

September 28, 2026

VIA EFILING ONLY

Corrie A. Oberg
Deputy General Counsel
Minnesota Department of Education
400 NE Stinson Blvd
Minneapolis, MN 55413
corrie.a.oberg@state.mn.us

Re: *In the Matter of the Proposed Rules Relating to K-12 Academic Standards in Health, Minnesota Rules Chapter 3501*
CAH 65-9005-40585
Revisor R-4924

Dear Corrie A. Oberg:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF RESUBMITTED RULES UNDER MINN. STAT. § 14.16, SUBD. 2 AND MINN. R. 1400.2240, SUBP. 4** and the addendum to the official record in the above-entitled matter. On September 21, 2026, the Court of Administrative Hearings received for review the submissions of the Minnesota Department of Education as modified pursuant to the June 22, 2026, Report of Administrative Law Judge Ann C. O'Reilly, and the July 2, 2026 Order of the Chief Administrative Law Judge on Review of Rules, as amended by the July 7, 2026 Amended Order of the Chief Administrative Law Judge, Jessica A. Palmer-Denig. The rules, Revisor's Draft R-4924, as submitted on September 21, 2026, are approved as to legality. The Court of Administrative Hearings has closed this file and is returning the rule record so that the Department can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. If the Minnesota Department of Education has not already done so, please ensure that a signed order adopting the rules is filed with the Court of Administrative Hearings. The Court of Administrative Hearings will request copies of the finalized rules from the Revisor's office following receipt of that order. The Court of Administrative Hearings will file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the Minnesota Department of Education for its rulemaking record.

The Department's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the *State Register* for publication. A permanent rule without a hearing does not become effective until five working days after Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

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If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in cursive script that reads "Cara Hunter".

CARA HUNTER
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Ryan Inman
Senator Tou Xiong
Representative Jim Nash
Representative Ginny Klevorn

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules
Relating to K-12 Academic Standards in
Health, Minnesota Rules Chapter 3501

**ORDER ON REVIEW OF
RESUBMITTED RULES UNDER
MINN. STAT. § 14.16, SUBD. 2 AND
MINN. R. 1400.2240, SUBP. 4**

This matter came before the Chief Administrative Law Judge upon a request for reconsideration and for approval of resubmitted rules under Minn. Stat. § 14.16, subd. 2 (2026), and Minn. R. 1400.2240, subp. 4 (2025).

This rulemaking concerns a rule proposed by the Minnesota Department of Education (Department or MDE) establishing statewide academic standards in health education for kindergarten through twelfth grade (K-12) under Minn. Stat. §§ 120B.018, subd. 6, .021, subd. 1 (2026), and 2024 Minn. Laws ch. 115, art. 2, §§ 1, 2, 21.

Administrative Law Judge Ann C. O'Reilly issued a report on June 22, 2026, in which she disapproved the proposed rule. By Order dated July 2, 2026,¹ as amended on July 7, 2026,² the Chief Administrative Law Judge disagreed with Judge O'Reilly's report in one respect, but agreed with the report in others, and concurred with the Administrative Law Judge that the proposed rule must be disapproved.

On September 21, 2026, MDE submitted a revised rule. MDE requested reconsideration of the Court's disapproval of the rule and requested that the Court determine that the rule revisions corrected defects that the Court had determined required disapproval under Minn. R. 1400.2100(A), (B), (D) and (G) (2025). MDE also proposed two new rule subparts for which it requests approval.

Based upon a review of MDE's submissions and the rulemaking record, and as explained in the Memorandum below, the Chief Administrative Law Judge issues the following:

¹ Order of the Chief Administrative Law Judge on Review of Rules (July 2, 2026).

² Amended Order of the Chief Administrative Law Judge on Review of Rules (July 7, 2026).

ORDER

1. The determination that MDE failed to provide notice to legislators under Minn. Stat. § 14.116(b), (c) (2026) is **RESCINDED** based on MDE's supplementation of the record.
2. Any other deficiencies in MDE's compliance with Minn. Stat. § 14.116(b), (c) are harmless error pursuant to Minn. Stat. § 14.15, subd. 5 (2026).
3. MDE's proposed rule, as revised and modified, complies with Minn. R. 1400.2100 (2025).
4. MDE has the statutory authority to adopt the proposed rule, complied with the procedural requirements of rule and law, and demonstrated the need for and reasonableness of its proposed rule through an affirmative presentation of facts.³
5. MDE's revised rule is not substantially different pursuant to Minn. Stat. § 14.05, subd. 2 (2026).
6. MDE's resubmitted and modified rules are **APPROVED**.

Dated: September 28, 2026


JESSICA A. PALMER-DENIG
Chief Administrative Law Judge

MEMORANDUM

I. Notice to Legislators

The Chief Judge previously determined that MDE failed to provide required notice of its rescheduled rulemaking hearing to legislators and the Legislative Coordinating Commission under Minn. Stat. § 14.116(b), (c). The Court noted that providing such notice was an essential procedural requirement, and that the failure to do so was a procedural defect that was not harmless error under Minn. Stat. § 14.15, subd. 5.

MDE requests reconsideration of that determination. MDE has now submitted evidence that it notified legislators of the rescheduled hearing by email on March 16,

³ Minn. Stat. §§ 14.05, subd. 1, .14, subd. 2 (2026), Minn. R. 1400.2100.

2026, advising recipients that the hearings would be held on April 13 and 14, 2026.⁴ MDE explains that it inadvertently omitted this notice from the exhibits it previously submitted to the Court.

MDE's notice of the rescheduled hearing to legislators was not made at least 30 days before the date set for hearing,⁵ but it provided 28- and 29-days prior notice. The Court concludes that this deficiency of only one or two days did not deprive the recipients of a meaningful opportunity to participate in the rulemaking, and that the timing defect under these circumstances was harmless error under Minn. Stat. § 14.15, subd. 5. Based upon MDE's supplementation of the record, MDE has established that it complied with the requirements of Minn. Stat. § 14.116(b), (c), by providing notice to legislators.

MDE acknowledges that it did not provide notice of the rescheduled hearing to the Legislative Coordination Commission as required by Minn. Stat. § 14.116(b). MDE maintains that this failure constitutes harmless error because the Legislative Coordinating Commission receives and saves such notices but does not further distribute them or take other action upon receipt of the notice.⁶ The Court agrees that, under these circumstances, the failure to provide notice of the rescheduled hearing to the Legislative Coordinating Commission was harmless error under Minn. Stat. § 14.15, subd. 5.

MDE has established it complied with the procedural requirements of Minn. Stat. § 14.116(b), (c), or that any defects in its compliance were harmless error. The Court rescinds the determination that disapproval of the rule is required.

II. Compliance with Minn. R. 1400.2100

The Chief Judge disapproved MDE's proposed rule because the rule did not fully comply with Minn. R. 1400.2100(A), (B), (D) and (G). In relevant part, this rule states that:

A rule must be disapproved by the judge or chief judge if the rule:

A. was not adopted in compliance with procedural requirements of this chapter, Minnesota Statutes, chapter 14, or other law or rule, unless the judge decides that the error must be disregarded under Minnesota Statutes, section 14.15, subdivision 5, or 14.26, subdivision 3, paragraph (d);

B. is not rationally related to the agency's objective or the record does not demonstrate the need for or reasonableness of the rule;

⁴ MDE Reconsideration Exhibit (Ex.) A.

⁵ Minn. Stat. § 14.14, subd. 1a(a) (2026).

⁶ MDE Reconsideration Ex. B.

...

D. exceeds, conflicts with, does not comply with, or grants the agency discretion beyond what is allowed by, its enabling statute or other applicable law;

...

G. is not a "rule" as defined in Minnesota Statutes, section 14.02, subdivision 4, or by its own terms cannot have the force and effect of law.⁷

Based on MDE's supplementation of the record, the Court has determined that MDE complied with the applicable procedural requirements and that any defect in compliance was harmless error. Therefore, MDE's rule satisfies the standard in Minn. R. 1400.2100(A).

MDE's rule, as revised, also satisfies the standards in Minn. R. 1400.2100(B), (D), and (G). The legislature directed the Department to adopt "rigorous core academic standards in health" through rulemaking.⁸ An "academic standard" is a summary description of student learning in a required or elective content area.⁹ A "required standard" is a "statewide adopted expectation for student learning in the content areas of language arts, mathematics, science, social studies, physical education, health, and the arts." Under Minn. Stat. § 120B.021, subd. 2(b) (2026), academic standards must be "clear, concise, objective, measurable, and grade-level appropriate," must not require any specific teaching methodology or curriculum, and must comply with the U.S. and Minnesota Constitutions. Rules governing academic standards are supplemented by benchmarks, which provide the "specific knowledge or skill that a student must master to complete part of an academic standard by the end of the grade level or grade band."¹⁰

The Court disapproved the prior version of the rule, concluding that the proposed rule lacked sufficient specificity to qualify as a rule. In relevant part, Minn. Stat. § 14.02, subd. 4, provides that a "rule" is an agency statement of general applicability and future effect that is adopted to implement or make specific the law that the agency administers or enforces. MDE has changed its proposed rule to include definitions of key terms: functional health knowledge, integration of health skills, health and well-being, health-enhancing behaviors and practices, and valid and reliable information.¹¹ MDE has also identified 6 "strands" that identify health-related topic areas for student learning:

⁷ Minn. R. 1400.2100.

⁸ Minn. Stat. § 120B.021, subd. 3(b) (2026).

⁹ Minn. Stat. § 120B.018, subd. 2 (2026).

¹⁰ Minn. Stat. §§ 120B.018, subd. 3; .023 (2026) (requiring that academic standards be supplemented by benchmarks and exempting benchmarks from the rulemaking process under chapter 14). This Court does not have the authority to approve or disapprove the benchmarks.

¹¹ Proposed Rule Part 3501.1500, subp. 2.

- a. Food and Nutrition
- b. Human Growth and Development, Relationships, and Sexual Health
- c. Mental and Emotional health
- d. Personal Health, Physical Activity, and Wellness
- e. Personal Safety and Violence Prevention, and
- f. Cannabis Use and Substance Use Awareness and Prevention.

These strands are consistent with statutory topics and content areas the legislature identified for inclusion in academic standards on health.¹² MDE's rule revisions explain the content and learning expectations in each of these areas. For example, Proposed Rule Part 3501.1500, subp. 3(A),¹³ regarding food and nutrition provides that: "The Student will acquire knowledge about nutrition, healthy eating patterns, food safety, hydration, and the relationship between nutrition and lifelong health." Rule Subpart 4(A)(3) regarding mental and emotional health requires that: "The student will analyze how family, peers, school, and other factors affect mental well-being, including effects on the prevention of suicide and self-harm." Rule Subpart 4(C)(5) regarding communication skills related to personal safety and violence prevention requires that: "The student will practice communicating to report unsafe situations, seek help from trusted adults, advocate for personal safety, and help prevent bullying, harassment, abuse, violence, or unsafe situations." The proposed rules contain a consistent level of detail and specificity, and establish understandable guidance for those required to comply, without prescribing a particular curriculum or manner of measurement.¹⁴ MDE's revised rule constitutes a "rule" under Minn. Stat. § 14.02, subd. 4, and complies with Minn. R. 1400.2100(G).

MDE's revised rule also complies with Minn. R. 1400.2100(D). MDE was required to adopt statewide academic standards in health by rule under the rulemaking standards in Chapter 14.¹⁵ The Chief Judge concurred with Judge O'Reilly's assessment that MDE failed to include substantive content in its prior rule proposal and that MDE instead located this content in draft benchmarks, which are not subject to the rulemaking process. This was inconsistent with the legislature's direction that MDE adopt standards in rule and granted MDE discretion beyond what is allowed by the enabling statute or other applicable law.

MDE's rule as revised transfers substantive content from the benchmarks to the rule language. The benchmarks were received into the rulemaking record, such that MDE's affirmative presentation of facts included this information,¹⁶ and the public

¹² 2024 Minn. Laws ch. 115, art. 2, § 21; Minn. Stat. §§ 120B.021, .21, .215, .22, .232, .236, .238, 121A.23 (2026).

¹³ Rule parts addressed in this Order are as presented in MDE's submission of its revised rule on September 21, 2026.

¹⁴ Minn. Stat. § 120B.02, subd. 1(a) (2026) (requiring MDE to adopt statewide academic standards in rule, but stating that MDE "shall not prescribe in rule or otherwise the delivery system, classroom assessments, or form of instruction that school sites must use.").

¹⁵ 2024 Minn. Laws ch. 115, art. 2, § 21.

¹⁶ See Hearing Exhibit 1.

offered extensive review and comment on the substance of the benchmarks. The agency's Statement of Need and Reasonableness (SONAR) must offer fair notice so that interested parties can meaningfully participate in the rulemaking process.¹⁷ The agency's affirmative presentation of facts at a hearing may expound upon the information in the SONAR.¹⁸ Based on the specific circumstances of this case, the Court concludes that MDE's rule changes and incorporation of content from the benchmarks does not result in prejudice.¹⁹ MDE's revised rule establishes academic standards through the rulemaking process, rather than leaving that content to the benchmarks, satisfying Minn. R. 1400.2100(D).

Finally, based upon the record as a whole, MDE has established the need for and reasonableness of the proposed rules. MDE's SONAR contains definitions of terms that were previously undefined in the rule, but those definitions are now incorporated into the rule.²⁰ The SONAR also contains a rule-by-rule analysis that is consistent with the content of the revised rule. Though the sections of that analysis are not directly keyed to the sections in the revised rule, the SONAR's content aligns with and supports the content of the rule as revised by MDE.²¹ In some instances, the new rule subparts are directly drawn from the language in the SONAR. For example, Proposed Rule Part 3501.1500, subp. 4(c)(2) provides that students will "communicate clearly about consent, personal boundaries, healthy relationships, and relationship expectations." The SONAR states that students will learn to "[c]ommunicate about consent, boundaries, and healthy relationships."²² Similarly, Proposed Rule Subpart 3(c) regarding mental and emotional health requires that: "The student will learn about factors affecting mental well-being, including stress, coping strategies, and emotional regulation. This supports instruction aimed at preventing suicide and promoting mental health awareness." The SONAR contains identical language.²³ Though the rules have undergone changes, the SONAR sufficiently aligns with the rules as now proposed to support a determination of reasonableness.

Further, MDE's incorporation of language from the draft benchmarks is supported by the rulemaking record because the draft benchmarks were received as exhibits and

¹⁷ *Builders Ass'n of Twin Cities v. Bd. of Elec.*, 965 N.W.2d 350, 361 (Minn. Ct. App. 2021).

¹⁸ *Id.* at 359; Minn. Stat. § 14.14, subd. 2.

¹⁹ Ordinarily, the SONAR and rules as originally proposed by an agency provide the basis for the review conducted by this Court. MDE has rewritten its proposed rule in order to satisfy the rulemaking standards in Minn. R. 1400.2100. This is an exceedingly unusual set of circumstances. If the draft benchmarks had not been included in the rulemaking record, and if the public had not extensively commented on the benchmarks' content, the record likely would have been inadequate to support the revised rule. A rule is invalid if there is actual prejudice in the rulemaking proceeding, in that the public is denied an opportunity to participate meaningfully in the rulemaking process. *Builders Ass'n*, 965 N.W.2d at 360-61. Given the significant level of public comment on the benchmarks, and the likelihood that some of those commenters thought that they were, in fact, commenting on the rule, the Court cannot conclude that MDE's changes to the rule to include content from the draft benchmarks is prejudicial.

²⁰ See, e.g., Ex. D at 24-27.

²¹ Ex. D at 32-39.

²² *Id.* at 35.

²³ *Id.* at 33.

addressed by the public. As a result, MDE's affirmative presentation of facts is consistent with and supports the rule as now proposed.

A proposed rule is reasonable if the record establishes on "what evidence [the agency] is relying and how the evidence connects rationally with the agency's choice of action to be taken."²⁴ An agency may choose among regulatory approaches, as long as the one it selects is rational.²⁵ Judge O'Reilly previously determined that MDE had the authority to adopt academic standards in health and, given the legislature's direction to MDE, the rules are needed. MDE has now offered rules that, with the support of this record, are a reasonable means to meet that need. Therefore, MDE has addressed the defects in its prior proposal and has established that the revised rules satisfy Minn. R. 1400.2100(B).

III. New Rule Parts

MDE added two additional rule parts. First, Proposed Rule Subpart 5 provides an implementation timeline requiring school districts and charter schools to implement the academic standards by the beginning of the 2030-2031 school year, and states that the Commissioner of MDE must publish grade-level benchmarks that identify the progression of functional health knowledge and health skills expected at each grade level to support implementation of these standards. MDE previously proposed implementing the health standards in the 2028-2029 school year,²⁶ but stated in its SONAR that it "has generally allowed for a three- to five-year implementation timeline."²⁷ MDE's extension of the implementation timeline to comport with its standard practice is a reasonable modification of the rule. Minnesota law already requires that MDE publish benchmarks to supplement rules on academic standards²⁸ and it is reasonable to include that requirement in the rule.

MDE also offers Proposed Rule Subpart 6 establishing a procedure for parental review, a modification recommended by the Administrative Law Judge. Under Minn. Stat. § 120B.20 (2026), each school district must have a procedure for a parent, guardian, or adult student who is 18 years old or older, to review the content of the instructional materials to be provided and if there is an objection, to make reasonable arrangements for alternative instruction. Minn. Stat. § 120B.215, subd. 3, provides a procedure for parental review of instructional materials regarding cannabis and other substance use and provides a right to opt a student out of such instruction.

²⁴ *Manufactured Hous. Inst. v. Petterson*, 347 N.W.2d 238, 244 (Minn. 1984).

²⁵ *Minn. Env't'l Science and Econ. Rev. Bd. v. Minn. Pollution Control Agency*, 870 N.W.2d 97, 102 (Minn. Ct. App. 2015).

²⁶ Ex. C (proposed rule).

²⁷ Ex. D. at 40.

²⁸ Minn. Stat. §§ 120B.018, subd. 3; .023.

The new rule subpart states:

Subp. 6. **Parental review.** Consistent with Minnesota Statutes, sections 120B.20 and 120B.215, and notwithstanding any law to the contrary, each school district or charter school must have a procedure for a parent, guardian, or adult student 18 years of age or older to review the content of the instructional materials to be provided to a minor child or to an adult student pursuant to this subpart. If the parent, guardian, or adult student objects to the content, the district must make reasonable arrangements with school personnel for alternative instruction. Alternative instruction may be provided by the parent, guardian, or adult student if the alternative instruction, if any, offered by the school board does not meet the concerns of the parent, guardian, or adult student. The school board is not required to pay for the costs of alternative instruction provided by a parent, guardian, or adult student. School personnel may not impose an academic or other penalty upon a student merely for arranging alternative instruction under this subpart. School personnel may evaluate and assess the quality of the student's work.

MDE's Proposed Subpart 6 is consistent with Minnesota law and was offered in response to public comments during the rulemaking process and the recommendation of the Administrative Law Judge. MDE has established that this is a reasonable rule change.

MDE's new proposed rule parts comply with Minn. R. 1400.2100. These rule changes are approved.

IV. Substantial Difference

An agency may modify a proposed rule, but it may not do so in a way that makes the rule substantially different from the rule proposed in the notice of intent to adopt rules or notice of hearing unless it follows the procedure in Minn. R. 1400.2110 (2025).²⁹ Under Minn. Stat. § 14.05, subd. 2(b), a modification does not make a proposed rule substantially different if:

- (1) the differences are within the scope of the matter announced in the notice of intent to adopt or notice of hearing and are in character with the issues raised in that notice;
- (2) the differences are a logical outgrowth of the contents of the notice of intent to adopt or notice of hearing and the comments submitted in response to the notice; and

²⁹ Minn. Stat. § 14.05, subd. 2(a).

(3) the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

Further, in determining whether the notice of intent to adopt or the notice of hearing offered fair warning that the outcome of the proceeding could be the rule in question, the Court considers the following factors:

(1) the extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(2) the extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intent to adopt or notice of hearing; and

(3) the extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intent to adopt or notice of hearing.³⁰

It is important to note that the question under this statute is not whether a modified rule can be characterized as substantially different from a rule as originally proposed. Rather, the inquiry is more about the subject matter of the rule and whether the agency's notice to the public was broad enough to encompass and give notice of the modified rule.

MDE's Notice of Hearing published in the *State Register* contained the following description of this rulemaking proceeding:

Subject of Rules and Statutory Authority. The proposed rules are about adding K-12 Academic Standards in Health to Minnesota Rules Chapter 3501. Minnesota Statutes, section 120B.021 and Laws of Minnesota 2024, chapter 115, article 2, section 21 authorize the Department to adopt rules for statewide K-12 academic standards in Health Education.

Minnesota has K-12 academic standards in several legislative-required content areas, including Health. Academic standards are essential because they help identify the student learning requirements for graduation and they serve as a guide for local curriculum adoption, development, and improvement. Student mastery of the academic standards is generally measured through local assessments.

In 2024, the Minnesota Legislature directed the Department to initiate rulemaking for statewide Academic Standards in Health Education. The

³⁰ Minn. Stat. § 14.05, subd. 2(c).

proposed standards are based on extensive national research, committee experience, expert guidance, discussion, and stakeholder feedback. The proposed standards were developed in consultation with the Health Standards Committee, a committee of more than 30 members, which included parents of school-age children; members of the public from across the state; licensed health teachers; licensed elementary and secondary school principals; current members of local school boards and charter school boards; postsecondary faculty teaching core subjects; representatives from the Minnesota business community; representatives from Tribal Nations, the Tribal Nations Education Committee, and communities in Minnesota, including Anishinaabe and Dakota; and current students, with input from the Minnesota Youth Council. The proposed K-12 academic standards in Health Education form the foundation of skills-based health education by combining functional health knowledge with the development of essential health skills.³¹

MDE's modified rules are consistent with the scope of the proceeding identified in the Notice of Hearing and the modified rules are a logical outgrowth of the rule scope MDE articulated. The Notice of Hearing indicated that MDE would adopt academic standards in health to implement skills-based education that combines functional knowledge with the development of health skills, and the modified rule is consistent with that description.

This rulemaking matter generated substantial public interest and comment, showing that persons affected by the rule understood that it could impact their interests. The subject matter of the rules is consistent with that identified in the Notice of Hearing and the effects of the rule are consistent with the effects that could be anticipated from the scope of the noticed rulemaking. According to the statutory standards, the notice gave fair warning that the outcome could be the rule as modified.

MDE also notified the public that the rules could be modified. The Notice of Hearing stated:

Modifications. The Department might modify the proposed rules due to public comment or the rule hearing process. The Department must support modifications by data and views submitted to the Department or presented at the hearing. The adopted rules may not differ substantially from those proposed rules unless the Department follows the procedure under Minnesota Rules, part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.³²

³¹ Ex. F-1.

³² *Id.*

Therefore, the public had fair warning that the rules MDE proposed could be modified during the rulemaking process.

Based upon the Notice of Hearing and the standards in Minn. Stat. § 14.05, subd. 2, the Court determines that MDE's revised rule is not substantially different from the rule proposed in the Notice of Hearing. Therefore, the rules may be approved without undergoing the procedure in Minn. R. 1400.2110.

V. Conclusion

The Chief Judge appreciates the thorough review provided by the Administrative Law Judge during the rulemaking process. The Chief Judge also appreciates that MDE carefully reviewed the issues this Court identified and proposed a modified rule grounded in the SONAR and rulemaking record. MDE supplemented the record to establish its compliance with applicable procedural requirements, modified the rule to correct the identified defects, proposed new rule language consistent with law and responsive to public comments, and offered a rule that was within the scope of the rulemaking noticed to the public. Under these circumstances, the proposed rule is **APPROVED**.

J. P. D.