

1 Department of Public Safety

2 Adopted Permanent Rules Relating to Driver's License Agents

3 7404.0100 DEFINITIONS.

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

5 Subp. 2. Agent. "Agent" means an individual appointed
6 under this chapter and Minnesota Statutes, section 171.061

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

8 Subp. 4. Application. "Application" has the meaning given
9 in Minnesota Statutes, section 171.061, subdivision 1, clause
10 (2).

11 A. An application must be in a paper, electronic, or
12 other format as prescribed by the commissioner.

13 B. An application includes the supporting documents
14 provided by the applicant.

15 [For text of subps 5 to 7, see M.R.]

16 Subp. 8. Collected or collection. "Collected" or
17 "collection" means:

18 A. the receipt of application and reinstatement fees
19 and other related fees paid by an applicant less the filing fee
20 specified in Minnesota Statutes, section 171.061, subdivision 4,
21 paragraph (c); and

22 B. the receipt by the agent from the applicant of any
23 required application or form.

24 [For text of subps 9 and 10, see M.R.]

25 Subp. 11. Conviction of crime. "Conviction of crime"
26 means conviction of a felony, gross misdemeanor, or misdemeanor
27 reasonably related to the function of an agent.

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1 [For text of subps 12 to 19, see M.R.]

2 Subp. 20. **Proposed office location.** "Proposed office
3 location" means a location that has been submitted to the
4 commissioner for consideration as an approved office location
5 under part 7404.0300, or a move of an existing office location
6 under part 7404.0330.

7 [For text of subps 21 and 22, see M.R.]

8 7404.0300 LOCATION OF AGENT OFFICE; PROPOSED BY THIRD PARTY.

9 Subpart 1. **General.** This part applies to the
10 establishment of an agent office not in existence when the
11 location of the office is proposed by a party other than the
12 commissioner.

13 Subp. 2. [See repealer.]

14 Subp. 3. **Metropolitan counties.** The conditions listed in
15 this subpart must be met before the commissioner considers a
16 proposed office location for an agent in a metropolitan county.

17 A. The proposed office location must not be within a
18 ten-mile radius of an existing office or a state-operated
19 application site.

20 B. The estimated number of applications a proposed
21 office location processes annually must be at least 12,000
22 within two years after the establishment of the office. The
23 commissioner shall estimate the number of applications as 30
24 percent of the applications processed within the preceding
25 calendar year by existing offices and state-operated application
26 sites located within a radius of the proposed office location of
27 over ten miles and less than 19 miles.

1 C. The commissioner shall not consider the proposed
2 office location if the use of the percentage of applications
3 processed by an existing office or state-operated application
4 site to establish a proposed office would reduce the number of
5 applications to less than:

6 (1) 24,000 for an existing office or
7 state-operated application site located in a metropolitan
8 county;

9 (2) 13,000 for an existing office located in an
10 area under subpart 4; or

11 (3) 2,500 for an existing office located in an
12 area under subpart 5.

13 D. If a percentage of applications processed by an
14 existing office or state-operated application site was used to
15 establish a new office, that percentage may not be used again in
16 consideration of another proposed office within a two-year
17 period. The two-year period starts from the date the agent was
18 appointed.

19 E. The commissioner shall not consider a proposed
20 office location if the proposed office location is within a
21 20-mile radius of an existing office or state-operated
22 application site established within the last two years. The
23 two-year period starts from the date the agent was appointed or
24 the state-operated site was established.

25 Subp. 4. Municipalities with over 50,000 population. The
26 conditions listed in this subpart must be met before a proposed
27 office location is considered by the commissioner in a

1 municipality with a population exceeding 50,000, not including
2 municipalities in a metropolitan county.

3 A. The proposed office location must not be located
4 within a ten-mile radius of an existing office or state-operated
5 application site.

6 B. A maximum of two licensing agent offices may exist
7 in any municipality with a population exceeding 50,000.

8 C. The estimated number of applications a proposed
9 office location processes annually must be at least 6,500 within
10 two years after the establishment of the office. The
11 commissioner shall estimate the number of applications as 30
12 percent of the applications processed within the preceding
13 calendar year by existing offices and state-operated application
14 sites located within a radius of the proposed office location of
15 over ten miles but less than 19 miles.

16 D. The commissioner shall not consider a proposed
17 office location if the use of a percentage of applications
18 processed by an existing office or state-operated application
19 site to establish a proposed office would reduce the number of
20 applications to less than:

21 (1) 24,000 for an existing office or
22 state-operated application site located in an area under subpart
23 3;

24 (2) 13,000 for an existing office or
25 state-operated application site located in an area under this
26 subpart; or

27 (3) 2,500 for an existing office or

1 state-operated application site located in an area under subpart
2 5.

3 E. If a percentage of applications processed by an
4 existing office or state-operated application site was used to
5 establish a new office, that percentage may not be used again in
6 consideration of another proposed office within a two-year
7 period. The two-year period starts from the date the agent was
8 appointed or the state-operated site was established.

9 F. The commissioner shall not consider a proposed
10 office location if the proposed office location is within a
11 ten-mile radius of an existing office or state-operated
12 application site established within the last two years. The
13 two-year period starts from the date the agent was appointed or
14 the state-operated site was established.

15 Subp. 5. Other areas. The conditions listed in this
16 subpart must be met before a proposed office location is
17 considered by the commissioner in all other municipalities not
18 included in subpart 3 or 4.

19 A. The proposed office location must not be located
20 within a 25-mile radius of an existing office or state-operated
21 application site.

22 B. The proposed office location must not be located
23 in a municipality of less than 25,000 population if there is an
24 existing office or state-operated application site in that
25 municipality.

26 C. The estimated number of applications that a
27 proposed office location will process annually must be at least

1 2,500 within two years after the establishment of the office.

2 The number of applications must be estimated as follows:

3 (1) 20 percent of the applications processed
4 within the preceding year by existing offices and state-operated
5 application sites located within a 30-mile radius of the
6 proposed office location; or

7 (2) if there is no existing office or
8 state-operated application site located within a 30-mile radius
9 of the proposed office location, 25 percent of the population of
10 the municipalities that are closer to the proposed office
11 location than to other existing offices and state-operated
12 application sites.

13 D. The commissioner shall not consider a proposed
14 office location if the use of the percentage of applications
15 processed by an existing office or state-operated application
16 site, to establish a proposed office, would reduce the number of
17 transactions to less than:

18 (1) 24,000 for an existing office or
19 state-operated application site located in an area under subpart
20 3;

21 (2) 13,000 for an existing office or
22 state-operated application site located in an area under subpart
23 4; or

24 (3) 2,500 for an existing office or
25 state-operated application site located in an area under this
26 subpart.

27 E. If a percentage of applications processed by an

1 existing office or state-operated application site was used to
2 establish a new office, that percentage may not be used again in
3 consideration of another proposed office within a two-year
4 period. The two-year period starts from the date the agent was
5 appointed or the state-operated site was established.

6 F. The commissioner shall not consider a proposed
7 office location if the proposed office location is within a
8 30-mile radius of an existing office or state-operated
9 application site established within the last two years. The
10 two-year period starts from the date the agent was appointed.

11 **Subp. 6. Restriction on processing proposed office**
12 **location.** When a request for a proposed office location is
13 submitted to the commissioner, no other requests for a proposed
14 office location shall be considered for any location or a
15 location within a 30-mile radius of the proposed office location
16 until:

17 A. the commissioner either approves the proposed
18 office location or all appeals associated with a disapproval
19 have been resolved; and

20 B. the appointment of an agent for the approved
21 office location under this chapter is completed.

22 7404.0305 ADDITIONAL OFFICE LOCATION CONSIDERATIONS.

23 **Subpart 1. Factors considered.** Before appointing an
24 agent, the commissioner must approve a proposed location for an
25 agent office. In addition to the information and conditions
26 specified in part 7404.0300, the commissioner shall consider the
27 factors described in this part when considering a proposed

1 office location:

2 A. the accessibility of the office location to the
3 public;

4 B. the cost to the state to audit, monitor, and train
5 the agent and staff at the office; and

6 C. whether the office location will best serve the
7 public convenience.

8 Subp. 2. Disapproval of proposed office location. If a
9 request for an office location is not approved, the commissioner
10 shall notify the individual proposing the office location in
11 writing and provide a statement of the reason for the
12 disapproval. The statement must notify the individual that,
13 within 30 days from the day the notice was mailed, the
14 individual may appeal the disapproval to the Office of
15 Administrative Hearings for a contested case hearing under
16 Minnesota Statutes, chapter 14, if a factor in subpart 1 was
17 cited for disapproval and disapproval was not due to a failure
18 to meet the distance or transaction requirements for office
19 location.

20 7404.0307 OFFICE LOCATION PROPOSED BY COMMISSIONER.

21 Subpart 1. Commissioner's initiative; criteria. Part
22 7404.0300 notwithstanding, the commissioner may propose an
23 office location to be overseen by a licensing agent. The office
24 location may be proposed to:

25 A. meet an emerging or demonstrated application site
26 need;

27 B. address an emerging or demonstrated population

1 need; or

2 C. improve public access or service delivery.

3 Subp. 2. Notice. When the commissioner proposes an office
4 location, notice of the proposed office location must be made to
5 existing licensing agents.

6 A. If the proposed office location complies with the
7 distance and projected application numbers in part 7404.0300,
8 the commissioner shall publish notice of the proposed office
9 location once in a qualified newspaper in the county where the
10 proposed office is located. The notice must specify the:

11 (1) site of the proposed office;

12 (2) commissioner's intent to appoint an agent at
13 that location and request applications;

14 (3) responsibility of the agent to accept
15 applications;

16 (4) commissioner's authority under statute and
17 rule to make the appointment;

18 (5) name, address, telephone and facsimile
19 numbers, and e-mail address of the individual to contact about
20 the appointment; and

21 (6) deadline, at least 14 days after the date the
22 notice appears, for submitting the application to the
23 commissioner.

24 B. The process for appointing an agent at the
25 proposed office location shall follow the applicable procedures
26 in parts 7404.0360 and 7404.0370.

27 C. If the commissioner's proposed office location is

1 within the distances specified in part 7404.0300 from an
2 existing licensing agent's office, the commissioner shall:

3 (1) notify each existing licensing agent with an
4 approved office within the distance radius that the commissioner
5 has proposed to accept applications at the proposed office
6 location; and

7 (2) request the existing licensing agent to
8 either operate the new office location or move to the site.

9 D. If more than one existing licensing agent is
10 within the distance radius of the commissioner's proposed office
11 location, the commissioner shall consider appointment of a
12 licensing agent in order of the agent office closest to the
13 proposed location.

14 E. If all agents within the distance radius decline
15 the appointment to operate the new office location, then the
16 commissioner shall proceed to appoint an agent for the office
17 following the procedures in item A.

18 F. Nothing in this part prevents a state-operated
19 application site from opening at a location for public
20 convenience or the efficient and effective delivery of state
21 services.

22 7404.0310 EXCEPTIONS.

23 Subpart 1. **One agent per county bureau.** Pursuant to
24 Minnesota Statutes, sections 373.33 and 373.35, if the county
25 board designates the county license bureau director as a
26 licensing agent, the license bureau director is responsible for
27 all bureau sites where applications are accepted in the county.

1 Each bureau site where applications are accepted must meet the
2 criteria for establishment of an office as specified in part
3 7404.0300.

4 Subp. 2. Low-volume existing office; county board
5 decision. Notwithstanding part 7404.0300, an agent may be
6 appointed at an existing office location upon the death,
7 resignation, discontinuance, or retirement of an existing agent
8 whose office does not comply with the application numbers for
9 the establishment of an office specified in part 7404.0300, plus
10 or minus two percent of the average application numbers in the
11 preceding three years, only if:

12 A. the county board notifies the commissioner within
13 one week after the next regularly scheduled county board meeting
14 or within 60 days after the death, resignation, discontinuance,
15 or retirement of the existing agent, that the county board wants
16 to designate an agent for appointment by the commissioner and
17 maintain that existing office location;

18 B. the county board designates a new agent for
19 appointment by the commissioner and verifies to the commissioner
20 that the individual meets the requirements for an agent
21 specified in part 7404.0360 within 60 days from the time the
22 vacancy occurred;

23 C. there is not another existing office or
24 state-operated application site located within the distances
25 specified in part 7404.0300; and

26 D. the county board or the new agent agrees to
27 procure and maintain:

1 (1) the photo identification equipment, unless
2 the office was in existence on January 1, 2000;

3 (2) the vision-testing equipment unless the
4 office was in existence before January 5, 1999; and

5 (3) any other equipment or inventory necessary to
6 process applications.

7 Subp. 3. **Low-volume location; commissioner's appointment.**

8 If the county board declines to designate an agent for
9 appointment by the commissioner at the existing low-volume
10 location described in subpart 2, the appointment of the agent
11 and all state-provided inventory and equipment reverts to the
12 commissioner.

13 A. The commissioner shall decide whether to appoint
14 another agent at the existing low-volume office within six
15 months after notice by the county board that it will not
16 designate another agent for appointment by the commissioner.

17 B. The commissioner shall appoint an agent at the
18 existing office with a low application volume and procure and
19 maintain the photo identification, vision-testing equipment, and
20 any other equipment or inventory necessary to process
21 applications for the site only if the office is not in a
22 metropolitan county and there is not another application site,
23 including state-operated application sites, within 35 miles of
24 the existing low-volume office.

25 [For text of subp 4, see M.R.]

26 7404.0330 MOVE OF EXISTING OFFICE LOCATION.

27 Subpart 1. **In general.** A move of an existing office must

1 meet the requirements of part 7404.0300, be within the same
2 county, and be approved by the commissioner before the move.
3 This part does not apply to the location of state-operated
4 application or examination sites.

5 [For text of subps 2 to 4, see M.R.]

6 7404.0340 DEPUTY REGISTRAR AS LIMITED LICENSING AGENT.

7 Subpart 1. Deputy registrar as limited licensing agent.

8 Notwithstanding part 7404.0300, as of the effective date of this
9 part, all deputy registrars appointed by the commissioner under
10 chapter 7406 and Minnesota Statutes, section 168.33, must also
11 be appointed by the commissioner to assume the duties of a
12 limited licensing agent as specified in this part.

13 Subp. 2. Limited licensing agent. A limited licensing
14 agent shall accept applications only for a duplicate driver's
15 license or duplicate Minnesota identification card.

16 A. The duties of a limited licensing agent must not
17 require the use of equipment to capture the image or signature
18 or to test the vision of an applicant.

19 B. A limited licensing agent shall accept an
20 application for a duplicate driver's license or duplicate state
21 identification card if:

22 (1) the state document is lost, stolen,
23 destroyed, illegible, or mutilated beyond recognition during the
24 period of validation; or

25 (2) the applicant is required to change the
26 residence address on the state-issued document.

27 C. The procedures in part 7410.0450 for issuance of a

1 duplicate driver's license or duplicate identification card
2 apply.

3 D. The applicant's digital image and signature must
4 be on file with the department and the technology to retrieve
5 that information must be available at the application site.

6 E. No information on file with the department, except
7 the applicant's residence address, may be changed when applying
8 for a duplicate document under this part.

9 Subp. 3. Designation of individual as agent. Only an
10 individual may be appointed as the limited licensing agent. If
11 the deputy registrar is a corporation, the individual must be
12 the corporate officer who executed the certificate of
13 appointment under part 7406.0370, subpart 2.

14 Subp. 4. Training. The limited licensing agent must
15 complete initial and ongoing training provided by the
16 commissioner pertinent to the limited licensing agent's duties.

17 Subp. 5. Financial responsibility. A deputy registrar
18 acting as a limited licensing agent shall pay all taxes and fees
19 due and owed the state for applications made under this part.

20 7404.0345 DEPUTY REGISTRAR AS LICENSING AGENT.

21 Part 7404.0300 notwithstanding, as of the effective date of
22 this part a deputy registrar appointed under chapter 7406 may
23 apply to the commissioner for appointment also as a licensing
24 agent under this chapter.

25 A. The applicant must be an individual and the office
26 must meet the requirements specified in this chapter.

27 B. The appointment must be for licensing agent

1 application duties that are not limited.

2 C. Any deputy registrar who is not a licensing agent
3 as of the effective date of this part and who applies to be a
4 licensing agent must complete initial and ongoing licensing
5 agent training.

6 D. If the deputy registrar is not currently also an
7 appointed licensing agent with image- and signature-capture and
8 vision-testing equipment, the agent shall obtain the equipment
9 necessary to accept and process applications from vendors
10 approved by the commissioner.

11 7404.0350 AGENT APPOINTMENT PROCEDURE; REFERRAL TO COUNTY BOARD.

12 Subpart 1. In general. When the commissioner approves a
13 proposed office location, the commissioner shall begin the
14 appointment process for the approved office location.

15 A. The request for appointment must be referred by
16 the commissioner first to the county board in the same county as
17 the approved office location.

18 B. This part does not apply to the move of an
19 existing office.

20 Subp. 2. County board. When the commissioner refers the
21 approved office location to the county board, the county board
22 shall choose one of the options listed in items A to C.

23 A. If the county board has established a county
24 licensing bureau under Minnesota Statutes, sections 373.33 to
25 373.38, the county board shall designate the director of the
26 bureau to be appointed by the commissioner as the agent or, if
27 the bureau director is already an agent, make the bureau

1 director responsible for the administration of the approved
2 office location.

3 B. If the approved office location is a
4 county-administered office but is not a county licensing bureau,
5 the county board shall designate an employee or equivalent
6 officer of the county to be appointed by the commissioner.

7 C. The county board shall decline to designate an
8 individual for appointment as an agent.

9 Subp. 3. **Notice to commissioner required.** The county
10 board shall notify the commissioner, in writing, of the option
11 chosen under subpart 2 within 60 days of referral to the county
12 board.

13 Subp. 4. **Failure to notify commissioner; consequences.** If
14 the county board declines to appoint an agent or fails to notify
15 the commissioner within 60 days of referral of the request for
16 appointment to the county board, the appointment of the agent
17 must then be considered by the commissioner under part 7404.0360.

18 Subp. 5. [See repealer.]

19 Subp. 6. [See repealer.]

20 Subp. 7. [See repealer.]

21 7404.0360 COMMISSIONER'S APPOINTMENT PROCEDURE.

22 Subpart 1. **In general.** An agent appointment cannot be
23 transferred to another individual without following the
24 procedure in part 7404.0350 or this part.

25 A. The commissioner shall appoint an agent designated
26 by a county board, as specified in part 7404.0350, if the
27 individual meets the criteria of subparts 3 to 6.

1 B. If the county board does not designate an
2 individual for appointment, or fails to provide timely notice to
3 the commissioner under part 7404.0350, the commissioner shall
4 consider appointment of an agent at the approved office location
5 as specified in this part.

6 Subp. 1a. ~~Municipally-administered Office administered by~~
7 municipality. If the approved office location is ~~a-municipally~~
8 administered an office administered by a municipality, the
9 commissioner may refer the request for appointment to the
10 municipality's governing authority.

11 A. If the commissioner refers the designation of a
12 municipal employee or official to the municipality, the
13 municipality's governing authority, within 30 days of the date
14 of the referral, shall either:

15 (1) designate an employee or equivalent officer
16 of the municipality to be appointed by the commissioner; or

17 (2) decline to designate an individual for
18 appointment.

19 B. The municipality's governing authority shall
20 notify the commissioner, in writing, of the option chosen under
21 item A within 30 days of referral to the municipality.

22 C. If the municipality's governing authority declines
23 to designate an individual for appointment by the commissioner
24 as an agent or fails to notify the commissioner of the
25 municipality's chosen option under this subpart within 30 days
26 of referral to the municipality, the commissioner shall consider
27 the appointment of the agent under this part.

1 D. When designating an individual for appointment,
2 the municipality's governing authority shall follow the
3 procedures in subparts 3 to 6.

4 E. The commissioner shall appoint the designee when
5 the municipality's governing authority verifies to the
6 commissioner that the individual meets the qualifications for an
7 agent specified in subparts 3 to 6.

8 Subp. 2. **Publication of vacancy notice.** If a county or
9 municipal employee is not appointed, the commissioner shall
10 publish notice of the agent vacancy for the approved office
11 location.

12 A. The notice must be published once in a qualified
13 newspaper in the county where the approved office location is
14 located.

15 B. The notice must be published within 30 days after
16 the county board or the municipality declines to designate an
17 individual for appointment or 30 days after the deadline for the
18 county board or the municipality to respond to the commissioner.

19 C. The notice of agent vacancy must specify the:

20 (1) approved office location;

21 (2) commissioner's intent to appoint an agent at
22 that location;

23 [For text of subitems (3) to (5), see M.R.]

24 (6) deadline for submitting the application to
25 the commissioner, which must be 14 days after the date the
26 notice appears.

27 Subp. 3. **Appointment application.** The individual seeking

1 appointment shall submit an appointment application to the
2 commissioner in a paper, electronic, or other format as
3 prescribed by the commissioner. The application must specify:

4 [For text of items A and B, see M.R.]

5 C. whether the individual owns or is a partner,
6 officer, or five-percent shareholder in an entity that:

7 (1) operates a driver training program or driver
8 improvement clinic; or

9 (2) sells vehicle insurance;

10 D. the address of the approved office location;

11 [For text of items E to G, see M.R.]

12 H. whether the individual owes any delinquent taxes,
13 penalties, or interest;

14 I. whether the individual is currently the subject of
15 bankruptcy proceedings;

16 J. a certified copy of the individual's criminal
17 history, including a certified copy of a criminal records check
18 of the national criminal records repository criminal justice
19 data communications network; and

20 K. the signature of the individual verifying that the
21 information on the application is true. The signature must be
22 notarized.

23 Subp. 4. Age of agent. The agent must be 18 years of age
24 or older.

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

26 Subp. 6. Change in agent application conditions. An agent
27 shall report to the commissioner changes or anticipated changes

1 of the information in subpart 3.

2 A. The changes must be reported ten calendar days
3 before the date the change is to occur or within ten calendar
4 days of the the date the agent learns the changes will occur,
5 whichever occurs first.

6 B. A change is cause for discontinuance of an
7 appointment if the change violates this chapter or Minnesota
8 Statutes, section 171.061.

9 Subp. 7. Reasons to deny agent appointment. An agent
10 appointment must be denied for any of the reasons listed in this
11 subpart.

12 A. The appointment application or an item filed with
13 the appointment application does not meet the requirements of
14 subpart 3.

15 B. The individual applying is a partner, officer, or
16 five-percent or greater shareholder in an entity that:

17 (1) operates a driver training program, or driver
18 improvement clinic; or

19 (2) sells vehicle insurance.

20 C. The individual has been convicted of a crime in
21 Minnesota or in another jurisdiction that, if committed in
22 Minnesota, would be a violation of a Minnesota statute of the
23 following type:

24 (1) affects a public officer or employee;

25 (2) is theft or a related crime;

26 (3) is forgery or a related crime; or

27 (4) is reasonably related to the position of an

1 agent.

2 D. The office does not meet the requirements under
3 part 7404.0400 and a variance has not been granted by the
4 commissioner.

5 E. The commissioner of revenue notifies the
6 commissioner, or the commissioner has sufficient cause to
7 believe, that the individual owes delinquent taxes, penalties,
8 or interest.

9 F. The individual is in the midst of bankruptcy
10 proceedings.

11 G. The individual's application for appointment is
12 incomplete or contains a statement that is false, misleading,
13 fraudulent, or otherwise constitutes misrepresentation.

14 7404.0370 APPOINTMENT OF AGENT.

15 Subpart 1. In general. An appointment must be based on
16 information contained in the appointment application, an
17 interview, an inspection of the office or review of a floor plan
18 for compliance with part 7404.0400, and other relevant
19 information or documentation.

20 A. The individual must possess, and ensure that all
21 employees of the agent who have contact with the public possess,
22 communication and customer service skills.

23 [For text of item B, see M.R.]

24 C. The individual must indicate a willingness to
25 successfully complete initial and annual training provided by
26 the commissioner as specified in part 7404.0500, subpart 1a.

27 Subp. 2. Certificate of appointment. The commissioner

1 shall execute and sign a certificate of appointment that
2 specifies the individual appointed as an agent, the approved
3 office location, and the responsibility of the agent to accept
4 applications.

5 A. The certificate of appointment must be signed by
6 the individual appointed.

7 B. When an appointment is made by the commissioner of
8 an individual designated by the county board or a municipal
9 authority, the certificate must also be signed by the authorized
10 representative of the county board or municipal authority.

11 C. The commissioner shall cancel a certificate of
12 appointment if the appointed agent fails to provide an
13 operational office that meets the requirements of this chapter
14 within 12 months of the date of the initial appointment by the
15 commissioner.

16 Subp. 3. Bond. If an agent appointed under this chapter
17 is not an officer or employee of a county or municipality, the
18 agent shall give a surety bond to the state to cover the
19 application receipts accepted on behalf of the commissioner, and
20 equipment and inventory provided and maintained by the
21 commissioner.

22 A. The bond must be conditioned upon the faithful
23 discharge of duties as an agent.

24 B. If an agent is also a deputy registrar or a
25 registrar for the Minnesota Department of Natural Resources, the
26 bond must be in addition to the bond required to be held to
27 cover the deputy registrar vehicle title and registration or

1 Department of Natural Resources transactions.

2 [For text of items C and D, see M.R.]

3 E. For an initial appointment, the bond shall be
4 adjusted after the first 24 months of office operation.

5 F. The continuous bond must be adjusted every five
6 years, starting with the date of initial issuance for an
7 existing office, or starting with the date after the 24-month
8 adjustment for a new office, to reflect the total annual
9 application receipt amount and inventory value of the previous
10 calendar year.

11 Subp. 4. **Change in agent designated by county or**
12 **municipality.** An agent designated by a county board shall
13 notify the county board and commissioner, in writing, no less
14 than 30 days before the agent resigns, retires, or discontinues
15 service. If the office is vacated upon the death or
16 discontinuance of the agent, an official authorized by the
17 county board or municipality must notify the commissioner within
18 ten days of the vacancy.

19 Subp. 5. **Transfer of appointment.** An agent appointment
20 may not be transferred to another individual or office without
21 the approval of the commissioner.

22 7404.0400 AGENT OFFICE REQUIREMENTS.

23 Subpart 1. **In general.** An approved office location must
24 comply with this part.

25 [For text of item A, see M.R.]

26 B. An existing agent must have an office that
27 complies with this part.

1 Subp. 2. Variance. An existing agent may apply to the
2 commissioner for a variance from compliance with subpart 5, if
3 compliance constitutes a substantial hardship.

4 A. The agent may apply for a variance to the
5 commissioner. The commissioner shall consider the following
6 factors when reviewing the variance request:

7 (1) why the office does not meet the
8 requirements;

9 (2) the options available to the agent to bring
10 the office into compliance;

11 (3) the financial cost for meeting the options,
12 estimated with reasonable efforts; and

13 (4) other information requested by the
14 commissioner or supplied by the agent.

15 [For text of items B and C, see M.R.]

16 Subp. 3. Area for applications. An agent:

17 A. must have an office that contains a separate and
18 distinct area used exclusively for taking, processing, and
19 storing applications;

20 B. may not use the application area for living space
21 or for transacting any other business, except that a deputy
22 registrar authorized by the commissioner may process vehicle
23 title and registration transactions, Department of Natural
24 Resources transactions, and additional county transactions as
25 specified under Minnesota Statutes, section 373.33;

26 C. must install a counter or divider within the
27 application area to separate the public from the secure

1 application review and processing areas of the office; and

2 D. must position the application equipment so the
3 applicant can review and verify in a private manner that the
4 application information is correct.

5 Subp. 4. **Inventory and equipment.** Inventory and equipment
6 must be maintained in a secure manner during and after business
7 hours.

8 A. The agent shall procure and maintain a secure
9 dedicated telephone line as specified by the commissioner for
10 the transmission of license application data at each office site.

11 B. Any agent appointed after January 5, 1999, shall
12 procure or lease and maintain at least one dedicated
13 vision-testing machine per office from a vendor specified by the
14 commissioner. The agent is responsible for the maintenance of
15 the vision-testing equipment in the agent's office.

16 C. Any agent establishing an office that did not
17 exist as of January 1, 2000, shall procure or lease, and
18 maintain, photo identification equipment from a vendor specified
19 by the commissioner. This equipment includes a dedicated
20 computer and all software and security features provided by the
21 vendor, and signature-capture equipment.

22 D. For an agent appointed as of January 1, 2000, who
23 has photo identification and signature-capture equipment
24 provided by the commissioner, the commissioner shall continue to
25 provide and maintain the equipment.

26 E. If equipment or inventory is provided or
27 maintained by the commissioner at an existing office under

1 Minnesota Statutes, section 171.061, subdivision 4, paragraph
 2 (b), and the agent dies, retires, or discontinues service, the
 3 equipment and inventory must revert to the commissioner unless
 4 an agent is appointed to the existing office by the commissioner
 5 under parts 7404.0350 and 7404.0360. All offices operated by a
 6 county licensing bureau, county, or municipality, with the
 7 commissioner's written permission, may retain the equipment and
 8 remain in operation during the appointment process.

9 [For text of item F, see M.R.]

10 G. Where photo identification or vision-testing
 11 equipment provided by the commissioner reverts back to the
 12 commissioner, the equipment must be distributed according to
 13 subitems (1) and (2).

14 [For text of subitems (1) and (2), see M.R.]

15 H. The agent must be able to communicate
 16 electronically with the department using methods such as e-mail,
 17 instant messaging, or text messaging.

18 Subp. 5. Size of office area. The size of the office area
 19 includes the application area, the public service area, and the
 20 inventory storage area.

21 A. The size of the office area must contain a minimum
 22 of 300 square feet of which no less than 100 square feet shall
 23 be dedicated as the public service area.

24 [For text of item B, see M.R.]

25 C. The agent office must be separate and distinct
 26 from any other business.

27 D. The office of a licensing agent that is also a

1 deputy registrar office must contain no less than 500 square
2 feet.

3 [For text of subps 6 and 7, see M.R.]

4 Subp. 8. **Conflicting interests.** An agent may not be
5 employed by, own, or have a financial interest as a partner,
6 officer, or five percent shareholder in, an entity that sells
7 vehicle insurance or operates a driver training program or
8 driver improvement clinic.

9 [For text of items A to C, see M.R.]

10 7404.0450 REPORTING AND DEPOSITING PRACTICES.

11 Subpart 1. **Reporting applications; fees.** A report of the
12 applications collected and all application and reinstatement
13 fees due and owed the state must be transmitted by the agent to
14 the commissioner each day the agent's office is open to the
15 public, before the end of the next working day, in an electronic
16 format or other means approved by the commissioner.

17 A. The report must:

18 (1) indicate the applicant's full name and date
19 of birth, or the applicant's Minnesota driver's license, permit,
20 or state identification card number;

21 (2) specify the type of application;

22 (3) list the application and reinstatement fees
23 collected; and

24 (4) include the completed applications.

25 B. The report must contain a financial statement
26 listing the total amount of application and reinstatement fees
27 collected and deposited under subparts 2 and 2a. The financial

1 statement must provide the office location identification
2 number, report number, report date, and total amount of the
3 deposit for that report.

4 C. The report must be transmitted or delivered to the
5 commissioner, before the end of the next working day following
6 the collection of any applications or fees, by electronic
7 transfer or other alternative means approved by the commissioner.

8 D. All applications and fees collected in an agent's
9 office must be included on the report for the day the
10 applications and fees were collected in the office.

11 E. A minimum of one summary report must be completed
12 for all applications and fees collected during each working day.

13 F. More than one report may be submitted for a
14 working day with prior approval from the commissioner.

15 G. If an agent's office does not collect any
16 applications or fees on a working day the office is scheduled to
17 be open, a report must still be filed with the commissioner
18 indicating that no applications or fees were collected that day.

19 H. Supporting documents for applications listed on
20 the report must be delivered electronically or by other means
21 approved by the commissioner such as:

22 [For text of subitems (1) to (5), see M.R.]

23 Subp. 2. **Depositing application fees.** Before the end of
24 each working day, each agent shall deposit an amount equal to
25 the total of all application and reinstatement fees collected
26 the previous working day, excluding the filing fees collected
27 under Minnesota Statutes, section 171.061, subdivision 4.

1 A. The agent shall make all deposits according to the
2 requirements in subpart 2a.

3 B. The amount listed for the total of all application
4 and reinstatement fees collected must cover any shortages for
5 any applications processed and stamped as paid.

6 Subp. 2a. Reporting deposits to commissioner. On the date
7 the deposit of fees is due, the agent shall ensure that a
8 financial statement of the deposits made is reported to the
9 commissioner according to the procedures and in a format as
10 specified in this part.

11 A. All deposits must be made in a depository that
12 meets the requirements in this subpart.

13 B. The depository must be authorized by the agent to
14 allow the state to electronically withdraw funds from the
15 agent's account in an amount equal to the application and
16 reinstatement fees reported to the state.

17 C. Any depository used for the deposit of fees due
18 and owed the state must either:

19 (1) be a state-designated depository; or

20 (2) meet the depository and collateral

21 requirements in Minnesota Statutes, section 9.031.

22 D. Any funds collected on a working day in excess of
23 the total fees listed on the report, minus filing fees and
24 imprest cash, must be deposited as application or reinstatement
25 fees.

26 Subp. 2b. Reconciling reported excesses. If any agent
27 documents the need for a refund of a reported payment of excess

1 funds, the commissioner shall refund or credit the reported
2 excess funds if the submitted documentation substantiates the
3 reported excess.

4 Subp. 3. **Maintaining records.** At the agent's office, the
5 agent shall keep complete records for deposits made to approved
6 state depositories and the daily reports prepared under subpart
7 1.

8 [For text of items A and B, see M.R.]

9 C. The application, any attached documents, and the
10 information contained on the application or documents may not be
11 released by the agent without prior approval from the
12 commissioner, except when authorized by statute for law
13 enforcement personnel and by court order.

14 Subp. 3a. **Destroying private or confidential data.** Use,
15 storage, or destruction of any media with private or
16 confidential information must be done in such a way that the
17 information is irretrievable and cannot be revealed to anyone
18 not entitled to see it.

19 Subp. 4. **Warning notice.** On discovering a violation of
20 subpart 2 or 2a, the commissioner shall send a warning notice,
21 by certified mail, to the agent warning of the violation. The
22 warning notice must identify the violation and tell the agent
23 that if the agent violates subpart 2 or 2a again within 180 days
24 of the date on the notice, a late payment charge will be imposed.

25 Subp. 4a. **Late payment charge; calculation.** For each
26 subsequent violation of subpart 2 or 2a, the commissioner shall
27 impose a late payment charge of \$30 or an amount computed by the

1 following formula, whichever is greater.

2 A. The number of calendar days for which payment is
3 late begins on the date on the late payment charge notice. The
4 late payment notice must be issued by certified mail and contain
5 the information specified in subpart 5.

6 B. Calendar days late x delinquent amount x daily
7 rate = late payment charge, where:

8 (1) calendar days late = actual number of
9 calendar days each deposit is delinquent;

10 (2) delinquent amount = actual amount each
11 deposit is delinquent; and

12 (3) daily rate = interest on all state funds
13 without authority to be invested separately, as determined by
14 the Minnesota Department of Finance, for the month the deposit
15 was due, divided by 365 days.

16 C. In determining the number of calendar days a
17 deposit or report is late, weekends and holidays shall be
18 included only if the deposit is determined by the commissioner
19 to be already at least two calendar days late.

20 D. The commissioner shall continue to impose monthly
21 late payment charges until the agent no longer is in violation
22 of this part.

23 Subp. 5. **Notice of late payment charge.** The late payment
24 charge notice must:

25 A. identify the violations of subparts 2 and 2a and
26 Minnesota Statutes, section 171.061 for which the late payment
27 charge is imposed; and

1 B. inform the agent when the late payment charge is
2 due, how the late payment charge must be paid, and how to obtain
3 a review of the late payment charge.

4 Subp. 6. Unpaid late payment charges. If a late payment
5 charge remains unpaid for 30 days from the date the commissioner
6 mailed the notice of late payment charge and if no review is
7 requested, the commissioner shall make a claim for payment
8 against the agent's bond, or in the case of a public official or
9 employee serving as an agent, the commissioner shall demand
10 payment from the county treasurer or municipality.

11 [For text of subps 7 and 8, see M.R.]

12 7404.0475 AUDIT.

13 Subpart 1. Biennial audit. At the request of the
14 commissioner, an agent shall make available for audit, for each
15 office of an agent, all applications and fees due and owed the
16 commissioner and records for all applications occurring during
17 the state's biennial fiscal cycle. If the commissioner has
18 reasonable cause to believe another audit is necessary in
19 addition to the biennial audit, the commissioner may order that
20 another audit be conducted at cost to the agent to address areas
21 of the agent's biennial audit in which the commissioner was not
22 able to determine compliance.

23 Subp. 2. Scope of audit. The audit must cover the
24 application and reinstatement fees collected by the agent for
25 the previous two years. The audit report must include:

- 26 A. the auditor's opinion as described in subpart 3;
27 B. a report on internal controls as described in

1 subpart 4;

2 C. a verification of imprest cash as required by

3 subpart 5;

4 D. any material weakness as described in subpart 6;

5 E. a response to the auditor's report by the agent;

6 and

7 F. other information as noted by the auditor.

8 Subp. 3. **Auditor's opinion; compliance and corrective**
9 **action; administrative sanctions.** The auditor's opinion must
10 describe areas of compliance, noncompliance, and corrective
11 action and show a timetable for corrective action. Failure to
12 undertake corrective action or to meet timelines is cause for
13 subsequent administrative action, including suspension or
14 revocation.

15 Subp. 4. **Internal controls.** The internal controls are the
16 internal procedures of the agent designed to ensure compliance
17 with the reporting and depositing requirements of this chapter.
18 The audit of internal controls must assess whether:

19 A. applications have been properly recorded and
20 accounted for;

21 B. reliable state reports have been prepared; and

22 C. control measures are in place that assure that
23 accountability over all application and reinstatement fees is
24 maintained by the agent.

25 Subp. 5. **Verify imprest cash.** The audit must include a
26 verification of the proper use of imprest cash as specified in
27 part 7404.0500, subpart 8, and report any discrepancies.

1 Subp. 6. **Material weakness.** The audit report must state
2 whether any material weaknesses were detected. Material
3 weaknesses include:

4 A. inadequate safeguarding of state inventory, fees,
5 or other state assets;

6 B. repeated overages or shortages;

7 C. delinquent fees or reports due to the state;

8 D. failure to maintain proper reports and records;

9 E. material underreporting or overreporting of
10 application or reinstatement fees;

11 F. failure to report the loss of equipment,
12 inventory, or fees due and owed the state; and

13 G. inattention to or lack of correction to previously
14 reported material weaknesses.

15 7404.0500 GENERAL OPERATING PRACTICES.

16 Subpart 1. **Management of office.** An agent shall manage
17 the agent's office according to this part.

18 [For text of items A and B, see M.R.]

19 C. The manager must be an individual who is at least
20 18 years of age, actively participates in the acceptance of
21 applications, and is in the office on a full-time basis.

22 D. The manager shall act as a liaison between the
23 commissioner and the agent's office to discuss and address
24 problems or questions that may arise on a daily basis.

25 E. The agent shall ensure that only authorized
26 employees of the agent have access to data on the application,
27 supporting documents, and state records that are not public

1 data. The agent shall ensure that a record of the authorized
2 employees is kept in the office records on site.

3 Subp. 1a. **Training.**

4 A. Each agent or the agent's designated
5 representative shall complete annual training when provided by
6 the commissioner and any additional training deemed necessary by
7 the commissioner to accept or process applications.

8 B. Each agent shall ensure that any staff in the
9 agent's office who accept or process applications are
10 subsequently trained by the agent or the agent's designated
11 representative.

12 C. A record of all training to accept and process
13 applications completed by the agent and agent's staff must be
14 maintained for three years by the agent in the agent's office.

15 Subp. 1b. **Customer service policy.** The licensing agent
16 must have a customer service policy approved by the commissioner
17 that is applicable to each office operated by the agent.

18 A. The policy must ensure that all staff who accept
19 or process applications are properly trained and competent to
20 perform their duties.

21 B. The agent shall ensure that the public is treated
22 with courtesy, consideration, and respect and that the
23 customer's property is treated with respect.

24 C. The agent shall ensure that the public is provided
25 with complete, current, and accurate information.

26 D. The agent shall ensure that the applicant's
27 personal and private information is protected.

1 E. If an investigation by the commissioner in
2 response to a complaint indicates customer service training is
3 necessary, the agent or the agent's designated representative
4 shall complete customer service training provided by or approved
5 by the commissioner. The agent shall ensure that any staff who
6 accept or process applications are subsequently trained by the
7 agent or the agent's representative. A record of the subsequent
8 customer service training must be maintained on site and
9 indicate the date of training and all individuals who completed
10 the training.

11 F. Each office operated by the agent must have a
12 system to receive, investigate, and resolve customer complaints.

13 (1) The agent must provide for a mechanism for
14 customer comment or feedback about service.

15 (2) The office policy must indicate whom to
16 contact within the office with a complaint.

17 (3) When requested, the customer must be provided
18 with the address and telephone number of an individual at the
19 Minnesota Department of Public Safety to contact with a
20 complaint.

21 (4) The customer must be assured there will be no
22 retaliation for making a complaint.

23 (5) The customer must be assured there will be a
24 timely written response made by the agent about a written
25 complaint, if a written response is requested by the complainant
26 or the state.

27 (6) A record of each written complaint and the

1 licensing agent's response to it must be maintained by the agent
2 at the office location for at least three years.

3 Subp. 2. Days and hours of operation. An agent's office
4 must be open to the public at least 40 hours each week.

5 [For text of item A, see M.R.]

6 B. At the time of appointment, the agent shall
7 provide the commissioner:

8 (1) with an accurate written schedule of the
9 days and hours the office is open to the public; and

10 (2) the time of the daily close of office records.

11 C. A written request for a change in the days and
12 hours the office is open to the public must be made to the
13 commissioner at least ten calendar days before the change is
14 expected to occur.

15 D. The commissioner must approve changes in the days
16 and hours the office is open to the public before the change
17 becomes effective.

18 E. The time of the daily close of office records may
19 not be changed without prior written notice to the commissioner
20 at least 15 calendar days before the effective date of the
21 change.

22 Subp. 3. Closure of office; variance procedure. An office
23 must be open for at least 40 hours each week unless the
24 commissioner grants a variance to allow an office to be closed
25 for a specified period of time.

26 A. To request a variance for closure of an office for
27 two working days or more, the agent must submit a written

1 request to the commissioner.

2 [For text of items B to F, see M.R.]

3 [For text of subp 4, see M.R.]

4 Subp. 5. **Application fees.** An agent shall charge and
5 receive the full application fees specified by Minnesota
6 Statutes, chapter 171.

7 A. Rebates are prohibited.

8 B. No application or filing fees may be charged for a
9 document returned for a refund or correction due to an error
10 made by the department or an agent.

11 [For text of subp 6, see M.R.]

12 Subp. 7. [Withdrawn at .. SR]

13 [For text of subps 8 to 10, see M.R.]

14 Subp. 11. **Displays.** An agent shall exhibit, as directed
15 by the commissioner, any displays, notices, or other information
16 relating to applications that are provided by the commissioner.

17 7404.0800 ACTIONS FOR FAILURE TO COMPLY WITH LAWS OR RULES.

18 The failure of an agent or employee of an agent to comply
19 with applicable laws or rules governing the appointment of an
20 agent and the operation of an office is cause for discontinuance
21 of the agent appointment using the grounds specified for a
22 deputy registrar under parts 7406.0900 to 7406.1000 and
23 following the procedures specified in parts 7406.1100 to
24 7406.2600. The commissioner may issue a correction order
25 according to the procedures in part 7406.1000. The grounds for
26 discontinuance of an agent appointment or issuance of a
27 correction order as specified in part 7406.1000 also include:

1 [For text of items A and B, see M.R.]

2 C. grounds for denial of an appointment under part
3 7404.0360, subpart 7;

4 D. failure to successfully complete training required
5 by the commissioner;

6 E. loss of an appointment as a deputy registrar under
7 chapter 7406 or Minnesota Statutes, section 168.33;

8 F. conviction for a felony; and

9 G. allowing unauthorized persons access to records,
10 files, or data.

11 7404.0900 INDEMNIFICATION.

12 The agent and any agency or employee of the agent shall
13 hold the commissioner harmless from any and all claims or causes
14 of action against the agent or any employee or agency of the
15 agent, including all attorney fees incurred, arising from
16 performance or actions not in accordance with this chapter,
17 Minnesota Statutes, or written instruction from the commissioner.

18 **REPEALER.** Minnesota Rules, parts 7404.0300, subpart 2; and
19 7404.0350, subparts 5, 6, and 7, are repealed.