultural aircraft operator certificate.

H. Insurance. The minimum insurance coverage for each aircraft shall be the following types and amounts:

1. \$100,000 per person and \$300,000 per occurrence for bodily injury, excluding passengers.

2. \$100,000 per plane for property damage.

- I. The applicant must meet the requirements of 14 MCAR § 1.3019 unless specifically exempted therefrom.

14 MCAR § 1.3026 Aircraft servicing, maintaining and repairing.

A. Aircraft servicing, maintaining and repairing. Any person who for compensation or for hire, provides or offers to provide aircraft maintenance (as defined in 14 Code of Federal Regulations § 1.1), major or minor repair, alteration to airframes or aircraft power plants or both, shall be deemed to be engaged in the business of aircraft servicing, maintaining and repairing and shall have a commercial operations license with an endorsement to certify their authority to engage in aircraft servicing, maintaining and repairing.

B. Requirements. To be eligible for an aircraft servicing, maintaining and repairing endorsement, the applicant shall meet the following minimum standards:

1. A building or available shop maintenance facility located on a licensed public or private airport, of adequate size and with sufficient space to work on the aircraft.

2. Adequate fire protection equipment to include at least:

a. One fully charged fire extinguisher with a minimum of a 20 B. rating or its equivalent maintained in an operational condition.

b. One outward swinging personnel exit door.

3. At least one mechanic certificated by the FAA for the type of servicing, maintaining and repairing to be performed.

C. Insurance. The minimum insurance coverage shall be of the following types and amounts:

1. \$100,000 per person and \$300,000 per occurrence for premise hazard for bodily injury.

2. \$100,000 per occurrence for premise hazard for property damage.

3. Products hazard insurance shall be carried.

4. Each person who provides aircraft servicing, maintaining and repairing shall advise his or her customer as to whether or not hangar-keepers insurance is in force and the extent of such coverage, if any.

D. The applicant must meet the requirement of 14 MCAR § 1.3019.

14 MCAR § 1.3027 Commuter air carriers.

A. Any person offering to provide scheduled air transportation in this state must obtain a commercial operations license and a scheduled air carrier certificate of registration from the Commissioner before engaging in such activity, and annually thereafter.

B. As used in these rules, "air carrier" means that person owning, controlling, operating or managing aircraft as a common carrier of either persons or property, or both, for compensation on regularly scheduled flights.

C. These regulations do not apply to that portion of an air carrier's operations in this state which is conducted between points named in a then-current certificate of public convenience and necessity issued by the Civil Aeronautics Board or its successor.

D. No air carrier shall operate aircraft on regularly-scheduled flights except in accordance with the provisions of these rules.

E. Requirements. Any person requesting an endorsement to certify their

authority to engage in commuter air carrier service on their commercial operations license must meet the following minimum requirements:

1. Air carrier operating certificate. The commuter air carrier shall be the holder of an air carrier operating certificate with operation specifications as issued by the Federal Aviation Administration, and a letter of registration from the Civil Aeronautics Board. A copy of this certificate with operating specifications shall be attached to the application.

2. Use agreements. A copy of current use agreements with owners of each airport to be served in the state shall be attached to the application. Each agreement shall set forth what facilities will be used on the airport.

3. Faithful performance bond covering advance ticket sales.

a. The commuter air carrier must file with the Commissioner, on a form provided by him, a fully executed copy of a continuous corporate surety bond to the State of Minnesota in the sum of \$10,000 conditioned upon the refund of all unperformed advance ticket sales to passengers made by such commuter air carrier or their agents.

b. The aggregate liability for the surety of all breaches of the conditions of the bond in no event shall exceed the principal sum of \$10,000.

c. The surety on such bond may cancel such bond upon giving sixty days' notice in writing to the Commissioner, and thereafter the surety shall be relieved of the liability for any breach of conditions occurring after the effective date of cancellation.

d. Whenever a bond under this section ceases to be in effect for any reason, the commercial operations license shall be revoked.

e. The bond shall not enlarge upon or alter in any way the ticket contract between the commuter air carrier and its customers.

4. Aircraft. In the application, the commuter air carrier must inform the Commissioner of all aircraft (by factory make, model, year, "N" number, and the current Minnesota registration decal number) that the commuter air carrier intends to use within the state.

5. Schedules and rates. The commuter air carrier must submit a copy of its proposed schedules and its proposed passenger and freight rates with each application. No schedule or rate change shall be made without notifying the Commissioner as to such change at least ten days before such change is to go into effect.

6. The commuter air carrier shall file with the Commissioner a copy of all reports which it files with the Civil Aeronautics Board or its successor agencies, such filing to be done within ten days after such reports are filed with said agencies.

F. Insurance. The minimum insurance coverage for each aircraft shall be the types and amounts as specified by the Civil Aeronautics Board.

G. The applicant must meet the requirements of 14 MCAR § 1.3019.

Chapter Five: 14 MCAR § 1.3028: Flying Clubs.

14 MCAR § 1.3028 Flying clubs.

A. Flying club.

1. "Flying club" means any person other than an individual which neither for profit nor compensation, owns, leases, or uses one or more aircraft for the purpose of instruction, business, or pleasure.

2. Intent. A flying club is intended as benefiting the members of the group for pilot proficiency or instruction, or personal business use, or pleasure flying.

B. Registration. Each flying club which at any time during a preceding calendar year has five or more members shall register annually with the Commissioner. This registration shall report conditions as of December 31 of each year, and shall be filed with the Commissioner by January 31 of each year. This registration report shall include the following:

1. The name and address of the flying club, the airport or airports at which its aircraft are based, and the make, model year, "N" number, and the current Minnesota registration decal number of the aircraft that the club either owned or used during the past calendar year.

2. The form of organization of the flying club—that is, whether it is a corporation or a partnership.

3. The name, home address and phone number, and business address and phone number of the Club Safety and Operations Officer.

4. The name of the club's insurance company, the policy number and its expiration date, and the amounts and types of coverage.

5. The amount or share in club assets held by each member of the club.

6. A statement describing what remuneration was paid to members of the club, monthly and annually, during the preceding calendar year, or preceding fiscal year, as the case may be, a description of the services rendered by such members to the club, and a description of the goods sold by such member of the club.

C. Club Safety and Operations Officer. Every flying club must appoint a Club Safety and Operations Officer and set forth his or her duties in their operating rules or bylaws:

D. Responsibilities of the Club Safety and Operations Officer. The Club Safety and Operations Officer shall be responsible for the record of the club's operation. These records shall be up to date and in an orderly form and shall contain the following information:

1. Names and addresses of all current members.

2. If the flying club is a corporation, then the articles of incorporation and all amendments thereto, the current bylaws, minutes of corporation, and all shareholder agreements. If the flying club is a partnership, then the current articles of partnership and all current partnership agreements.

3. All club operating rules.

4. The share in club assets held by each member, stated by percentage or dollars.

5. The voting rights of each member, stated by percentage or number of votes.

6. The rights of each member to the assets of the club, stated by percentage or dollars, in case of dissolution of the club if a corporation, and in case of termination of the club, if a partnership.

7. A statement of financial condition of the flying club at the end of its preceding fiscal year, or at the end of its preceding calendar year, as the case may be, showing the assets and liabilities of the club.

8. An operating statement of the club for the preceding fiscal year, or the preceding calendar year, as the case may be, showing the profits or losses, or a statement of receipts and disbursements, of the club, as the case may be, for that period of time.

E. Inspection of records. The Commissioner, or any employees of the department designated by him, shall have the right to inspect the books and records of any flying club, including the records referred to above.

F. Assets. The word "assets" when used herein, shall mean property which the flying club owns, in whole or in part, or over which it has control, including the club's interest in any owned, rented or leased aircraft.

G. Flying clubs can be deemed to be commercial operations as defined in Minn. Stat. § 360.013, subd. 11. A flying club shall be considered to be engaged in commercial operations and therefore a commercial operations license shall be required:

1. If any of the club's assets are used by members of the club who:

- a. Do not have a bona fide and significant percentage of the property interest in the assets of the club; or

b. Hold property interest in the club's assets, which property interest is subject to an unreasonable forfeiture; however, a club may set forth in its operating rules and bylaws any reasonable penalties and any reasonable forfeitures so long as the purpose and the actual effect thereof is to enforce valid club rules; or

2. If the property interest of any member of the club in the club's assets is not transferable; however, the transfer of such property interest may be subject to such reasonable conditions as the club deems reasonably necessary to ensure discipline and payment of dues among its members; or

3. If any member of the club receives a pecuniary gain or receives any special benefits, which are in excess of the reasonable value of the services rendered to the club by said member, or are in excess of the reasonable value of the goods sold to the club by said member; however, this rule does not prohibit a flying club from paying one or more of its members a reasonable amount for services such as bookkeeping, secretarial, managerial, maintenance and administrative duties of the flying club; or

4. If the club charters, leases or rents their aircraft or any interest in their aircraft to any persons or organizations other than fully-qualified members of said club; provided, however, that this paragraph shall not prohibit flying clubs from leasing club aircraft to properly licensed commercial operators; or

5. If the club provides for, or allows, memberships with a duration of less than 90 days; or

6. If the club advertises, represents, or holds itself out as giving or offering to give, or does in fact provide or arrange for, "air instruction" as an "air school" (see Minn. Stat. § 360.13, subd. 16 and 17 (1973)), provided, however, that this rule does not prohibit a club from providing or arranging for "air instruction," so long as it is not for compensation or hire directly or indirectly.

7. If a person or persons, who are members of a flying club (lessors) lease an aircraft to that flying club (lessee).

8. If lessor, as described in paragraph 7 above, gives air instruction; whether free or for compensation to members of that flying club.

Chapter Six: 14 MCAR § 1.3029: Repealer.

14 MCAR § 1.3029 Repealer. All rules of the Department of Transportation, Aeronautics Division, promulgated prior to the date hereof are hereby repealed.

DEPARTMENT OF TRANSPORTATION
RAIL SERVICE IMPROVEMENT PROGRAM

(effective date: August 4, 1980)

14 MCAR § 1.4000 General provisions.

A. Authority. The Commissioner of the Minnesota Department of Transportation is authorized to adopt rules necessary to carry out the provisions of "the Minnesota Rail Service Improvement Act" pursuant to Minn. Stat., 1979 Supp., § 222.50, subd. 3 (d).

B. Purpose. The purpose of the Minnesota Rail Service Improvement Program and these rules is to improve rail service by providing state funds in a revolving account to be used in conjunction with funds from the Federal Rail Service Continuation Program for the establishment of contracts between the state, rail users, and railroads for rail line rehabilitation and other rail service improvement projects.

C. Definitions. The following terms as they appear in these rules shall have the following meanings:

1. "Act" means the Minnesota Rail Service Improvement Act, Minn. Stat. §§ 222.46-222.54.

2. "Bankrupt Railroad" means any railroad corporation which has filed a petition in the United States District Court stating that it is insolvent or unable to meet its debts as they mature, and that it desires to effect a plan of reorganization, which petition has been approved by said United States District Court.

3. "Capital Improvements" means the purchase, rehabilitation, construction or reconstruction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.

4. "Collateral" means the security pledged for the loan which shall include land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance, assignment of leases or leasehold interests, and similar kinds of property and property interests.

5. "Commissioner" means the Commissioner of the Minnesota Department of Transportation.

6. "Demonstration Project" means an experimental project to improve rail service that has general application within the state but is not traditionally associated with rail transportation.

7. "Department" means the Minnesota Department of Transportation.

8. "Federal Rail Service Continuation Program" means any federal program created under the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, as amended and as implemented by federal regulations.

9. "Loan" means interest-free money requiring repayment.

10. "Personal Guarantee" means an individual or corporate obligation to repay the loan.

11. "Rail Line" means railroad roadbeds, right-of-way, track structure and other appurtenances of railroad right-of-way including public-use sidings.

12. "Rail User" means any financially responsible shipper, consignor, consignee, or other entity, political subdivisions and their legal entities, that depend upon the movement of goods by rail service and offer financial assistance in improving and maintaining that rail service.

13. "Railroad" means a common carrier by railroad as defined in § 1(3) of the Interstate Commerce Act, 49 U.S.C. § 1(3).

14. "Rail Rehabilitation" means the rebuilding of a rail line or portions thereof and/or the implementation of other allied projects that will improve rail service.

15. "State Rail Plan" means the plan prepared and adopted by the department as provided for in the act.

16. "State Rail Service Improvement Account" means the special revenue account created in the state treasury by the act.

17. "Subsidy Payments" means the payment for all costs incurred by a railroad which exceed the revenues obtained from operating the line when the line has been abandoned pursuant to Interstate Commerce Commission regulations, 49 CFR 1121. Said costs shall be computed according to Interstate Commerce Commission accounting procedures as set forth in 49 CFR 1121.

18. For purposes of these rules, certain terms shall be interpreted as follows: The word "shall" is mandatory, not permissive; the word "may" is permissive.

14 MCAR § 1.4001 Program criteria, rail rehabilitation.

A. Eligibility.

1. Rail line. A rail line, or portions thereof, upon which a train cannot operate safely at 25 miles per hour or that does not have the required structural capacity to support rail cars of 263,000 pounds gross weight, and that is within the physical boundaries of or predominantly serves rail users in Minnesota, is eligible. Rail lines belonging to a bankrupt railroad requiring reha-

bilitation to allow continued service of statewide significance shall also be eligible for funding.

2. Project. A rehabilitation project is eligible for funding if an agreement has been negotiated which meets the requirements of the act, these rules and, when federal funds are used, applicable federal laws and regulations.

B. Priority criteria. The following criteria shall be used to establish the priority of projects proposed for funding.

1. The availability of state and federal program funds.

2. The probability of the rail line continuing in profitable service after the project is completed.

3. The costs of the project compared to the benefits resulting from the project.

4. The level of commitment of a railroad and rail users to participate financially in the project.

5. The need for the line as part of the overall rail system.

C. Standards and phasing.

1. Rail line rehabilitation shall be performed to the extent that it allows the use of 263,000 pounds gross weight railroad cars and that it allows trains to operate safely at 25 miles an hour or more. The commissioner shall approve rehabilitation to a higher standard if it is necessary for providing a required level of service.

2. Rehabilitation may be accomplished in separate stages if the final result meets the standards of number 1., above.

D. Project funding.

1. For rail line rehabilitation and related projects on lines not included in D. 2. of this rule, the division of costs shall be by the following formula:

a. A grant or interest-free loan or combination thereof of state and federal funds shall be made by the commissioner of up to 90% of the total cost of a project. In no event shall the grant exceed 60% of the project cost.

b. Rail users shall loan the railroad a minimum of 10% of the cost of a project.

c. The railroad shall furnish a minimum of 20% of the cost of a project, and shall repay all loans from the rail users and the state.

2. If a rehabilitation project is on a rail line owned by a bankrupt rail-

road, previously owned by a bankrupt railroad, or a rail line has been abandoned under Interstate Commerce Commission regulations, 49 CFR 1121, the division of costs shall be by the following formula:

a. A grant or interest-free loan or combination thereof of state and federal funds shall be made by the commissioner of up to 90% of the total cost of a project.

b. Rail users shall loan the railroad a minimum of 10% of the total cost of a project.

c. The railroad shall furnish a portion of the cost of the project if its financial circumstances permit and shall repay all loans from the rail users and the state.

3. Inkind participation. Participation in a contract by any party may include, non-monetary contributions such as materials, labor, land or other kinds of contributions if agreed to by all parties to the contract. The amount and fair market value of all in-kind participation shall be clearly defined in the contract.

E. Repayment requirements.

1. The railroad shall reimburse the rail users for funds loaned to it in accordance with a formula based on usage of the line, or a pre-determined fixed amount. Repayments shall be made on a quarterly basis. The terms of repayment shall be sufficient so as to assure repayment in ten years or less.

2. The railroad shall repay the commissioner for funds loaned to it at a pre-determined fixed amount on a quarterly basis. The repayment shall commence upon completion of the requirement to repay the rail users, and extend over a period not to exceed ten years.

3. The rehabilitation contract shall provide for an extension of time in the event of any cessation or reduction of service unless such cessation or reduction is the result of no demand for service.

14 MCAR § 1.4002 Program criteria—post abandonment rail line subsidy programs.

A. Eligibility. A rail line that is eligible for subsidy payments under the Federal Rail Service Continuation Program is eligible for funding under the Minnesota Rail Service Improvement Act.

B. Project funding.

1. The combined state and federal operations subsidy payments shall be up to 90% of the operational subsidy costs on those lines having priority for funding. In no event shall the state and federal operational subsidy pay-

ment exceed an amount equal to the amount of the railroad's retained revenue on the line.

2. Rail users shall provide a minimum of 10% of the operational subsidy cost plus any other operational subsidy cost not covered by state and federal operational subsidy payments.

3. Rehabilitation which is eligible under federal regulations and which is performed in conjunction with operational subsidy payments, shall conform with 14 MCAR § 1.4001.

C. Priority criteria. The following criteria shall be used to establish the priority of projects eligible for subsidy payments:

1. The availability of state and federal funds.
2. The probability of the rail line becoming profitable upon completion of the project.
3. The costs of the project compared to the benefits resulting from the project.
4. The commitment of rail users to provide their share of the project funding.

14 MCAR § 1.4003 Program criteria—capital improvement projects.

A. Eligibility.

1. The commissioner shall provide interest-free loans from the Minnesota Rail Service Improvement Account for up to 100% of the cost of a rail transportation related capital improvement project under the following conditions:

- a. State funds are available.
- b. The capital improvement is directly related to an overall rail line rehabilitation acquisition, or operational subsidy project.
- c. The capital improvement project will strengthen the financial condition of the associated rail line.
- d. The state's interests are protected by sufficient collateral or personal guarantees acceptable to the commissioner.
- e. The commissioner shall be repaid for funds loaned at a pre-determined fixed amount payable quarterly over a period not to exceed ten years.

2. The commissioner shall provide a grant from the Minnesota Rail Service Improvement Account of up to 50% of the total cost of a capital

improvement project if said capital improvement is a demonstration project as defined in these rules, and if the following conditions are met:

- a. State funds are available.
- b. The project demonstrates unique methods of using rail service or alleviating the impact of abandonments that is not in common usage throughout the rail industry or that has not been previously funded under this program.
- c. The general likelihood that a similar project can be instituted in other locations without the need for public financing.
- d. The project includes two or more participant rail users.
- e. The benefits resulting from the project exceed the costs of implementing the project.

14 MCAR § 1.4004 Administration of the Minnesota Rail Service Improvement Program.

A. Provision of information. The railroad and rail users shall provide the commissioner any pertinent information necessary to achieve proper evaluation and adequate administration of any project under this program. Said information shall include financial data, commodity data, cost data of the project, operations information and similar types of data and information.

B. Contracts. Executed contracts shall be the documents used to commit funds and implement projects. Contracts shall include the following items:

1. The description of and the location of the project.
2. The appropriate plans, standards, specifications, estimated costs, work schedule and completion date.
3. The level of service the railroad will provide during the effective rehabilitation or operations subsidy period, pursuant to applicable Interstate Commerce Commission regulations.
4. Assurances by the railroad that rail line maintenance will be performed during the period of operational subsidy or rehabilitation contract.
5. Provisions for auditing by the commissioner.
6. The requirement to comply with all applicable federal regulations when federal funding is involved in the project.
7. The duration of the contract.
8. Maintenance and availability of records and audits.

9. Payment and repayment schedules when appropriate.
10. The amount of funds and any in-kind participation by each party.
11. Method of administering the contract.
12. A provision for appropriate recapture of state and federal funds.

C. Exceptions. In the event of unusual circumstances, exceptions to these rules shall be made for any particular contract if agreed to by all parties. No exception shall be made if such exception would preclude the equal treatment of competing projects.

14 MCAR § 1.4005 Disclosure of information concerning railroad data.

A. Confidential information defined. Information is deemed to be confidential for the purpose of these rules when the information collected contains shipping data or commercial or financial information which is required to be kept confidential by the provisions of 49 U.S.C. § 11910, which reads as follows:

49 U.S.C. § 11910. Unlawful disclosure of information.

(a)(1) A common carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this subtitle without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$1,000.

(2) A motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this subtitle without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(3) A common carrier providing transportation subject to the jurisdiction of the Commission under subchapter III of chapter 105 of this title, or an officer, receiver, trustee, lessee, agent, or employee of that carrier, or another person authorized by that carrier or person to receive information from that carrier, that knowingly and willfully discloses to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee, shall be fined not more than \$2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

(4) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title, or an officer, agent, or employee of that freight forwarder, or another person authorized by that freight forwarder, or person to receive information, who knowingly and willfully disclosed to another person, except the shipper or consignee, or a person that solicits or knowingly and willfully receives (A) information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that forwarder for service provided under that subchapter without the consent of the shipper or consignee, and (B) that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, shall be fined not more than \$100 for the first violation and not more than \$500 for a subsequent violation. A separate violation occurs each day the violation continues.

(b) This subtitle does not prevent a carrier or broker providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title from giving information—

(1) in response to legal process issued under authority of a court in the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Commission delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Commission, a court, or a judge of that court, shall be fined not more than \$500, imprisoned for not more than 6 months, or both.

B. Provision of information.

1. The commissioner shall direct all requests for information under the authority of the act to the corporate office of the railroad company. Such requests shall specify the kind of information, the level of detail, the format to be used, and the required date of submittal.

2. Within 20 days from the receipt of the request, the railroad company may if necessary apply for a revision of the time schedule for preparing the information. The commissioner shall approve or disapprove such revision requests within 20 days of the receipt of such requests.

3. If the requested information is not received within the time schedule, the commissioner may make a final demand. The final demand shall be in writing and sent by certified mail to the corporate office of the railroad company. If the information is not received within 60 days of the receipt of the final demand, the commissioner may issue a subpoena to compel production of the information.

C. Use of confidential railroad data. Railroad data entrusted to the department will be used only by department personnel or the authorized agents of the department to implement the purpose set forth in the act.

D. Release of information. Information intended for the restricted use of department personnel will be furnished to persons outside the department only in the following circumstances:

1. The railroad gives written approval to the commissioner to make the information public.

2. The information has already been made public by the action of the railroad or other public authority.

3. The information is aggregated at a sufficient level to obscure the shipping information specific to any individual rail user.

DEPARTMENT OF TRANSPORTATION
RAIL USER LOAN GUARANTEE PROGRAM

(effective date: August 11, 1980)

14 MCAR § 1.4006 Authority and definitions.

A. Authority. These rules are adopted pursuant to the provisions of Minn. Stat. §§ 222.55 to 222.62 (1978 & 1979 Supp.).

B. Definitions. The following terms as they appear in these rules shall have these meanings:

1. "Account" means the Rail User Loan Guarantee Account established by Minn. Stat. § 222.57 as amended by Laws of 1979, Ex. Sess. ch. 1 § 40.

2. "Act" means the Rail User Loan Guarantee Act, Minn. Stat. §§ 222.55 to 222.62 (1978 & 1979 Supp.).

3. "Borrower" means any "rail user" as that term is defined in Minn. Stat. § 222.56, subd. 7 (1978).

4. "Capital improvements" means the purchase, rehabilitation or construction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.

5. "Capital investment" means the cost of labor, materials and other incidental costs of rehabilitation of a rail line, including acquisition of right of way and structures.

6. "Collateral" means the security pledged for the loan which includes land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance and assignment of leases or leasehold interests and other similar types property interests.

7. "Commissioner" means the Commissioner of the Department of Transportation, State of Minnesota.

8. "Department" means the Minnesota Department of Transportation.

9. "Interest adjustment" means that portion of the interest on a guaranteed loan paid by the commissioner pursuant to Minn. Stat. § 222.58, subd. 5a, 1979 Supplement.

10. "Lender" shall have the meaning given it in Minn. Stat. § 222.56, subd. 4.

11. "Loan" means a loan or advance of credit to a rail user for the purpose of making a capital investment in rail line rehabilitation.

12. "Personal guarantee" means an individual or corporate obligation to repay the loan.

13. "Railroad" means a common carrier by rail as defined by 49 U.S.C. § 1(3), (1970).

14. "Rail line" means a railroad roadbed, right-of-way, track structure and other appurtenances of railroad right-of-way, including public-use sidings.

15. "Rail User" means any person or entity described by Minn. Stat. § 222.48, subd. 6.

16. "Rehabilitation" means the rebuilding of a rail line or portions thereof and the implementation of other projects that will improve rail service.

14 MCAR § 1.4007 Application procedure.

A. Loans by state or federally chartered banks.

1. All information required to be submitted to the commissioner to support consideration for acceptance as an insured eligible loan shall be submitted in duplicate, and include:

a. A written statement under oath executed by the borrower that the proceeds of the loan will be used solely for participation in contracts for rail line rehabilitation or other capital improvements.

b. A copy of the contract for rail line rehabilitation which must contain:

(1) The identification of the participating parties.

(2) The total amount of the contract for rehabilitation.

(3) The respective share of the amount of the contract for rehabilitation to be provided by each participating party.

(4) The conditions for repayment of the total amount of the contract to the participating parties.

(5) The nature of the capital improvements to be made.

(6) Identity of the escrow agent, if any.

c. The loan application taken by the lender, together with all sup-

porting documents and data, pertinent to the lender's credit consideration, including the following:

- (1) Principal amount of the loan and repayment terms.
- (2) The collateral offered.
- (3) Investigative credit data developed.
- (4) Borrower's statement of present financial condition, including schedule of assets, liabilities, capital or net worth and income and expenses and statements for the immediately preceding three fiscal years.
- (5) Application of person or persons, if any, making personal guarantee of such a loan together with their statement of financial condition as required in (4) above.

d. The form of the promissory note to be executed, complete except for signatures, and any personal guarantee forms to be executed by a person or persons providing guarantee of repayment of the loan.

e. The form of the security agreements or mortgages to be executed in connection with the loan, complete except for signatures; including the complete legal description of the property, personal or real, to be pledged, supplemented in addition by:

- (1) A statement of the collateral's condition, marketability and appraised value, including the source of the appraisal.

- (2) A statement of priority of such lien or security interest position based on official records search.

- (3) Evidence of insurance coverage against customary perils and the availability of suitable loss payable assignments.

f. A lender's sworn statement to the commissioner which includes:

- (1) The citation of Minnesota Statutes under which the interest rate and other expenses in connection with the loan are deemed lawful.

- (2) Documentation of lender's appraisal and consent to make the loan in the amount applied for which may be conditioned upon the granting of the commitment for insurance by the commissioner.

g. An executed agreement between the lender and borrower that upon granting of the commitment for insurance by the commissioner that:

- (1) Funds will be disbursed only under the terms and for the purposes set forth in the application for insurance.

- (2) Liens and security interests provided for in the application

and documents offered in the application for insurance will be filed, recorded or otherwise perfected by the lender.

(3) Reasonable care shall be exercised by the lender or its agents to protect the interest of the state.

(4) A copy of the Notice of Default required by the act to be sent to the borrower within 90 days of default of the loan shall also be sent to any person or persons guaranteeing the loan.

(5) If default is continued for 180 days and borrower has not made arrangements to meet his obligation, the lender shall promptly notify the commissioner of the circumstances of default and file a claim for benefits under the act.

B. Loans by municipalities, county or rural development financing authorities.

1. All information required to be submitted to the commissioner for consideration for commitment to insure any eligible loan shall be submitted in duplicate and include:

a. The information required by Part A, paragraphs 1. a. through g. (3) of this rule.

b. A copy of the application for the revenue bond project together with any attachments required to be submitted to the Minnesota Department of Commerce, Securities Division.

c. Evidence of the approval of the application for the revenue bond project by the Commissioner of Securities.

d. A statement that upon granting of the commitment for insurance by the commissioner that a copy of the Notice of Default required by the act to be sent to the borrower by the trustee within 15 days of the default of the terms of the revenue agreement will also be sent to any person or persons guaranteeing the agreement.

e. A statement that after 90 days, if default continues, the trustee shall file a claim with the commissioner stating the nature of the default.

14 MCAR § 1.4008 Requirements for obtaining approval of commitments for insuring loans prior to their execution or disbursement.

A. Eligibility requirements for loans by state or federally chartered banks; terms.

1. Principal amount. The original bona fide principal amount of any loan shall not exceed:

a. An amount which can be shown to be fully secured by the equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower;

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Interest rate. The interest rate agreed upon between the borrower and the lender shall be expressed clearly in the loan agreement in annual percentage rate terms and include the manner in which lapsed periods of time are to be calculated for purposes of application of that rate, if interest is to be calculated or collected in intervals of less than one calendar year.

3. Repayment terms. The loan agreement shall provide for repayment terms which:

a. Include a schedule of installment payments of principal and interest which will extinguish the original bona fide principal of the loan over a term not exceeding 10 years from the date of execution of the loan.

b. Include a schedule of periodic installment payments of principal and interest coming due at least each 3 months or such lesser intervals as are reasonably consistent with the revenue income flow determined to support the ability on the part of the borrower to repay the obligation.

c. Provide that the first such installment of principal and interest may be scheduled so as to coincide with the first anticipated revenue.

d. Include language which provides that no refinancing, extension or deferment of the originally contracted obligation as approved for insurance or its security, or otherwise as would operate to modify the original contract terms may be made between the borrower and the lender unless such considerations are in writing and expressly approved by the commissioner.

e. Include language which effectively renders the obligation as documented to be nontransferable as to all or any part of its interests without prior written approval of the commissioner.

f. The commissioner shall grant the approval called for by this section if the loan agreement remains substantially the same, the loan agreement is in accordance with these rules, and the risks to the state by the change in the agreement are fully protected.

4. No loan agreement may be the subject of any extension of time or deferment of originally scheduled installment payments which would result in the final contracted payment of principal or interest or combination thereof to fall due at a date more than 10 years from the date of origin without prior written approval of the commissioner.

B. Eligibility requirements for loans by municipalities, county or rural development financing authorities; terms.

1. Principal amount. The original bona fide principal amount as to the amount insured of any revenue agreement, exclusive of interest and expense shall not exceed:

a. An amount which can be shown to be fully secured by the equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower, or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Repayment of revenue agreement. The repayment of the revenue agreement shall be such that it will produce income and revenue sufficient to provide for the repayment of principal and interest on all bonds issued thereunder when due.

3. Repayment of revenue agreement: terms. The revenue agreement shall provide for:

a. Repayment terms, including a schedule of installment payments of principal and interest, which will extinguish the original bona fide principal of the bonds over a period not to exceed 10 years from the date of origin.

b. Language which provides that no revision of the revenue agreement may be made between the borrower and the lender unless such revisions are approved by the commissioner.

c. Language which would effectively render the revenue agreement nontransferable as to all or any part of its interest without the expressed approval of the commissioner.

d. The commissioner shall grant the approvals called for by this section if the loan agreement remains substantially the same, the loan agreement is in accordance with these rules, and the risks to the state by the change in the agreement are not increased and the interests of the state are fully protected.

14 MCAR § 1.4009 Interest adjustment.

A. Eligibility requirements.

1. In order to be eligible for an interest adjustment an applicant must demonstrate inability to obtain a loan at an interest rate of 7% or less from other sources.

2. Only guaranteed loans that comply with 14 MCAR §§ 1.4007 and 1.4008 shall be eligible for interest adjustment.

B. Repayment procedures.

1. The borrower shall reimburse the commissioner for any amounts paid as an interest adjustment within one year after the final payment to a lending institution is due on the loan. The reimbursement to the commissioner may be made in equal installments over the period of one year or in a single payment at the close of that year.

2. If the borrower has no proprietary right in the property to be rehabilitated, then a promissory note shall be negotiated between the borrower and the commissioner prior to the granting of a loan guarantee to insure repayment of the interest adjustment.

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14 MCAR S 1.4010 Definitions. For the purposes of 14 MCAR SS 1.4010-1.4016 the following terms have the meanings given them.

A. Acquire. "Acquire" means to purchase a rail line with state funds provided for the state rail bank program.

B. Betterments. "Betterments" means required improvements made to acquired property to prepare the property for continued rail use.

C. Commissioner. "Commissioner" means the Commissioner of the Minnesota Department of Transportation.

D. Continued rail operations. "Continued rail operations" means the utilization of a rail line for rail service upon acquisition or in the near or immediate future after acquisition.

E. Convey. "Convey" means to sell, lease, or grant an easement for the use of rail bank property for the purposes cited in Minnesota Statutes, section 222.63, subdivision 4.

F. Department. "Department" means the Minnesota Department of Transportation.

G. Dispose. "Dispose" means to convey property to a governmental subdivision of the state for any of the purposes in Minnesota Statutes, section 222.63, subdivision 4, or to sell the property as provided in Minnesota Statutes, section 222.63, subdivision 5.

H. Other uses. "Other uses" means any uses of banked property other than those specified in Minnesota Statutes, section 222.63, subdivision 2b.

I. Preserve. "Preserve" means to hold rail bank property during the period of time it is not being utilized for the purposes specified in Minnesota Statutes, section 222.63, subdivision 2b.

J. Project. "Project" means any rail line proposed for acquisition, and rail lines actually acquired under the program.

K. Program. "Program" means the state rail bank program.

L. Rail line. "Rail line" means abandoned railroad roadbeds, right-of-way, track structure, and other appurtenances of railroad right-of-way including public-use sidings, and railroad buildings.

M. Railroad. "Railroad" means a rail carrier as defined in the Interstate Commerce Act, 49 United States Code, Section 10102(4), (18) and (19).

N. Utilize. "Utilize" means to use banked rail lines for the purposes cited in Minnesota Statutes, section 222.63,

subdivision 2b.

14 MCAR S 1.4011 Program criteria.

A. Eligibility for acquisition and preservation. An abandoned rail line is eligible for acquisition and preservation in the state rail bank if it meets the requirements of Minnesota Statutes, section 222.63 and 14 MCAR SS 1.4010-1.4016.

B. Funding criteria.

1. The following criteria will be considered in determining whether a project will be funded:

- a. the availability of program funds;
- b. the probability of the rail line being utilized for the purpose identified;
- c. the likelihood that an alternative rail line right-of-way could not be reestablished in the future;
- d. the adequacy of the title and the costs to cure any defects in the title; and
- e. the likelihood that no other entity will acquire the rail line for an appropriate use.

2. Special consideration and priority shall be given to rail lines meeting the criteria specified in a.-d. Priority shall be given in the following order:

- a. rail lines that are to be utilized for continued rail operations;
- b. rail lines that are needed as part of the future overall rail system;
- c. rail lines that have an identified future use that will benefit a greater portion of the state; and
- d. rail lines where the identified future utilization includes more than one use.

C. Continued rail operations projects. The following information shall be used to establish the priority for continued rail operations projects:

1. the costs of the project compared to the benefits resulting from the project;
2. a detailed plan of operations for the rail line; and
3. a detailed plan providing for financing of the project.

14 MCAR S 1.4012 Acquisition of rail bank property.

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A. Published list of proposed projects. The commissioner shall publish notice in the State Register listing the rail lines proposed to be acquired. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the rail lines included in the list are located. After an initial publication, subsequent lists shall be published as necessary. The published list shall include the following information:

1. a statement that the list is published pursuant to Minnesota Statutes, section 222.63, subdivision 3;
2. the name, length, and owning railroad of each line;
3. the counties where each line is located;
4. any identified future uses for each line;
5. the abandonment status of each line;
6. the name, address, and telephone number of the department's contact person; and
7. other pertinent information.

B. Initiation of title search. A title search of the property proposed for acquisition shall be initiated after the procedures under A. have been completed. For a rail line not yet abandoned, a title search shall be initiated after the owning railroad has filed an abandonment application with the appropriate decision making authority. To inform the public of its action the department shall publish a notice in at least one newspaper of general circulation in each county where the line is located.

C. Public information meeting. After the title search has been completed the department shall hold at least one public meeting to provide information and to seek comments from the public. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in each county where the rail line is located.

D. Decision to acquire. The commissioner shall decide whether or not to acquire a rail line after the public meeting. The decision shall be based upon the program criteria cited in 14 MCAK S 1.4011. The department shall publish notice of the decision in at least one newspaper of general circulation in each county where the line is located.

E. Notification to railroads. The department shall send a

notice to each railroad that owns a rail line proposed for acquisition at the following times:

1. when the initial and subsequent lists of proposed acquisitions are published pursuant to A.;
2. when the public meeting notices are published pursuant to C.; and
3. when the department publishes notice of its decision pursuant to D.

F. Simultaneous implementation of 14 MCAR SS 1.4012-1.4014. The commissioner shall simultaneously implement the procedures for acquisition, utilization, or disposition of rail bank property when it is possible. The initial notices which are published in the State Register and newspapers shall include a statement noting which procedures are being implemented simultaneously.

14 MCAR S 1.4013 Utilization of rail bank property.

A. Notice to utilize rail bank property. The commissioner shall publish notice in the State Register when the department is considering utilizing banked property. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the property is located. The published notice shall include the following:

1. a statement that the notice is published pursuant to Minnesota Statutes, section 222.63, subdivision 3;
2. the identifying name, length in miles, and acres of land of the property;
3. the counties where the property is located;
4. the purpose of the proposed use and the conditions under which the property would be utilized;
5. the name, address, and telephone number of the department's contact person; and
6. other pertinent information.

B. Public information meeting. After the procedures under A. have been completed, the department shall conduct at least one public meeting to provide information on the proposal for utilization and to seek comments. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in each county where the property is located.

C. Decision to utilize. The commissioner shall decide whether or not to utilize the property as proposed after the public information meeting. The department shall publish notice of the decision in at least one newspaper of general circulation in each county where the line is located.

14 MCAR S 1.4014 Disposition of rail bank property.

A. Notice to dispose of rail bank property. The commissioner shall publish notice in the State Register when considering disposing of property pursuant to Minnesota Statutes, section 222.63, subdivision 4, or when required to dispose of property pursuant to Minnesota Statutes, section 222.63, subdivision 5. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in each county where the property is located. The published notice shall include the following:

1. a statement that the notice is published pursuant to Minnesota Statutes, section 222.63, subdivision 3;
2. the identifying name, length in miles, and acres of land of the property;
3. the counties where the property is located;
4. the reasons for and the conditions of the disposal;
5. the name, address, and telephone number of the department's contact person; and
6. other pertinent information.

B. Public information meeting. After the procedures under A. have been completed, the department shall conduct at least one public meeting to provide information on the proposed disposition and to seek comments. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in each county where the property is located.

C. Decision to dispose of property. The commissioner shall decide whether or not to dispose of property after the public meeting. The department shall publish notice of its decision in at least one newspaper of general circulation in each county where the rail line is located. When the property is to be sold because it has not been utilized, the notice shall include the following:

1. a statement noting the required six-month period which allows owners of private property adjacent to the banked property to make offers to purchase the property from the department; and

2. the name, address, and telephone number of the department's contact person.

14 MCAR S 1.4015 Management of banked property.

A. Maintenance and other uses during preservation of property. Rail bank property shall be maintained and may be leased for other uses while it is being preserved in the program. Proposed other uses for rail bank property shall be considered if they meet one or more of the following conditions:

1. uses which were in effect prior to department acquisition of the property;
2. uses that minimize maintenance costs and maximize income to the program;
3. uses which are not in conflict with adjacent land uses; and
4. uses that provide a benefit to the state.

B. Other uses during utilization of property. Other uses which were in effect while the property was being preserved may be continued while the property is being utilized for the purposes of the program. The other uses shall be continued if they do not interfere with the utilization of the property. Other uses which were not in effect prior to utilization may be allowed if they do not interfere with utilization of the property.

14 MCAR S 1.4016 Administration of the state rail bank program.

A. Provision of information for continued rail operations projects. The entity proposing a continued rail operations project shall provide the commissioner with any pertinent information necessary to achieve proper evaluation and adequate administration of a project. The information shall include financial, commodity, cost and operations data, and other similar types of data and information.

B. Contracts. Executed written contracts shall be the documents used to commit betterment funds, implement utilization projects, and to authorize other uses of banked property.

C. Variance. The commissioner may approve a variance from any of the provisions of 14 MCAR SS 1.4010-1.4016.

1. A variance shall be granted if:

- a. the purpose of the rule in question can be accomplished or exceeded by the specific alternate practice proposed for substitution;

b. the application of the rule in question would impose an excessive burden on the person or entity applying for the variance in attempting to carry out the intent of the program; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing the reasons for granting or denying a variance.

3. The person or entity who is granted a variance shall comply with the alternative practice granted by the commissioner.

4. The person or entity who is granted a variance shall immediately notify the department of any material changes in the circumstances which justified granting the variance.

5. A variance shall be revoked if material changes occur in the circumstances which justified the variance, or if the person or entity who was granted the variance fails to comply with the alternative practice granted by the commissioner.

DEPARTMENT OF TRANSPORTATION
Public Transit Subsidy and Demonstration Grant Programs
(Effective: October 6, 1980)

14 MCAR § 1.4025 General provisions.

A. Authority. The Minnesota Department of Transportation is authorized to adopt rules necessary to carry out the Public Transit Subsidy Program, Paratransit Grant Program, the Regular Route Transit Improvement Program, and the Public Transit Capital Grant Assistance Program pursuant to Minn. Stat. ch. 174 and Minn. Stat. § 15.0412.

B. Definitions. The following terms as used in these Rules have the following meanings:

1. "Department" means the Department of Transportation.
2. "Regular Route Transit Improvement Program" means state financial assistance granted to an eligible recipient in accordance with the Minn. Stat. § 174.26.
3. "Public transit" or "transit" means general or specific transportation service provided to the public on a regular and continuing basis. "Public transit" or "transit" includes paratransit and regular route transit. For the purposes of these rules, this term does not include air or rail transit.
4. "Subsidy assistance" means state financial assistance granted to an eligible recipient in accordance with the Public Transit Subsidy Program established pursuant to Minn. Stat. § 174.24.
5. "Operating deficit" means the amount by which the total operating expenses incurred in the operation of the public transit system exceeds the amount of operating revenue derived therefrom and the amount of any social fare reimbursement pursuant to Minn. Stat. § 174.24, subd. 4. Financial assistance received from the federal government for the operation of a public transit system shall be treated as revenue for the purpose of determining the operating deficit.
6. "Commuter van" has the meaning given it in Minn. Stat. § 221.011.
7. "Development Region" has the meaning given to it by Minn. Stat. § 462.384.
8. "Paratransit" means the transportation of passengers by motor vehicle or other means of conveyance by persons operating on a regular and continuing basis and the transportation of passengers as its primary and predominant purpose and activity, but excluding regular route transit. "Paratransit" includes transportation by car pool and commuter van, point devia-

tion and route deviation services, shared-ride taxi service, dial-a-ride service, and other similar services.

9. "Regular route transit" means transportation of passengers for hire by a motor vehicle or other means of conveyance by any person operating on a regular and continuing basis as a common carrier on fixed routes and schedules. "Regular route transit" does not include transportation of children to or from school or of passengers between a common carrier terminal station and a hotel or motel, transportation by common carrier railroad or common carrier railroads or by taxi, transportation furnished by a person solely for his or its employees or customers, or paratransit.

C. Program applications. The Program application procedure shall consist of a preliminary and final application. (See 14 MCAR §§ 1.4026, 1.4027 and 1.4028 for other rules relating to final application.)

The preliminary application must be submitted to the Department and appropriate Regional Development Commission for review and approval for consistency with regional transportation plans and development guides prior to the department approving the application. The RDC as part of their review will insure that existing public or private transit service in the proposed service area has the opportunity to comment on the proposed project. The RDC in their review will indicate this has been accomplished. Any Regional Development Commission that has not adopted a transportation plan may review but may not approve or disapprove an application. The Regional Development Commission must transmit its comments to the department within forty-five days of the receipt of the application. The preliminary application must also be submitted to the local transit authority, commission or system for review and comment as to consistency with its approved transportation development program. That review must be submitted to the department and RDC within thirty days of receipt. No comment from the RDC, local transit authority, commission or system will constitute a positive comment from such commission, authority or system. After considering those comments and within sixty days of receipt of preliminary application, the department shall determine and notify the applicant of its eligibility to submit a final application.

The final application must also be submitted to the RDC and transit authority, commission or system for comment. The department will allow any Regional Development Commission or Transit System to withdraw their approval or comment for any final application that deviates significantly from the preliminary application. Those comments must be submitted to the department within 15 days of receipt. The Department will act upon the final application within 20 days of receipt.

Approval of applications shall be based on criteria in 14 MCAR §§ 1.4026, 1.4027 and 1.4028.

D. Regulation of use of subsidy and demonstration assistance.

1. State audits. The financial records of the eligible recipient will be

audited by the Department. A benchmark audit of the recipient's books shall be required at the beginning of the first contract period and prior to contract execution and fund encumbrance. Another audit shall be required at the end of the contract period to establish an approved total operating deficit. The Department shall conduct an interim audit of an approved total operating system that is sold during the contract period as of the effective date of the ownership transfer. Other audits may be made by the Department. The eligible recipient will be required to conduct an audit of the participating public transit system financial records.

2. Record keeping. The eligible recipient and participating public transit system shall maintain accounting and other records as required by the Department. These records will permit audit verification of all transit cost allocations claimed during the contract period.

3. Project evaluation. The Department shall use the management plan required pursuant to 14 MCAR § 1.4028 as a basis for monitoring and evaluating the performance of the participating public transit system during the contract period. Public transit policy management decisions made and actions taken during the contract period shall conform with the management plan. Any proposed deviation from the management plan shall be reported to the Department for approval prior to implementation. Failure to secure approval will jeopardize continued subsidy or demonstration assistance.

4. Third-Party contracts. Private and public organizations may participate in projects by contract with the eligible recipient. Mn/DOT concurrence is required for the third party contract.

5. Penalties. When the eligible recipient fails to faithfully comply with the terms and conditions of the contract, the Department may terminate all or part of the subsidy or demonstration assistance awarded to the eligible recipient.

14 MCAR § 1.4026 Public transit subsidy program.

A. Purpose. The purpose of the Public Transit Subsidy Program is to supplement local effort in financing public transit systems in order to preserve and develop public transit and a balanced transportation system in the state.

B. Eligibility.

1. Eligible recipients. Any legislatively established public transit commission or authority, any county or statutory or home rule charter city providing financial assistance to public transit, any private operator of regular route transit, or any combination thereof is eligible to receive financial assistance through the public transit subsidy program.

2. Eligibility factors. A public transit system with a total operating deficit projected for the contract period shall be eligible for subsidy assistance. Deficits incurred prior to this period shall not be eligible for subsidy

assistance. When a legislatively established public transit commission or authority is in existence, any application for the area under the jurisdiction of the commission or authority must be submitted by that commission or authority, except any private operator of regular route transit in the metropolitan transit taxing district as defined in Minn. Stat. § 473.446, subd. 2 may apply directly to the department.

C. Application for subsidy assistance.

1. General. The application for subsidy assistance shall be submitted in two stages: preliminary and final applications. The Department shall assist the applicant in the preparation of the final application upon request. Subsidy assistance may not be used to pay any costs incurred by the applicant in the preparation, submission or processing of applications.

2. Preliminary application. The preliminary application shall be submitted to ascertain the probable eligibility of the applicant, including projected total operating deficit and projected availability of state and local financial assistance. For a particular public transit system, only one preliminary application shall be submitted on behalf of all units participating in the system. The preliminary application shall be in the form and manner prescribed by the Department and shall contain the information required by the Department, including the following:

- a. The applicant's legal name;
- b. The official name of the public transit system for which the subsidy assistance would be used;
- c. The common carrier certificate number of public transit system prescribed by the Minnesota Public Service Commission;
- d. The amount of subsidy assistance requested;
- e. A narrative describing the transit service; and
- f. A description of the transit costs allocation method.
- g. The preliminary application shall be submitted to the Department and appropriate RDC as required in 14 MCAR § 1.4025 C.

A preliminary application that contains all of the above information will be approved for submittal of a final application.

3. Final application. The final application shall be submitted to determine the subsidy assistance to be granted and basic elements in the agreement. It shall be submitted by an applicant who has received notice that, based on its preliminary application, it is an eligible recipient. It shall be submitted to the Department and appropriate RDC and include the elements specified in 14 MCAR § 1.4028. When the eligible recipient has submitted or

anticipates submitting an application for assistance under the demonstration program 14 MCAR § 1.4027, during the contract period, that project must be identified in the application.

D. Determination of subsidy assistance.

1. Total operating deficit. In determining the total operating deficit of a public transit system, the following shall apply:

a. Generally accepted accounting principles and practices;

b. Depreciation on capital equipment that was purchased with state or federal financial assistance shall be excluded in the computation of total operating expenses to the extent of the federal or state assistance;

c. Subsidy assistance shall be considered on the basis of the total project deficit for the proposed contract period;

d. A deficit incurred as the result of authorized increased services shall be considered in determining eligibility;

e. An eligible recipient shall treat financial assistance received from any agency of the federal government for the operation of a public transit system as revenue for the purposes of determining its total operating deficit.

2. Factors in subsidy assistance. The Department shall review the application and determine the amount of subsidy assistance, if any, that shall be given to the eligible recipient.

a. The Department shall use the management plan required pursuant to 14 MCAR § 1.4028 as a basis for allocation of subsidy assistance to an eligible recipient. In the allocation of subsidy assistance, the Department shall consider population, transit ridership, relative need for public transit, new developments, and prior local assistance. Subsidy assistance shall not exceed two-thirds of the total operating deficit of the public transit system, as approved by the Department. The eligible recipient shall establish to the satisfaction of the Department that at least one-third of the total operating deficit will be available from local sources during the contract period. When more than one unit contributes assistance to the operation of the public transit system, the share contributed by each shall be specified.

b. In the Minneapolis-St. Paul Metropolitan transit taxing district as defined in Minn. Stat. § 473.446, subd. 2 private operators of transit service that are eligible recipients may receive a grant for up to 100% of their operating deficit. The amount of the grant shall be based on the uniform performance standards specified in 14 MCAR § 1.4029.

E. Contract.

1. Content. The subsidy assistance contract shall be based upon the

final application. It shall specify the amount of subsidy assistance that shall be awarded to the eligible recipient and shall be effective for a period of no more than one (1) year. It shall include the assurance of the eligible recipient that it will provide the required local share. For a particular public transit system, only one contract shall be executed on behalf of all units participating in the system.

2. Disbursement schedule. The contract shall specify a monthly or quarterly disbursement schedule at the pleasure of the recipient. Disbursements will reimburse the recipient based on the claimed operating deficit for the monthly or quarterly reporting period, but will not be allowed to exceed the estimate in the final application. At the end of seven months if it appears that the existing contract limit shall be insufficient the department will, upon application, amend the contract.

As agreed to in the contract, a portion of the final payment of the transit subsidy shall be withheld pending a final audit of the public transit system's books by the Department at the termination of the contract. The final audit shall be used by the Department to verify the transit costs claimed during the contract period. When the supplemental assistance is more than two-thirds of the total operating deficit, the final payment shall be reduced accordingly. Any overpayment by the State shall be returned to the State Treasury at the request of the Department.

14 MCAR § 1.4027 Paratransit grant and regular route transit improvement program.

A. Paratransit purpose. The purpose of the Paratransit Grant Program is to plan, promote, demonstrate, and evaluate the effectiveness, cost, and efficiency of paratransit as a means of accomplishing program objectives.

B. Paratransit objectives. The objectives of the Paratransit Grant Program are:

1. To provide transportation services which improve the accessibility and productivity of regular route transit;

2. To provide transportation services in those areas inefficiently or inadequately served by regular route transit;

3. To provide transportation services for persons who because of age or incapacity are unable to drive a private automobile or use existing modes of public transit;

4. To show how existing single occupant auto drivers can be diverted to paratransit or other public transportation modes; and

5. To determine the most effective manner of providing paratransit services. A potential demonstration project shall be designed to meet directly one or more of these program objectives.

C. Eligible recipients. Any public or private agency, entity, or person is eligible to receive financial assistance through the Paratransit Grant Program.

D. Regular route program objective. The objective of the Regular Route Transit Improvement Program is to provide financial assistance for improvements in the accessibility, quality, economic performance, or patronage of regular route transit service by the following means:

1. Expansion of existing routes and addition of new routes in areas that previously have not been served or have been served inadequately by regular route transit;
2. Management and operations improvements without expanding existing routes or adding new routes.

A potential improvement project shall be designed to meet program objectives by one of these two methods. No less than 40 percent nor more than 60 percent of the total financial assistance available shall be granted to projects for improvements by each method.

E. Eligible recipients. Any organization that qualifies under 14 MCAR § 1.4026 B. 1. who operates, intends to operate, or assists in the operation of regular route transit services is eligible to receive financial assistance through the regular route transit improvement program.

F. Eligible projects. An eligible project for Paratransit Grant and Regular Route Improvement programs shall meet the following requirements:

1. It shall be designed to have potential for general applicability in other areas of the State;
2. It shall demonstrate the effect of improved public transit service; and
3. It shall meet one or more of the program objectives in 14 MCAR § 1.4027 B. or D.

An application should include a request for funding an ongoing evaluation of the project.

G. Determination of grant assistance.

1. General. The application for grant assistance shall be submitted in two stages: preliminary and final applications. The Department shall assist the applicant in the preparation of application upon request. Grant assistance may not be used to pay any costs incurred by the applicant in the preparation, submission or processing of the applications.

2. Preliminary application. The preliminary application shall be submitted to ascertain the probable eligibility of the applicant, including pro-

jected availability of state and local financial assistance. For a particular public transit system, only one preliminary application shall be submitted on behalf of all units participating in the system. It shall be in narrative form and shall contain the following:

a. Project objectives. A narrative describing the purpose of the proposed project shall include the manner in which it will meet one or more of the program objectives.

b. Project description. The following must be discussed:

- (1) The content of the project;
- (2) The time schedule proposed for completion of the project;
- (3) The public transit service including identifying proposed service levels and daily hours of operation;
- (4) The compatibility of the project with any existing transit service;
- (5) The potential for continuation of the project beyond the demonstration phase;
- (6) A project budget, by categories of expenditures, including sources and amounts of non-state funding;
- (7) A description of the applicant's organization including the key personnel and their experience.
- (8) Identification of the market to be served, including the proposed daily and weekly patronage.
- (9) Transit cost allocation procedures.

A preliminary application that contains all of the above information will be approved for submittal of a final application.

The preliminary application shall be submitted to the Department and appropriate Regional Development Commission and transit systems as required in 14 MCAR § 1.4025 C. The Department will assist in the planning of a system or the preparation of the applications if requested.

3. Final application. The final application shall be submitted to determine the financial assistance to be granted and the basic elements of the agreement. It may be submitted only by an applicant who has received notice that, based on its preliminary application, it is an eligible recipient. It shall be submitted to the Department and appropriate RDC in the form and manner prescribed by the Department and shall include the elements specified in 14 MCAR § 1.4028. When the eligible recipient has submitted or anticipates

submitting an application for assistance under the Public Transit Subsidy Program, 14 MCAR § 1.4026, during the contract period, this shall be briefly discussed in the application.

4. Application evaluation. The criteria that will be used by the Department to evaluate and approve proposed projects are:

- a. Potential for meeting one or more of the program objectives;
- b. Potential in demonstrating specific concepts that are applicable in other areas of the State;
- c. Degree of innovation incorporated;
- d. Compatibility and coordination with existing regular route and paratransit systems;
- e. Potential for integration with existing transit service;
- f. Evidence of local government and public support;
- g. Ability to continue a successful project beyond the demonstration phase;
- h. Efficiency in the use of energy resources to accomplish objectives; and
- i. Cost effectiveness of the project.

H. Contract.

1. Content. The demonstration contract shall be based upon the final application. It shall specify the amount of the demonstration assistance that shall be awarded to the eligible recipient and shall not exceed one year. It shall include the assurance of the eligible recipient that it will provide the required local share and carry out the management plan. For a particular public transit system, one contract shall be executed on behalf of all units participating in the system.

2. Disbursement schedule. Disbursements will reimburse the recipient based on the claimed deficit for the monthly reporting period, but will not be allowed to exceed the contract amount.

As agreed to in the contract a portion of the final payment shall be withheld pending an audit of the transit system's books by the department at the termination of the contract. This final audit shall be used by the department to verify the transit costs claimed during the contract period. When the grant assistance is more than the approved limit of the total cost, the final payment shall be reduced accordingly. Any overpayment by the State shall be returned to the State Treasury.

14 MCAR § 1.4028 Final application for subsidy and grant assistance. The final application for the subsidy program or for the grant program shall be a form as prescribed by the department and shall contain the following:

A. Management plan. The basic component of the final application shall be a management plan that details all of the planned and anticipated events that will affect the public transit system's operating revenue and expenses during the contract period.

1. Purposes. The essential purposes of a management plan are:

- a. To document the maintenance or improvement of public transit services;
- b. To identify and implement policies and practices to increase the efficiency of public transit operations; and
- c. To insure that state assistance will be spent wisely.

2. Content. The final application shall include the following elements which may vary in detail with the size of the public transit system:

a. **Ownership.** The ownership of the participating transit system during the contract period shall be described.

b. **Levels of service.** The levels of service provided by the participating public transit system during the contract period shall be described.

c. **Fares.** The fare structures anticipated during the contract period shall be described.

d. **Marketing.** A proposed marketing program shall be described in general terms, including the costs benefits of the major elements. Elements of a marketing program shall include:

- (1) Market research;
- (2) Public information;
- (3) Promotion;
- (4) Advertising;
- (5) Community relations; and
- (6) Employee relations.

e. **Capital improvements.** Any actual or anticipated capital improvements in the participating public transit system during the contract period shall be described. Capital improvements include, but are not limited to:

buses, fareboxes, communications equipment, storage and maintenance facilities and equipment, passenger shelters, and bus-stop signs.

f. Non-capital improvements. Any anticipated non-capital improvements proposed in the participating public transit service area during the contract period shall be described. Non-capital improvements include, but are not limited to:

- (1) Staggering work hours;
- (2) Regulating supply and prices of off-street parking; and
- (3) Increasing daytime parking rates on workdays.

g. Revenue contracts. Revenue producing contracts relating to the public transit services provided by or for the eligible recipient shall be described. A copy of the contract will be required as part of the final application.

The following types of contracts shall be discussed:

- (1) Contracts with private and public schools, colleges and universities;
- (2) Contracts with private and public organizations that guarantee a minimum revenue on regular or special route(s);
- (3) Contracts with private and public organizations that purchase rides for employees or patrons; and
- (4) Advertising contracts.

h. Traffic improvements.

(1) Any traffic improvements made in the public transit service area during the contract period that will affect directly the speed and reliability of transit services shall be described. Examples of traffic improvements include:

- (a) Use of exclusive or preferential streets, bus lanes, or expressway ramps;
- (b) Control of traffic lights by buses;
- (c) Provision of fringe parking spaces with express or improved bus service;
- (d) Provision of bus turnouts; and
- (e) Priority snow-plowing of transit routes.

(2) The discussion of each type of traffic improvement shall include the following:

(a) The date the traffic improvement is expected to be made; and

(b) The expected impact of the traffic improvement upon estimated public operating revenues and expenses.

i. Expenses contracts. Any contracts for services and goods relating to the public transit services provided by or for the eligible recipient and others shall be described.

The types of contracts to be discussed include:

(1) Contracts for management and consulting services;

(2) Contracts for storage and maintenance of buses;

(3) Contracts for the lease or purchase of tires and tubes;

(4) Contracts for fuel and lubricants;

(5) Contracts for liability and property insurance;

(6) Contracts, union and non-union, with transit system employees.

A copy of each contract will be required as part of the management plan.

j. Preventive maintenance. The participating public transit system's planned preventive maintenance program for the contract period shall be described. Elements of a preventive maintenance program typically include:

(1) Defect reporting by drivers;

(2) Daily fueling inspection;

(3) Mileage inspection; and

(4) Inventory controls.

B. Organization. The local institutional or organizational structures established to carry out the management plan shall be described, including a description of the technical policy and decision-making organizations responsible for directing, controlling, reviewing, and implementing the management plan. The relationships between these various organizations shall be illustrated in a simple diagram following the narrative. In addition, the following questions shall be answered:

1. Who is directly responsible for the day-to-day management and operation of the transit system?

2. Who is directly responsible for negotiating wage contracts with the employees of the transit system?

3. Where more than one local unit of government participates in the program, who represents the applicant public body in negotiations with surrounding communities? Who represents the surrounding communities?

4. Who will represent the applicant public body in negotiating an assistance contract with the State, and how shall a contract be ratified by the applicant public body?

5. Who is responsible for filing reports for the transit system with the Minnesota Public Service Commission?

C. Financial conditions. Financial data shall be reported in the form and manner prescribed by the Department. The cash accounting method shall be used to report financial data unless otherwise authorized by the department.

1. For the transit subsidy program, this financial data shall contain the audited figures for a twelve (12) month period preceding the contract period and estimated figures for the contract period.

2. For the grant program, the financial data shall contain estimated figures. When the grant project is associated with an existing public transit system, the financial data shall include the audited figures for a twelve (12) month period preceding the contract period.

D. Financial statement. A detailed breakdown of operating expenses shall be required. The projection of revenues and expenses should reflect the policies and practices outlined in the management plan.

E. Operating statistics. The actual and anticipated operational characteristics of the public transit system in a twelve (12) month period preceding the contract period and/or the contract period shall be described. This discussion shall include revenue passengers, monthly ridership, total operating miles, revenue hours, and other relevant information required by the Department.

F. Sources of local funds. The sources and type of revenue that the eligible recipient and each participating unit will use to match the supplemental or demonstration assistance shall be identified.

G. Fuel supplies. Existing and potential problems that the public transit system faces in obtaining adequate fuel supplies during the contract period shall be identified, including the status of contracts with fuel suppliers, the prospects for securing contracts for the contract period, the time between deliveries under normal and anticipated conditions, and any other pertinent facts.

The existing rules dated August 23, 1974 under Laws 1974, ch. 534 are rescinded.

14 MCAR § 1.4029 Uniform Performance standards for private operators in the metropolitan transit taxing district.

A. General.

1. These rules set forth a description of what shall be considered minimum levels of performance or design and identify the standards against which existing services will be evaluated and for planning new or modified services.

2. Performance standards have been developed to apply to the unique financial and geographical characteristics encountered by private operators in the Metropolitan Area as defined in Minn. Stat. § 473.446. These standards are not necessarily the same ones utilized by the Metropolitan Transit Commission (MTC). The MTC service standards are spelled out in the "TRANSPORTATION DEVELOPMENT PROGRAM AND TRANSPORTATION IMPROVEMENT PROGRAM (1978-1983)."

B. Definitions. The following terms as used in these rules will have the following meanings:

1. "Regular service" shall mean a bus service operating primarily on arterial streets making a minimum of 5 pickup or dropoff stops per mile and having an average operating speed of 15 mph or less.

2. "Express service" shall mean a bus service having the following characteristics:

a. Average operating speed in excess of "regular" bus service speeds and nearly equivalent to average automobile speeds for the same trip.

b. A limited-stop route segment which is greater than 50% of the route's one-way mileage. Limited-stop route segment is defined as one-half or less than the minimum stops for regular service.

3. "School service" shall mean extra bus trips on "regular or express" service, designed to transport students either on the route or directly to or from a school.

4. "Contract service" shall mean bus service operated under contract (or as a charter) to provide service to a specific market.

5. "Linehaul service" shall mean direct, point-to-point travel over distances (route length) greater than two (2) miles between residential areas and activity centers of business districts.

6. "Feeder service" shall mean providing access to or from a linehaul service.

7. "Crosstown service" shall mean bus service connecting either community subcenters or linehaul services emanating radially from a central

business district (CBD). It shall generally be construed to mean nonradial travel that is not directed to or from a central business district.

8. "Peak period" shall mean the hours of 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:00 p.m. weekdays.

9. "Off peak periods" shall mean all other times not included under "Peak period".

10. "Headway" shall mean the time interval between two consecutive buses (Frequency of Service) measured at the maximum load point.

11. "On time performance" shall mean zero minutes early and no more than five (5) minutes late at a schedule time point.

12. "Load factor" shall mean the ratio of the number of passengers on board versus the number of seats provided measured at the maximum load point(s) on a particular route.

13. "Capacity" shall mean the number of passenger seats made available.

14. "Peak period bus requirement" shall mean the maximum number of transit units an operator must have in service to meet scheduled trips excluding spare units.

15. "Route miles" shall mean the one-way mileage between route termini.

16. "Bus miles" shall mean the miles operated by a transit unit from the time it leaves the garage until it returns including "pull-out" and "pull-in" mileage.

17. "Passenger per mile" shall mean the number of passengers carried divided by the number of bus miles operated.

18. "Vehicle hours" shall mean the hours operated by a transit unit from the time it leaves the garage until it returns including "pull-out" and "pull-in" time.

19. "Revenue hours/revenue miles" shall mean the miles or hours operated by a transit unit on a route excluding "pull-in"/"pull-out" miles and hours. Same as "scheduled" hours/"scheduled" miles.

20. "Deadhead miles" shall mean those miles operated for the purpose of maintenance testing, driver training and garage transfers.

C. Purpose. The purpose of uniform performance standards for private operators in the metropolitan transit taxing district is:

1. To increase the number of persons riding and the rate at which persons are diverted from driving to riding.

2. To achieve the fullest and most efficient use of public resources and investments in public transit.

3. To provide adequate service levels within geographic areas and on route segments characterized by high density of demand for service and for the transit dependent population.

D. Objectives. The objectives of uniform performance standards for private operators in the metropolitan transit taxing district are:

1. The public transit service provided by state funded private operators within the Metropolitan Area as defined in Minn. Stat. § 473.446, shall be designed, operated and maintained to attract patrons in such numbers as to assure continuing viability as a reasonable alternative to the private automobile.

2. Prime consideration shall be given to the safety of operators and passengers.

3. Each private operator's system shall be maximized within the Metropolitan Urban Service Area and shall be consistent with the Development Guide of the Metropolitan Council.

4. Existing service levels shall be evaluated for economic considerations, public necessity and ability to attract new patrons from competing modes of transportation.

5. Service shall be designed to minimize door-to-door travel time.

6. Service changes shall be made on the basis of feasibility and the attendant physical, operational, economical, financial and social merits.

7. Each private operator shall provide some opportunity for local input into their systems' service levels and route structures.

8. Service provided by the private operators shall be comparable to and compatible with other service offered in the Metropolitan Urban Service Area.

E. Service standards.

1. Route spacing. Route spacing is a function of population density and physical considerations such as terrain and adequate roadways.

MINIMUM ROUTE SPACING

Population Per Square Mile (1) (Thousands)	Route Spacing (Miles)	or	Route Miles Per Square Mile
4 & over	0.50		1.50
2 - 4	1.00		1.00
0 - 2	2.00		0.50

(1) Land acreage only.

2. Directness of service.

a. Schedule leave and arrive times for routes having common termini shall be coordinated to the maximum extent possible

b. Not more than 25% of the total systems riders will be required to transfer between an operator's vehicles to complete their trip.

3. Route layout.

a. Route alignment shall be as direct as possible, and to the maximum extent feasible, areas with no adjacent land development will be avoided in laying out the collector portion of a route.

b. Service shall be operated over permanently paved streets having at least ten (10) foot lanes.

c. Service shall not be operated over streets which continually exhibit danger-producing situations such as steep grades; poorly plowed or sanded roadways; or streets where parking habitually encroaches on the roadway reducing passageway to less than ten (10) feet.

4. Frequency of service. A sufficient number of vehicles shall be provided past the maximum load points on a route to accommodate the passenger volume within the loading standards established under the Section: "Operating Performance Standards".

MINIMUM HEADWAYS

Service Type	Days Provided	Range of Service	Peak	Off Peak
Regular	Mon-Fri	6:00 am - 6:30 pm	30 min	70 min
Regular	Sat	8:00 am - 6:00 pm	To be based on demonstrated need	
Express	Mon-Fri	6:30 am - 9:00 pm 3:30 pm - 6:00 pm		

5. Passenger stops.

a. In suburban residential areas, the distance between bus stops shall not exceed 2000 feet.

b. In CBD's, the distance between bus stops shall not exceed 600 feet.

c. Designated bus stops shall be indicated by at least a sign on a stanchion or fastened to a utility pole. The bus stop sign shall display a bus information phone number.

d. Minimum acceptable bus stop lengths are:

- (1) farside stop 80 feet.
- (2) nearside stop 80 feet.
- (3) mid-block stop 80 feet.

NOTE: Farside stops are preferable to all others.

e. Shelters shall be provided at all stops which serve 40 or more boarding or transferring passengers during the course of a typical day.

F. Operating performance standards.

1. Speed.

a. Average operating speed excluding recovery time shall not exceed twenty five percent (25%) deviation from the service (i.e., express and regular) operating speed for the time being analyzed. Any service having an average operating speed less than this standard will be considered for remedial analysis.

b. No service is to have a layover time to running time ratio over 30% at any time.

2. Maximum load standards—per route shall be:

Service	Peak of the Peak	Total Peak Period	Off Peak
Express	1.1	1.0	1.0
Regular	1.25	1.1	1.0

3. Labor productivity shall be measured by “miles per employee” factored to 8 hours = 1 full time employee. No operator’s labor productivity shall be less than 18,000 bus miles per employee per year.

4. Schedule adherence and service dependability.

- a. 95% of all service provided shall be on time.
- b. 99% of all scheduled trips shall be completed each month.

c. Maintenance standards shall be high enough to provide, at a minimum, 10,000 bus miles of service for each disruption of service due to mechanical failure.

d. Complaints shall not exceed one (1) per 100 hours of service. A complaint is defined as official contact in writing with either the PSC or the Minnesota Department of Transportation (Mn/DOT).

5. Economic standards.

a. No service shall be permitted to have a "revenue per passenger" departure from the system average of more than -25%, unless the "passengers per mile" are at least 65% of the system average.

b. System fares shall be set to ensure a system "revenue per passenger" ratio to "full cost per passenger" of at least 35% in that reimbursement to the operator on a "deficit per passenger" basis will not exceed 65% of the "full cost per passenger".

G. Funding procedure.

1. Two months prior to the expiration of an existing contract term, the operator shall be sent a letter by the Minnesota Department of Transportation notifying him of the upcoming expiration. This letter shall also have attached the "Service Standards for Metro Area Private Operators". The letter will ask the operator to:

a. Advise Department of Transportation (Mn/DOT) of the operator's intent to continue providing fixed route public transit service within his authorized service area.

b. Advise Mn/DOT if he intends to apply for a state financial assistance contract relative to the public transit service.

c. Submit a signed statement to Mn/DOT that he has read and can meet the required "service standards".

2. If the operator intends to apply for state financial assistance, and has indicated he can meet the "service standards", a member of the Mn/DOT staff shall meet with the operator to assist him to prepare the application including:

a. Management plan.

b. Operating budget.

c. Patronage and revenue projections.

d. Transit cost allocation plan (to be attached as an element of the contract).

e. Capacity analysis.

f. Operations narrative.

3. When the application is complete and agreed to as accurate by Mn/DOT and the operator, funding shall be calculated as follows:

a. Full operating cost shall be divided by the number of rides projected. This will yield a "full cost per passenger".

b. All anticipated revenues shall be calculated and divided by the number of rides projected to obtain an estimated "revenue per passenger".

c. The estimated "revenue per passenger" shall then be subtracted from the "full cost per passenger" to obtain a "deficit per passenger".

d. The amount of the "deficit per passenger" shall be what the operator will be reimbursed for each passenger carried on his system. Such reimbursement shall not exceed 65% of the "full cost per passenger".

H. Verification procedure.

1. Timetable analysis.

a. Prior to the execution of a financial assistance contract or a route or service change the operator shall be required to submit a complete set of current or proposed schedules to Mn/DOT.

b. Upon receipt of the schedules, Mn/DOT and Metropolitan Council staff shall perform an analysis to ensure that the service offered is consistent with the recommended operating performance standards and Metropolitan Council Development Guide.

c. Upon completion of the schedule analysis, a summary shall be prepared detailing those portions, if any, of the service that are sub-standard and outlining possible corrective measures.

2. Maximum load and on-time performance analysis.

a. Performed by operators.

(1) Operators shall develop and maintain "daily trip sheets" for their drivers to record daily passenger counts. The driver's daily trip sheet should include, but not be limited to:

(a) Day of week/date/run number/bus number.

(b) Each trip run (terminal and scheduled departure time).

(c) Maximum load carried per trip (at specified maximum load points).

(d) Number of transfers received.

(e) Any deviation from scheduled time, and reason for this.

(f) Driver signature.

(2) Daily trip sheets shall be collected for each service day by the operator.

(3) Daily trip sheets are to be retained by the operator for a period of two years or until final audit, whichever occurs first.

b. Performed by Mn/DOT.

(1) Mn/DOT shall establish maximum load points for each route in an operator's system; these will be consistent with the maximum load points that the operators are using.

(2) Checking sheets shall then be developed for each maximum load point. The checking sheets will be organized by trip (inbound or out-bound), in time order, for an entire service day. Separate sheets will be developed for weekday and Saturday service.

(3) Mn/DOT shall hire on-street checkers to collect the actual data. The checkers will be placed at the maximum load points and required to record the following data for each bus that passes:

- (a) Condition of bus.
- (b) Bus number.
- (c) Actual time bus passes maximum load point.
- (d) Estimated number of passengers on board.
- (e) Trips not completed will also be recorded.
- (f) Weather and street conditions.

(4) Checkers shall conduct "spot checks" on a random basis. Checks shall be performed at random times within the peak and off peak periods to ensure that all time periods will be observed.

(5) Occasionally, checkers shall be required to perform "on-board" checks of an operator's service. On board checks are utilized to observe the loading patterns of an entire route, operating hazards along the route, transfers issued and received, and running time for the route. The operator shall be notified, in advance each time this is planned.

(6) Checking sheets shall be submitted to Mn/DOT and the data will be analyzed.

(7) A summary of the maximum load/on-time performance checks shall be prepared monthly and will detail the areas, if any, where the operator's system is performing below the minimum operating standards and recommendations for remedial measures will be made.

(8) Mn/DOT maximum load check sheets shall be compared with the operator's "drivers trip sheets" monthly to verify passengers carried.

3. Maintenance analysis.

a. Operators shall be required to report all disruption of service due to mechanical failure, to Mn/DOT monthly.

b. Mn/DOT shall apply the "total bus miles" operated monthly to the total number of "disruptions of service due to mechanical failure" to ensure that "bus miles for each disruption of service due to mechanical failure" are consistent with the maintenance standards.

14 MCAR § 1.4030 Public Transit capital grant assistance program.

A. Application. Eligible recipients as defined in Minn. Stat. § 174.245 (1979 Supp.) shall apply for capital grant assistance by a letter to the Minnesota Department of Transportation citing the Minnesota Statute under which eligibility is claimed. The letter of application shall contain the following information:

1. A statement of eligibility under the Urban Mass Transportation Act of 1964, Public Law 88-365, as amended.

2. The amount of state financial assistance requested.

3. A statement that this capital improvement is included in the current approved management plan if the recipient is currently receiving state financial assistance.

B. Procedure for review and approval. A letter of application shall be reviewed by the Department of Transportation for the requirements contained in paragraph A and shall be considered for funding.

C. Capital grant assistance shall be based on:

1. The priority listing recommendation of the Transportation Advisory Committee established by the State Management Plan for Public Transportation Financial Assistance under Section 18, Urban Mass Transportation Act of 1964, Public Law 88-365, as amended. The Committee shall base their recommendations on the following criteria:

a. How well the project meets the program objectives.

(1) To actively promote the coordination of transportation services where no local agency has taken this responsibility or where local disputes threaten accomplishment of the task.

(2) To help alleviate the transportation problems of Minnesota's elderly and handicapped residents.

(3) To participate in joint-agency efforts to construct and implement park-ride facilities when it can be demonstrated that these facilities will serve existing demand.

(4) To develop a specific position on performance funding for non-urban transit operators.

(5) To effectively provide public transportation in rural and small urban areas inefficiently or inadequately served by regular route transit.

(6) To divert single occupant auto drivers to public transportation modes.

(7) To fund effective and cost efficient methods of providing non-urban transportation services.

b. The accessibility to the transit system of the handicapped and elderly.

c. The amount of local government and community support.

d. The potential for continuation after the first year.

e. The applicability of the project results to other areas of the state.

f. The potential for meeting the life support needs (i.e., nutrition, health, shopping, recreation, etc.) of those the transit system is designed to serve.

2. The availability of state public transit capital grant assistance funds.

3. The availability of local matching funds.

D. Contract. The public transit capital grant assistance contract shall be based on the letter of application. It shall specify the amount of financial assistance to be awarded. It shall include the assurance of the eligible recipient that the local matching funds are available and shall be provided.

Rules relating to the trunk highway system in the State of Minnesota.

§ 1.5011 Controlled use order No. 30757. Pursuant to the Laws of 1959, ch. 439, and after due consideration for safety and convenience of public travel on the main roadways, entrance and exit ramps to same on the National System of Interstate and Defense Highways in Minnesota, it is hereby ordered that the use of such main roadways and ramps by pedestrians, bicycles, or other nonmotorized traffic, or by any person operating any such vehicle, is hereby prohibited.

**DEPARTMENT OF TRANSPORTATION
STATE-AID OPERATIONS**

14 MCAR § 1.5032 Rules for State-Aid Operations under Minn. Stat. chs. 161 and 162, (1978) as amended.
(effective date August 11, 1980)

A. Purpose. The purpose of 14 MCAR § 1.5032 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minn. Stat. ch. 162 (1978), as amended.

B. Scope. The scope of 14 MCAR § 1.5032 is confined within the framework of and consistent with Minn. Stat. chs. 161 and 162 (1978), as amended.

C. Definitions. For purposes of 14 MCAR § 1.5032 the following terms shall mean:

1. Commissioner. The Commissioner of Transportation.
2. State-Aid engineer. A registered engineer employed as the state-aid engineer of the Minnesota Department of Transportation.
3. District engineer. A district engineer of the Minnesota Department of Transportation or a registered engineer employed as his state-aid assistant.
4. County engineer. A registered engineer employed as the county engineer or the director of public works-county engineer of each county.
5. City engineer. A registered engineer employed as the city engineer or the director of public works-city engineer of each urban municipality.
6. Needs report. A report of the estimated construction cost required to improve a state-aid system to standards adequate for future traffic on a uniform basis.
7. County-municipal account. A separate record of that portion of the county state-aid highway funds allocated for expenditure solely within cities, having less than 5,000 population.
8. Urban municipality. Any city, having 5,000 or more population, determined in accordance with the provisions of law.
9. Local highway or street departments. The highway or appropriate department of each county and each urban municipality.
10. Township allotment. The county apportionment of county state-aid highway funds for use in the construction of township roads.
11. Advance encumbrance. The authorized expenditure of local funds,

in lieu of state-aid funds, by a county or municipality for use on an approved state-aid project. By agreement with the commissioner, the local funds will be repaid to the county or urban municipality from future county or municipal state-aid allotments or from future county or municipal turnback funds.

12. Screening committee. The county or municipal committee, appointed in accordance with law, and authorized to recommend to the commissioner the mileage and money needs for each of their state-aid systems.

13. Disaster account. The accounts provided by law for use in aiding a county or urban municipality that has suffered a serious damage to its county state-aid highway system or municipal state-aid street system from fire, flood, tornado or other uncontrollable forces of such proportion that the cost of repairs to such county state-aid highway system or municipal state-aid street system is beyond the normal resources of the county or urban municipality.

14. Trunk highway turnback. A former trunk highway or portion thereof that has reverted to a county or municipality in accordance with law.

15. Turnback accounts. The respective accounts provided by law for payment to the county for the restoration of or to the urban municipality for the reconstruction and improvement of former trunk highways that have reverted to the county or municipality and have become part of the state-aid system.

16. Disaster committee. A committee, appointed in accordance with the law, to investigate and report its findings and recommendations to the commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its county state-aid highway or municipal state-aid street system and resulting in a financial hardship.

17. Local road research board. A board appointed in accordance with these rules to recommend specific research projects to the commissioner.

18. Town bridge needs. The estimated construction costs required to improve or replace town bridges to standards adequate for future traffic on a uniform basis.

19. Town bridge account. The apportionment of county state-aid turnback funds for use in the construction or reconstruction of bridges on township roads.

20. Functional classification plan. A plan by which highways and streets are grouped into classes according to the character of service they are intended to provide.

21. Variance committee. A committee appointed in accordance with these rules to investigate and make recommendations to the commissioner on requests for variances from these rules.

D. Organization and powers of local highway departments. Each county and each urban municipality shall establish and maintain a highway or street department. Such departments shall be adequately organized, staffed, and equipped to administer for the county or urban municipality all matters relating to the operations of the state-aid program and to exercise all functions, incidental thereto, in accordance with law. All preparation of plans and specifications, and the supervision of construction and maintenance shall be under the control and direction of a professional engineer, registered in the State of Minnesota and employed or retained for that purpose.

E. Selection and designation of state-aid systems. The state-aid highways and streets designated to form the basis for a long range improvement program shall, in general, be so selected as to form an integrated network of highways and streets in accordance with the following provisions:

1. Systems.

a. Final selection of routes to be included in the respective county state-aid and municipal state-aid systems shall be subject to the approval of the commissioner.

b. The highway and street systems to be selected and designated in accordance with law are:

(1) County state-aid highway system not exceeding 30,000 miles in extent, excluding trunk highway turnback mileage.

(2) Municipal state-aid street system not exceeding 2500 miles in extent within urban municipalities, excluding trunk highway turnback mileage.

(a) On 28-foot undivided one-way streets with no parking lanes, the chargeable mileage allowed for municipal state aid street mileage purposes shall be one-half of the length of the one-way street.

2. Criteria. State-aid routes shall be selected on the basis of the following criteria:

a. County state-aid highways which:

(1) Carry relatively heavier traffic volumes or are functionally classified as collector or arterial as identified on the county's functional plans as approved by the county board;

(2) And connect towns, communities, shipping points, and markets within a county or in adjacent counties;

(a) Or provide access to rural churches, schools, community meeting halls, industrial areas, state institutions, and recreational areas;

(b) Or serve as principal rural mail routes and school bus routes;

(3) And occur at reasonable intervals consistent with the density of population;

(4) And provide an integrated and coordinated highway system, affording within practical limits a state-aid highway network consistent with traffic demands.

b. Municipal state-aid streets which:

(1) Carry relatively heavier traffic volumes or are functionally classified as collector or arterial as identified on the urban municipality's functional plan as approved by the urban municipality's governing body;

(2) And connect the points of major traffic interest within an urban municipality;

(3) And provide an integrated street system affording within practical limits a state-aid street network consistent with traffic demands.

3. Route designations. All county state-aid highways and municipal state-aid streets shall be selected by resolution of the respective boards of county commissioners, or the respective governing bodies of urban municipalities. The highway or street designations, as contained in the resolution, shall be reviewed by the district engineer of that area and his recommendation shall be filed with the commissioner. The commissioner after receipt of each such resolution and recommendation shall approve all or such part of said highway or street designations contained in the resolution, as complies with the criteria set out in these rules. The commissioner shall certify to the respective boards of county commissioners or governing bodies or urban municipalities the approved portion of the highway or street designation. All highways or streets so approved shall become a part of the county state-aid highway system or the municipal state-aid street system, subject to such additions or revisions as may be, from time to time, requested and approved.

a. Turnback designations. Prior to release of a former trunk highway to the jurisdiction of a county or urban municipality, the commissioner shall notify the board of county commissioners or the governing body of the urban municipality, through its county or city engineer, which portions of the turnback are eligible for designation as part of its state-aid system and which portions are eligible for restoration or reconstruction with turnback funds. Upon a request for the designation of such eligible portions from the board of county commissioners or the governing body of the urban municipality, the commissioner shall issue the official order for designation and notify the county or municipal screening committee of this action.

F. State-aid apportionments. All state-aid apportionments shall be made from the county state-aid highway fund and the municipal state-aid street

fund as provided by law. Apportionments to the respective counties and urban municipalities shall be released in accordance with 14 MCAR § 1.5032 G.

1. Money needs.

a. Construction costs estimates. To provide data to implement the formulas for state-aid apportionment, each county engineer and city engineer shall prepare cost estimates of construction required to improve his county state-aid or municipal state-aid system to approved standards.

b. Incidental costs. In addition to the direct construction or maintenance costs permitted under law, the cost of the following incidental items will be considered as eligible for inclusion in the total estimate of needs:

(1) County state-aid highways:

(a) Automatic traffic control signals.

(b) Lighting of intersections and bridges within approved standards.

(c) Proportionate share of all drainage costs within municipalities, to reflect the responsibility of the state-aid highway.

(2) Municipal state-aid streets:

(a) Right-of-way.

(b) Automatic traffic control signals.

(c) Lighting of intersections and bridges within approved standards.

(d) Proportionate share of all drainage costs, to reflect the responsibility of the state-aid street.

c. Deductible items. The respective screening committees shall consider reports from the commissioner, consisting of, but not limited to, the county state-aid allotments to townships, or the municipal state-aid payments on state trunk highways or county state-aid highways, covering all said allotments or payments made during the preceding year; and shall recommend to the commissioner the amount of deductions to be made in the money needs for each such county or municipality, in order to equalize their status with other counties or municipalities not making similar expenditures.

2. Screening committees.

a. Annual reports. A detailed report of the state-aid mileage and cost estimates shall be tabulated and referred to the respective screening com-

mittees appointed pursuant to law. These committees shall investigate and review all such mileage, cost estimates and the reports of those expenditures listed under deductible items, and shall, on or before the first day of November of each year, submit their findings and recommendations in writing to the commissioner as to the mileage and adjusted money needs for each of the governmental subdivisions represented by the respective committees.

b. Local road research account. Within the limitations provided by law, the respective screening committees shall annually determine, and recommend, the amount the commissioner shall set aside from the county state-aid highway fund or the municipal state-aid street fund, for the purpose of local road research. These funds, along with such federal funds as may be provided, shall be used for conducting research as provided by law. The use and proportionate share of such county and municipal funds shall be as specifically authorized in the project approval as provided for in 14 MCAR § 1.5032 L., 3., b.

3. Compilation of data by commissioner. The commissioner shall determine the apportionment percentage due each county and urban municipality in accordance with the formulas established by law.

4. Notice of annual apportionment. Not later than January 25 of each year, the commissioner shall certify the annual apportionment to each respective county or urban municipality.

G. State-aid payments. Annual apportionments to the respective counties and to urban municipalities shall be released in the following manner:

1. Maintenance apportionments. As soon as the annual county and urban municipal state-aid allotments have been determined, the commissioner shall apportion and set aside the following amounts:

a. County—regular account. Forty percent of the regular county state-aid allotment for the general maintenance of county state-aid highways.

b. County—municipal account. Forty percent of the county-municipal account allotment for the maintenance of the county-state-aid highways within municipalities of less than 5,000 population.

c. Revisions of county maintenance apportionments. The commissioner may, upon recommendation of the screening committee or upon receipt of a resolution from a county board and for good cause shown, increase or decrease the proportion to be used for maintenance under either 14 MCAR § 1.5032 C. 1. a. and/or b. above.

d. Urban account. Twenty-five percent of the total allocation, or \$1,500.00 per mile of improved municipal state-aid streets, whichever is the least, as the minimum allotment for the general maintenance of the approved state-aid system. The commissioner may modify the minimum payment to the extent necessary to accommodate the screening committee resolutions

pertaining to trunk highway turnback maintenance allowances. Those municipalities desiring to receive an amount greater than the established minimum shall file a request not later than December 15 preceding the annual allocation and shall agree to file a detailed annual maintenance expenditure report at the end of the year.

e. Transfer of unexpended balance. Any unobligated balance remaining in the state-aid maintenance account to the credit of any county or urban municipality, after final settlement has been made for the annual maintenance expenditures, shall be automatically transferred to the construction account of said county or municipality.

f. Payment schedule. At the earliest practical date, after the allotments have been determined, the commissioner shall release the following amounts to the respective counties and urban municipalities:

(1) Fifty percent of the maintenance allotment from the regular account of each county.

(2) Fifty percent of the maintenance allotment from the municipal account of each county that has filed a request for advance payments prior to the annual apportionment in January of each year. Such request shall include the estimate of the maintenance expenditures anticipated within said account during the calendar year.

(3) Fifty percent of the maintenance allotment to each urban municipality.

g. On or about July 1 of each year, the commissioner shall release an additional advance from the respective maintenance accounts listed above, in an amount not to exceed forty percent of the total maintenance allocations. The commissioner shall retain the remaining amounts within said allocations pending determination of the final amount due, based upon a report of actual maintenance expenditures and receipt of the district engineer's certification of acceptable maintenance performance. Urban municipalities receiving the minimum maintenance allotment as outlined in 14 MCAR § 1.5032 G. 1. d. above will be eligible to receive the balance remaining in their maintenance account upon the commissioner's receipt of the district engineer's certification of acceptable maintenance.

2. Construction apportionments. The construction portion of the annual allocation to each county and urban municipality shall be credited to their respective accounts and retained by the commissioner for payment on approved projects in accordance with the following procedure:

a. State-aid contracts. The commissioner, upon receipt of an abstract of bids and a certification as to the execution of a contract and bond therein, shall promptly release from the funds available to said county or urban municipality up to ninety-five percent of the state-aid portion of said contract. The commissioner, unless otherwise requested, shall retain the re-

maintaining percentage of the state-aid share of said contract, provided funds are available therefor, until the final cost is determined and the project accepted by the district engineer.

b. Federal-aid contracts. The commissioner, under authority of an agency agreement with the governing body of a county or urban municipality, and acting as its agent in federal-aid operations, will release from state-aid funds available therefor, ninety-five percent of the county's or urban municipality's share of the entire contract obligation for immediate redeposit in an agency account, to be used in paying the county's or urban municipality's share of the partial estimates and for advancing the federal share of such estimate payments. The commissioner shall retain the remaining percentage of the contract cost of said project until the final cost is determined and the project accepted by the district engineer. Where other than state-aid funds are to be used for depositing in the agency account, one hundred percent of the local governmental share of said contract amounts shall be deposited in the agency account prior to award of the contract.

c. Force account agreements. Partial estimates will be accepted on all projects approved for construction by local forces using the agreed unit prices for determining the value of the completed work. The commissioner shall promptly release from funds available therefor ninety-five percent of the cost of current accomplishments as reported by said partial estimates. Upon request of the county or urban municipality, the commissioner will set aside and retain their state-aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when final estimate is submitted and upon acceptance by the district engineer.

d. Payment limitations. Approval of state-aid projects by the commissioner does not imply that state-aid payments will be made in excess of the construction funds available from current state-aid allotments. Any county or urban municipality having depleted their currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless request for advance encumbrance has been approved or a project is completed in a subsequent year and funds are available.

e. Engineering costs.

(1) Preliminary engineering. Requests for reimbursement of preliminary engineering costs shall be submitted with the report of state-aid contract or with the initial partial estimate on an approved force account project. The commissioner shall upon receipt of such request supplemented by such documentation as may be requested by the commissioner authorize the reimbursement for actual engineering costs, not to exceed eight percent of the total estimated contract or agreement amount.

(2) Construction engineering. Requests for payment of construction engineering costs shall be submitted along with the final estimate report. The commissioner shall upon receipt of such request, authorize a construc-

tion engineering payment which will either be limited to five percent of the eligible construction costs where there are no unusual traffic or construction problems, or which may at the commissioner's discretion be paid in the maximum amount of ten percent of said construction costs on complex projects involving difficult construction features or the continuous movement of dense traffic.

f. Right-of-way. State-aid payments for right-of-way costs on approved projects shall be limited to ninety-five percent of the approved claim until the acquisition of all right-of-way required for the project is actually completed and the final costs established.

g. Advances from county funds. When the commissioner approves a request from the county board for the construction of an approved county state-aid project, which requires county state-aid highway funds in excess of the available allotment and which excess costs will be initially paid for from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay those locally financed expenditures out of subsequent construction apportionments to the county's state-aid accounts in accordance with the terms and conditions specified in the approved request.

h. Advance of county state-aid highway funds. Advance of county regular account funds to county municipal account fund. Where the commissioner approves a request from the county board for the advance of county regular account funds for use on a municipal section of an approved county state-aid highway project, and where repayments to the county regular account fund are to be made from subsequent accruals to the county municipal account fund, such repayments will be made by the commissioner, to the extent authorized by law, in the form of transfers from the county municipal account fund to the county regular account fund, in the amounts and at the time specified in the authorization.

i. Advances from urban municipal funds. When the commissioner approves a request from the governing body of an eligible urban municipality for the construction of an approved municipal state-aid street project, which requires funds in excess of the available allotment and which excess costs will be initially paid from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay these locally financed expenditures out of subsequent construction apportionments to the urban municipal account of that municipality in accordance with the terms and conditions specified in the approved request.

j. County or municipal bond account. Any county or urban municipality that resolves to issue bonds payable from the appropriate state-aid fund in accordance with law for the purpose of establishing, locating, relocating, construction, reconstructing or improving state-aid streets or highways under its jurisdiction shall certify to the commissioner within thirty days following issuance of the bond, the amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The commissioner shall set up a bond account therefor, itemizing the

total amount of principal and interest involved and he shall annually certify to the Commissioner of Finance the amount needed from the appropriate state-aid construction fund to pay the principal due on the obligation, and the amount needed from the appropriate state-aid maintenance fund to pay the current interest. Proceeds from bond sales are to be expended only on approved state-aid projects and for items determined to be eligible for state-aid reimbursement. A county or urban municipality which intends to expend bond funds on a specific state-aid project shall notify the commissioner of this intent forthwith upon the award of contract or the execution of a force account agreement. Upon completion of each such project, a statement of final construction costs shall be furnished to the commissioner by the county or the urban municipality.

k. Municipal state-aid funds for county state-aid or trunk highway projects. The governing body of an urban municipality desiring to use a portion of its state-aid funds for improvements within its boundaries of any state trunk highway or county state-aid highway, shall request such authorization by resolution. Before any such funds are released for said purposes, the resolution shall be approved by the commissioner. A copy of the approved resolution shall be filed with the state-aid engineer. This subparagraph does not apply to payments made for interest on bonds sold under Laws of Minnesota 1959, Chapter 538.

3. Semi-annual statements. Within thirty days after the close of each six month period, the commissioner shall submit to each county or urban municipality semi-annual statements as to the status of its respective state-aid accounts.

4. Other authorized payments. Certain specific allotments or transfers of state-aid funds have been authorized by law. These will be processed as hereinafter provided:

a. Transfers for hardship conditions or other local use. The county board or governing body of any urban municipality desiring to use a part of its state-aid funds for this purpose shall certify to the commissioner either that all of its existing state-aid routes are improved to state-aid standards or that it is experiencing a hardship condition in regard to financing its local roads or streets, while holding its current road and bridge levy equal to or greater than said levy for previous years. Where a hardship transfer is requested, the commissioner shall act to authorize or deny the transfer of state-aid funds for use outside of the approved state-aid system. Upon approval of the requested transfer, the commissioner without requiring any progress reports, shall within thirty days, authorize immediate payment of not less than fifty percent of the total amount authorized, with the balance to be paid within ninety days; or schedule immediate payment of the entire amount authorized if he determines there are sufficient funds available.

b. Township allotments. Upon receipt of a certified copy of a county board resolution, allocating a specific amount of its county state-aid construction funds for aid to its townships, which resolution shall indicate com-

pliance with the law governing such allocations and be forwarded to the commissioner on or before the second Tuesday of January each year, the commissioner shall authorize payment of the amount requested for distribution by the county for the construction of township roads.

c. Construction of selected park projects. As provided by law, a portion of the county state-aid highway funds shall be set aside and used for the construction, reconstruction and improvement of county state-aid highways which provide access to the headquarters of or the principal parking lot located within a state park. Such funds, so set aside, shall be expended for this purpose only on a request from the Commissioner of Natural Resources. Projects so selected will be approved by the Commissioner of Transportation in accordance with the procedure established for other state-aid operations.

d. Disaster account. Any disaster appropriation approved by the commissioner for a county or urban municipality in accordance with law, shall be promptly paid to the county or urban municipality for which such appropriation was authorized. The funds so allotted and paid to the county or urban municipality can only be spent for the purpose for which they were authorized, and within a reasonable time period specified by the commissioner. Forthwith upon completion of the work for which the disaster payment was made, or the expiration of the time specified for doing such work, whichever occurs first, the county or urban municipality shall file a report certifying the extent of the authorized work completed, and showing the total expenditure made therein. In the event the total disaster allotment was not required or used for the purpose specified, the remainder shall be promptly returned to the commissioner for redeposit in the county state-aid highway fund or the municipal state-aid street fund, as the case may be, and apportioned by law. Damage estimates submitted by a county or urban municipality must exceed ten percent of the current annual state-aid allotment to the county or urban municipality before the commissioner shall authorize the disaster committee to inspect the disaster area.

e. Research account. County and municipal state-aid funds that may be annually allocated to the research account shall be used solely for those research projects recommended by the local road research board and approved by the commissioner. Unexpended balances in this account shall at the end of each year be transferred back to the state-aid fund from which they were obtained.

f. Turnback accounts. A percentage of the net highway user tax distribution fund has been set aside by law and apportioned to separate accounts in the county state-aid highway fund and the municipal state-aid street fund, and respectively identified as the county turnback account and the municipal turnback account. Further, a percentage of the county turnback account has been set aside and shall be used for replacement or reconstruction of town bridges 10 feet or more in length, in those counties that have two or more towns, pursuant to the law. This latter account shall be known as the county town bridge account.

(1) Town bridge monies allocation. The sums of monies set aside for town bridges shall be allocated to the eligible counties on the basis of town bridge needs.

(2) Surplus turnback funds. At any time the commissioner determines that either the county or municipal turnback accounts, notwithstanding the town bridge accounts, has accumulated a surplus not needed for turnback purposes, he shall properly notify the Commissioner of Finance requesting the transfer of such surplus to the respective county state-aid highway fund or municipal state-aid street fund for apportionment as provided by law.

(3) Advances from county or urban municipal funds. When the commissioner approves a request from the governing body of a county or urban municipality for the construction of an approved county state-aid or municipal state-aid turnback project which will require funds in excess of the available turnback fund balance and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the county's or urban municipality's turnback fund in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the respective turnback funds shall not exceed forty percent of the last county or municipal turnback allotment. Any advances shall be repaid in accordance with the terms of the approved request from money accruing to the respective turnback funds.

(4) Advances from the town bridge account. When the commissioner approves a request from the governing body of a county for the replacement or reconstruction of a town bridge which will require funds in excess of the county's available town bridge account and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the town bridge account in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the town bridge account shall not exceed forty percent of the last town bridge apportionment. Any advances shall be repaid in accordance with terms of the approved request from monies accruing to the respective town bridge accounts.

(5) Release of turnback account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county or urban municipality from turnback account funds up to ninety-five percent of the turnback share of said contract. The commissioner shall retain the remaining percentage of the turnback share of said contract, until the final cost is determined and the project accepted by the district engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall release from the respective turnback account ninety-five percent of the value as reported by said partial estimates on an eligible turnback project. Requests for reimburse-

ment of preliminary and construction engineering costs on an eligible turn-back project shall be submitted and payment will be authorized in accordance with 14 MCAR § 1.5032 G. 2. e. (1), (2) engineering costs.

(6) Release of town bridge account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county, from town bridge account funds, up to ninety-five percent of the town bridge account share of said contract. The commissioner shall retain the remaining five percent until the final cost is determined and the project is accepted by the district engineer.

g. Transfer of accumulated county municipal account funds to county regular account fund. Upon receipt of a certified copy of a county board resolution requesting the transfer of a portion of or the total accumulated amount in the county municipal account fund, to the county regular account fund, the commissioner shall transfer said funds provided:

(1) The county submits a written request to the commissioner and holds a public hearing within 30 days of the request to receive and consider any objections by the governing bodies of cities within the county having a population of less than 5,000 and no written objection is filed with the commissioner by any such city within 14 days of that hearing.

(2) If within 14 days of the public hearing held by the county a city having a population of less than 5,000 files a written objection with the commissioner identifying a specific county state-aid highway within the city which is requested for improvement and the commissioner investigates the nature of the requested improvement and finds the identified highway is not deficient in meeting minimum state-aid street standards or the county has shown evidence that the identified highway has been programmed for construction in the county's five-year capital improvement budget in a manner consistent with the county's transportation plan or there are conditions created by or within the city beyond the control of the county that prohibit programming or reconstruction of the identified highway.

H. Minimum state-aid standards.

1. Geometric design standards.

a. The following standards shall apply to all rural design undivided roadways:

RURAL UNDIVIDED GEOMETRIC STANDARDS

Projected ADT	Lane Width	Shoulder Width	(1) Inslope	(2) Recovery Area	(3) Design Speed	Surfacing	Design Strength	New (4) Rehabilitated Bridges Width Curb-Curb	Bridges to Remain	
									Width Curb-Curb	Structural Capacity
0-49	11'	1'	3:1	7'	30-50	Traffic Bound	—	24'	22'	H-15
50-99	11'	3'	3:1	9'	30-50	Traffic Bound	—	28'	22'	H-15
100-399	12'	4'	4:1	15'	40-50	Paved	7 Ton Ult. 9 Ton	32'	24'	H-15
400-749	12'	4'	4:1	20'	40-60	Paved	7 Ton Ult. 9 Ton	32'	24'	H-15
750-999	12'	6'	4:1	25'	40-60	Paved	7 Ton Ult. 9 Ton	36'	28'	H-15
1000 & Over	12'	8'	4:1	30'	40-60	Paved	9 Ton	40'	30'	H-15

- (1) Applies to Slope Within Recovery Area Only.
- (2) Obstacle Free (Measured from edge of Traffic Lane) Culverts with less than 27" Vert. height allowed without protection in recovery area.
- (3) Subject to Terrain.
- (4) Minimum widths listed shall apply, except that lesser widths may be approved upon justification where the bridge length exceeds 200' - HS-20 loading required.

b. The following standards shall apply to those roadways that meet indicated conditions:

SUBURBAN GEOMETRIC DESIGN STANDARDS*

Projected ADT	Lane Width	Shoulder Width	Inslope (1)	Recovery Area (2)	Design Speed (3)	Structural Design	New & (4) Rehabilitated Bridges Width Curb-Curb	Bridges to Remain	
								Width Curb-Curb	Structural Capacity
Less Than 1000	12'	6'	4:1	20'	40	9 Ton	36'	28'	H-15
1000 & Over	12'	8'	4:1	20'	40	9 Ton	40'	30'	H-15

*This standard shall apply only when the project is located in an area where the following conditions exist:

1. A platted area or an area in a detailed development process, or
2. Physical restraints are present which prevent reasonable application of the Rural Design Standards.

- (1) Applies to slope within recovery area only.
- (2) Obstacle free (measured from edge of traffic lane).
- (3) Desirable design speed 50 mph.
- (4) Minimum widths listed shall apply, except that lesser widths may be approved upon justification where the bridge length exceeds 200'.
HS-20 Loading required.

c. The following standards shall apply to all urban design roadways:

URBAN GEOMETRIC STANDARDS

TOTAL WIDTH IN FEET FACE TO FACE OF OUTER CURBS							
No. of Through Lanes	Density	Undivided, No Parking Lanes	With Median, No Parking Lanes		Undivided, With Parallel Parking Lanes		With 4' Median and Two Parallel Parking Lanes
			4' Median	14' Median	One Side	Both Sides	
2	Low	28			34	40	
(Collector)	High	32			36	46	
4	Low	46	50	60	56	64	70
(Collector)	High	50	54	64	60	68	74
2							
(Arterial)	Low	36			38	48	
4	Low	50	54	64	60	68	74
(Arterial)	High	52	58	68	62	72	80
6							
(Arterial)	High	76	82	92	86	96	104

URBAN ROADWAY CLASSIFICATION

CLASSIFICATION	FACILITY FUNCTION	DESIGN CHARACTER	TYPICAL TRIP LENGTH	ADT RANGE
Collector (Low Density)	Serves as feeder facility from neighborhood and local streets to the collector/arterial network. Also serves local access/parking function for local business and residential development.	Low to Moderate operating speeds of 20-25 mph.	Short—generally less than 1/2 mile on this type facility.	200-3000 ADT
Collector (High Density)	Collects traffic from local and feeder streets and connects with arterials. Can serve local business districts.	Variable—should provide for equal service to access and mobility.	Variable	1000-7000 ADT
Arterial (Low Density)	Should serve intra-community travel. Augments high density arterial system.	Some access control with emphasis on mobility.	Variable	5000-10,000 ADT
Arterial (High Density)	Forms backbone of urban network along with freeway system. Serves as through facility. Also can serve major traffic generators such as shopping centers, stadiums, etc.	High. Must provide for through nature of traffic and also accounts for frequent turning movements. Control of access and width for separation of turning movements. Speeds generally 30-50 mph.	Longer—usually greater than 1-2 miles.	8000 ADT and up

d. The following minimum requirements shall apply to rural roadways on resurfacing projects:

SPECIAL RESURFACING PROJECTS
(Overlays)
COUNTY STATE AID HIGHWAYS
(Minimum Requirements)

Present A.D.T.	Strength In Tons Per Axle	Surface		Shldr - Shldr Width	Design Speed
		Type	Width		
Under 100	7	Paved	22	26	35
100 - 749	7	Paved	22	26	45
750 - 999	7	Paved	22	30	45
1000 - 2000	7	Paved	24	32	45
2001 - Over	7 Ult 9	Paved	24	32	45

Widths of bridges to remain in place must equal roadway pavement width.

e. The following vertical clearances for underpasses shall apply:

VERTICAL CLEARANCES FOR UNDERPASSES

	Rural-Suburban Design Vertical Clearance	Urban Design Vertical Clearance
Highway under roadway bridge	16'4"	14'6"
Highway under railroad bridge	16'4"	14'6"
Highway under pedestrian bridge	17'4"	14'6"
Highway under sign structure	17'4"	14'6"
Railroad under roadway bridge	22'0"	22'0"

2. Specifications. Specifications for construction shall be the latest approved Minnesota Department of Transportation specifications, except as modified by special provisions which set forth conditions or requirements for work or materials not covered by the approved specifications, or which set forth conditions or requirements to meet exigencies of construction peculiar to the approved project.

3. Right-of-way. The minimum widths of right-of-way for all state-aid

routes shall be not less than sixty feet within municipalities and sixty-six feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the commissioner. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section.

4. Parking provisions.

a. The following criteria must be used in establishing diagonal parking:

Minimum Design Standards for 45° & 60° Diagonal Parking

Parking Angle	Stall Width	Stall Depth	Traffic Aisle Width	Length along Curb	1/2 Roadway Width (Minimum)	Present ADT	Legal Speed Limit
45°	9'	19.8	13.2'	12.7'	33'	Less than 3000	30 MPH or less
60°	9'	21.0'	18.0'	10.4'	39'	Less than 3000	30 MPH or less
45°	9'	19.8'	25.2'	12.7'	45'	3000 and over	30 MPH or less
60°	9'	21.0'	30'	10.4'	51'	3000 and over	30 MPH or less

b. Diagonal parking provisions shall be established by cooperative agreement between the local road authority and the commissioner.

(1) The cooperative agreement shall indicate the angle of parking, provide for payment marking of the parking lanes and the provision that the road authority may alter parking provisions if traffic volumes exceed the design criteria.

c. The minimum design standards for roadways with parallel parking are shown in these rules under 14 MCAR § 1.5032 H. 1. c.

d. Minn. Stat. § 169.34 must be adhered to in determining diagonal parking spacing.

I. State-aid operations. State-aid funds allotted to counties and urban municipalities shall be expended in accordance with the following provisions:

1. Maintenance.

a. The commissioner shall require a reasonable standard of maintenance on all state-aid routes within the county or urban municipality, con-

sistent with available funds, the existing street or road condition and the traffic being served. This maintenance shall be considered to include, but shall not be limited to:

(1) The maintenance of all road surfaces, shoulders, ditches and slopes and the cutting of brush and weeds affecting the respective state aid systems;

(2) The maintenance and inspection of all bridges, culverts and other drainage structures pursuant to Minn. Stat. § 165.03;

(3) The maintenance of all regulatory and direction signs, markers, traffic control devices and protective structures in conformance with the current manual on uniform traffic control devices affecting the respective state-aid systems;

(4) The striping of all pavements of 22 feet or more in width, consistent with the traffic service provided, and for which there are no pending improvements;

(5) The exclusion of advertising signs, billboards, buildings and other privately owned installations other than utilities of public interest from the right of way of any approved state-aid projects.

(6) The installation of route markers on rural state-aid highways.

(a) Route markers shall be a minimum of 16" x 16" square with black letters or numerals on a white background.

(b) Wherever county road authorities elect to establish and identify a special system of important county roads, the route marker shall be pentagonal shape and shall consist of a reflectorized yellow legend (county name, route letter and number) and border on a blue background of a size compatible with other route markers.

b. Unsatisfactory maintenance. When, in the opinion of the commissioner, the maintenance of any county or municipal state-aid route is determined to be unsatisfactory, he shall retain up to ten percent of the current annual maintenance apportionment to the responsible county or urban municipality. Funds so retained shall be held to the credit of that county or urban municipality until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

c. Biennial report. The commissioner's biennial report to the legislature shall enumerate all such funds retained more than ninety days, together with an explanation for this action.

2. Construction. Survey, plans and estimates for all state-aid projects shall be made by or under the immediate direction of the county or city engineer in accordance with standards as to form and arrangement prescribed by the commissioner.

a. Plans and estimates. Plans and estimates for each state-aid construction project must be submitted for review. Each plan shall show all subsequent stages required for the completion of the improvement, portions of which may be covered by later contracts or agreements. Only those projects for which plans are approved by the state-aid engineer prior to the award of contract or approval of a force account agreement shall be eligible for state-aid construction funds.

b. Project numbers. Approved projects will be assigned state-aid project numbers and shall be so identified in records of the Minnesota Department of Transportation and the local governmental unit.

c. Contract information. Upon award of a state-aid contract by any county or urban municipality the engineer thereof shall furnish the commissioner with an abstract of bids and a certification as to the specific contract and bond executed for said approved construction work.

d. Force account. Any county or urban municipality desiring to use funds credited to it on a force account basis shall have its engineer file a request with the commissioner for each construction project to be built by the county or urban municipality at agreed unit prices, which shall be based upon estimated prices for contract work, less a reasonable percentage to compensate for move-in, move-out, taxes and contractor's profit. Such requests shall contain a complete list of pay items and the unit prices at which it is proposed to do the work. Prior to the approval by the commissioner, the district engineer shall file his recommendations with the commissioner as to the request and the cost estimate. Items of work other than those listed as a pay item or approved by supplemental agreements shall be considered incidental work not eligible for state-aid payment.

e. Project reports. Prior to final acceptance of each construction project by the commissioner, the county engineer or the city engineer shall submit to the commissioner such final project records as the commissioner may deem necessary or desirable.

f. Project payments. On all state-aid construction projects payments will be made in accordance with 14 MCAR § 1.5032 G., 2., a., b., c., d.

3. Turnback accounts. The funds in the county and municipal turnback accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. Further, a percentage of the county turnback account has been set aside, as provided by law, and shall be used for replacement or reconstruction of town road bridges that are 10 feet or more in length in those counties that have two or more towns.

a. Eligibility.

(1) Any former trunk highway reverted to county or urban mu-

municipal jurisdiction subsequent to July 1, 1965, and which is part of the county state-aid highway or municipal state-aid street systems, shall be eligible for payment from the respective turnback account for all costs covering the restoration or the reconstruction and improvement of said highways as detailed on approved plans. Approval of plans for the initial construction of such projects shall be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of said projects. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds.

(2) Any town bridge, 10 feet or more in length, is eligible for replacement or reconstruction if after all pertinent data supplied by local citizenry, local units of government, the Regional Development of Commission or the Metropolitan Council, is reviewed by the county board and a formal resolution by the county board is adopted identifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to ninety-five percent of the cost of the bridge, and will be made in accordance with 14 MCAR § 1.5032 G. 4. f. (6).

b. Plan approval and construction requirements. Plans for all county or municipal state-aid turnback or town bridge projects must be submitted to the commissioner and be approved before any reconstruction or improvement work is undertaken. All of the state-aid rules that are consistent with the turnback regulations shall apply to all projects to be financed from the county or municipal turnback accounts or the town bridge account.

c. Construction authorization. As soon as the plans for a state-aid turnback or town bridge project are approved, the county or urban municipality shall be furnished either an authorization to proceed with construction or a notice that sufficient funds are not available within the applicable turnback account or town bridge account and that a priority has been established for said project for construction authorization as soon as funds are available. Where local funds are advanced by the county or urban municipality to construct an approved project for which sufficient funds are not available in the turnback account or town bridge account authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with 14 MCAR § 1.5032 G. 4. f. (3) has been approved by the commissioner.

J. General rules. In addition to those provisions heretofore mentioned, expenditures of state-aid funds by any county or urban municipality shall conform to the following rules:

1. Legal requirements. State-aid construction projects shall comply with all federal, state, and local laws, together with all ordinances, rules and

regulations applicable to the work. Responsibility for compliance shall rest entirely with the local unit of government.

2. Bridge plans. Plans for all bridge construction or bridge reconstruction projects shall be approved by the bridge engineer of the Minnesota Department of Transportation prior to the approval by the state-aid engineer.

3. Reports and records. Annual reports, status maps, and all maintenance and construction reports and records shall be filed at the time and in the form specifically requested by the commissioner or his authorized representatives.

4. Non-compliance. The commissioner, upon determination that a county or urban municipality has failed to comply with the established state-aid requirements, other than for unsatisfactory maintenance, or has failed to fulfill an obligation entered into for the maintenance or improvement of any portion of a state trunk highway or interstate route, shall determine the extent of the failure and the amount of such county's or urban municipality's apportionment that shall be retained until such time as suitable compliance is accomplished, or the obligation fulfilled, as the case may be. The amount withheld shall reasonably approximate the extent of the noncompliance or the value of the unfulfilled obligation.

5. Defective work. Whenever unsatisfactory conditions are found to exist on an approved construction project, the district state-aid engineer can, if necessary, order the suspension of all work affected thereby until said condition is satisfactorily corrected. Failure to conform with such suspension order shall be considered willful non-compliance. All work or materials which fail to conform to the requirements of the contract or force account agreement shall be considered as defective. Unless the work is satisfactorily remedied or repaired before final acceptance is requested, the commissioner shall either withhold funds in accordance with paragraph 4., or shall establish the reasonable value of the defective work as the basis for settlement with the county or urban municipality.

6. Engineering and technical assistance. The commissioner may, as authorized by law, execute agreements with any county or urban municipality for technical assistance from the Department of Transportation. These services, if furnished, shall be paid for by the governmental subdivision at the rates established by the Department of Transportation.

K. General state-aid limitations. The extent of state-aid participation on special items shall be limited as follows:

1. Lighting. The lighting of hazardous or accident prone locations, when concurred in by the traffic engineer of the Minnesota Department of Transportation shall be considered as eligible expense to the following extent:

a. New construction. Cost of complete lighting at approved locations only on multiple-lanes.

b. Cost of lighting approved intersections on single-lane design.

c. Locations where the municipality would normally install lighting units are not considered as an eligible expense. The county or urban municipality shall furnish traffic information or other needed data to support its request.

d. Reconstruction. All costs incidental to the necessary revision or relocation of existing lighting facilities, up to and including the cost of completing the new base.

2. Traffic control signals.

a. State-aid projects.

(1) Plans for the construction or reconstruction of the electrical portion of traffic control signals shall be designed by a master electrician licensed in the State of Minnesota or by an electrical engineer registered in the State of Minnesota.

(a) The district state aid engineer shall review said plans upon submittal by the local engineer and make recommendations to the state-aid engineer.

(b) The state-aid engineer shall approve the electrical portion of said plan based on the certification of the master electrician or electrical engineer and the remainder of the plan based on the certification of a registered professional civil or highway engineer.

(2) Plans for the construction or reconstruction of the electrical portion of traffic control signals not certified by a master electrician or electrical engineer shall be approved by the traffic engineer of the Minnesota Department of Transportation prior to the approval of the state-aid engineer.

b. Federal aid projects. Plans for the construction or reconstruction of traffic control signals shall be approved by the traffic engineer of the Minnesota Department of Transportation prior to the approval by the state-aid engineer.

c. The extent of state-aid participation in signal installations shall be determined by the state-aid engineer in relation to the proportion of state-aid routes involved at each installation.

3. Right-of-way. The cost of any lands and properties required to accommodate the design width of the street or highway as governed by the state-aid standards, including necessary width for sidewalks, shall be considered as eligible expense. This cost shall include relocation and moving costs as provided by law and shall include damages to other lands if reasonably justified to the satisfaction of the commissioner.

4. Sidewalks. On county state-aid projects, sidewalks shall be con-

sidered as an eligible expense only where the proposed construction necessitates the alteration of existing walks. On municipal state-aid street projects, state-aid payment for sidewalk shall be made when requested by the urban municipality.

5. Storm sewers. Plans containing items for storm drainage shall be reviewed by the hydraulics engineer for the Minnesota Department of Transportation and his recommendations obtained as to design features and the proportionate share chargeable to the state-aid system. These recommendations along with those of the district engineer shall be considered in determining the maximum state-aid participation in said work.

L. Local road research board.

1. The commissioner shall appoint a local research board consisting of the following members:

a. Four county engineers, only one of whom may be from a county containing a city of first class.

b. Two city engineers, only one of whom may be from a city of first class.

c. Two Department of Transportation staff engineers.

d. One University of Minnesota staff engineer.

e. One ex officio secretary, who shall be the department's research coordination engineer.

2. Future appointments. All appointments of county and city engineers, except for unexpired terms shall be for three years. The other members shall serve at the will of the commissioner.

3. Operating procedure:

a. The board shall initially meet on call from the commissioner, at which time they shall elect a chairman, and establish their own procedure for the selection of research projects to be recommended to the commissioner. Final determination on all such research projects shall be made by the commissioner, and the cost thereof shall be paid out of the state-aid research accounts provided for by law.

b. In the event that the board recommends a project covering research in methods of and materials for the construction and maintenance of both the county state-aid highway system and the municipal state-aid street system, the board shall also recommend to the commissioner the proportionate share of the cost of such project to be borne by the respective county state-aid highway research account, and the municipal state-aid street research account, based on the benefits to be realized by each system from such research project.

M. Variance.

1. Any formal request by a political subdivision for a variance from these rules shall be submitted to the commissioner in writing.

2. Contents of request.

a. The specific rule or standard for which the variance is requested.

b. The reasons for the request.

c. The economic, social, safety and environmental impacts which may result from the requested variance.

d. Effectiveness of the project in eliminating an existing and projected deficiency in the transportation system.

e. Effect on adjacent lands.

f. Number of persons affected.

g. Safety considerations as they apply to:

(1) Pedestrians.

(2) Bicyclists.

(3) Motoring public.

(4) Fire, police and emergency units.

3. The commissioner shall publish notice of variance request in the *State Register* and shall request comments from all interested parties be directed to the commissioner within 20 calendar days from date of publication.

4. The commissioner may appoint a committee to serve as required to investigate and determine a recommendation for each variance. No elected or appointed official that represents a political subdivision requesting the variance may serve on the committee.

a. The committee shall consist of any five of the following persons:

(1) Not more than two county engineers only one of whom may be from a county containing a city of the first class.

(2) Not more than two city engineers only one of whom may be from a city of the first class.

(3) Not more than two county officials only one of whom may be from a county containing a city of the first class and

(4) Not more than two city officials only one of whom may be from a city of the first class.

b. Operating procedure.

(1) The committee shall meet on call from the commissioner at which time they shall elect a chairperson and establish their own procedure to investigate the requested variance.

(2) The committee shall consider:

(a) The economic, social, safety and environmental impacts which may result from the requested variance in addition to the following criteria:

(b) Effectiveness of the project in eliminating an existing and projected deficiency in the transportation system.

(c) Effect on adjacent lands.

(d) Number of persons affected.

(e) Effect on future maintenance.

(f) Safety considerations as they apply to:

(i) Pedestrians.

(ii) Bicyclists.

(iii) Motoring public.

(iv) Fire, police and emergency units.

(g) Effect that the rule and standards may have in imposing an undue burden on a political subdivision.

(3) The committee after considering all data pertinent to the requested variance shall recommend to the commissioner approval or disapproval of the request.

5. The commissioner shall base his decision on the criteria as specified in 14 MCAR § 1.5032 M. 4. b. (2), (a)-(g) and shall notify the political subdivision in writing of his decision.

6. Any variance objected to in writing or denied by the commissioner is subject to a contested case hearing as required by law.

N. Personal expenses authorized board or committee members. The commissioner will authorize the payment of all necessary personal expenses in

connection with meetings of board and committee members, appointed by him for state-aid purposes. These expenses shall be reported on forms furnished by the commissioner and paid from the state-aid administrative fund.

O. Identification and numbering. The commissioner is authorized and empowered to change the numbering system of the approved rules.

P. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

§ 1.5033 Rules and regulations for utilities on trunk highways under chapter 500 Laws of 1959.

A. Purpose. The purpose of 14 MCAR § 1.5033 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in the Laws of Minn. 1959, ch. 500, Article II, § 45 (Minn. Stat. § 161.45) with reference to the placing, constructing, reconstructing and maintaining of utilities across, along, upon or under the right of way of trunk highways.

B. Scope. The scope of 14 MCAR § 1.5033 is confined within the framework of and consistent with the Laws of Minn. 1959, ch. 500, Article II, § 45.

C. Definitions.

1. Utility. Under this order "utility" shall mean and include all privately, publicly or co-operatively owned communication lines and facilities, any systems, lines and facilities for the distribution and transmission of electrical energy, oil, gas, water, sewer, steam and other pipe lines, railways, ditches, flumes or other structures which under the laws of this State or the ordinance of any village or city may be constructed, placed or maintained across, along or on trunk highway right of way. Dependent upon the meaning intended in the context, "Utility" shall also mean the utility company, inclusive of any wholly owned subsidiary.

2. Interstate highways. Under this order "interstate highways" shall mean all trunk highways which are a part of the Interstate System.

3. Non-interstate highways. Under this order "non-interstate highways" shall mean all trunk highways which are not a part of the Interstate System.

4. Trunk highways. Under this order "trunk highways" shall mean all trunk highways including those which are a part of the Interstate System.

D. General.

1. Except as otherwise permitted, utility construction and relocation on trunk highway right of way shall not be commenced until an application for a Permit for construction has been made and such Permit granted. The Permit for construction sketch shall show the location of the proposed utility with reference to pertinent features such as the right of way lines, curb lines, trunk highway center line, etc. A copy of the sketch shall be provided for each copy of such Permit. Prints of trunk highway right of way maps are available upon request from the Road Plans Information Office, Department of Transportation Building, at the Transportation Building, St. Paul, Minnesota 55155.

2. Burning or disking operations and/or the use of chemicals to control or kill trees, brush and other vegetation is prohibited without prior approval from the Assistant District Director, Maintenance.

3. All waterways and lines of drainage shall remain operative.

4. Wherever topsoil and sod are disturbed they shall be replaced and maintained satisfactorily until the turf is established.

5. The utility facility and installation shall not interfere with any existing utility facilities on the trunk highway right of way.

6. When necessary, barricades, warning devices and flagmen shall be provided by the Utility during all phases of their construction and maintenance operations on the trunk highway right of way.

7. Utilities along the interstate highways shall be located outside the control of access lines except as outlined below. Where the control of access lines coincide with the right of way lines, the utilities shall generally be located on private property. Where the control of access lines and right of way lines do not coincide, utilities may in general be located in the area between them. All utilities shall be serviced and maintained without access from the ramps, loops and through traffic roadbeds. Utilities may be serviced from frontage roads and roads other than another interstate highway which cross either over or under the interstate highway. At aerial crossings of an interstate highway, supporting poles may be located on interstate highway right of way if they are a minimum of thirty feet beyond the shoulders of all through traffic roadbeds; however, in no event shall they be located in a median unless its width is eighty feet or more. Manholes and other points of access to underground crossings may be permitted on the interstate highway right of way only when located outside the shoulders of the through traffic roadbeds, loops or ramps. The restrictions of this paragraph shall not apply to utility lines which service facilities required for operating the interstate highway.

There may be extreme cases where, under strictly controlled conditions, a utility may be permitted inside the control of access lines along an interstate highway. In each case there must be a showing that any other utility location is extremely difficult and unreasonably costly to the utility consumer, that the installation on the right of way of the interstate highway will not adversely affect the design, construction, stability, traffic safety or operation of the interstate highway and that the utility can be serviced without access from through traffic roadbeds, loops or ramps.

8. At the time of construction of the utility and at the times of subsequent maintenance, prior approval shall be obtained from the District Director or his authorized representative for the cutting and trimming of trees within the trunk highway right of way. Wherever trees are cut the resulting stumps shall be removed unless otherwise provided in the Special Provisions of the Permit for construction. Any holes caused by stump removal shall be backfilled, the area leveled and all materials associated therewith disposed of outside the trunk highway right of way. The utility shall advise the District Director or his authorized representative at least 48 hours in advance of its intent to start clearing and grubbing operations so that proper supervision can be provided.

9. The Utility shall obtain a Work Permit from the office of the Assistant District Director, Maintenance, prior to performing service and maintenance operations on the interstate highways and shall also obtain a Work Permit prior to performing service and maintenance operations on the non-interstate highways when such operations require opening and disturbing the surface of the right of way thereof. In all other instances the Utility shall notify the office of the Assistant District Director, Maintenance, prior to performing service and maintenance operations on the non-interstate highways which interfere with the normal flow of traffic thereon. However, the Company may perform service and maintenance operations on the trunk highways including opening and disturbing the surface of the right of way without a Work Permit in those instances where an emergency exists that is dangerous to the life or safety of the public and which requires immediate repair. The Utility upon knowledge of such an emergency shall immediately notify the State Patrol Division. The Utility shall take all necessary and reasonable safety measures to protect the traveling public and shall cooperate fully with the State Patrol Division to that end. The Utility in such an event will request a Work Permit from the office of the Assistant District Director, Maintenance, not later than the second working day thereafter when a Work Permit would ordinarily have been required but for the emergency.

10. If at any time the State of Minnesota, acting through its Commissioner of Transportation, shall deem it necessary to make any improvements or changes on all or any part of the right of way of the trunk highway which affect a utility located on trunk highway right of way, then and in such event, the owner of the utility shall within 15 days after written notice from the Commissioner of Transportation or his authorized agent, proceed to alter, change, vacate or remove said utility from the trunk highway right of way so as to conform to said trunk highway changes and as directed by the Commissioner of Transportation. Such work shall be done without any cost whatsoever to the State of Minnesota except as otherwise provided by law or agreement and shall be completed within the date specified in said written notice, which date shall be reasonable under the circumstances. The Utility shall assume all liability and save the State of Minnesota harmless from any and all claims of damage of any nature whatsoever occasioned by reason of not having removed said utility within the time specified in said notice. Notwithstanding the provisions of this Section, the State may reimburse a municipality for the cost of the first relocation of a municipally owned utility located within the limits of a municipal street at the time that the street was taken over by the State as a trunk highway, when such relocation is required by construction or reconstruction of the trunk highway.

11. Except for the negligent acts of the State, its agents and employees, the Utility shall assume all liability for, and save the State, its agents and employees, harmless from, any and all claims for damages, actions, or causes of action arising out of the work to be done herein and the continuing uses by the Utility, including but not limited to the placing, constructing, reconstructing, maintaining and using of said utility under this application and Permit for construction.

12. The Commissioner of Transportation may require the Utility, or its contractor, to furnish a deposit in the form of a certified check, a surety bond or corporate undertaking, in favor of the State of Minnesota, Commissioner of Transportation, for any expense incurred by the State in the repairing of damage to any portion of the trunk highway right of way caused by work performed under a Work Permit or a Permit for construction, including any out of the ordinary engineering supervision and inspection expense provided by the State. In those instances wherein a deposit is required, the amount of the deposit shall be specified in the Special Provisions of the Permit. If a check is furnished, any monies remaining over and above such expense shall be returned to the applicant.

13. The Work Permit or Permit for construction as issued does not in any way imply an easement on private property.

14. The installations shall be made in conformity with all applicable laws, regulations and codes covering said installations. All installations shall be made in conformity with regulations of governmental agencies for the protection of the public.

15. Upon completion of an installation, the Utility shall restore the trunk highway right of way to its original condition. The Utility shall then notify the office of the Assistant District Director, Maintenance, or Project Engineer of the completion of the work so that inspection can be made to determine its acceptability.

E. Aerial.

1. There shall be only a single pole line on the trunk highway right of way on either side of the center line thereof, unless otherwise authorized in the Special Provisions of the Permit for construction.

2. Longitudinal installations on non-interstate trunk highways shall normally be located in the outer five feet of the right of way. At crossings of the non-interstate trunk highway, poles shall be placed at a minimum of thirty feet from the shoulder lines of the through roadbeds unless right of way widths are prohibitive to such location.

3. Unless clearly indicated on the Permit for construction sketch, the location of all brace poles, anchors and anchor poles within the limits of the trunk highway right of way shall be approved by the District Director or his authorized representative prior to actual installation.

4. In those instances in which a Utility is issued a Permit or Permits for construction on both sides of the trunk highway right of way in a given area, such Permit is conditioned upon the Utility subsequently providing joint use to other Utilities upon reasonable terms mutually agreeable to the Utilities.

F. Underground.

1. All crossings of the roadbeds of the trunk highways shall be made by boring inside a casing or carrier pipe, or by jacking, unless this procedure is modified in the Special Provisions of the Permit for construction. The auger shall not lead the casing or carrier pipe by more than one inch. Open trenching shall be restricted to the area from 5 feet beyond the shoulder to the right of way line except as modified in the Special Provisions of the Permit for construction.

2. When pipes with bells or flanges are installed, the crossings of the roadbeds of trunk highway shall be made by boring inside a conduit as provided in 14 MCAR § 1.5033 F. 1. of this section of jacking a conduit of sufficient diameter to permit threading the carrier pipe through it.

3. All voids caused by jacking or boring shall be filled by pressure grouting. The grout material shall consist of a sand-cement slurry of at least two sacks of cement per cubic yard and a minimum of water to assure satisfactory placement.

4. The underground utilities shall be so installed as virtually to preclude any necessity for disturbing the roadbeds to perform maintenance operations.

5. Underground installations shall be accomplished without damaging or destroying the principal root structure of specimen trees.

G. Order No. 31424 is effective on August 1, 1961.

§ 1.5036 Rules and regulations establishing design specifications for drive-ways along the trunk highway system of the state of Minnesota.

A. Purpose. The purpose of this regulation is to establish certain optimum design specifications for driveways providing a means of ingress to and egress from private property located along and adjacent to the right of way of the trunk highway system of the State of Minnesota.

B. Scope. The scope of this regulation is confined within the framework of and intended to be consistent with Minn. Stat. 1965, § 160.18, subd. 3.

C. Definitions. For the purposes of these regulations the terms shall have the meanings given them:

1. District and street classification. In the absence of an established classification by local authorities, the following definitions shall govern.

a. Urban district. Urban district means those properties contiguous to the trunk highway system of the State of Minnesota, including any street, that are built up with structures devoted to business, industry, or dwelling houses where such structures are situated at intervals of less than one hundred (100) feet for a distance of one quarter ($\frac{1}{4}$) of a mile or more.

b. Rural district. Rural district means all other locations not meeting the urban district definition.

c. Major street. Any road that has an average annual daily traffic volume of fifteen hundred (1500) vehicles or greater.

d. Minor street. Any road that has an average annual daily traffic volume less than fifteen hundred (1500) vehicles.

2. Frontage. The length along the highway right of way line of a single property tract between the edges of the property. Corner properties have a separate frontage along each highway, street or road.

3. Frontage boundary line (F. B. Line). A line normal to the highway centerline, at each end of the frontage, extending from the right of way line to the edge of the traveled way.

4. Buffer area. Buffer area is the area along the frontage between the traveled way and the right of way line and within the frontage boundary lines.

5. Driveway Width (W). Driveway width is measured normal to the driveway at the narrowest point (between parallel edges). The widths shown are the usable surfaces including gutters if present. (See Table I.)

6. Corner clearance (C). At an intersecting highway, street, or road, corner clearance is the dimension measured along the edge of the traveled

way between the frontage boundary line opposite the intersection of the two right of way lines and the tangent projection of the nearest edge of the driveway.

7. Driveway angle (Y). Angle Y is the angle of 90° or less between the driveway centerline and the edge of the traveled way.

8. Edge clearance (E). Edge clearance is the dimension measured along the edge of the traveled way from the tangent projection of the nearest edge of the driveway to the common frontage boundary line with the adjacent property.

D. Driveway permits. Authorization to construct or alter a driveway shall consist of a permit duly signed by the District Director of the Minnesota Department of Transportation having responsibility for the maintenance and construction of the trunk highway in question. No driveway shall be constructed from or to a trunk highway until such permit has been obtained and supplemented by those permits that may be required by local governing authorities.

The Commissioner of Transportation may require the applicant, or their contractor, to furnish a deposit in the form of a cashier's check, certified check, a surety bond on corporate undertaking, in favor of the State of Minnesota, Commissioner of Transportation for any expense incurred by the State in the repairing of damage to any portion of the trunk highway right of way caused by work performed under a Work Permit or a Permit for construction, including any out of the ordinary engineering supervision and inspection expense provided by the State. In those instances wherein a deposit is required, the amount of the deposit shall be specified in the Special Provisions of the Permit. If a check is furnished, any monies remaining over and above such expense shall be returned to the applicant.

E. Driveway layouts. As a part of the permit application, a driveway layout of the property and proposed driveway(s) shall be submitted to the District Director. The driveway layout shall include buildings or proposed buildings and any other relevant present or planned appurtenances that would affect the traffic pattern. Driveway layouts shall be drawn to the scale of twenty (20), thirty (30), or fifty (50) feet per inch. Such driveway layouts shall be drawn in black ink and attached to the permit application form. Driveway layouts may be diazo prints, but not pencil sketches. Photographs are not acceptable as a substitute for a driveway layout, but may accompany a driveway layout for illustrative purposes. The requirement for layouts may be waived by the District Director in the case of farm and residential entrances.

F. District and street classification. The district and street definitions listed above shall be used by the District Director to classify the district, streets, or roads, and they shall pertain to the existing environmental conditions of the property site under consideration on the date of application for the permit to construct or alter a driveway. In urban districts where present

traffic counts indicate a minor street, with near future traffic volumes predicting a major street, the major street classification shall be used by the District Director.

G. Driveway width dimensions. The recommended, minimum, or maximum driveway dimensions for the property site along a trunk highway are set forth in Table I. In all cases, the driveway must accommodate the types of vehicles using it.

H. Driveway profile. The vertical profile of a driveway shall meet the criteria established herein.

1. No Highway Edge Curb (Cut Section).

a. From the edge of the traveled way or pavement to the outer edge of the shoulder, the vertical profile shall be the same as the pitch of the shoulder.

b. From the outer edge of the shoulder to the low point at the ditch line (or over a culvert) the maximum allowable downward gradient shall be eight (8) percent.

c. Beyond the ditch line (or culvert) the maximum allowable gradient shall be eight (8) percent for commercial driveways and fifteen (15) percent for other driveways.

2. No Highway Edge Curb (Fill Section).

a. From the edge of the traveled way or pavement to the outer edge of the shoulder, the vertical profile shall be the same as the pitch of the shoulder.

b. Beyond the outer edge of the shoulder, the maximum allowable gradient shall be eight (8) percent for commercial driveways and fifteen (15) percent for other driveways.

3. With Highway Edge Curb.

a. The driveway profile shall slope upward from the gutter to meet the sidewalk, if any, or to a minimum height equal to the curb height, with a maximum difference between the downward cross slope of the traveled way or pavement and the upward slope of the driveway to equal ten (10) percent.

b. Beyond outer edge of sidewalk or equivalent, the maximum allowable gradient shall be eight (8) percent for commercial driveways and fifteen (15) percent for other driveways.

I. Corner clearance. The minimum dimensions for corner clearances are listed in Table I. The District Director shall determine if the presence of bus stops, separate turning lanes, skew or complex intersections, unusually wide

roadways, or heavy traffic generators warrants greater corner clearances. Such determination shall be subject to review by the Commissioner of Transportation.

J. Driveway angle. Driveway angle "Y" shall not be less than sixty (60) degrees where two-way vehicular traffic is anticipated. Angles between sixty (60) degrees and forty-five (45) degrees are acceptable for one-way vehicular traffic where no pedestrian conflict exists.

K. Edge clearance. The minimum dimensions for edge clearances are listed in Table I. All portions of the driveway should be within the frontage boundary line.

L. General.

1. In the event of a change in land use or major change in the traffic pattern of the existing facility, existing driveways are not automatically perpetuated and new driveway access applications shall be submitted.

2. If the terms of the permit are violated, or if the Commissioner of Transportation determines that continuance of a driveway access is particularly hazardous, he may under the authority vested in him by law revoke the access.

3. No part of the right of way of a trunk highway or of a street over which a trunk highway is routed may be used for servicing of vehicles or the conduct of private business.

4. The area between driveways shall be so constructed or improved that traffic on the highway and on the property will in fact be separated. In platted areas where a sidewalk extends to the property line, a curb is required at least four (4) inches wide and four (4) inches high above the sidewalk along the inside edge of the lot line and extending for at least the full distance in front of the gasoline pump island or vending stand. Where no sidewalk exists, this traffic separation may be obtained by the planting of a hedge or the construction of an island. Such an island or planting can only be placed on the right of way under permit from the Department of Transportation.

5. A variance from the standards set forth in this regulation may be allowed by the Commissioner when the variance will facilitate the safe, efficient use of the property for a lawful purpose and will not interfere with the construction, maintenance or safe and efficient use of the highway and its appurtenances by the public.

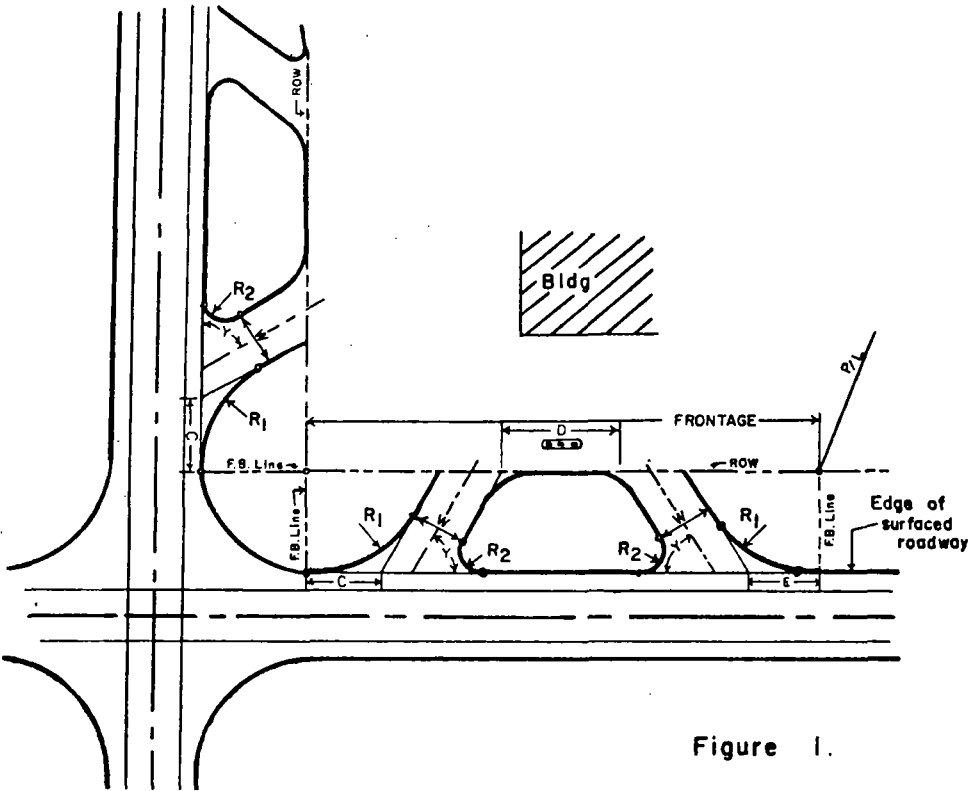


Figure 1.

TABLE 1 — DRIVEWAY DIMENSIONS

Driveway Dimensions	Residential		Commercial—Industrial			
	Urban	Rural	Urban		Rural	
Driveway Angle (Y)	60°-90°	60°-90°	60°	90°	60°	90°
Minimum Driveway Width (W)	12'	12'				
Recommended Driveway Width (W)	16'	16'	26'	32'	26'	32'
Maximum Driveway Width (W)	22'	22'	*	*	*	*
Radius of Curvature (R ₁)	5' min. 15' max.	5' min. 15' max.	5' min. 30' max.	5' min. 30' max.	10' min. 40' max.	10' min. 40' max.
Radius of Curvature (R ₂)	5' min. 15' max.	5' min. 15' max.	5' min. 15' max.	5' min. 15' max.	5' min. 15' max.	5' min. 15' max.
Minimum Edge Clearance (E)			5'	5'	10'	10'
Minimum Distance Between Double Driveways (D)	20'	30'	20'	20'	30'	30'
Minimum Corner Clearance from Major Street (C)	30'	60'	30'	30'	60'	60'
Minimum Corner Clearance from Minor Street (C)	20'	60'	20'	20'	60'	60'

*Driveway widths up to 50 feet will be permitted only by special permission of the Commissioner of Transportation. These maximum widths are intended for driveways used nearly exclusively by tractor-trailer combinations. Required width is to be determined with vehicle wheel path templates.

§ 1.5037 Rules and regulations for the placement and control of advertising devices on lands along and adjacent to the interstate and primary systems of highways in the state of Minnesota.

A. Purpose. The purpose of these regulations is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minn. Stat. 1969, ch. 173, as amended by Laws of Minn. 1971, ch. 883, the "Minnesota Outdoor Advertising Control Act", with reference to the placement and control of advertising devices and establishment of scenic areas on lands along and adjacent to the interstate and primary systems of highways in the State of Minnesota.

B. Scope. The scope of this regulation is confined to and consistent with Minn. Stat., §§ 173.01 through 173.27.

C. Definitions. For the purpose of this rule and regulation, the terms "Advertising Device", "Scenic Area", "Official Signs and Notices", "Public Utility Signs", "Service Clubs and Religious Notices", "Directional Signs", "Interstate Highways", "Adjacent Area", "Business Area", "Primary Highway", "Erect", "Advertising Area", "Maintain", "Commercial or Industrial Activities", "Unzoned Commercial or Industrial Area" shall have the meaning given them in Minn. Stat., ch. 173.

1. On Premise Sign. An advertising device located on the premises (or contiguous property) of an individual, business or organization when the sale or lease of the premises or the identification, products or services of the individual, business or organization are the subject of the advertising device.

2. Roadbed. That portion of the roadway between the outside edges of finished shoulders.

3. Expressway. A divided arterial highway for through traffic with full or partial control of access and generally with grade separation at intersection.

4. Controlled freeway. An expressway with full control of access.

5. Frontage road. A local street or road auxiliary located on the side of an arterial highway for service to abutting property and for control of access.

6. Side by side. Means there shall not be more than a two (2) foot distance between the closest edge of two signs facing the same highway(s) and direction of travel, and owned by the same permittee.

7. "V" type sign. Means that there shall not be more than an eight (8) foot distance between the closest edge of each sign face, and owned by the same permittee. Signs will be facing in opposite direction.

8. Back to back. Means that there shall not be more than an eight (8) foot distance between sign faces. Signs will face in opposite directions, and be owned by the same permittee.

D. Exclusions and exemptions.

1. Signs erected by the owner or occupant of the property on which they are located that are not erected for the purpose of advertising to or attracting the attention of operators and occupants of motor vehicles on the primary or interstate system of highways (such as no trespassing, no hunting or signs warning of impending danger on the land) are not deemed advertising devices and are excluded and exempt from regulation and control.

2. In all areas the following types of advertising devices are excluded and exempt from regulation and control.

a. Devices erected or maintained for the purpose of posting or displaying information required or authorized by law.

b. Devices of which the advertising copy is not primarily viewed from any traveled portion of the interstate or primary highway or fully controlled freeway.

c. Official signs and notices.

d. Public utility signs.

3. Within a scenic area on-premise signs as follows are allowed:

a. One (1) name plate sign per real estate parcel not to exceed eight (8) square feet in size including border and trim but excluding base and apron supports and other structural members.

b. Two (2) signs, one facing each direction of traffic per real estate parcel not exceeding eight (8) square feet in size per each face, including trim and border but excluding base and apron supports and other structural members, for the purpose of advertising the sale, hire or lease of the property or contiguous property of the parcel owner, lessee or occupant.

c. Any sign not exceeding one hundred fifty (150) square feet in size (per face) including border, trim, or other embellishments, excluding base and apron supports and other structural members advertising the business conducted, services rendered, goods produced or sold that is within one hundred (100) feet in either direction of travel (as measured along the edge of the roadbed) from the site on the property where said activity or activities are conducted or access thereto is provided. Outside this one hundred (100) feet of the site on the property where said activity or activities are conducted or access thereto is provided there shall not be more than two (2) on-premise advertising devices (one facing each direction of traffic).

E. General.

1. Advertising devices prohibited by Minn. Stat., §§ 173.08, 173.13 and 173.15 are also prohibited in scenic areas. Spacing restrictions as set

forth in Minn. Stat., § 173.16 are not applicable between exempt and excluded devices described in D. 2. through D. 3. and non-exempt devices.

2. Subject to the provisions of Minn. Stat., § 173.16, signs erected after June 7, 1971 in a business area within a corporate limit the maximum area of a sign face shall not exceed one thousand (1000) square feet including border and trim, but excluding base and apron supports and other structural members. Maximum size limitation shall apply to each side of a sign structure and signs may be placed back to back, side by side or in a V-type construction, but not more than two displays to each side of a sign structure.

3. Subject to the provisions of Minn. Stat. § 173.16, signs erected after June 7, 1971 outside of a corporate limit in a zoned or unzoned business area the maximum area of a sign face shall not exceed seven hundred fifty (750) square feet including border and trim, but excluding base and apron supports and other structural members. Maximum size limitation shall apply to each side of a sign structure and signs may be placed back to back, side by side or in a V-type construction but not more than two (2) displays to each side of a sign structure.

4. Sign structure. In all areas signs erected back to back, side by side, or in a V-type construction by one owner shall be deemed to be one sign structure and will be required to have only one permit. The largest advertising area on either side of the sign structure shall be the square foot measurement applicable to the permit fee schedule. Each side of a sign structure so designed shall be directed toward a different direction of travel, making it impractical to simultaneously view both sides of the structure from any one traffic lane.

5. Sign area. In all areas, all signs shall be measured by the smallest square rectangle, triangle, circle or combination thereto, which will encompass the entire sign.

6. Maintenance of advertising devices which can only be serviced from the right-of-way of the interstate system of highways or controlled freeways is prohibited, except such devices may be serviced from frontage or service roads where they occur.

7. Advertising devices with copy, message or displays using words, color, statements or illustrations which might imply official direction or control of traffic are prohibited.

8. For the purposes of Minn. Stat., § 173.02, subd. 14, "Unzoned commercial or industrial areas", all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing, and landscaped areas of the commercial or industrial activity, not from the property lines of the activity, and shall be along or parallel to the edge of the pavement of the highway.

9. The Commissioner shall establish scenic areas along the primary or

interstate system of highways pursuant to Minn. Stat., § 173.04 and Minn. Stat., ch. 15.

10. For the purposes of Minn. Stat., § 173.02, subd. 14, the unzoned commercial or industrial activity will be an activity which is in an area that would be generally recognized as commercial or industrial by zoning authorities within the state, and such activity without discrimination, except as to age, serves the general public, during normally accepted business hours and on a regularly scheduled basis of not less than one hundred fifty (150) days of continuous operation, during a state annual permit period.

11. For the purposes of Minn. Stat., § 173.02, subd. 9, a business area shall not be recognized when the land on which the activity is conducted is operating on a grandfather clause, special use, variance or temporary permit.

12. For the purposes of Minn. Stat., § 173.02, subd. 9, if a business area is rezoned or ceases to meet the requirements of the law, these regulations or any other authority, such business area shall cease to exist and any then legal advertising device existing therein at such time shall become a legal non-conforming device.

13. All signs erected or encroaching on any right-of-way or sign easement are illegal and must be removed.

14. The establishment of an unzoned business area does not abrogate any more restrictive criteria established by law, this rule and regulation or any other authority.

F. Spacing and location requirements.

1. For the purposes of Minn. Stat., § 173.16, subd. 4, distance restrictions between advertising devices apply only to those devices physically located on the same side of the highway regardless of the direction of travel to which the display or message is directed. Measurements to determine the location of one advertising device in relation to another will be made along the edge of the roadbed between the closest extremities of said devices, with the termini projected along lines perpendicular to the edge of the roadbed.

2. For the purposes of Minn. Stat., § 173.16, subd. 4, subsection (4) outside of incorporated cities, villages or boroughs where an intersection includes ramps or legs, the intersection shall be construed as the entire area circumscribed by a line connecting all points where the outmost ramps or legs leave or enter the main traveled roadway and where they intersect with another highway or road. Advertising devices will not be permitted within five hundred (500) feet of the point where the outmost ramps or legs leave or enter the main traveled roadway or for five hundred (500) feet on the other highway or road from the point of its intersection with the ramps or legs, nor in the area between said points. This is defined as the area adjacent to the ramp and legs. Devices may however be affixed on or located to a building at such an intersection but in such a manner so as to cause no greater visual obstruction than the building itself.

3. For the purpose of Minn. Stat., § 173.16, subd. 4, subsection 5, on primary highways or fully controlled access freeways outside of incorporated cities, villages or boroughs where there are no ramps or legs, the prohibited area at an intersection shall be construed as the entire area of three hundred (300) feet outwardly as measured along the roadway from the center point of two (2) intersecting roadbeds. Advertising will not be permitted within this three hundred (300) foot area.

4. For the purposes of Minn. Stat., § 173.08, subd. 2, the restrictive distances that determine areas in which advertising devices are prohibited will apply to lands along and adjacent to Interstate, primary highways and expressways and fully controlled freeways both before and beyond property used for any school, church, national, state or local park; historic site, public picnic area, wayside, overnight, or public safety rest area. Such restrictive distances shall be measured along the edge of the roadbed beginning at a point which is an extension, perpendicular to the edge of the roadbed, of the intersection of the property line of the area and the normal highway right-of-way line. The restrictive distances shall apply to lands along and adjacent to the opposite side of the interstate, primary highway, expressway and controlled freeway, as measured by an imaginary line crossing the highway.

5. For the purposes of Minn. Stat., § 173.16, subd. 4, subsections 4 and 5, another highway shall mean any highway, street, road or public way for vehicular travel, maintained by the State or any other public agency, which enters directly into the main traveled way of the highway which it is said to intersect.

6. For the purposes of Minn. Stat., § 173.16, subd. 4 and 5, the restrictive distances at "T" intersections shall apply to lands on both sides of the highway as though the road physically ending at the highway continued and extended beyond at a 90 degree angle as measured from the center line of the roadway.

G. Permits, fees and renewals.

1. Applications for permits may be obtained at any district office or central office of the Minnesota Department of Transportation. However, for the purpose of processing and approval, permit applications will be filed at or forwarded to the Department's district office having jurisdiction over the area in which the advertising device is located.

2. The application for permit shall be filled out in its entirety and all applications will be processed in order of receipt. If an application has to be returned for any additional information required to properly evaluate the application, it will not retain its preference over any other application that may be pending for the same area.

3. All applications will be processed by the necessary Department personnel and a permit will be issued or denied within thirty (30) days after its arrival at the district office. With respect to applications received prior to the

fifteenth (15) day of the month, the permit fee will be charged as of the first (1) day of that month. With respect to applications received on or after the fifteenth (15) day of the month, the permit fee will be charged as of the first (1) day of the following month.

4. All applications must be accompanied by a certified check, bank draft or money order unless prior arrangements are made with the Commissioner of Transportation.

5. The owner of any advertising devices which was lawfully in existence on the effective date of the Minnesota Outdoor Advertising Control Act of 1971, Laws of Minnesota, 1971, Chapter 883, and which is not controlled by an annual permit must apply for a permit for such device within ninety (90) days after promulgation of these rules and regulations by the Commissioner of Transportation.

6. Requests for permit renewals will not be accepted more than sixty (60) calendar days prior to the expiration date of the permit. All permits within scenic areas will expire on December 31st of each year. All permits for signs in non-scenic areas will expire on June 30th of every year.

7. All permits issued for erection of a new advertising device are null and void if the erection of the device is not completed within one hundred twenty (120) calendar days after the permit has been issued. If a permit is voided because of no erection there will be no refunds of monies and a new application and process shall be initiated.

8. When a permit is granted for an advertising device, the permittee will be furnished a permit identification number. This number must be affixed by a permittee to the supporting structure nearest the roadway and in such a manner and height so as to be identified from the nearest traffic lane.

9. Any advertising device for which no permit application or permit renewal has been submitted shall be removed pursuant to law.

10. When a permit is revoked pursuant to Minn. Stat., § 173.13, subd. 10, applications for a permit for that site will be accepted from new applicants only after the outdoor advertising device of the former permit holder has been completely removed. New applications will be processed in the order in which they are received.

11. For the purposes of Minn. Stat., §§ 173.09, 173.13, subd. 11, 173.17, 173.18, and 173.21, remove, removed, and removal shall mean the complete disassembly of the device including all component parts, except if removal would result in substantial structural damage to a building. All electrical services shall be disconnected, if any, and there shall be a complete removal of wires, conduit, and supporting structures, the filling of any ground excavations or holes and the removal from the property of all disassembled elements of the advertising device and its supporting structure.

12. For the purpose of Minn. Stat., § 173.13, an advertising device for which a permit can be issued shall when erected be a complete billboard, sign, notice, poster, or display intended to advertise a product or legend. An advertising device which is painted out, or painted over, or advertising space for lease and which has so existed for one (1) permit period shall not be considered for a permit or renewal. Where there are posts only, partial structure, company name markers or no structure at all, a renewal shall not be issued.

13. Service club and religious notices shall not be governed by the provisions of Minn. Stat., § 173.16, subd. 4. (2).

14. For the purposes of Minn. Stat., § 173.13, subd. 4, any change in advertising area which exceeds the advertising area for which a permit had been issued shall require a new permit application.

H. Certification of zoning.

1. For the purposes of Minn. Stat., § 173.16, subd. 5, bona fide zoning authorities may request the Commissioner of Transportation to accept the legitimate local zoning applicable to control of advertising devices within legally-zoned commercial or industrial areas. All requests for certification shall include information regarding regulation of size, lighting, spacing, and annual permit requirements as well as all pertinent information required to properly evaluate the application.

2. All certification shall apply to the then existing boundaries of the zoning authority and any further addition or elimination of land will be treated on an individual basis under the provisions of Minn. Stat., § 173.16, subd. 2. All requests for certification shall include a copy of the minutes or procedure authorizing the zoning authority to request such certification from the Commissioner of Transportation.

3. All certification shall be on an annual basis and shall be based upon local enforcement. Failure to enforce may result in revocation of certification.

I. All previous rules and regulations adopted by the Commissioner of Transportation relating to the control of advertising devices within the State of Minnesota are hereby repealed.

J. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

§ 1.5038 Rules and regulations for the inspection and inventory of bridges in the state of Minnesota.

A. Purpose. The purpose of these rules and regulations is to carry out the mandate of the legislature and to implement that mandate as set forth in Minn. Stat., ch. 165, as amended by the Legislature in 1973, with reference to the inspection and inventory of bridges in the State of Minnesota.

B. Scope. The scope of this regulation is confined to and consistent with Minn. Stat., § 165.03, as amended.

C. Definitions.

1. **Bridge.** A bridge is defined as a structure including supports erected over a depression or an obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured horizontally along the center of the roadway of more than 20 feet between undercopings of abutments, or more than 20 feet between spring line of arches, or extreme ends of openings for multiple boxes: it also includes multiple pipes where the clear distance between openings is less than half of the smaller contiguous opening. This definition of a bridge describes all railroad bridges, but for application of these rules and regulations all railroad bridges are excluded except for railroad bridges over or under a public highway or street.

2. **Inspection.** The term inspection shall mean examining a structure evaluating the physical condition observed, and reporting the observations and evaluations on the bridge inspection report form as adopted by the commissioner.

3. **Inventory.** The term inventory as used herein shall mean the gathering and reporting of all information as provided for on the Structure Inventory sheet as adopted by the commissioner.

4. **Rating.** The term rating shall mean determining the safe live load carrying capacity of a bridge. The rating for a bridge shall be determined in accordance with procedures specified in the AASHTO Manual for Maintenance Inspection of Bridges except that Minnesota Legal Vehicles shall be used rather than AASHTO typical vehicles for highway bridges.

5. **Posting.** The term posting shall mean the placement of regulatory signs at a bridge indicating the safe load carrying capacity of the bridge.

6. **AASHTO manual.** The "AASHTO Manual" referred to in these regulations is the Manual for Maintenance Inspection of Bridges, published by the American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D.C. 20004.

7. **The Bridge Inspector's Training Manual** referred to in these rules may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

D. Application of standards. These bridge inspection and inventory standards apply to all structures defined herein as bridges which either lie within or cross the borders of the State of Minnesota, and which are located wholly or partially within or over the right of way of any state trunk highway, or which are located wholly or partially within or over the right of way of any county or township road, or which are located wholly or partially within or over the right of way of any street located within or along municipal limits, or which are toll bridges used by the general public, or which are located on state, county or city lands and exist for the use of the general public. All railroad bridges are excluded from these rules and regulations except for railroad bridges over or under a public highway or street. Bridges on recreation trails used only by pedestrians, bicycles and recreational vehicles are not included in these rules and regulations.

E. Qualifications of personnel. The following officials have the responsibility for inspection and inventory of bridges:

1. The commissioner of transportation for all bridges located wholly or partially within or over the right-of-way of a state trunk highway and for toll bridges used by the general public.

2. The county highway engineer for all bridges located wholly or partially within or over the right-of-way of any county or township road, or any street within a municipality which does not have a city engineer regularly employed.

3. The city engineer for all bridges located wholly or partially within or over the right-of-way of any street located within or along municipal limits.

The individual in charge of the bridge inspection and inventory for each organizational unit described above shall be registered in the State of Minnesota as a professional engineer.

The individual in charge of the inspection team shall have the following qualifications:

- a. Be registered in the State of Minnesota as a professional engineer

or

- b. Have a minimum of 5 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the "Bridge Inspector's Training Manual" which has been developed by a joint Federal-State Task force.

F. Frequency of inspections.

1. Each bridge shall be inspected annually. Interim inspections at intervals of less than one year may be necessary on bridges that are posted, bridges subjected to extreme scour conditions, bridges subject to significant

substructure movement or settlement, and for other reasons as specified or inferred in section 2.3 of the AASHTO manual.

2. The thoroughness of each inspection will depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The evaluation of these factors will be the responsibility of the engineer assigned the responsibility for inspection as defined above.

G. Frequency of performing inventory. An inventory shall be prepared for each bridge and shall be updated annually.

H. Inspection. The items to be inspected and reported on the bridge inspection report form shall include but not be limited to those items specified in section 2.5 of the AASHTO manual. The Bridge Inspector's Training Manual shall be used as a guide to additional items to be inspected for special cases.

I. Ratings. Each structure required to be inspected under these rules shall be rated to determine its safe load carrying capacity and the rating shall be reported on a Structure Inventory Sheet form. A structure shall be re-rated when it is determined that a significant change has occurred in condition of the structure. Ratings shall be reviewed and the structure re-rated if necessary when the allowable legal load using the structure is increased. Changes in the rating of a bridge shall be indicated on the Structure Inventory Sheet form.

J. Posting. Where it is determined that the maximum legal load under state law exceeds the load permitted on the structure under the operating rating stress level assigned, the bridge must be posted. Posting signs as adopted by the Commissioner shall be used for the posting.

K. Reporting. Each highway authority responsible for inspection and inventory of bridges shall submit an updated copy of the Structure Inventory Sheet form for each bridge under its jurisdiction to the Commissioner by February 15, annually.

L. Short bridges. It is acknowledged that many road structures in the state are too short to meet the definition of a bridge (as defined herein). However, the definition applied to this standard is not intended to diminish the importance of providing for safe usage of these shorter structures. An inspection, rating, and posting procedure similar to that enumerated in this standard is recommended for these structures at the discretion of the local road authority.

§ 1.5039 Rules and regulations establishing model standards for bicycle and recreational vehicle lanes on and along public roadways and governing trunk highways.

A. Purpose. The purpose of these regulations is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minn. Stat., § 160.262, as amended by Laws of 1973, ch. 620, § 1, with reference to the establishment of model standards for bicycle and recreational vehicle lanes on and along proposed and existing public roadways and governing State trunk highways.

B. Scope. The scope of this regulation is intended to be confined within the framework of and consistent with Minn. Stat., § 160.262, and responsive to Title 23 of the U. S. Code as amended by P.L. 93-410, the Federal Aid Highway Act of 1973, at § 217. (Bicycle transportation and pedestrian walkways.)

C. Definitions. For purposes of these regulations and the implementation thereof, the following terms shall have the meanings here given them.

1. **Average Daily Traffic.** "Average daily traffic" means the total volume of traffic during a specified but arbitrary time period given in whole days (24 hours), greater than one day, but less than one year, divided by the number of days in the time period. Abbreviated A.D.T.

2. **Bicycle.** "Bicycle" means a device propelled by human power upon which a person or persons may ride, having two tandem wheels either of which is over 16 inches in diameter, and including any device generally recognized as a bicycle though equipped with two front or rear wheels.

3. **Bicycle Lane.** "Bicycle lane" means a portion of a roadway designed for preferential use by persons using bicycles. Bicycle lanes may be designed with or without physical barriers to separate or channel bicycle traffic from motor vehicles or pedestrian traffic.

4. **Bicycle Lane With Barrier.** "Bicycle lane with barrier" means a portion of a roadway which has been designated for preferential or exclusive use by bicycles, separated from (but a part of) that portion of the roadway designed for motor vehicle traffic by a physical barrier such as a curb or a guard-rail.

5. **Bicycle Lane Without Barrier.** "Bicycle lane without barrier" means a portion of a roadway which has been designated for preferential use by bicycles through pavement markings or other traffic control measures.

6. **Bicycle Path.** "Bicycle path" means a bicycle facility designed for exclusive use by persons using bicycles and constructed or developed separately from the roadway.

7. Bicycle Route. "Bicycle route" means a roadway signed to encourage bicycle use when no preferential lane is provided. Signing shall be in accordance with the Minnesota Manual of Uniform Traffic Control Devices. Such signing also indicates that safety precautions must be taken by all forms of traffic.

8. Average Bicycle Traffic Volume. "Average bicycle traffic volume" means the amount of bicycle traffic passing a given point on an average daily basis computed over 180 days during the months of April through September.

9. Clearway. "Clearway" is a clear recovery area extending 30 feet outward from the edge of the outside through lane of the roadway where all physical obstacles to out-of-control motor vehicles are eliminated.

10. Controlled Access Highway. "Controlled access highway" means every highway, street, or roadway in respect to which the right of access of the owners or occupants of abutting lands and other persons has been acquired and to which the owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

11. Department. Unless stated otherwise, "department" means the Department of Transportation of this state. Regardless of the department referred to, however, it is to be considered as acting directly or through its duly authorized officers and agents.

12. Driver. "Driver" means every person who drives or is in actual physical control of a vehicle, or other device upon which a person or property may be transported.

13. Intersection. "Intersection" means (a) the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another, at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. (b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

14. One-Way Roadway. "One-way roadway" means a street or roadway designated and signposted for one-way traffic and on which all vehicles are required to move in one indicated direction.

15. Pedestrian Walkway. "Pedestrian walkway" means that portion of the street or highway between curb lines, or the lateral lines of a roadway,

and the adjacent property lines intended for the use of pedestrians. An alternate term that may be used is "sidewalk", as defined in Minn. Stat. Chapter 169. For purposes of these regulations a pedestrian walkway may be construed to be a bicycle or recreational vehicle lane but is controlled as to the forms of traffic it may carry other than pedestrians.

16. **Recreational Vehicle.** "Recreational vehicle" means a special purpose mobile and motive equipment or device not qualifying under the provisions of Minn. Stat. Chapter 168 for the purposes of taxation in the State of Minnesota, and includes but is not limited to, all terrain vehicles (A.T.V.) and, snowmobiles.

17. **Recreational Vehicle Lane.** "Recreational vehicle lane" means that portion of a street or highway or road or way outside of the roadway, improved, designed or ordinarily used for recreational vehicular travel by the public and placed and maintained by State or local authorities in their respective jurisdictions.

18. **Roadway.** "Roadway" means that portion of a highway improved, designed or ordinarily used for motor vehicular travel. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

19. **Rural Section.** "Rural section" is a highway design that has wide right-of-ways, open ditches for drainage and a clearway of 30 feet from the edge of the outside lane.

20. **Shoulder.** "Shoulder" means that part of the roadway which is contiguous to the regularly traveled portion of the roadway and is on the same level as the roadway. The shoulder may be pavement, gravel or earth.

21. **Sidewalk.** "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

22. **Street or Highway.** "Street or highway" means the entire width between the boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic.

23. **Through Highway.** "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected.

24. **Urban District.** "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

25. Urban Section. "Urban section" means a roadway design used in urban districts where the right-of-way width is restricted. Because of the restricted right-of-way, there is not enough room for ditches, thus necessitating curbs and gutters.

26. Vehicle. "Vehicle" means a bicycle or recreational vehicle.

D. Criteria for Desirability of Lanes in any Given Location.

1. The Department of Transportation will have sole jurisdiction to establish bicycle or recreational vehicle lanes on the right-of-way of any State trunk highway. The Department of Transportation will be responsible for all designs and construction on all lane facility projects within the right-of-way of any State trunk highway. Any such services performed for other state agencies or local governmental units will be done on a reimbursable basis. The Department of Transportation may provide services for the development of lane facilities for other agencies and local units of government upon request and upon such terms as may be mutually agreed upon. The Department of Transportation will consider building bicycle or recreational vehicle lane facilities during the construction, reconstruction or improvement of any trunk highway or permit the establishment of such facilities within state trunk highway right-of-way when:

a. a proposed highway project destroys an existing lane of demonstrated or potential use and no desirable alternative is available to the user, or

b. there is no pedestrian or non-motorized access along or across an existing or proposed grade separated or through trunk highway or intersection in an urban area (example: access to the four quadrants created by two intersecting freeways), or

c. there are fringe development areas not meeting the urban district definition along trunk highways that have no non-motorized access (example: residential or commercial development along trunk highways on the outskirts of town), or

d. the facility is part of a comprehensive trail planning process on a local, regional or statewide basis, and

e. the facility must materially benefit the safety of the traveling public; such as, the elimination of a potential safety hazard caused by anticipated bicycle or recreational vehicle traffic on or near the roadways of a trunk highway (example: heavy bicycle travel along a trunk highway between a town and an outlying school).

f. the highway right-of-way can safely accommodate the facility

g. there is sufficient projected bicycle or recreational vehicle traffic

h. the facility cannot be safely and feasibly constructed and utilized

outside of the right-of-way (example: no suitable network of adjacent residential streets or existing parallel facilities exist)

i. the facility use does not conflict with existing utilities located on highway right-of-way or adjacent land use

j. the facility provides computer transportation; or connects existing or proposed facilities; or connects areas or points of natural, scientific, cultural, historical, educational or economic interest

k. multi-use facilities do not conflict with each other or use during more than one season is feasible.

2. Traffic Volume Criteria.

a. Based upon Table One, following, the department will consider the establishment of bicycle or recreational vehicle lanes by use and type in accordance with the traffic volumes and other limitations shown. Exceptions to these traffic volume criteria may be made if good cause can be shown and upon approval of the Commissioner of Transportation.

b. As motor vehicle traffic volumes increase the form that a bicycle or recreational vehicle lane may take and traffic control measures (or other physical safety precautions built into the facility) will also increase in physical design and safety standards.

3. Traffic Regulations.

a. Bicycle Traffic Regulations. The provisions of Minn. Stat. 169.221 shall apply for all persons driving or operating a bicycle upon a roadway. The provisions of Minn. Stat. 169.09 to 169.13 shall also apply in substance and effect insofar as applicable and consistent with reference to bicycle lanes on trunk highways.

b. Bicycle Recreational Vehicle Traffic Regulations. The provisions of Minn. Stat. 169.09 to 169.13 shall also apply in substance and effect insofar as applicable and consistent with reference to drivers or operators of bicycle or recreational vehicles on controlled access trunk highways. Minn. Stat. 169.13 and 169.18 shall also apply.

E. Maintenance Criteria:

1. The responsibility for maintaining bicycle and recreational vehicle lanes within the limits of trunk highway rights-of-way shall be:

a. the responsibility of the Department of Transportation when the facility is located immediately adjacent to the roadway (highway shoulder).

b. the responsibility of the appropriate local or other governmental unit when the facility is separate from the roadway.

2. Normal maintenance activities shall be provided for the maintenance of lanes established within trunk highway rights-of-way. These activities shall include, when applicable, but not be limited to:

- a. maintenance of drainage,
- b. debris removal,
- c. sweeping of lane surfaces,
- d. mowing and brush removal,
- e. surface maintenance,
- f. surface grading,
- g. snowplowing, when applicable,
- h. painting of stripes and stencils.

F. Placement of Such Lanes in Relation to Roads.

1. Placement of Bicycle or Recreational Vehicle Lanes.

a. Bicycle or recreational vehicle lanes built subsequent to the date of adoption of these rules and regulations will be placed outside of a 30 foot (9.1 meters) clearway when located within the right-of-way of any State trunk highway with fully controlled access. Exceptions may be made at structure locations including but not limited to bridges.

b. Bicycle facilities built within the right-of-way of any State trunk highway shall be classified as a route, lane—no barrier, lane—with barrier or path as defined in section C. Definitions 3., 4., 5., and 6. Desirable configurations are indicated in:

Figure 1 for lane—no barrier

Figure 2 for lane—with barrier

Figure 3 for path (design for new facilities)

G. Minimum Design Standards. The following standards are minimum criteria which may not be reduced to lesser values and constitute the lowest design limits. The values are not to be used as general design standards, but should generally be exceeded.

1. Vertical Clearance. The vertical clearance between an overhead obstruction and the surface of bicycle or recreational vehicle lanes shall be not less than 10 feet (3 m).

2. Lane Width. Bicycle facilities shall have a minimum surfaced width of 4 feet (1.2 m) for one-way and 6 feet (1.8 m) for two-way travel.

3. Design Speed. The design speed for bicycle facilities shall not be less than 10 mph. For downgrades, design speeds may be in the range of 25 mph or greater.

4. Sight Distance. The sight distance to any hazard or potential hazard for a bicycle facility shall be a minimum of 50 feet (15.2 m).

5. Grades. Bikeway grades should not exceed 5% except for short distances.

6. Radius of Curvature. The minimum radius of curvature for bikeways is figured by the formula: $R = 1.25 V + 1.5$.

R = radius of curvature in feet

V = velocity in miles per hour

H. Bicycle or Recreational Vehicle Operations on Trunk Highway Right of Way. No provision within these regulations shall be deemed to be in conflict with the provisions of Minnesota law with respect to the operations on trunk highway right of way of any form of bicycle or recreational vehicle now or hereafter defined. Particular reference is made to Minn. Stat. §§ 84.81 through 84.87 in this regard.

I. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, or subdivision or any other part.

J. Public Use of Trunk Highways. No prohibition is intended or implied within these rules as to the rights of the public to use, occupy, traverse or travel the trunk highways of the State of Minnesota except where such prohibition or regulation is established by law or other promulgated regulation not a part of these rules.

K. Private Roadways. Nothing in these regulations shall be construed to prevent the owner of real property used by the public for purposes of bicycle or recreational vehicular travel by permission of the owner and not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in these regulations, or otherwise regulating such use as may seem best to such owner.

L. At Grade Railroad Crossings. In the event a proposed bicycle or recreational vehicle lane intersects at grade the right-of-way and tracks of a railroad, the approval of the Minnesota Public Service Commission with respect to the public safety aspects of the crossing shall be first secured.

Table 1: TRAFFIC CRITERIA TO ESTABLISH A BICYCLE OR RECREATION VEHICLE LANE

CLASS OF FACILITY AND TRAFFIC LIMITS			BICYCLE OR RECREATIONAL VEHICLE LANE USE							
			BICYCLIST USE					PEDESTRIAN USE & RECREATIONAL VEHICLE USE		
			ROAD DESIGN LIMITATIONS	ROUTE (1)	LANE- NO BARRIER (1)	LANE- WITH BARRIER (2)	PATH (2)	ROAD DESIGN LIMITATIONS	SPECIAL WALKWAY	FACILITY FOR RECREATIONAL VEHICLE
TWO LANE NO CONTROL OF ACCESS	AVERAGE DAILY TRAFFIC VOLUME (A.D.T.)	MOTOR VEHICLE (A.D.T.)	(R)	≤ 2,000	≤ 3,000	X	≥ 3,000	(R)	N/A	N/A
		(U)	≤ 4,000	≤ 6,000	≥ 6,000	≥ 6,000	(U)	N/A	N/A	
	BICYCLE (A.D.T.)	(R)	≤ 100	≤ 200	X	≥ 200	(R)	X	O	
		(U)	≤ 100	≤ 200	≥ 200	≥ 200	(U)	O	X	
MULTIPLE LANE NO OR PARTIAL CONTROL OF ACCESS	AVERAGE DAILY TRAFFIC VOLUME (A.D.T.)	MOTOR VEHICLE (A.D.T.)	(R)	X	≤ 14,000	X	≥ 14,000	(R)	N/A	N/A
		(U)	≤ 8,000	≤ 20,000	≥ 20,000	≥ 20,000	(U)	N/A	N/A	
	BICYCLE (A.D.T.)	(R)	X	≤ 200	X	≥ 200	(R)	X	O	
		(U)	≤ 100	≤ 200	≥ 200	≥ 200	(U)	O	X	
MULTIPLE LANE FULLY CONTROLLED ACCESS	AVERAGE DAILY TRAFFIC VOLUME (A.D.T.)	MOTOR VEHICLE (A.D.T.)	(R)	X	X	X	≥ 14,000	(R)	N/A	N/A
		(U)	X	X	X	≥ 20,000	(U)	N/A	N/A	
	BICYCLE (A.D.T.)	(R)	X	X	X	≥ 200	(R)	X	O	
		(U)	X	X	X	≥ 200	(U)	O	X	
X - NOT PERMITTED			O - NON CONFLICTING USE			(1) Maximum ADT for Routes and Lanes no barrier. (2) Minimum ADT for establishment of Lanes with Barrier or Paths.				

(1) Maximum ADT for Routes and Lanes no barrier.

(2) Minimum ADT for establishment of Lanes with Barrier or Paths.

(R) Rural Section

(U) Urban Section

N/A Not Applicable

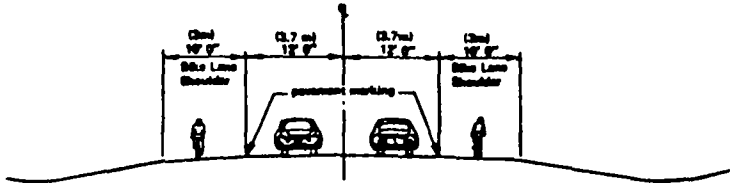


Figure 1: DESIRABLE BIKE LANE WITH NO BARRIER DESIGN

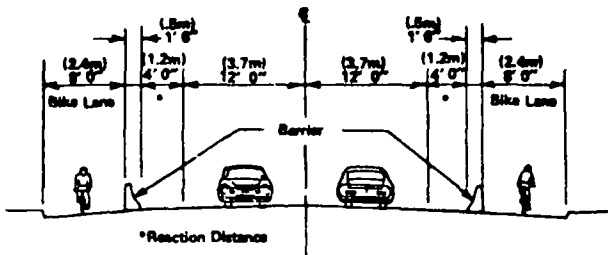


Figure 2: DESIRABLE BIKE LANE WITH BARRIER DESIGN

*Minimum, 10 feet desirable

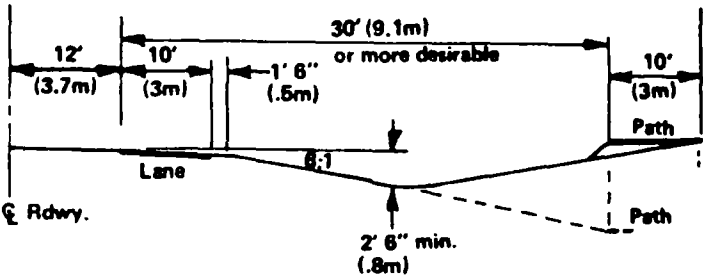


Figure 3: DESIRABLE BIKE PATH DESIGN

§ 1.5040 Rules for the construction and reconstruction of bridges in the state of Minnesota.

A. Purpose. The purpose of these rules is to carry out the mandate of the legislature and to implement that mandate as set forth in Laws of 1976, ch. 339. (*Minn. Stat. § 174.50*)

B. Scope. The scope of these rules is intended to be confined within the framework of and consistent with Laws of 1976, ch. 339.

C. Definitions.

1. Commissioner. The Commissioner of Transportation.

2. Agency. A county, municipality or township.

3. Urban municipality. Any City having 5,000 or more population determined in accordance with the provisions of law.

4. Regional development commission. A commission established by the State Planning Officer in accordance with Minn. Stat., ch. 462.

5. Metropolitan council. A commission established in accordance with Minn. Stat., ch. 473.

6. Bridge. A structure including supports erected over a depression or an obstruction as water, highway, or railway and having a track or passageway for carrying traffic or other moving loads. This definition of a bridge describes all railroad bridges, but for application of these rules all railroad bridges are excluded except for railroad bridges over or under a public highway or street.

7. Construction. The construction of a bridge to replace an existing deficient bridge or a bridge that has been destroyed.

8. Reconstruction. The reconstruction of an existing deficient bridge.

9. Road systems.

a. Trunk highway. The system of routes established by law, the location of which has been established by the commissioner under the jurisdiction of the State of Minnesota.

b. State-Aid. The system of roads and streets established and designated by the commissioner under the jurisdiction of a county or urban municipality.

c. Other roads or streets. Those local roads and streets under the jurisdiction of the counties, municipalities and townships.

D. Application by agency.

1. Counties.

a. The county board in cooperation with other local units of government within the county, other than urban municipalities, shall determine a proposed program for the construction and/or reconstruction of key bridges within the county other than urban municipal or trunk highway bridges.

b. This county board by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges within the county and request funding.

c. In the event that local units of government can not reach agreement with the County Board, the local units of government may make applications independently. Then and in that event the local unit of government by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges and request funding.

2. Urban municipalities. The City Council by resolution shall request of the commissioner authorization to construct or reconstruct specific bridges within the municipality and request funding.

3. State highway system. The commissioner shall establish the bridge construction and/or reconstruction program for the trunk highway system.

E. Review by regional development council or metropolitan council.

1. The commissioner shall submit the application of the agencies to the proper Regional Development Commission or Metropolitan Council, as the case may be, for review of consistency with long term comprehensive development plans and guides for which the agencies are responsible. In any case, the Regional Development Commission or the Metropolitan Council will have thirty (30) days after receipt of the application(s) to inform the commissioner that there is or is not an interest in the application(s). No response within the specified period shall be construed to mean approval of the application(s).

F. Establishment of priority.

1. The commissioner using information furnished by the local units of governments from the statewide bridge inventory, shall establish a statewide priority of bridge construction and/or reconstruction. This priority shall be based on the relative seriousness of each bridge's deficiencies as determined from the inventory and appraisal after considering the following criteria established in Laws of 1976, ch. 339:

a. Effectiveness of the project in eliminating a deficiency in the transportation system;

b. Number of persons affected by the deficiency;

- c. Economic feasibility;
 - d. Effect on optimum land use and other concerns of state and regional planning;
 - e. Availability of other financing capability; and
 - f. Adequacy of provision for proper operation and maintenance after construction.
2. Upon establishment of priorities, the commissioner shall notify the local units of government as to priority rank and funding availability for those bridges submitted for approval.
3. The local unit of government shall by resolution agree to the terms and conditions as specified in the notification by the commissioner consistent with Laws of 1976, ch. 339. (*Minn. Stat.*, § 174.50)

Department of Transportation
Operating Standards for Special Transportation Service

14 MCAR § 1.7001 Scope.

A. These standards apply to special transportation service provided on a regular basis by a public or private person that is designed exclusively or primarily to serve individuals who are elderly, handicapped, disabled or economically disadvantaged and who are unable to use regular means of transportation.

B. These standards do not apply to transportation provided by:

1. A common carrier operating on fixed routes and schedules;
2. A taxi;
3. A volunteer driver using a private automobile which belongs to the volunteer;
4. A school bus as defined in Minn. Stat. § 169.01, subd. 6; or
5. An ambulance regulated under Minn. Stat. ch. 144. However, these standards shall apply to ambulances when they are providing special transportation services.

14 MCAR § 1.7002 Authority. These standards are adopted pursuant to the requirements of Minn. Stat. § 174.30, subs. 2 and 5.

14 MCAR § 1.7003 Definitions.

A. "Ambulance" has the meaning given to it in Minn. Stat. § 144.801, subd. 2.

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

C. "Commissioner" means the commissioner of transportation.

D. "Common carrier" means a regular route common carrier operating on fixed routes and schedules as defined in Minn. Stat. § 221.011, subd. 9.

E. "Disabled" means handicapped.

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

G. "Elderly" means age 55 and older.

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

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

J. "Motor vehicle" has the meaning given to it in Minn. Stat. § 169.01, subd. 3.

K. "Municipality" has the meaning given to it in Minn. Stat. § 466.01, subd. 1.

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

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

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

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

P. "School bus" has the meaning given to it in Minn. Stat. § 169.01, subd. 6.

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

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

S. "State" has the meaning given to it in Minn. Stat. § 3.732, subd. 1, clause (1).

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

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

14 MCAR § 1.7004 Compliance.

A. No person shall provide special transportation service without a current annual certificate of compliance issued by the commissioner.

1. A certificate of compliance shall be issued when the standards set forth in these rules have been met.

2. A certificate of compliance shall be issued to a provider who transports an occupied wheelchair in a vehicle only if the vehicle has been issued a current numbered certificate by the Commissioner of Public Safety pursuant to Minn. Stat. § 299A.14.

B. No special transportation service provider shall provide, offer to provide or represent itself as capable of providing life support transportation service unless it is licensed as required by Minn. Stat. § 144.802.

14 MCAR § 1.7005 Certification.

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

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

1. A provider application form containing the following information:

- a. whether the application is new or a renewal;
- b. the name, address, telephone number and area served by the provider;
- c. the type of service provided, such as fixed route, route deviation, dial a ride, variable schedule, fixed schedule or other;
- d. the category of passengers served (elderly, handicapped, disabled or economically disadvantaged);
- e. for each vehicle:
 - (1) make and year;
 - (2) seating capacity;

(3) completed checklists showing whether each vehicle carries the safety equipment required by 14 MCAR § 1.7009 B. 1.;

f. if the vehicle will carry an occupied wheelchair;

(1) whether the vehicle is equipped with an approved wheelchair securement device;

(2) the date that the wheelchair securement device was approved by the Commissioner of Public Safety and the number on the certificate issued by the Commissioner of Public Safety;

g. the name and title of the person who is responsible for the provider's special transportation service;

h. the name and address of each driver, stating whether each complies with the standards set forth in these rules. This information shall be provided annually when the application for a certificate of compliance is filed.

2. A certificate of insurance which shall be mailed to the Department of Transportation by the applicant's insurer.

C. A certificate of compliance shall be granted when the applicant complies with the standard set forth in these rules.

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

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

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

14 MCAR § 1.7006 Renewal.

A. Thirty to sixty days prior to the expiration of any certificate of compliance, the provider shall request renewal of the certificate on a form provided by the commissioner.

B. The commissioner shall grant or deny requests for renewal in writing prior to the expiration date of the current certificate.

C. A new certificate listing each certified vehicle and showing the month and year in which the certification expires shall be issued to the provider.

14 MCAR § 1.7007 Inspection.

A. Upon receipt of a complaint that any certified provider does not comply

with the standards set forth in these rules, the commissioner shall conduct an inspection of the provider's records and vehicles. The inspection shall be conducted within four weeks of receipt of the complaint.

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

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

D. Inspections conducted under these standards shall comprise:

1. Examination of the records listed in 14 MCAR § 1.7011 A; and
2. Examination of the vehicles to determine whether the provider complies with the requirements of 14 MCAR § 1.7009 B.

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

14 MCAR § 1.7008 Enforcement.

A. Any provider found in violation of any provision of these rules shall be given a thirty day written notice to correct the violation. When the violation threatens the life or safety of passengers, the commissioner shall require the provider to remove the driver or vehicle from operation immediately.

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

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

D. Any enforcement hearing conducted pursuant to these standards shall be conducted in accordance with Minn. Stat. ch. 15.

14 MCAR § 1.7009 Standards for operation of vehicles.

A. Personnel.

1. No driver shall operate a special transportation service vehicle unless that driver:

- a. has visual acuity of 20/40 in each eye corrected and a field of vision of at least seventy degrees in the horizontal meridian of each eye; and
- b. does not have a hearing loss greater than thirty db in the better ear with or without a hearing aid; and
- c. has no current medical condition which interferes with the ability to drive safely.

2. Every two years each driver shall obtain, on a form prescribed by the commissioner, a physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely. This shall be obtained prior to employment as a driver of a special transportation service vehicle. Employees of facilities which are licensed by the Department of Health or the Department of Public Welfare and required by either of those departments to provide a physician's statement of health on a regular basis may substitute that form or statement for the form required in this section.

3. Each driver shall be able to perform a vehicle safety inspection and each driver and attendant in the case of a vehicle which is staffed by a driver and an attendant, shall be able to assist a passenger into the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

4. Each driver shall also meet the following criteria:

- a. possess a driver's license which is valid for the type of vehicle which he or she drives;
- b. be at least eighteen years of age and have not less than one year of experience as a licensed driver; and
- c. have a driving record clear of revocations, suspensions and cancellations for the past three years except for suspensions which result from unpaid parking tickets.

5. By January 1, 1982, each driver and attendant shall successfully complete a first aid or emergency care course of not less than four hours which shall include instruction in the following elements:

- a. treatment of shock;
- b. control of bleeding;
- c. airway management;
- d. prevention and treatment of frostbite and exposure to cold;
- e. prevention and treatment of heat exhaustion and heat stroke;

f. identification of sudden illness such as stroke, heart attack, convulsions, fainting and seizures; and

g. appropriate use of emergency medical assistance services;

6. By January 1, 1982, each driver and attendant who transport passengers seated in wheelchairs or who assist passengers in transferring from a wheelchair to a vehicle shall complete a minimum of eight hours training in the techniques of transporting and assisting elderly and physically handicapped passengers which shall include instruction in the following elements:

a. discussion of characteristics of the aging process and major disabling conditions;

b. discussion of common assistive devices used by elderly and handicapped persons;

c. discussion of attitudes toward elderly and handicapped persons which includes the participation of handicapped and elderly persons;

d. instruction in methods of handling wheelchairs;

e. instruction in moving, lifting and transferring passengers;

f. guidelines for transporting handicapped persons; and

g. instruction in the operation of lifts, ramps and wheelchair securement devices if the vehicle to be operated is equipped with them.

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

8. Each driver and attendant shall receive instruction in the use of the fire extinguisher.

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

10. Each driver and attendant must successfully complete a refresher first aid or emergency care course every three years. The refresher course shall include instruction in the elements listed in 14 MCAR § 1.7009 A. 5.

B. Equipment.

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

a. one five pound, dry chemical fire extinguisher, A:B:C type, bearing a tag indicating that it has been serviced within the preceding year;

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

(1) six - 4" x 4" sterile gauze pads;

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

(3) adhesive tape; and

(4) scissors;

c. a spare tire and jack unless the vehicle is radio-equipped and the provider has a service contract which enables him to summon assistance to change the tire or to summon a substitute vehicle;

d. an operable flashlight;

e. if a vehicle carries children who weigh less than forty pounds, there shall be available in the vehicle a child restraint system which meets the requirements of federal motor vehicle safety standard no. 213. 49 C.F.R. § 571.213;

f. three emergency warning triangles. Both faces of each triangle shall consist of red reflective and orange fluorescent material. Each of the three sides of the triangular device shall be seventeen to twenty-two inches long and shall be two to three inches wide. The units shall be kept clean and in good repair and stored so as to be readily available when needed.

g. from October 1 to April 30, each vehicle shall carry an ice scraper and a blanket;

h. all vehicles with interior fuse boxes shall carry extra electrical fuses.

2. All seats shall be securely fastened to the floor or frame of the vehicle and all vehicles purchased after January 1, 1981 shall have a usable seat belt for each person being transported and for the driver.

3. All ramps shall have a slip-proof surface to provide traction and one end of the ramp shall be secured to the floor of the vehicle when the ramp is in use.

4. A vehicle which is equipped with a wheelchair lift and which carries semi-ambulatory persons who use the wheelchair lift shall be equipped with

either a wheelchair lift with an adjustable or removable railing which is thirty-six inches high on one side of the lift or with a folding wheelchair stored on the vehicle when it is in use.

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

C. Operation.

1. All vehicles shall be maintained and operated in compliance with Minn. Stat. ch. 169 and rules adopted pursuant to that chapter.

2. All providers shall conduct or cause to be conducted, a daily visual safety inspection of the following items:

- a. coolant level;
- b. lights, turn signals, hazard flashers;
- c. tires;
- d. windshield wipers and washer fluid;
- e. mirrors;
- f. fuel level.

3. All providers shall conduct or cause to be conducted a vehicle safety inspection once each week or every 1,000 miles, whichever comes first. The date and mileage at each safety inspection and a notation of needed repairs and replacements shall be made in a driver's logbook which shall be maintained in the vehicle or in the provider's files. The safety inspection shall include inspection of the following items:

- a. coolant level;
- b. oil level;
- c. lights, turn signals, hazard flashers;
- d. tires and tire pressure;
- e. brake, parking brake and brake fluid level, if visible in the engine compartment;
- f. instrument panel;
- g. horn;
- h. windshield wipers and washer fluid;

- i. fan belt;
- j. mirrors, inside and outside;
- k. wheelchair ramps and lifts and lift electrical systems, if applicable; and
- l. wheelchair or stretcher securement device, if applicable.

4. Smoking shall be prohibited in vehicles at all times. A sign stating "NO SMOKING" shall be posted in the vehicle so that it is visible to all passengers.

5. Drivers and passengers shall use seat belts at all times in vehicles which are equipped with them and drivers shall instruct each passenger to use the seat belt. Children who weigh less than forty pounds shall use approved child restraint systems at all times.

6. When any vehicle is stopped for any emergency purpose or is disabled on the roadway or shoulder of any highway outside a business or residence district during the time when lighted lamps must be displayed, the driver shall promptly place an emergency warning triangle on the roadway on the traffic side of the vehicle ten feet from the vehicle in the direction of approaching traffic. A second emergency warning triangle shall be placed approximately 100 feet from the vehicle in the direction of approaching traffic. If the vehicle is stopped or disabled on any one-way roadway, the driver shall place an additional warning triangle approximately 200 feet from the vehicle in the direction of approaching traffic.

D. Maintenance.

1. All vehicles shall be maintained in accordance with the manufacturer's recommended maintenance schedule or an improved schedule based on actual vehicle operating conditions.

2. Providers shall correct any deficiency which might interfere with the safe operation of the vehicle before the vehicle is placed in service.

3. Windows and lights shall be kept clean.

4. Interior of vehicles shall be clean and in good repair.

14 MCAR § 1.7010 Insurance.

A. Each provider shall have in effect an insurance plan which provides the following minimum coverage for each vehicle:

- 1. Basic economic loss benefits as required by Minn. Stat. ch. 65B;
- 2. Residual liability coverage in the following minimum amounts:

a. private providers; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injuries to, or the death of two or more persons in a single accident, and \$50,000 for destruction of, or damage to property in a single accident, or if the policy is written on a single limit basis, \$300,000 per occurrence;

b. municipalities; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$300,000 for bodily injury to, or death of two or more persons in a single accident, and \$50,000 for destruction of, or damage to property in a single accident;

c. the state; \$100,000 for bodily injury to, or death of any one person in a single accident, subject to a maximum of \$500,000 for bodily injury to, or death of two or more persons in a single accident, and \$100,000 for destruction of, or damage to property in a single accident.

3. Uninsured motorist coverage as required by Minn. Stat. ch. 65B.

B. Each provider shall obtain a certificate of insurance for the special transportation service vehicles which it operates. The provider's insurer shall mail the certificate of insurance to the Minnesota Department of Transportation, Division of Public Transportation, Transportation Building, St. Paul, Minnesota 55155. The certificate shall show the vehicles covered by the policy and the policy limits. The insurer shall notify the department in writing ten days prior to the termination of coverage by either party.

C. A provider may qualify as a self-insurer by providing evidence that it has complied with the requirements of Minn. Stat. § 65B.48, subd. 3.

14 MCAR § 1.7011 Records.

A. Each provider shall maintain files containing the following information:

1. For each driver, a driver's application form which contains the following information:

- a. the name, address and birthdate of the driver;
- b. the driver license number and the class of the license;
- c. whether the driver has had at least one year of driving experience;
- d. whether the driver's license has been revoked, suspended or cancelled within the three year period prior to this application;
- e. the date on which the driver successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A. 5.;
- f. the date on which the driver successfully completed training in the techniques of transporting and assisting elderly and physically handi-

capped passengers as required by 14 MCAR § 1.7009 A. 6. or 7. whichever is applicable;

g. the date and location at which driver was trained in the use of the fire extinguisher;

2. For each driver, the physician's statement that the driver has no current medical condition which interferes with his or her ability to drive safely.

3. For each attendant, an attendant's application form which contains the following information:

a. the name and address of the attendant;

b. the date on which the attendant successfully completed at least four hours of training in first aid as required by 14 MCAR § 1.7009 A. 5.;

c. the date on which the attendant successfully completed training in the techniques of transporting and assisting elderly and physically handicapped passengers as required by 14 MCAR § 1.7009 A. 6. or 7. whichever is applicable;

d. The date and location at which the attendant was trained in the use of the fire extinguisher:

4. All correspondence with the commissioner, including the certificate of compliance;

5. All accident records;

6. A record of all insurance claims arising from the operation of the vehicle;

7. Service records for each vehicle indicating the date, the odometer reading and the nature of the repair or replacement each time the vehicle was serviced;

8. The driver's logbook for each vehicle, unless the logbook is maintained in the vehicle.

B. The following documents shall be maintained in each vehicle:

1. A card showing the name of the insurance company which insures the vehicle and the telephone number of the insurance agent;

2. Accident report forms;

3. A card showing local emergency telephone numbers.

14 MCAR § 1.7012 Certification of training courses.

A. All training courses shall be approved by the commissioner prior to being offered to fulfill the requirements of these rules.

B. The application for approval of a training course shall be made on a form prescribed by the commissioner. A course shall be approved if it meets the following minimum standards:

1. It shall include instruction in the elements required by these standards;
2. The application shall specify when and where the instructor has previously taught the course;
3. The name, address, employment and relevant training of the instructor must be shown;
4. The name and address of any institution which is sponsoring the course must be shown.

C. Instructors.

1. A first aid course shall be taught by any person who is a licensed physician, registered nurse, licensed practical nurse, a paramedic, an emergency medical technician, a certified first aid instructor or a physician's assistant.

2. Passenger assistance technique training shall be taught by any person who is a licensed physician, registered nurse, registered physical therapist, registered occupational therapist, public health nurse or other health professional who has had work experience with physical disabilities, aging and communication disorders or by a team which includes one of those persons.

D. Applications for approval of training courses shall be granted or denied in writing by the commissioner within thirty days of receipt of the complete application.

14 MCAR § 1.7013 Variance.

A. The commissioner may grant a variance from any of these rules except 14 MCAR § 1.7004.

1. A variance shall be granted if the applicant shows that:

- a. the rationale for the rule or rules in question can be met or exceeded by the specific alternative practice which the applicant proposes to substitute;
- b. the application of the rule in question would impose an excessive burden on the applicant; and

c. the granting of the variance will not adversely affect the public health and safety.

2. The commissioner shall set forth in writing his reasons for granting or denying the variance within thirty days of receiving the application. If the variance is denied, the applicant may, within thirty days of receiving notice of the denial, request a contested case hearing.

3. Any special transportation service provider that is granted a variance shall comply with the alternative practice specified in its successful application for a variance.

B. Any special transportation service provider that has been granted a variance shall immediately notify the Department of Transportation if any material change occurs in the circumstances which justified granting the variance.

C. A variance shall be revoked if a material change occurs in the circumstances which justified granting the variance, or if the applicant fails to comply with the alternative practice specified in the application for a variance.

Effective date. These rules are effective May 11, 1981.

14 MCAR §§ 1.7014-1.7050 (Reserved for future use.)