

1 Department of Public Safety
2 Driver and Vehicle Services Division

3
4 Adopted Permanent Rules Relating to Deputy Registrars

5
6 Rules as Adopted

7 7406.0100 DEFINITIONS.

8 [For text of subpart 1, see M.R.]

9 Subp. 2. [See repealer.]

10 Subp. 3. [See repealer.]

11 Subp. 4. [See repealer.]

12 [For text of subp 5, see M.R.]

13 Subp. 6. **Municipality.** "Municipality" includes a
14 statutory city, home rule charter city, town, or township.

15 Subp. 7. **Approved office location.** "Approved office
16 location" means a location in a municipality that has been
17 approved by the registrar as meeting the requirements of part
18 7406.0300 but for which a deputy registrar appointment has not
19 been made.

20 Subp. 8. **Certificate of appointment.** "Certificate of
21 appointment" means the documents appointing the deputy registrar.

22 Subp. 9. **Collected or collection.** "Collected" or
23 "collection" means the:

24 A. receipt of the payment of registration fees and
25 taxes paid by the customer;

26 B. receipt by the deputy registrar from the customer
27 of the completed motor vehicle and other application documents
28 for the transaction; and

29 C. issuance of the required inventory for the
30 transaction to the customer by the deputy registrar.

31 Subp. 10. **Corporation.** "Corporation" means a corporation
32 governed by Minnesota Statutes, chapter 302A.

33 Subp. 11. **County auditor.** "County auditor" means the
34 county auditor elected in accordance with Minnesota Statutes,
35 chapter 384 or, if the position of county auditor has been



1 abolished or combined with another county office under Minnesota
 2 Statutes, section 375A.04, the principal county officer or
 3 county office that performs the majority of the functions
 4 formerly performed by the position of county auditor.

5 Subp. 12. Conviction of crime or crimes. "Conviction of
 6 crime" or "crimes" means convictions of felonies, gross
 7 misdemeanors, and misdemeanors for which a jail sentence may be
 8 imposed.

9 Subp. 13. Deputy registrar. "Deputy registrar" means a
 10 county auditor or registrar-appointed individual, governmental
 11 entity, American Automobile Association, or corporation
 12 ~~including its owners, officers, and five-percent shareholders.~~

13 Subp. 14. Discontinuance or discontinued. "Discontinuance"
 14 or "discontinued" means the immediate suspension, suspension, or
 15 revocation of a deputy registrar appointment.

16 Subp. 15. Existing office. "Existing office" means a
 17 deputy registrar office for which the location has been approved
 18 and the appointment of the deputy registrar has been made by the
 19 registrar, as specified in the certificate of appointment.

20 Subp. 16. ~~Five-percent shareholder.---~~ "Five-percent
 21 shareholder" means a person holding a direct or indirect
 22 financial interest of five percent or more in a corporation.

23 ~~Subp. 17.~~ Incomplete motor vehicle transaction.
 24 "Incomplete motor vehicle transaction" means a motor vehicle
 25 transaction that has not been collected by the deputy registrar.

26 Subp. ~~18.~~ 17. Inventory. "Inventory" means license
 27 plates, temporary registration permits, month sticker, and motor
 28 vehicle registration validation and weight stickers, including,
 29 but not limited to: passenger class validation sticker, gross
 30 vehicle weight validation sticker, fee validation sticker, and
 31 weight designation sticker.

32 Subps 18. and 19. ~~and 20.~~ [See renumbering instruction.]

33 Subp. ~~21.~~ 20. Registrar. "Registrar" means the registrar
 34 of motor vehicles of Minnesota, acting directly or through
 35 authorized agents. Under Minnesota Statutes, section 168.33,
 36 the commissioner of public safety is the registrar of motor

1 vehicles.

2 Subp. ~~22.~~ 21. Office. "Office" means an existing office
3 unless otherwise specified.

4 Subp. ~~23.~~ 22. Person. "Person" means an individual,
5 corporation, or governmental organization.

6 Subp. ~~24.~~ 23. Proposed office location. "Proposed office
7 location" means a location that has been submitted to the
8 registrar for consideration as a deputy registrar existing
9 office under part 7406.0300, or a move under part 7406.0330.

10 Subp. ~~25.~~ 24. Qualified newspaper. "Qualified newspaper"
11 means a newspaper that meets the requirements of Minnesota
12 Statutes, chapter 331A.

13 Subp. ~~26.~~ 25. Sufficient cause to believe. "Sufficient
14 cause to believe" means grounds that are put forth in good
15 faith; that are not arbitrary, irrational, unreasonable, or
16 irrelevant; that make the proposition asserted more likely than
17 not; and that are based on at least one of the following sources:

18 A. written information from an identified person;

19 B. facts or statements by the applicant or deputy
20 registrar;

21 C. court documents, state records, and police
22 records; or

23 D. facts of which the registrar or the registrar's
24 employees have personal knowledge.

25 7406.0300 ESTABLISHING LOCATION OF DEPUTY REGISTRAR OFFICE.

26 Subpart 1. Hennepin and Ramsey counties. The conditions
27 listed in items A to E must be met before a proposed deputy
28 registrar office location is approved in Ramsey or Hennepin
29 county.

30 A. The proposed office location must not be located
31 within a five-mile radius of an existing office.

32 B. The estimated number of transactions that a
33 proposed office will process annually must be at least 35,000.

34 The number of transactions will be estimated as 30 percent of
35 the transactions processed within the preceding calendar year by

1 existing offices located within a radius of the proposed office
2 location of over five miles and less than 9-1/2 miles.

3 C. The proposed office location may not be
4 established if the use of the percentage of transactions
5 processed by an existing office to establish a proposed office
6 would reduce the number of transactions to less than:

7 (1) 35,000 for an existing office located in
8 Hennepin or Ramsey county;

9 (2) 20,000 for an existing office located in an
10 area under subpart 1a; or

11 (3) 4,000 for an existing office located in an
12 area under subpart 2.

13 D. If a percentage of transactions processed by an
14 existing office was used to establish a new office, that
15 percentage may not be used again in consideration of another
16 proposed office within a two-year period. The two-year period
17 starts from the date the deputy registrar was appointed.

18 E. A proposed office location may not be considered
19 if the proposed office location is within a ten-mile radius of
20 an existing office that was established within the last two
21 years. The two-year period starts from the date the deputy
22 registrar was appointed.

23 Subp. 1a. **Other metropolitan counties; municipalities with**
24 **over 50,000 population.** The conditions listed in items A to E
25 must be met before a proposed office location is approved in a
26 metropolitan county, not including Hennepin and Ramsey counties,
27 or in a municipality with a population exceeding 50,000, not
28 including municipalities in Hennepin and Ramsey counties.

29 A. The proposed office location must not be located
30 within a five-mile radius of an existing office.

31 B. The estimated number of transactions that a
32 proposed office location will process annually must be at least
33 20,000. The number of transactions will be estimated as the
34 largest number computed in subitem (1), (2), or (3):

35 (1) 30 percent of the transactions processed
36 within the preceding calendar year by existing offices located

1 within a radius of the proposed office location of over five
2 miles but less than 6-1/2 miles;

3 (2) 20 percent of the transactions processed
4 within the preceding calendar year by existing offices located
5 within a radius of the proposed office location of at least
6 6-1/2 miles but less than eight miles; or

7 (3) ten percent of the transactions processed
8 within the preceding calendar year by existing offices located
9 within a radius of the proposed office location of at least
10 eight miles but less than 9-1/2 miles.

11 C. The proposed office location may not be
12 established if the use of a percentage of transactions processed
13 by an existing office to establish a proposed office would
14 reduce the number of transactions to less than:

15 (1) 35,000 for an existing office located in an
16 area under subpart 1;

17 (2) 20,000 for an existing office located in an
18 area under this subpart; or

19 (3) 4,000 for an existing office located in an
20 area under subpart 2.

21 D. If a percentage of transactions processed by an
22 existing office was used to establish a new office, that
23 percentage may not be used again in consideration of another
24 proposed office within a two-year period. The two-year period
25 starts from the date the deputy registrar was appointed.

26 E. A proposed office location may not be considered
27 if the proposed office location is within a ten-mile radius of
28 the existing office that was established within the last two
29 years. The two-year period starts from the date the deputy
30 registrar was appointed.

31 Subp. 2. Other areas. In all other municipalities not
32 included in subpart 1 or 1a, the conditions listed in items A to
33 E must be met before a proposed office location is approved.

34 A. The proposed office location must not be located
35 within a 15-mile radius of an existing office, except that:

36 (1) in municipalities having a population of

1 25,000 to 50,000, a maximum of two existing offices may be
2 established and the proposed office location must not be located
3 within a ~~five-mile~~ three-mile radius of an existing office in
4 that municipality; and

5 (2) the proposed office location must not be
6 located in a municipality of less than 25,000 population if
7 there is an existing office in that municipality.

8 B. The estimated number of transactions that a
9 proposed office location will process annually must be at least
10 4,000. The number of transactions must be estimated as follows:

11 (1) 20 percent of the transactions processed
12 within the preceding year by existing offices located within a
13 20-mile radius of the proposed office location; or

14 (2) if there is no existing office located within
15 a 20-mile radius of the proposed office location, 110 percent of
16 the population of the municipalities that are closer to the
17 proposed office location than to other existing offices.

18 C. The proposed office location may not be
19 established if the use of the percentage of transactions
20 processed by an existing office, to establish a proposed office,
21 would reduce the number of transactions to less than:

22 (1) 35,000 for an existing office located in an
23 area under subpart 1;

24 (2) 20,000 for an existing office located in an
25 area under subpart 1a; or

26 (3) 4,000 for an existing office located in an
27 area under this subpart.

28 D. If a percentage of transactions processed by an
29 existing office was used to establish a new office, that
30 percentage may not be used again in consideration of another
31 proposed office within a two-year period. The two-year period
32 starts from the date the deputy registrar was appointed.

33 E. A proposed office location may not be considered
34 if the proposed office location is within a 30-mile radius of an
35 existing office that was established within the last two years.
36 The two-year period starts from the date the deputy registrar

1 was appointed.

2 7406.0330 MOVE OF EXISTING OFFICE LOCATION.

3 Subpart 1. In general. A deputy registrar appointment is
4 for the operation of an existing office in the specific location
5 approved by the registrar and specified in the certificate of
6 appointment. A move of an existing office must meet the
7 requirements of part 7406.0300, be within the same county, and
8 be approved by the registrar.

9 Subp. 2. Variance. A deputy registrar may apply to the
10 registrar for a variance from the requirements of subpart 1,
11 except that no existing office is allowed to move to a different
12 county. A deputy registrar may apply for a variance by
13 submitting a written request, on a form prescribed by the
14 registrar, to the registrar. The registrar shall consider the
15 following factors when reviewing the deputy registrar's request
16 for a variance:

17 A. each rule part from which the waiver is requested
18 and why the proposed office location does not meet requirements
19 of the rule part;

20 B. the reasons for the request to move from the
21 existing office location;

22 C. the distance of the proposed office location from
23 the deputy registrar's existing office;

24 D. whether the proposed office location would service
25 the same community or neighborhood and is in close proximity to
26 the original location;

27 E. whether the proposed office location is in another
28 county;

29 F. comments, opposition, and support from other
30 existing offices of the proposed office location;

31 G. building considerations of the proposed office
32 location, including, but not limited to:

33 (1) parking space;

34 (2) compliance with part 7406.0400; and

35 (3) whether the existing office is a publicly or

1 privately operated office;

2 H. destruction or other loss of the existing office
3 building, including loss of building lease;

4 I. the number of previous moves of the existing
5 office and the reasons for the moves;

6 J. whether the proposed move is a result of or in
7 connection with any misfeasance or malfeasance on the part of
8 the deputy registrar; and

9 K. other information requested by the registrar or
10 supplied by the deputy registrar.

11 Subp. 3. Registrar's decision. The registrar shall review
12 the deputy registrar's request for a variance and grant or deny
13 it within 60 days after its receipt or within 60 days after the
14 date of the registrar's request for additional information,
15 whichever is later. The registrar shall give the deputy
16 registrar written justification for a decision to deny the
17 variance. Failure to submit the required information under this
18 subpart, within 30 days of the registrar's request for
19 information, is cause to deny a deputy registrar's request for a
20 variance.

21 Subp. 4. Right to review of registrar's decision. A
22 deputy registrar may contest the denial of a variance of the
23 registrar by requesting a hearing. The deputy registrar shall
24 submit, within 15 days of the receipt of the registrar's
25 decision, a request for a hearing. The request for a hearing
26 must set forth in detail the reasons why the deputy registrar
27 contends the decision of the registrar should be reversed. The
28 hearing must follow the hearing procedures in parts 7406.1100 to
29 7406.2500.

30 7406.0350 COUNTY AUDITOR APPOINTED AS DEPUTY REGISTRAR;
31 PROCEDURE.

32 Subpart 1. In general. Upon request by an applicant that
33 has met the location requirements under part 7406.0300, the
34 registrar shall begin the appointment process for an approved
35 office location. The request for appointment must be referred

1 first to the county auditor in the same county as the approved
2 office location and the county auditor shall choose one of the
3 options listed in subpart 2 regarding the appointment.

4 Subp. 2. County auditor appointment. When the registrar
5 refers the appointment of deputy registrar to the county auditor
6 in which the approved office location is located, the county
7 auditor shall choose one of the options listed in items A to E:

8 A. if not previously appointed a deputy registrar,
9 accept the appointment as the deputy registrar for the approved
10 office location and operate the approved office location as
11 county auditor;

12 B. if not previously appointed a deputy registrar,
13 accept the deputy registrar appointment and agree to appoint a
14 clerk or equivalent officer of a statutory or home rule charter
15 city or any other person as deputy registrar for the approved
16 office location;

17 C. if previously appointed as a deputy registrar,
18 operate the approved office location as county auditor;

19 D. if previously appointed as a deputy registrar,
20 agree to appoint a clerk or equivalent officer of a statutory or
21 home rule charter city or any other person as deputy registrar
22 for the approved office location; or

23 E. regardless of whether the county auditor has been
24 previously appointed a deputy registrar, decline the deputy
25 registrar appointment ~~or decline to appoint a deputy registrar.~~

26 Subp. 3. Notice to registrar required. The county auditor
27 shall notify the registrar, in writing, of the option that is
28 chosen under subpart 2 regarding the appointment for the
29 approved office location. The notification must be received by
30 the registrar within 30 days of the offer to appoint by the
31 registrar.

32 Subp. 4. Failure to notify registrar; consequences. If
33 the county auditor ~~who has not been appointed a deputy registrar~~
34 declines the appointment or fails to notify the registrar within
35 30 days, or declines to be appointed a deputy registrar and make
36 the appointment that the county auditor will personally accept

1 the appointment and serve as a deputy registrar, or will accept
2 the appointment and appoint another person to serve as the
3 deputy registrar, the appointment of the deputy registrar must
4 be considered by the registrar under part 7406.0360.

5 ~~If a county auditor who has been appointed as a deputy~~
6 ~~registrar fails to notify the registrar within 30 days, or~~
7 ~~declines to make the deputy registrar appointment, the~~
8 ~~appointment process for that qualifying location ends.~~

9 Subp. 5. General authority of county auditor as deputy
10 registrar. Once appointed a deputy registrar, the county
11 auditor has **exclusive** authority to make subsequent deputy
12 registrar appointments in the county. The commissioner may make
13 subsequent appointments if the county auditor declines to do so.

14 When appointing a deputy registrar, the county auditor
15 shall follow the appointment procedures set forth in part
16 7406.0360 and Minnesota Statutes, section 168.33, subdivision 2.

17 Subp. 6. **Change in county auditor appointment.** A county
18 auditor appointed as a deputy registrar shall notify the
19 registrar, in writing, within ten days of vacating the county
20 auditor office. If the county auditor position is vacated upon
21 the death of a county auditor, a county official authorized by
22 the county board must notify the registrar within ten days of
23 that vacancy.

24 Subp. 7. **Transfer of county auditor appointments.** Deputy
25 registrar appointments made by a county auditor are transferred
26 to either the successor county auditor or to the registrar
27 depending on the applicable circumstances set forth in item A or
28 B.

29 A. If the position of county auditor is taken or
30 assumed by another, the successor county auditor automatically
31 assumes:

32 (1) the appointment, responsibility, and
33 authority of deputy registrar for the county; and

34 (2) the deputy registrar appointments made during
35 the term of any previous county auditor.

36 The deputy registrar appointments are automatically

1 transferred to the successor county auditor when the successor
2 takes or assumes the position of county auditor.

3 B. All deputy registrar appointments in a county are
4 transferred to the registrar if:

5 (1) the county auditor's appointment as a deputy
6 registrar in that county is discontinued by the registrar; or

7 (2) the county auditor for that county
8 relinquishes the deputy registrar appointment and any deputy
9 registrar appointments made by present or former county auditors
10 for that county.

11 7406.0360 DEPUTY REGISTRAR APPOINTMENT PROCEDURE FOR COUNTY
12 AUDITOR OR REGISTRAR.

13 Subpart 1. In general. Except for appointments under part
14 7406.0700, a deputy registrar appointment can only be made for
15 an approved office location that qualifies under part
16 7406.0300. The appointment procedures in this part apply to
17 appointments made by the registrar and those appointments made
18 by the county auditor, excluding the appointment of a county
19 auditor or an appointment made by a county auditor of a county
20 clerk or county officer under part 7406.0350.

21 Subp. 2. Publication. After approval of a location under
22 part 7406.0300, either the county auditor or the registrar, as
23 the appointing authority, is responsible for publishing notice
24 of the deputy registrar vacancy for the approved office location.
25 The notice must be published for two successive weeks in a
26 qualified newspaper in the county where the approved office
27 location is located.

28 For an appointment being made by the county auditor, the
29 notice must be published within 30 days after the date of
30 notification to the registrar of the option to appoint under
31 part 7406.0350, subpart 2. For an appointment being made by the
32 registrar, the notice must be published within 30 days after
33 refusal of the county auditor to appoint a deputy registrar
34 under part 7406.0300.

35 The notice must be in a format prescribed by the registrar

1 and must contain at least the following information:

2 A. the geographic location of the municipality that
3 qualifies based on a field survey conducted by the registrar;

4 B. information on how to obtain an application for
5 the appointment; and

6 C. the deadline for submitting the application to the
7 registrar.

8 Subp. 3. **Restriction on processing proposed office**
9 **locations.** Once a request for a proposed office location has
10 been submitted to the registrar for consideration, no other
11 requests for a proposed office location may be made for that
12 proposed office location or a location within a 15-mile radius
13 of that proposed office location until:

14 A. the registrar determines that the proposed office
15 location does not meet the requirements of part 7406.0300; or

16 B. the appointment process for the approved office
17 location under this chapter is completed.

18 Subp. 4. **Application for appointment.** An application for
19 a deputy registrar appointment must be submitted to the
20 registrar on a form provided or approved by the registrar and
21 must contain the following information:

22 A. the full name, address, states of residency for
23 the last five years, date of birth, and telephone number of the
24 applicant, who must be age 18 or older, and each person named on
25 the application;

26 B. whether the applicant is an individual, public
27 entity, or a corporation and, if a corporation:

28 (1) a listing of each director, officer, and five
29 percent shareholder;

30 (2) the nature of the corporate business
31 operations for the past five years;

32 (3) a listing of all trade or business names used
33 by the corporation; and

34 (4) a copy of the Articles of Incorporation filed
35 with the Secretary of State;

36 C. whether a person named on the application has or

1 had any other license with a federal, state, or municipal
2 government agency, the current status of that license, and an
3 explanation of any cancellation, revocation, suspension, or
4 other disciplinary proceeding in connection with the license;

5 D. whether a person named on the application owns or
6 is a partner, officer, or five percent shareholder in a
7 financial institution, motor vehicle dealership, or automobile
8 insurance business;

9 E. the name, address, date of birth, and telephone
10 number of the person who will be responsible for the day-to-day
11 operation of the proposed office location, if known;

12 F. the address of the proposed office location;

13 G. a floor plan of the proposed office, including the
14 area and dimensions of the space allocated for the processing
15 area, public service area, and storage area;

16 H. information regarding work experience and training
17 as specified on the application;

18 I. a history of deputy registrar appointments of each
19 person, public entity, and corporation named on the application,
20 including each prior deputy registrar appointment applied for or
21 granted and the dates of the application or appointment, and, if
22 applicable, the date and reasons why a deputy registrar
23 appointment application was denied or an appointment was
24 suspended, revoked, or canceled;

25 J. a certified copy of the criminal history of each
26 person named on the application and, if the person is a
27 nonresident or has resided in Minnesota for less than five
28 years, a certified copy of a criminal records check of the
29 national criminal records repository including the criminal
30 justice data communications network; and

31 K. the signature of each person named on the
32 application, verifying that the information on the application
33 is true. The signatures must be notarized.

34 Subp. 5. Criminal history check. The registrar may
35 conduct a criminal history check at any time while a person is
36 serving as a deputy registrar.

1 Subp. 6. Change in deputy registrar conditions. A deputy
2 registrar shall report changes or anticipated changes of the
3 information in subpart 4. The changes must be reported to the
4 registrar, on a form prescribed by the registrar, within ten
5 days of the date the change is to occur or within ten days of
6 the date the deputy registrar learns that the changes will
7 occur, whichever occurs first.

8 Changes are subject to approval by the registrar. A change
9 may be cause for discontinuance of an appointment if the change
10 violates this chapter or Minnesota Statutes, section 168.33.

11 Subp. 7. Reasons to deny deputy registrar appointment.

12 The registrar shall deny a deputy registrar application or
13 appointment for any of the reasons listed in items A to H:

14 A. The application or an item filed with the
15 application does not meet the requirements of subpart 4.

16 B. A person named on the application was or is an
17 owner, partner, officer, director, or five-percent shareholder
18 of an office whose deputy registrar appointment is currently
19 discontinued or who is involved in an investigation or
20 proceeding that could result in discontinuance of an appointment.

21 C. A person named on the application has been
22 convicted of a felony.

23 D. A person named on the application has been
24 convicted of any crime of the following types:

25 (1) affecting a public officer or employee;

26 (2) of theft or a related crime;

27 (3) of forgery or a related crime; or

28 (4) that directly relates to the position of a
29 deputy registrar.

30 Convictions include convictions of a crime in another
31 jurisdiction that, if committed in Minnesota, would be a
32 violation of a Minnesota statute.

33 E. The applicant's proposed office location does not
34 meet the requirements under part 7406.0300 or 7406.0400.

35 F. The commissioner of revenue notifies the
36 registrar, or the registrar has sufficient cause to believe,

1 that a person named on the application owes the state delinquent
2 taxes, penalties, or interest.

3 G. A person named on the application owns or is a
4 partner, officer, or five-percent shareholder in a financial
5 institution, motor vehicle dealership, or automobile insurance
6 business.

7 H. An application for appointment is filed that is
8 incomplete or that contains a statement that is false,
9 misleading, fraudulent, or otherwise constitutes a
10 misrepresentation.

11 7406.0370 APPOINTMENT OF DEPUTY REGISTRAR.

12 Subpart 1. In general. An appointment must be based upon
13 information contained in the application, interviews, an
14 inspection of the proposed office location for compliance with
15 this chapter, and other relevant information or documentation.

16 Subp. 2. Certificate of appointment. In connection with
17 the appointment as a deputy registrar, the individual, public
18 entity, or corporation shall execute a certificate of
19 appointment. The certificate must include the person appointed
20 as deputy registrar, the location of the approved office, and
21 other information relating to the responsibility of the deputy
22 registrar appointment. The certificate of appointment must be
23 signed by the appropriate person as follows:

24 A. when an individual is appointed, by the individual
25 appointed;

26 B. when a government entity is appointed, by a public
27 official authorized to sign on behalf of the government entity;
28 and

29 C. when a corporation is appointed, by an officer of
30 the corporation.

31 7406.0400 DEPUTY REGISTRAR OFFICE REQUIREMENTS.

32 Subpart 1. In general. Any proposed, approved, or
33 existing office location must comply with subparts 2 to 7.
34 Existing offices that are not in compliance with subparts 4 and
35 7 on the effective date of these amendments to this chapter, may

1 be granted a variance by the registrar under subpart 1a.

2 Subp. 1a. Variance. An existing deputy registrar may
3 apply to the registrar for a variance from complying with
4 subparts 4 and 7 if compliance would be a substantial hardship
5 for the deputy registrar. A deputy registrar may apply for a
6 variance by submitting a written request, on a form prescribed
7 by the registrar, to the registrar within six months of the
8 effective date of this subpart. The registrar shall consider
9 the following factors when reviewing the deputy registrar's
10 request for a variance:

11 A. the subpart from which the variance is requested
12 and why the office does not meet the requirements of the
13 subpart;

14 B. the options available to the deputy registrar to
15 bring the office into compliance with the subparts;

16 C. the financial cost for meeting the options listed
17 in item B, estimated with reasonable efforts; and

18 D. other information requested by the registrar or
19 supplied by the deputy registrar.

20 A variance granted under this subpart expires upon the
21 death, ~~resignation, revocation,~~ or retirement of ~~the existing~~ an
22 individual appointed as a deputy registrar whose office does not
23 comply with the requirements of subparts 4 and 7, the
24 dissolution of a corporate deputy registrar, or the revocation
25 or resignation of any deputy registrar appointment.

26 If the deputy registrar office moves, any variances granted
27 with respect to the office space requirements of subparts 4 and
28 7 expire.

29 The registrar's decision and the right to review of the
30 registrar's decision must follow the procedures in part
31 7406.0330, subparts 3 and 4.

32 Subp. 2. Processing areas for complete and incomplete
33 motor vehicle transactions. A deputy registrar:

34 A. must have an office that contains:

35 (1) a separate and distinct area used exclusively
36 for processing and storing completed motor vehicle applications;

1 and

2 (2) a separate and distinct area for processing
3 and storing incomplete motor vehicle transactions if the office
4 takes in work that is not collected on the day it was received
5 in the office, in which case the office must meet the
6 requirements of part 7406.0450, subpart 2a;

7 B. may not use the processing areas for living space
8 or for transacting any other business, except that deputy
9 registrars authorized by the registrar may process drivers'
10 licenses, Department of Natural Resources transactions, and
11 additional transactions as specified under Minnesota Statutes,
12 section 373.33;

13 C. shall install a counter or divider within the
14 processing areas to separate the public from the processing
15 areas of the office; and

16 D. shall provide to the registrar a floor plan of the
17 office, including the specific areas and dimensions of the space
18 allocated for the processing areas, public service area, and
19 storage area, if not previously provided with an application for
20 appointment under part 7406.0360, subpart 4.

21 **Subp. 3. Inventory security.** Inventory must be maintained
22 in a secured area that is not accessible to the public either
23 during or after business hours.

24 **Subp. 4. Size of office area.** The size of the office area
25 includes the processing areas, the public service area, and the
26 inventory storage area of the office. The size of the office
27 area must contain a minimum of 300 square feet.

28 If the deputy registrar office space is adjacent to another
29 nonconflicting business, the other business may not encroach
30 upon the office space of the deputy registrar office. The
31 deputy registrar office space must be separate and distinct from
32 the other business.

33 **Subp. 5. Accessibility.** The office must be accessible to
34 the disabled in compliance with state and federal laws and
35 regulations.

36 **Subp. 6. Identification.** An indoor or outdoor sign must

1 be prominently displayed to identify the office.

2 Subp. 7. **Conflicting business interests.** A deputy
3 registrar may not own or be a partner, officer, or five-percent
4 shareholder in a financial institution, motor vehicle
5 dealership, or automobile insurance business.

6 A deputy registrar office may not be located in the same
7 office space with a financial institution, a motor vehicle
8 dealership, or an automobile insurance office. A deputy
9 registrar office that is located adjacent to a conflicting
10 business must be separated from the conflicting business by
11 floor-to-ceiling walls. The deputy registrar must have an
12 entrance that is separate from the conflicting business and must
13 have a door that can be shut and locked to close off the entire
14 entrance.

15 7406.0450 REPORTING AND DEPOSITING PRACTICES.

16 Subpart 1. **Definition.** For purposes of this part, the
17 words "next working day" mean the 24-hour period following the
18 daily close of the deputy registrar's records. A working day
19 does not include Saturdays, Sundays, or legal holidays listed in
20 Minnesota Statutes, section 645.44, subdivision 5; nonbanking
21 days of approved state depositories; holidays authorized under
22 Minnesota Statutes, section 373.052, subdivision 1, for deputies
23 who are county officers or employees; or days that an office is
24 not open for business, upon approval from the registrar.

25 The deputy registrar shall provide written notification to
26 the registrar of the time of the daily close of the office
27 records. The time of the daily close may not be changed by the
28 deputy registrar without prior written notification to the
29 registrar at least 15 days before the effective date of the
30 change.

31 Subp. 1a. [See repealer.]

32 Subp. 2. **Reporting registrations, fees, and taxes.** Deputy
33 registrars shall report to the registrar, on a summary report
34 form prescribed or approved by the registrar, a summary of the
35 motor vehicle transactions collected each day. The summary

1 report must contain:

2 A. a list of the names of the transferees or
3 registrants, excluding the names of parties applying solely for
4 renewal;

5 B. the type of transaction required;

6 C. the listing of fees and taxes that were collected
7 on that day;

8 D. the supporting completed motor vehicle documents
9 and required information for the transactions as specified by
10 the registrar; and

11 E. a report to the registrar and to the Minnesota
12 state treasurer, on forms supplied by the Department of Finance,
13 or approved by the registrar, showing the total amount of
14 registration fees and taxes collected and deposited under
15 subpart 3. On the financial report submitted to the registrar,
16 the deputy registrar shall provide the time of the daily close
17 of the deputy registrar office, and the date and time that the
18 deposit was made in the state depository or by other approved
19 method. The deputy registrar must also provide the validated
20 bank deposit slip or other written verification by the bank of
21 the time of deposit.

22 All transactions collected in an office must be included on
23 the summary report for the day the transaction was collected in
24 the office. A minimum of one summary report must be completed
25 for all transactions collected during each day. More than one
26 summary report may be submitted for one day with prior approval
27 from the registrar.

28 If an office does not collect any transactions on a day the
29 office is scheduled to be open, a summary report must still be
30 filed with the registrar indicating that no transactions were
31 collected for that day.

32 Deputy registrars shall deliver the summary report to the
33 registrar and the Minnesota state treasurer before the end of
34 the next working day following the receipt of the documents,
35 fees, and taxes by one of the following methods:

36 A. United States mail;

- 1 B. a package delivery service;
- 2 C. electronic transfer;
- 3 D. hand delivery; or
- 4 E. other methods approved by the registrar.

5 If the United States mail is used to deliver the summary
6 report to the registrar, the date of delivery by United States
7 mail is the actual day on which the delivery is deposited in a
8 United States mail receptacle, regardless of whether the date is
9 the same as the date the summary report is postmarked.

10 Subp. 2a. Processing and reporting incomplete motor
11 vehicle documents. The processing and reporting requirements
12 listed in items A to G must be met if a deputy registrar
13 receives incomplete motor vehicle transactions.

14 A. The transactions are not considered accepted and
15 must not be listed on the summary report by the deputy registrar
16 until the collection of the transaction.

17 B. Inventory must not be released to the customer by
18 the deputy registrar before the time of the collection of the
19 transaction.

20 C. Registration fees and taxes must not be deposited
21 before the time of the collection of the transaction.

22 D. Incomplete transactions that cannot be collected
23 the same day that they were received by the deputy registrar
24 must be dated with the date that they were received by the
25 deputy registrar and placed in the incomplete processing area
26 that is required under part 7406.0400, subpart 2, item B.

27 E. The deputy registrar shall collect for the
28 transaction or return the incomplete transaction to the customer
29 within two working days following receipt of the transaction.

30 F. The deputy registrar shall inform the customer
31 that the motor vehicle transaction will not be considered
32 accepted by the deputy registrar and stamped with a paid stamp
33 until the collection of the transaction.

34 G. The deputy registrar must notify the registrar if
35 the deputy registrar's office intends to receive incomplete
36 motor vehicle transactions and submit to the registrar a floor

1 plan of the office space as required under part 7406.0360,
2 subpart 4. If the deputy registrar ceases to accept incomplete
3 motor vehicle transactions, the deputy registrar shall notify
4 the registrar within ten days of the change.

5 [For text of subp 3, see M.R.]

6 Subp. 4. **Maintaining records.** At the deputy registrar's
7 office, the deputy registrar shall keep complete records for
8 deposits made to approved state depositories and the daily
9 summary reports prepared under subpart 2 for motor vehicle
10 registrations and fees and taxes collected. The records must be
11 maintained for three years.

12 Once the records and the corresponding motor vehicle
13 documents are received by the deputy registrar, the records,
14 documents, and information contained on the records and
15 documents become the property of the state of Minnesota and are
16 subject to the terms of the Data Practices Act under Minnesota
17 Statutes, chapter 13. The records, documents, and information
18 contained on the records and documents may not be released by
19 the deputy registrar without prior approval from the registrar,
20 except when authorized by statute for law enforcement personnel
21 and by court order.

22 Subp. 5. **Late payment charge.** On discovering a violation
23 of subpart 3, the registrar must send a warning notice to the
24 deputy registrar. The notice must identify the violation and
25 tell the deputy registrar that if the deputy registrar violates
26 subpart 3 again in the following month, a late payment charge
27 will be imposed. For each month immediately following a month
28 for which the deputy registrar is warned or issued a late
29 payment charge, in which the deputy registrar violates subpart 3
30 again, the registrar shall impose a late payment charge of \$30
31 or an amount computed by the following formula, whichever is
32 greater.

33 Days Late x Delinquent Amount x Daily Rate = Late payment
34 charge where:

35 Days Late = Actual number of days each deposit is
36 delinquent

1 Delinquent Amount = Actual amount each deposit is
2 delinquent

3 Daily Rate = Interest on all state funds without authority
4 to be invested separately, as determined by the Minnesota
5 Department of Finance, for the month the deposit was due,
6 divided by 365 days.

7 In determining the number of days a deposit is late, weekends
8 and holidays must be included only if the deposit is determined
9 to be already at least two days late. The registrar shall
10 continue to impose monthly late payment charges until the deputy
11 registrar is no longer in violation of this part.

12 Subp. 6. **Notice of late payment charge.** The registrar
13 shall send a written notice of a late payment charge by
14 certified mail. The notice must identify the violations of
15 Minnesota Statutes, section 168.33, and subpart 3 for which the
16 late payment charge is imposed. The notice must also tell the
17 deputy registrar when the late payment charge is due, how the
18 late payment charge must be paid, and how to obtain a review of
19 the late payment charge.

20 Subp. 7. **Unpaid late payment charges.** If a late payment
21 charge remains unpaid for 30 days from the date the registrar
22 mailed the notice of late payment charge and if no review is
23 requested, the registrar shall make a claim for payment against
24 the deputy registrar's performance bond, or in the case of a
25 public official serving as a deputy registrar, the registrar
26 shall demand payment from the county treasurer.

27 Subp. 8. **Administrative review.** When the registrar
28 notifies a deputy registrar that a late payment charge has been
29 imposed:

30 A. The deputy registrar may ask the registrar to
31 review the late payment charge. The deputy registrar may
32 request a review by submitting a statement, together with
33 written materials showing that the deputy registrar processed
34 the motor vehicle registrations in compliance with Minnesota
35 Statutes, section 168.33, subdivision 2, and this chapter. The
36 request for review must be submitted within ten days from the

1 date the notice of late payment charge was issued. The
2 registrar shall review the materials and notify the deputy
3 registrar within ten days of receipt of the request for review,
4 whether the late payment charge will be affirmed or rescinded.
5 A deputy registrar may withhold the late payment charge during
6 the review period but must pay the late payment charge to the
7 state depository account by the end of the working day following
8 notice that the late payment charge is affirmed.

9 B. The registrar shall affirm the late payment charge
10 only if the charge was calculated correctly and the late deposit
11 was the result of foreseeable circumstances within the control
12 of the deputy registrar.

13 Subp. 9. **Discontinuance.** A deputy registrar who fails to
14 comply with the late payment charge notice may be subject to
15 discontinuance of the deputy registrar's appointment under parts
16 7406.0800 to 7406.1000.

17 7406.0500 GENERAL OPERATING RULES FOR DEPUTY REGISTRARS.

18 Subpart 1. **Management of office.** A deputy registrar must
19 manage the office in accordance with the following:

20 A. shall not delegate to another person the authority
21 or responsibility of operating the office; and

22 B. shall designate one contact person for the
23 office. The deputy registrar shall provide written notification
24 to the registrar of the name of the contact person and of a
25 change in the contact person within ten days of the change. The
26 contact person must be a person who actively participates in the
27 processing of transactions and who is in the office on a
28 full-time basis. The contact person shall act as a liaison
29 between the registrar and the deputy registrar office to discuss
30 and address problems or questions that may arise on a daily
31 basis.

32 Subp. 2. **Hours.** Deputy registrar offices must be open for
33 business at least 40 hours during each week. However, legal
34 holidays listed in Minnesota Statutes, section 645.44,
35 subdivision 5, and holidays authorized under Minnesota Statutes,

1 section 373.052, subdivision 1, for county offices are included
2 in the 40-hour calculation.

3 Each deputy registrar shall provide the registrar with an
4 accurate written schedule of the hours the office is open for
5 business. A written request for a change in office hours must
6 be made to the registrar at least ten days before the change in
7 hours. The registrar must approve changes in business hours
8 before the hours become effective.

9 Subp. 2a. Closure of office; variance procedure. An
10 office must be open for at least 40 hours each week unless the
11 registrar grants a variance to allow an office to be closed for
12 a specified period of time. To request a variance for closure
13 of an office for two days or more, the deputy registrar shall
14 submit a written request on a form prescribed by the registrar.
15 Under the variance procedure, the registrar shall consider the
16 following factors before allowing an office to close:

17 A. reason the closure is requested;

18 B. length of time the closure is requested;

19 C. day of the month and time of the year that the
20 closure is requested;

21 D. number of transactions that an office processes on
22 an annual basis and number of transactions that are processed at
23 the requested time of closure, if known;

24 E. ability to keep the office open with current,
25 additional, or temporary staff; and

26 F. number of variances granted that year.

27 The registrar shall review the information submitted with
28 the variance request and grant or deny the variance within two
29 business days after receipt of the request.

30 If a variance is granted for closure of an office, the
31 deputy registrar must provide notice to the public at the deputy
32 registrar office of the dates and times of the office closure.
33 If the office is to be closed for four days or less, the deputy
34 registrar must post notice in a conspicuous place inside and
35 outside the office for up to two consecutive weeks before
36 closure. If the office is to be closed for five or more days,

1 the notice must be posted at the office and also published in a
 2 qualified newspaper or on a radio station in the county or city
 3 in which the office is located. The notice must be published at
 4 least two weeks before the closing for two consecutive weeks, or
 5 a shorter time as approved by the registrar.

6 The notice of closure must contain the dates and times that
 7 the office will be closed and the location and address of the
 8 nearest office where alternative service can be obtained.

9 Subp. 2b. **Emergency and short-term closure of office.** For
 10 requests of an office closure that is for one day or that is due
 11 to an emergency situation, the deputy registrar must notify the
 12 registrar by telephone or other means at the earliest
 13 opportunity to request a variance from the 40-hour work week.
 14 The registrar must follow the criteria in subpart 2a when
 15 deciding to grant or deny the variance. If a variance is
 16 granted for closure of an office, the deputy registrar must
 17 provide notice to the public, as soon as practicable, at the
 18 deputy registrar office of the dates and times of the office
 19 closure. If the closure of an office is for more than one day,
 20 the deputy registrar must follow the variance procedures set
 21 forth in subpart 2a.

22 ~~Subp. 3. --{See repeater.}~~

23 [For text of subp 3, see M.R.]

24 ~~Subp. 3a. --Service area. --A deputy registrar may promote or~~
 25 ~~provide by any means, service within an area not to exceed 75~~
 26 ~~percent of the distance to another deputy registrar. --A deputy~~
 27 ~~registrar or an employee or agent of the deputy registrar may~~
 28 ~~not promote or provide service or by any method pick up~~
 29 ~~transactions beyond 75 percent of the distance between the~~
 30 ~~deputy registrar's office and the office of another deputy~~
 31 ~~registrar. --This subpart does not prohibit customers from~~
 32 ~~delivering their transactions for processing to any deputy~~
 33 ~~registrar office of their choice.~~

34 ~~Subp. 3b. --Variance. --A deputy registrar may apply to the~~
 35 ~~registrar for a variance from subpart 3a. --The following~~
 36 ~~conditions must be met when a deputy registrar applies for a~~

1 variance:

2 A.--A deputy registrar must apply for a variance by
3 submitting a written request, on a form prescribed by the
4 registrar, to the registrar.

5 B.--The request for a variance must be submitted to
6 the registrar within six months of the effective date of this
7 subpart or within six months of a move of a deputy registrar
8 office or the appointment of a new deputy registrar office that
9 changes the distance of its current 75-percent service area.

10 C.--Variances will only be considered for a deputy
11 registrar office that has been providing service to a customer
12 outside the deputy registrar's 75-percent service area for over
13 a year before the effective date of this subpart, unless the
14 request for a variance is made as a result of a move of a deputy
15 registrar office or the appointment of a new deputy registrar
16 office.

17 D.--If the request for a variance is made as a result
18 of a move of a deputy registrar office or the appointment of a
19 new deputy registrar office, the request will be considered only
20 if the service to the customer has been provided before the
21 effective date of the move or the appointment of a new deputy
22 registrar office.

23 E.--The deputy registrar shall submit an affidavit
24 from the customer who has been provided service from the deputy
25 registrar.--The affidavit must state at least:

26 (1) the names and addresses of the customer and
27 the deputy registrar who has been providing the service;

28 (2) what service has been provided by the deputy
29 registrar; and

30 (3) the date on which the service from the deputy
31 registrar office began.

32 F.--The deputy registrar shall verify that the
33 information provided by the customer on the affidavit is correct.

34 G.--The deputy registrar shall make the following
35 agreements to the registrar:

36 (1) that upon death, resignation, revocation, or

1 retirement-of-the-deputy-registrar,-all-variances-for-service-to
2 a-customer-that-have-been-granted-expire,-and

3 (2)-that-if-the-service-of-a-customer-listed-in
4 an-affidavit-in-item-E-is-discontinued-or-the-customer-changes
5 locations,-the-variance-for-providing-that-service-to-that
6 customer-expires.--The-variance-granted-to-a-deputy-registrar-is
7 for-a-particular-customer-at-a-designated-location-as-provided
8 in-the-affidavit.

9 This-subpart-applies-only-to-a-deputy-registrar-promoting
10 or-providing-service-outside-the-75-percent-service-area-and
11 does-not-in-any-way-limit-the-promotion-or-providing-of-service
12 within-a-deputy-registrar's-75-percent-service-area.

13 The-registrar's-decision-and-the-right-to-a-review-of-the
14 registrar's-decision-must-follow-the-procedures-in-part
15 7406.0330,-subparts-3-and-4.

16 Subp.-3c.--Advertising.--The-distance-limitation-in-subpart
17 3a-does-not-apply-to-advertising-by-the-deputy-registrar-in-any
18 print,-broadcast,-or-electronic-media.--The-advertising-may-not
19 contain-any-financial-incentives-for-the-service-provided-by-the
20 deputy-registrar.

21 Subp. 4. [See repealer.]

22 Subp. 5. Filing fees. Filing fees are governed by the
23 following requirements:

24 A. A deputy registrar shall charge and receive the
25 full filing fee specified by law. Rebates are prohibited.

26 B. No filing fee may be charged for a document
27 returned for a refund, correction of an error made by the
28 department or a deputy registrar, permanent surrender of a
29 certificate of title, or license plate for a motor vehicle.

30 C. A deputy registrar may not charge a customer for
31 long-distance telephone calls, unless:

32 (1) the charge is for the exact per-minute charge
33 of the telephone call and does not include any charges for other
34 basic or optional telephone services;

35 (2) the long-distance telephone call was made at
36 the request of the customer; and

1 (3) the deputy registrar maintains a record of
2 the long-distance telephone calls made each day, which includes
3 the charges assessed and the name and address of the customer
4 for whom the telephone call was made.

5 Subp. 6. **Cash register.** A separate cash register or cash
6 receptacle must be maintained for deputy registrar funds. No
7 other funds from other businesses may be kept with deputy
8 registrar funds, except:

9 A. funds from driver's license, Department of Natural
10 Resources, or county license bureau transactions, concerning
11 which the deputy registrar must be able to determine at all
12 times which funds are attributable to motor vehicle transactions
13 and which funds are attributable to driver's license, Department
14 of Natural Resources, or county license bureau transactions; or

15 B. funds from other sources, other than those listed
16 in item A, when the deputy registrar's fee receipt system is
17 able to differentiate funds from various sources and the deputy
18 registrar has received written approval from the registrar to
19 use such a system.

20 Subp. 7. **Imprest cash.** A deputy registrar shall maintain
21 a verifiable and identical amount of start-up funds in the cash
22 register or cash receptacle on a daily basis. The deputy
23 registrar shall inform the registrar, in writing, of the amount
24 of money that will be used during the day for start-up funds.
25 The amount of the start-up funds must not be changed without
26 prior written notification to the registrar.

27 Subp. 8. **Inventory to remain in office.** Unsold inventory
28 that is assigned to a deputy registrar by the registrar must
29 remain in the office, except in the following authorized
30 circumstances:

31 A. return of inventory to the registrar;

32 B. destruction or removal of inventory that is
33 obsolete; or

34 C. other removal or transfer of inventory that is
35 authorized by the registrar such as approval to reassign
36 inventory to another office or approval to remove inventory

1 through other means such as through newly established technology.

2 Subp. 9. Mail order transaction. A deputy registrar may
3 mail out inventory to customers upon meeting the conditions in
4 items A to E.

5 A. The deputy registrar shall provide written
6 notification to the registrar that the office will provide mail
7 service to customers. Once written notification is provided to
8 the registrar, the deputy registrar must accept and process all
9 mail transactions that are ready for issuance of inventory.
10 Incomplete motor vehicle transactions that are received by mail
11 must follow the procedures in part 7406.0450, subpart 2a.

12 B. The deputy registrar shall maintain a record of
13 the inventory that was mailed and the name and address where the
14 inventory was mailed. The record may be maintained on the daily
15 summary report under part 7406.0450, subpart 2, or other report
16 maintained separately by the deputy registrar.

17 C. The inventory must be mailed under uniform mailing
18 standards as provided by the registrar.

19 D. The deputy registrar must pay the replacement cost
20 of inventory if the inventory is lost in the mail or the
21 customer did not otherwise receive the inventory.

22 E. The deputy registrar shall mail the inventory by
23 at least first class United States mail, unless a request is
24 made by the customer for other special delivery services. The
25 deputy registrar shall incur the cost of mailing the inventory,
26 unless the customer requests a special delivery of the
27 inventory. If the customer requests a special delivery of the
28 inventory, the deputy registrar may allow the customer to incur
29 the cost of those special delivery charges.

30 If a deputy registrar does not make a written request to
31 provide mail service to customers, the mail orders received by a
32 deputy registrar, including the filing fee, must be forwarded to
33 the registrar for processing and mailing.

34 Subp. 10. Registration stickers unaccounted for.
35 Registration stickers assigned to an office, except for the
36 month sticker, must be accounted for by issuance and money

1 collected, by affidavit of missing initial inventory, or by
2 submitting the defective registration sticker to the registrar.

3 If a registration sticker is unaccounted for, the deputy
4 registrar is responsible for payment of the registration tax
5 loss or replacement cost for each registration sticker
6 unaccounted for. The amount of registration tax that a deputy
7 registrar must pay is either the full, average, or minimum
8 registration tax as determined under items A and B.

9 A. A deputy registrar must pay the full registration
10 tax for the registration sticker if the registrar has sufficient
11 cause to believe that the full amount of the registration tax
12 was paid for by the customer.

13 B. A deputy registrar will have to pay the average or
14 minimum registration tax or replacement cost of the registration
15 sticker after consideration of the following factors by the
16 registrar:

17 (1) timely notification to the registrar, and to
18 the law enforcement agency if applicable, regarding the
19 registration stickers unaccounted for;

20 (2) the investigation and follow-up measures
21 taken by the deputy registrar regarding the registration
22 stickers unaccounted for;

23 (3) the action taken by the deputy registrar to
24 recover the registration stickers and the number of registration
25 stickers that were recovered;

26 (4) the security measures that were in place to
27 protect the registration stickers;

28 (5) the value of the registration stickers;

29 (6) the circumstances under which the
30 registration stickers became unaccounted for; and

31 (7) the results of any audit conducted by the
32 registrar.

33 The registrar shall notify a deputy registrar of the amount
34 of the full, average, or minimum average tax at the end of each
35 fiscal year. If the full registration tax is required to be
36 paid by the deputy registrar, a late deposit charge calculated

1 under part 7406.0450 must also be paid by the deputy registrar.

2 Subp. 11. Other inventory or state-issued property
3 unaccounted for. Inventory, other than registration stickers
4 under subpart 10, and other state-issued property provided to an
5 office, must be accounted for by issuance and fees collected, by
6 affidavit of missing initial inventory, or by submitting the
7 defective inventory or state property to the registrar.

8 If inventory or other state-issued property is unaccounted
9 for, other than stickers, the deputy registrar is responsible
10 for the replacement cost of the inventory or state property.

11 7406.0700 EXEMPTION.

12 Notwithstanding part 7406.0300, a new deputy registrar may
13 be appointed for an existing office location upon the death,
14 resignation, ~~discontinuance~~ revocation, or retirement of an
15 existing deputy registrar whose office does not comply with the
16 requirements for distance or number of applications for
17 registration processed. However, the existing office location
18 must meet the office requirements under part 7406.0400 before an
19 appointment can be made under this part. If, within ~~three~~ six
20 months, a new deputy registrar appointment is not accepted by
21 the person to be appointed or if the office is not established
22 by the appropriate local government, then part 7406.0300 applies.

23 DISCONTINUANCE OF APPOINTMENT

24 7406.0800 ACTIONS FOR FAILURE TO COMPLY WITH LAWS OR RULES.

25 The failure of a deputy registrar or employee of a deputy
26 registrar to comply with applicable laws or rules governing the
27 operation of a deputy registrar office may be cause for
28 discontinuing the deputy registrar appointment or for issuing a
29 correction order under parts 7406.0800 to 7406.1000.

30 7406.0900 IMMEDIATE SUSPENSION OF APPOINTMENT.

31 Subpart 1. Grounds. The registrar may immediately suspend
32 a deputy registrar appointment if the registrar has sufficient
33 cause to believe that an immediate suspension is necessary to
34 ensure the security of the monies of the state or the public or

1 to the operation of the deputy registrar office. In making the
 2 determination to immediately suspend, the registrar shall
 3 consider:

4 A. whether grounds exist for the revocation of an
 5 appointment;

6 B. whether the deputy registrar's failure to comply
 7 with an applicable law or rule has placed in imminent danger the
 8 monies of the state or the public, or the operation of the
 9 deputy registrar office; and

10 C. whether the risk of harm to the monies of the
 11 state or the public, or to the operation of the deputy registrar
 12 office, outweighs the harm to the deputy registrar of
 13 discontinuing the operation of the office during the pendency of
 14 a hearing.

15 Subp. 2. **Immediate suspension hearing.** When the registrar
 16 has grounds for immediate suspension under this part, a
 17 contested case hearing must be held within 20 days after the
 18 service of the order of immediate suspension and notice of and
 19 order for hearing. A contested case hearing for immediate
 20 suspension must be conducted in accordance with Minnesota
 21 Statutes, chapter 14.

22 Subp. 3. **Suspension period and effect.** When a deputy
 23 registrar appointment is suspended under subpart 1, the deputy
 24 registrar shall immediately cease operation of the office and
 25 surrender all inventory, fees and taxes, and other state-issued
 26 property. The deputy registrar appointment must be suspended
 27 until the effective date of the registrar's decision affirming,
 28 modifying, or vacating the order of immediate suspension.

29 7406.1000 SUSPENSION OR REVOCATION OF DEPUTY REGISTRAR
 30 APPOINTMENT.

31 Subpart 1. **Conviction in another jurisdiction.** For
 32 purposes of this part, "conviction" includes a conviction of a
 33 crime in another jurisdiction that, if committed in Minnesota,
 34 would be a violation of a Minnesota statute.

35 Subp. 2. **Grounds for suspension or revocation.** The

1 following violations are grounds for revocation or suspension of
2 a deputy registrar appointment:

3 A. conviction for a felony;

4 B. conviction for any crime:

5 (1) affecting a public officer or employee;

6 (2) of theft or related crime;

7 (3) of forgery or related crime; or

8 (4) that directly relates to the position of

9 deputy registrar;

10 C. violation or failure to comply with any provision
11 of this chapter; Minnesota Statutes, chapter 168; or an order
12 issued by the registrar;

13 D. forging of documents or providing false or
14 fraudulent information to the registrar or the public;

15 E. misappropriation, conversion, or illegal
16 withholding of fees and taxes required to be deposited in
17 accordance with this chapter and Minnesota Statutes, chapter
18 168;

19 F. failure or refusal to provide the registrar access
20 to office, documents, persons served, or employees;

21 G. immediate suspension of an appointment under part
22 7406.0900; or

23 H. grounds for denial of an appointment under part
24 7406.0360, subpart 7.

25 Subp. 3. **Criteria for discontinuance action.** In deciding
26 what discontinuance action to take under subpart 2, the
27 registrar shall consider the following factors:

28 A. the laws or rules that have been violated;

29 B. the nature and severity of the violation and the
30 conduct;

31 C. relevant facts, conditions, and circumstances
32 concerning the violation and the operation of the office;

33 D. any aggravating or mitigating factors related to
34 the violation;

35 E. the frequency of the violator's failure to comply
36 with laws or rules related to a deputy registrar office;

1 F. the likelihood that the violations will occur
2 again;

3 G. the degree of the violator's cooperation during
4 the course of the investigation surrounding the violation; and

5 H. harm to the public because of the violation.

6 Subp. 4. **Suspension and revocation hearing.** When the
7 registrar has grounds for revocation or suspension under this
8 part, the registrar shall conduct a hearing before revoking or
9 suspending a deputy registrar appointment under the procedures
10 in parts 7406.1100 to 7406.2600.

11 Subp. 5. **Effect of revocation.** An owner, officer,
12 director, or five percent shareholder of a revoked office may
13 not be an owner, officer, director, or five percent shareholder
14 of another deputy registrar office during the period of
15 revocation. When a deputy registrar appointment is revoked, the
16 deputy registrar shall immediately surrender all inventory, fees
17 and taxes, and other state-issued property.

18 Subp. 6. **Effect of suspension.** When a deputy registrar
19 appointment is suspended under subpart 1, the deputy registrar
20 shall surrender all fees and taxes. The registrar shall
21 consider the factors in subpart 3 when determining the length,
22 terms, and conditions of the suspension.

23 Subp. 7. **Issuance of correction order.** The registrar may
24 issue a correction order for a violation of rule or law rather
25 than a suspension under subpart 1, after consideration of the
26 factors in subpart 3.

27 A. The correction order must state:

- 28 (1) the specific law or rule violated;
29 (2) the conditions that constitute a violation of
30 law or rule;
31 (3) the requirements to correct the violation;
32 (4) the consequences of the correction order;
33 (5) the time allowed to correct each violation,
34 if applicable; and
35 (6) how to obtain a review of the correction
36 order.

1 B. If the deputy registrar believes that the contents
2 of the registrar's correction order are in error, the deputy
3 registrar may ask the registrar to reconsider the parts of the
4 correction order that are alleged to be in error. The request
5 for reconsideration must be in writing and received by the
6 registrar within ten days of the date of the correction order.
7 The written request for reconsideration must:

8 (1) specify the parts of the correction order
9 that are alleged to be in error;

10 (2) explain why the parts of the order are in
11 error; and

12 (3) include documentation to support the
13 allegation of error.

14 A request for reconsideration does not stay any provision or
15 requirement of the correction order. The registrar shall
16 respond to requests for reconsideration made under this subpart
17 within 15 working days after receipt of the request for
18 reconsideration.

19 C. A deputy registrar who fails to comply with a
20 correction order may be subject to suspension or revocation of
21 appointment under this part.

22 **PROCEDURES FOR SUSPENSION AND REVOCATION HEARINGS**

23 **7406.1100 DEFINITIONS.**

24 Subpart 1. **Scope.** The terms used in parts 7406.1100 to
25 7406.2600 have the meanings given them in this part.

26 Subp. 2. **Party.** "Party" means each person named as a
27 party by the registrar in the notice of and order for hearing.
28 Party includes the registrar and the registrar's employees and
29 agents, but does not include the hearing examiner.

30 Subp. 3. **Person.** "Person" means an individual,
31 partnership, corporation, joint stock company, unincorporated
32 association or society, municipal corporation, or any government
33 or governmental subdivision, unit, or agency other than a court
34 of law.

35 Subp. 4. **Service or serve.** "Service" or "serve" means

1 personal service or service by first class United States mail or
2 a licensed overnight express mail service, postage prepaid and
3 addressed to the party's last known address. An affidavit of
4 service must be made by the person making the service. Personal
5 service may be accomplished either by delivering a document to
6 the person or by leaving a document at the person's home or
7 place of business with someone of suitable age and discretion
8 who resides in the same house or who is located at the same
9 business address of the person to be served.

10 Postage must be prepaid. Mail to a person other than a
11 state agency must be addressed to the last known address of the
12 person. Agencies of the state of Minnesota may also deposit the
13 document with the Central Mailing Section, Publications
14 Division, Department of Administration, addressed as above.

15 7406.1150 TIME.

16 Subpart 1. **Computation.** In computing any period of time
17 prescribed by parts 7406.1100 to 7406.2600, the day of the last
18 act, event, or default from which the designated period of time
19 begins to run is not included. The last day of the period so
20 computed must be included, unless it is a Saturday, Sunday, or a
21 legal holiday.

22 Subp. 2. **Extra time; service by mail.** Whenever a party
23 has the right or is required to do some act or take some action
24 within a prescribed period after the service of a notice or
25 other paper upon the party, or whenever service is required to
26 be made within a prescribed period before a specified event, and
27 the notice or paper is served by mail, three days must be added
28 to the prescribed period. In the event an agency chooses to
29 utilize the Central Mailing Section, Publications Division,
30 Department of Administration, four days must be added to the
31 prescribed period.

32 7406.1200 HEARING; SERVICE OF NOTICE.

33 The registrar shall serve a notice of and order for hearing
34 on the deputy registrar to commence the proceedings. The notice
35 of and order for hearing must be served not less than 30 days

1 before a revocation or suspension hearing under part 7406.1000.
 2 The notice of and order for hearing must be served not less than
 3 20 days before an immediate suspension hearing under part
 4 7406.0900; provided, however, that a shorter time may be allowed
 5 when it can be shown to the hearing examiner that a shorter time
 6 is in the public interest and that interested persons are not
 7 likely to be prejudiced.

8 7406.1300 HEARINGS BEFORE HEARING EXAMINER.

9 Revocation and suspension hearings under part 7406.1000
 10 must be conducted by a hearing examiner appointed by the
 11 registrar.

12 7406.1400 NOTICE OF AND ORDER FOR HEARING; CONTENT.

13 The notice of and order for hearing must contain at least
 14 the following:

- 15 A. a caption that includes the proposed action and
 16 the name of the deputy registrar;
- 17 B. the time, date, and place for the hearing;
- 18 C. the name, address, and telephone number of the
 19 hearing examiner;
- 20 D. a citation to the registrar's rule and statutory
 21 authority to hold the hearing and take the action proposed;
- 22 E. a statement of the allegations or issues to be
 23 determined, together with a citation to the relevant statutes or
 24 rules allegedly violated or that control the outcome of the
 25 case;
- 26 F. a statement that the registrar's proposed action
 27 may affect other deputy registrar appointments in which the
 28 deputy registrar or an owner, officer, director, or five percent
 29 shareholder of the deputy registrar is involved;
- 30 G. notification of the right of the parties to be
 31 represented by an attorney, by themselves, or by a person of
 32 their choice if not otherwise prohibited as the unauthorized
 33 practice of law;
- 34 H. a citation to the procedural rules of the
 35 registrar in parts 7406.1100 to 7406.2600 and notification of

1 how copies may be obtained;

2 I. a brief description of the procedure to be
3 followed at the hearing;

4 J. a statement advising the parties to bring to the
5 hearing all documents, records, and witnesses needed to support
6 their position;

7 K. a statement advising the parties of the name of
8 the registrar's staff member or attorney general's staff member
9 to contact to discuss informal disposition;

10 L. a statement advising the parties that a notice of
11 appearance must be filed with the hearing examiner within 20
12 days of the date of service of the notice of and order for
13 hearing if a party intends to appear at the hearing, unless the
14 hearing date is less than 20 days from the issuance of the
15 notice of and order for hearing;

16 M. a statement advising existing parties that failure
17 to appear at the hearing may result in the allegations of the
18 notice of and order for hearing being taken as true, or the
19 issues set out being deemed proved, and a statement explaining
20 the possible results of the allegations being taken as true or
21 the issues proved;

22 N. a statement advising the parties that if not
23 public data is admitted into evidence it may become public
24 unless a party objects and asks for relief under Minnesota
25 Statutes, section 14.60, subdivision 2; and

26 O. in the case of immediate suspension, a statement
27 that the parties must cease operation of the deputy registrar
28 office immediately and surrender all inventory, fees and taxes,
29 and other state-issued property.

30 7406.1500 NOTICE OF APPEARANCE.

31 Each party intending to appear at the hearing shall file
32 with the hearing examiner and serve upon all other known parties
33 a notice of appearance advising the hearing examiner of the
34 party's intent to appear and shall indicate the title of the
35 case, the party's current address and telephone number, and the

1 name, office address, and telephone number of the party's
2 attorney or other representative. The notice of appearance must
3 be filed and served within 20 days of the date of service of the
4 notice of and order for hearing; except that when the hearing
5 date is 20 days or less from the commencement of the hearing,
6 the notice of appearance is not necessary. The failure to file
7 and serve a notice may, in the discretion of the hearing
8 examiner, result in a continuance of the hearing if the party
9 failing to file appears at the hearing. A notice of appearance
10 form must be included with the notice of and order for hearing
11 for use by the party served.

12 7406.1600 RIGHT TO COUNSEL.

13 Parties may be represented throughout the proceedings in a
14 hearing by an attorney, by themselves, or by a person of their
15 choice if not otherwise prohibited as the unauthorized practice
16 of law.

17 7406.1700 CONSENT ORDER, SETTLEMENT, OR STIPULATION.

18 Informal disposition may be made of a hearing or any issue
19 in the hearing by stipulation, agreed settlement, or consent
20 order at any point in the proceedings.

21 7406.1800 CONTINUANCES.

22 Requests for a continuance of a hearing must be granted
23 upon a showing of good cause. Unless time does not permit, a
24 request for continuance of the hearing must be made in writing
25 to the hearing examiner and must be served upon all parties of
26 record. In determining whether good cause exists, due regard
27 must be given to the ability of the party requesting a
28 continuance to effectively proceed without a continuance. A
29 request for a continuance filed within five business days of the
30 hearing must be denied unless the reason for the request could
31 not have been earlier ascertained.

32 "Good cause" includes: death or incapacitating illness of
33 a party, representative, or attorney of a party; a court order
34 requiring a continuance; lack of proper notice of the hearing; a

1 substitution of the representative or attorney of a party if the
2 substitution is shown to be required; a change in the parties or
3 pleading requiring postponement; and agreement for a continuance
4 by all parties, provided that it is shown that more time is
5 clearly necessary to complete discovery or other mandatory
6 preparation of the case and the parties and the hearing examiner
7 have agreed to a new hearing date; or, the parties are engaged
8 in serious settlement negotiations or have agreed to a
9 settlement of the case which has been or will likely be approved
10 by the final decision maker.

11 "Good cause" does not include: intentional delay;
12 unavailability of counsel or other representative due to
13 engagement in another judicial or administrative proceeding,
14 unless all other members of the attorney's or representative's
15 firm familiar with the case are similarly engaged, or the notice
16 of the other proceeding was received subsequent to the notice of
17 the hearing for which the continuance is sought; unavailability
18 of a witness if the witness' testimony can be taken by
19 deposition; and failure of the attorney or representative to
20 properly utilize the notice period to prepare for the hearing.

21 7406.1900 DEFAULT.

22 The registrar or the hearing examiner may dispose of a
23 revocation or suspension adverse to a party that defaults. Upon
24 default, the allegations of or the issues set out in the notice
25 of and order for hearing may be taken as true or deemed proved
26 without further evidence. A default occurs when a party fails
27 to appear at a hearing without the prior consent of the hearing
28 examiner.

29 7406.2000 RIGHTS AND RESPONSIBILITIES OF PARTIES.

30 Parties have the right to present evidence, rebuttal
31 testimony, and argument with respect to the issues, and to
32 cross-examine witnesses. A party must have all evidence that
33 the party wishes to present at the hearing, both oral and
34 written, available on the date for hearing.

1 7406.2100 WITNESSES AND TESTIMONY.

2 A party may be a witness and may present witnesses on the
3 party's behalf at the hearing. All oral testimony at the
4 hearing must be under oath or affirmation. At the request of a
5 party or upon the hearing examiner's own motion, the hearing
6 examiner shall exclude witnesses from the hearing room so that
7 they cannot hear the testimony of other witnesses.

8 7406.2200 BURDEN OF PROOF.

9 The party proposing that certain action be taken must prove
10 the facts at issue by a preponderance of the evidence. A party
11 asserting an affirmative defense has the burden of proving the
12 existence of the defense by a preponderance of the evidence.

13 7406.2300 HEARING RECORD.

14 The hearing examiner shall maintain the official record in
15 each deputy registrar hearing until issuance of the hearing
16 examiner's final report.

17 The record in a deputy registrar hearing must contain all
18 evidence offered or considered; all documents, memoranda, or
19 data submitted by any party in connection with the case; the
20 audiomagnetic recording of the hearing; the transcript of the
21 hearing, if one was prepared; and the hearing examiner's
22 findings of fact, conclusions, and recommendations.

23 7406.2400 HEARING EXAMINER'S CONDUCT.

24 The hearing examiner shall not communicate, directly or
25 indirectly, in connection with any issue of fact or law with any
26 person or party, including the registrar, concerning any pending
27 case, except upon notice and opportunity for all parties to
28 participate. The hearing examiner may respond to questions
29 relating solely to procedures for the hearing without violating
30 this part.

31 7406.2500 HEARING EXAMINER'S DECISION.

32 No factual information or evidence that is not a part of
33 the record may be considered by the hearing examiner in the
34 determination of a deputy registrar hearing.

1 The decision and order rendered by the hearing examiner in
 2 a hearing must be in writing, must be based on the record, and
 3 must include the hearing examiner's findings of fact and
 4 conclusions on all material issues. A copy of the decision and
 5 order must be served upon each party or the party's
 6 representative.

7 7406.2600 APPEAL OF HEARING EXAMINER'S DECISION.

8 A person may appeal the hearing examiner's decision and
 9 order issued under part 7406.2500 and request a contested case
 10 hearing. The contested case hearing must be conducted according
 11 to Minnesota Statutes, chapter 14, and the rules of the Office
 12 of Administrative Hearings. The request for a contested case
 13 hearing must be submitted in writing to the registrar within 15
 14 days of the date of the hearing examiner's report. The request
 15 for a contested case hearing must set out in detail the reasons
 16 why the deputy registrar contends the decision of the hearing
 17 examiner should be reversed or modified.

18 If a contested case is requested, the registrar shall send
 19 a copy of the order to all interested parties. The order must
 20 fix the time and place for the hearing. The hearing examiner's
 21 order must be stayed pending a final determination after the
 22 contested case hearing.

23

24 RENUMBERING INSTRUCTION. In the next edition of Minnesota
 25 Rules, the revisor of statutes shall renumber each part or
 26 subpart listed in column A as the part or subpart listed in
 27 column B:

	A	B
28		
29	7406.0100, subp. 5	7406.0100, subp. 19 18
30	7406.0100, subp. 6	7406.0100, subp. 20 <u>19</u>
31		

32 REPEALER. Minnesota Rules, parts 7406.0100, subparts 2, 3, and
 33 4; 7406.0450, subpart 1a; 7406.0500, ~~subparts-3-and~~ subpart 4;
 34 and 7406.0600, are repealed.