

State



STATE OF
MINNESOTA

Register

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EXECUTIVE ORDERS

Executive Order No. 132

Creating the Governor's Task Force on Drought Aid

I, Rudy Perpich, Governor of the State of Minnesota by virtue of the authority vested in me by the Constitution and applicable Statutes, do hereby issue this Executive Order:

WHEREAS, persistent drought conditions in Minnesota have resulted in direct losses to farmers of approximately \$1.5 billion this year; and

WHEREAS, 69 of Minnesota's 87 counties have been declared drought emergency areas by the President of the United States; and

WHEREAS, federal drought aid programs are inadequate to meet the real problems faced by farmers suffering economic losses from the drought; and

WHEREAS, a coordinated effort is needed to bring all available public and private resources to bear on these problems; and

WHEREAS, the economic health of Minnesota depends on the continuing economic strength of the agricultural sector of Minnesota's economy:

NOW, THEREFORE, I order:

1. The establishment of a Governor's Task Force on Drought Aid, made up of appropriate representatives of agriculture, business, and the federal and state governments, to address these problems.

2. Assessment by the Governor's Task Force on Drought Aid of the total impact of drought damage, coordination of efforts to assist drought victims, identification of sources of drought-aid revenue and off-farm employment for farmers needing supplemental income, development of assistance by state and federal government agencies in providing prompt assistance to drought victims, recommendation of steps that may be required to improve programs of assistance at the state and federal levels to farmers ravaged by drought, and periodic reporting regarding the progress of the Task Force.

3. This Task Force shall be chaired by William Walker, Red Wing, and shall include the members on the attached list, plus others to be added as the need may arise.

This order shall be effective on the date of publication in the *State Register* and shall remain in effect until the work of the Task Force is completed or until December 31, 1978, whichever is the earlier.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 29th day of December, 1976.



EXECUTIVE ORDERS

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EXECUTIVE ORDERS

Executive Order No. 133

Providing for the Establishment of an Employee Assistance Program for State Employees

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the State recognizes that chemical dependency and other problems not directly associated with one's job function can have an effect on an employee's job performance; and,

WHEREAS, the State believes it is in the interest of the employee, the employee's family, and the State of Minnesota to provide an employee service which deals with such problems:

NOW, THEREFORE, I order that:

1. An Employee Assistance Program be established which shall serve State employees, particularly chemically dependent employees, by:
 - a) training supervisors and union officials to identify job performance problems of employees and refer those employees to Diagnostic and Referral Counselors: and
 - b) designating a Diagnostic and Referral service to accept supervisors' and union officials' referrals, and self-referrals made by employees and their families, make initial diagnosis, and refer employees to the appropriate modicum of care.
2. The Department of Public Welfare, Chemical Dependency Division, shall serve as coordinator and be responsible for the overall design and implementation of the Employee Assistance Program.
3. An advisory committee to be appointed and convened by the Governor will formulate recommendations concerning the operational policies of the Employee Assistance Program, with special emphasis on chemical dependency. This committee shall include representatives of the Executive and Legislative branches, and of the labor unions which represent the employees of the State of Minnesota.

This order shall be effective immediately upon publication in the *State Register* and shall remain in force until rescinded by the proper authority.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 29th day of December, 1976.



RULES

Department of Agriculture Family Farm Security Program

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in State Register Vol. 1, No. 10, September 14, 1976 (1 S.R. 316-319), and are published here by reference only as provided in RGSTR 5.

Chapter 22 Family Farm Security Program

AGR 543 Family farm security loans, application, eligibility, review.

AGR 543 A.

AGR 543 A.2.d.

AGR 543 C.1.-3.

AGR 543 C.6., 7.

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AGR 543 F.1.

AGR 543 F.3.-7.

AGR 544 Family farm security loan, guarantee, payment adjustment, closing.

AGR 544 A.

AGR 544 A.1.

AGR 544 A.1.a.

AGR 544 A.1.c.

AGR 544 A.1.c. (1), (2)

AGR 544 B.

AGR 545 Family farm security loans, defaults.

AGR 545 A.

AGR 545 A.1.

AGR 545 A.3.

AGR 545 A.3.a., b.

AGR 546 Transfer of family farm security loan note.

AGR 547 Commissioner's right to information.

AGR 547 A.

AGR 548-562

Rules Adopted with Amendments

The following rules are adopted and have been amended from their proposed form as published in State Register Vol. 1, No. 10, September 14, 1976 (1 S.R. 316-319).

Agr 543 B. Applications. Any natural person wishing to participate in the family farm security program may make application to the commissioner jointly with a participating lender on forms provided by the lender, or in the case of seller-sponsored loans, if requested, on forms provided by the commissioner.

Agr 543 B. 1. Responsibility of lenders. The lender shall process applications for family farm security loans using its existing real estate loan forms, supplementing these forms with additional information requested by the commissioner. It shall be the duty of the lender to review the application to make certain that all information required by the commissioner is included with the application, to attest that to the lender's best knowledge, all information contained in the loan application is true and correct, and to submit the application in duplicate to the commissioner. In the case of seller-sponsored loans, the commissioner, upon request, will provide forms and assist the applicant and the lender in preparing the loan application.

Agr 543 B. 2. a. The lender shall include with the application an appraisal of the land for which a family farm security loan is requested. The appraisal shall include the market value and income potential of the land, and all other relevant information requested by the commissioner, and it shall be signed by the person who performed the appraisal or by an officer or officers of the lending institution, indicating there has been an actual appraisal of the land.

Agr 543 B. 2. b. In the case of loans wholly financed by the seller, [[the commissioner shall pay to have the land appraised and the costs of said appraisal shall be added to the sale price of the land if a family farm security loan is

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approved.]] either the buyer or the seller shall pay to have the land appraised.

Agr 543 B. 2. c. To protect the interests of the applicant, the lender, or the state, the commissioner may require an additional independent appraisal of any land for which a family farm security loan is requested. The costs of appraisals performed under this section shall be assessed to the loan applicant.

Agr 543 C. 4. The total net worth of the applicant and the applicant's spouse and dependents as determined by generally accepted accounting principles, must be less than \$50,000. The commissioner, upon request, will provide the applicant or the lender with forms and assistance in preparing the net worth statement.

Agr 543 C. 5. The applicant must demonstrate a need for the loan. In determining the applicant's need for the loan, the commissioner may consider all relevant considerations, including but not limited to the applicant's financial statement and the possible availability and terms of a non-guaranteed loan from any lender. The commissioner may also consider the financial situation of the applicant's immediate family so far as said financial situation indicates the ability of the [[applicant's family to provide financial assistance to the applicant]] applicant to obtain financial assistance from the applicant's immediate family for the purchase of farmland.

Agr 543 F. 2. [[a determination that]] The degree to which the applicant intends to make farming the applicant's principal occupation;

Agr 543 G. Period for granting family farm security loans. The commissioner upon recommendation of the family farm advisory council, shall on a monthly basis, consider and act upon family farm security loan applications. An application meeting the eligibility requirements of subsection C. above, shall remain eligible for approval and may be acted upon by the commissioner for four months from the date of receipt, unless either the applicant or the lender requests in writing that the application be withdrawn. In addition, the lender or the applicant may request that a final decision concerning an application be made in less than four months, and the commissioner and the council shall, if possible, review and act upon the application within the requested time frame. Each time an eligible application is reviewed by the commissioner and not approved, the commissioner shall notify the applicant and the lender of this fact. Upon the expiration of the four month period, the commissioner shall return the application and notify the applicant and the lender that the application has not been

approved. An eligible applicant not receiving a family farm security loan under these circumstances may reapply at any time in the future.

Agr 544 A. 2. Payment adjustment. If the approved family farm security loan has a term of 20 years or less and provides for payments at least annually so the loan is amortized over its term with equal annual payments, and if the applicant requests a payment adjustment, [[and if sufficient state monies are available]] the commissioner shall annually pay to the lender, an amount of money equal to four percent of the principal balance of the family farm security loan, provided that:

Agr 544 A. 2. b. Prior to December 15 of each year, the lender or the applicant submits to the commissioner a statement of current net worth for the applicant and the applicant's dependents and spouse. If the total net worth as determined by generally accepted accounting principles, exceeds \$100,000, the applicant shall not be eligible for a payment adjustment for the next year of the loan, and the commissioner shall notify the applicant and the lender that the applicant is responsible for all interest payments for that year of the loan. The commissioner upon request, will provide the applicant or the lender with forms and assistance in preparing the net worth statement;

Agr 545 A. 2. The borrower breaches a material obligation in the note, loan agreement, or any instrument securing the loan, and the lender determines that this breach constitutes an adverse change in the borrower's ability to repay the guaranteed loan provided that under this section and subsection 1 above, the lender and the applicant may agree to take any steps reasonable to assure fulfillment of the loan obligation.

Agr 545 A. 3. c. If the commissioner determines that a default should not be waived, the borrower is entitled to a contested case hearing pursuant to the provisions of Minnesota Statutes Chapter 15 to review this determination.

[[Agr 545 B. After a family farm security loan has been in default for 100 days, the lender shall, within 30 days, notify the commissioner of this fact in writing. Such notification by the lender shall be a condition precedent to the lender's right to payment according to the terms of the family farm security loan guarantee.]]

[[Agr 547 B. Failure to comply with all reasonable requests for information by the commissioner pursuant to this rule shall be grounds for terminating participation in the family farm security program, after notice and a hearing pursuant to Minn. Stat. §§ 15.0418 — 15.0426 as amended.]]

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Department of Public Safety Standards of Training for Persons Interpreting Chemical Tests for Intoxication

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in State Register Vol. 1, No. 6, August 16, 1976 (1 S.R. 219, 220), and are published here by reference only as provided in RGSTR 5.

Chapter Ten: Standards of Training for Persons Administering and Interpreting Chemical Tests for Intoxication

SafAd 96-105

Department of Transportation Highway Construction Funds

Rules Adopted as Proposed

The following rules are adopted and are identical in every respect to their proposed form as published in State Register Vol. 1, No. 14, October 12, 1976 (1 S.R. 586-602).

Hwy 32 Rules [and Regulations] for State-Aid operations under Minnesota Statutes [1965], 1974, Chapters 161 and 162, as amended.

A. Purpose. The purpose of Minnesota [Reg.] **Rule** Hwy 32 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minnesota Statutes [1965], 1974, Chapter 162, as amended.

B. Scope. The scope of Minnesota [Reg.] **Rule** Hwy 32 is confined within the framework of and consistent with Minnesota Statutes [1965], 1974, Chapters 161 and 162, as amended.

C. Definitions. For purposes of Minnesota [Reg.]

Rule Hwy 32 the following terms shall mean:

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface**. Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

1. Commissioner. The Commissioner of [Highways] **Transportation**.

2. State-Aid Engineer. The State-Aid engineer of the Minnesota [Highway Department] **Department of Transportation**.

3. District Engineer. A district engineer of the Minnesota [Highway Department] **Department of Transportation** or his State-Aid assistant.

4. County Engineer. [The County Engineer of each respective county.] **A registered engineer employed as the county engineer or the director of public works — county engineer of each county.**

5. City Engineer. [The City Engineer of each respective urban municipality] **A registered engineer employed as the city engineer or the director of public works—city engineer of each urban municipality.**

6. Needs Report. A report of the estimated construction cost required to improve a State-Aid system to standards adequate for future traffic on a uniform basis.

7. County-Municipal Account. A separate record of that portion of the County State-Aid highway funds allocated for expenditure solely within cities, [villages, and boroughs] having less than 5,000 population.

8. Urban Municipality. Any city, [village, or borough] having 5,000 or more population, determined in accordance with the provisions of law.

9. Local Highway or Street Departments. The highway or appropriate department of each county and each urban municipality.

10. Township Allotment. The county apportionment of County State-Aid highway funds for use in the construction of township roads.

11. Advance Encumbrance. The authorized expenditure [by a county or urban municipality from other available funds], **of local funds, in lieu of State-Aid funds, by a county or urban municipality for use on an approved [County] State-Aid [Highway or Municipal Street-Aid Street] project. [under an] By agreement with the commissioner, the local funds will be repaid to the county or urban municipality [for repayment] from future county or municipal State-Aid allotments or from future county or municipal turnback funds.**

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12. **Screening Committee.** The county or municipal committee, appointed in accordance with law, and authorized to recommend to the commissioner the mileage and money needs for each of their [bodies] **State-Aid systems.**

13. **Disaster Account.** The accounts provided by law for use in aiding a county or urban municipality that has suffered a serious damage to its County State-Aid highway system or Municipal State-Aid street system from fire, flood, tornado or other uncontrollable forces of such proportion that the cost of repairs to such County State-Aid highway system or Municipal State-Aid street system is beyond the normal resources of the county or urban municipality.

14. **Trunk Highway Turnback.** A former trunk highway or portion thereof that has reverted to a county or municipality in accordance with law.

15. **Turnback Accounts.** The respective accounts provided by law for payment to a county or urban municipality for the reconstruction and improvement of former trunk highways that have reverted to the county or municipality and have become part of the State-Aid system.

16. **Disaster Committee.** A committee, appointed in accordance with the law, to investigate and report its findings and recommendations to the commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its County State-Aid highway or Municipal State-Aid street system and resulting in a financial hardship.

17. **Local Road Research Board.** A board appointed in accordance with these rules to recommend specific research projects to the commissioner.

18. **Town Bridge Needs.** The estimated construction costs required to improve or replace town bridges to standards adequate for future traffic on a uniform basis.

19. **Town Bridge Account.** The apportionment of County State-Aid turnback funds for use in the construction or reconstruction of bridges on township roads.

20. **Functional Classification Plan.** A plan by which highways and streets are grouped into classes according to the character of service they are intended to provide.

D. Organization and powers of local highway departments. Each county and each urban municipality shall establish and maintain a highway or street department. Such departments shall be adequately organized, staffed, and equipped to administer for the county or urban municipality all matters relating to the operations of the State-Aid program and to exercise all functions, incidental thereto, in accordance with law. All preparation of plans and specifications, and the supervision of construction and maintenance shall be under the control and direction of a professional

engineer, registered in the State of Minnesota and employed or retained for that purpose.

E. Selection and designation of state-aid systems. The State-Aid highways and streets designated to form the basis for a long range improvement program shall, in general, be so selected as to form an integrated network of highways and streets in accordance with the following provisions:

1. Systems.

a. Final selection of routes to be included in the respective County State-Aid and Municipal State-Aid systems shall be subject to the approval of the commissioner.

b. The highway and street systems to be selected and designated in accordance with law are:

(1) County State-Aid highway system not exceeding 30,000 miles in extent, **excluding trunk highway turnback mileage.**

(2) Municipal State-Aid Street system not exceeding [1,500] **2,000** miles in extent within urban municipalities, **excluding trunk highway turnback mileage.**

2. Criteria. [Highways and streets selected and designated as a part of the County State-Aid or Municipal State-Aid systems shall have, prior to construction, a minimum right-of-way of sixty (60) feet within municipalities and sixty-six (66) feet in rural areas, except for modifications that are approved by the Commissioner. In rural areas, the counties shall acquire control of such additional right-of-way as may be necessary to properly maintain the ditch section. These] **State-Aid** routes shall be selected on the basis of the following criteria:

a. County state-aid highways which:

(1) Carry relatively heavier traffic volumes or are **functional classified as collector or arterial as identified on the county's functional plans as approved by the county board;**

(2) And connect towns, communities, shipping points, and markets within a county or in adjacent counties;

(a) Or provide access to rural churches, schools, community meeting halls, industrial [plants] **areas**, state institutions, and recreational areas;

(b) Or serve as principal rural mail routes and school bus routes;

[(v) Or act as collectors of traffic from several roads of local interest;]

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(3) And occur at reasonable intervals consistent with the density of population;

(4) And provide an integrated and coordinated highway system, affording within practical limits a State-Aid highway network consistent with [local] traffic demands.

b. Municipal state-aid streets which:

(1) Carry relatively heavier traffic volumes **or are functionally classified as collector or arterial as identified on the urban municipality's functional plan as approved by the urban municipality's governing body;**

(2) And connect the points of major traffic interest within an urban municipality;

[(iii) Or connect with rural roads or urban routes of community interest and carry major traffic into and through an urban municipality;]

[(iv) And form a system of streets which will effectively serve traffic within the urban municipality.]

(3) And provide an integrated street system affording within practical limits a State-Aid street network consistent with traffic demands.

3. Route designations. All County State-Aid highways and Municipal State-Aid streets shall be selected by resolution of the respective boards of county commissioners, or the respective governing bodies of urban municipalities. The highway or street designations, as contained in the resolution, shall be reviewed by the district engineer of that area and his recommendation shall be filed with the commissioner. Within three months after receipt by the commissioner of each such resolution and recommendation, he shall approve all or such part of said highway or street designations contained in the resolution, as complies with the criteria and other requirements set out in these [regulations] rules. The commissioner shall certify to the respective boards of county commissioners or governing bodies of urban municipalities the approved portion of their resolution. All highways or streets so approved shall become a part of the County State-Aid highway system or the Municipal State-Aid street system, subject to such additions or revisions as may be, from time to time, requested and approved.

a. Turnback designations. [New] Prior to release of a former trunk highway to the jurisdiction of a county or

urban municipality, the commissioner shall notify the board of county commissioners or the governing body of the urban municipality, through its county or city engineer, which portions of the turnback are eligible for designation as part of its State-Aid system. Upon a request for the designation of such eligible portions from the board of county commissioners or the governing body of the urban municipality, the commissioner shall issue the official order for designation and notify the county or municipal screening committee of this action.

[(bb) Turnback Designations Old. These former trunk highways that were reverted to local jurisdiction after January 1, 1957, and prior to July 1, 1965, and which had subsequently been designated as a County State-Aid Highway or Municipal State-Aid Street shall be eligible for payment on the basis set forth in Minn. Reg. Hwy. 32, (g) (3) (ff) (ii), Partial Eligibility.]

F. State-Aid apportionments. All State-Aid apportionments shall be made from the County State-Aid highway fund and the Municipal State-Aid street fund [respectively], as provided by law. Apportionments to the respective counties and urban municipalities shall be released in accordance with Minnesota [Reg.] Rule Hwy. 32, G. [of these regulations.]

1. Money needs.

a. Construction costs estimates. To provide data to implement the formulas for State-Aid apportionment, each county engineer and [urban municipal] city engineer shall prepare cost estimates of construction required to improve his County State-Aid or Municipal State-Aid system to approved standards.

b. Incidental costs. In addition to the direct construction or maintenance costs permitted under law, the cost of the following incidental items will be considered as eligible for inclusion in the total estimate of needs:

(1) County state-aid highways:

(a) Automatic traffic control signals.

(b) Lighting of intersections and bridges within approved standards.

(c) Proportionate share of all drainage costs within municipalities, to reflect the responsibility of the State-Aid highway.

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(2) Municipal state-aid streets:

- (a) Right-of-way.
- (b) Automatic traffic control signals.
- (c) Lighting of intersections and bridges within approved standards.
- (d) Proportionate share of all drainage costs, to reflect the responsibility of the State-Aid street.

c. Deductible items. The respective screening committees shall consider reports from the commissioner, [listing] **consisting of, but not limited to**, the County State-Aid allotments to townships, or the Municipal State-Aid payments on state trunk highways or County State-Aid highways, covering all said allotments or payments made during the preceding year; and shall recommend to the commissioner the amount of deductions to be made in the money needs for each such county or municipality, in order to equalize their status with other counties or municipalities not making similar expenditures [of their approved State-Aid system.]

2. Screening committees.

a. Annual reports. A detailed report of the State-Aid mileage and cost estimates shall be tabulated and referred to the respective screening committees appointed pursuant to law. These committees shall investigate and review all such mileage, cost estimates and the reports of those expenditures listed under deductible items, and shall, on or before the first day of November of each year, submit their findings and recommendations in writing as to the mileage and adjusted money needs for each of the governmental subdivisions represented by the respective committees.

b. Local road research account. Within the limitations provided by law, the respective screening committees shall annually determine, and recommend, the amount the commissioner shall set aside from the County State-Aid highway fund or the Municipal State-Aid street fund, for the purpose of local road research. These funds, along with such Federal funds as may be provided, shall be used [solely] for conducting research [in methods of, and materials for, the construction and maintenance of county and municipal state-aid highway and streets] **as provided by law**. The use and proportionate share of such county and municipal funds shall be as specifically authorized in the project approval as provided for in Minnesota [Reg.] **Rule Hwy 32. [(f) (1)] L, 5, c(2)**.

3. Compilation of data by commissioner. The commissioner shall determine the apportionment percentage due each county and urban municipality in accordance with the formulas established by law.

4. Notice of annual apportionment. Not later than January 25 of each year, the commissioner shall certify the annual apportionment to each respective county or urban municipality.

[5. Semi-annual statements. Within Thirty (30) days after the close of each six (6) month period, the Commissioner shall submit to each county or urban municipality semi-annual statements as to the status of the respective state-aid accounts.]

G. State-Aid payments. Annual apportionments to the respective counties and to urban municipalities shall be released in the following manner:

1. Maintenance apportionments. As soon as the annual county and urban municipal State-Aid allotments have been determined, the commissioner shall apportion and set aside the following amounts:

a. County—regular account. Forty percent of the regular County State-Aid allotment for the general maintenance of County State-Aid highways.

b. County—municipal account. Forty percent of the County-Municipal Account allotment for the maintenance of County State-Aid highways within municipalities of less than 5,000 population.

c. Revisions of **county maintenance** apportionments. The commissioner [will] **may, upon recommendation of the screening committee** or upon receipt of a resolution from a county board, and for good cause shown, increase or decrease the proportion to be used for maintenance under either Minnesota [Reg.] **Rule Hwy. 32, G, 1, a and/or b** above.

d. Urban account. Twenty-five percent of the total allocation, or \$1,500.00 per mile of improved municipal State-Aid streets, whichever is the least, as the minimum allotment for the general maintenance of the approved State-Aid system. **The commissioner may modify the minimum payment to the extent necessary to accommodate the screening committee resolutions pertaining to trunk highway turnback maintenance allowances.** Those municipalities desiring to receive an amount greater than the established minimum shall file a request not later than December 15 preceding the annual allocation and shall agree to file a detailed annual maintenance expenditure report at the end of the year.

e. Transfer of unexpended balance. Any unobligated balance remaining in the State-Aid maintenance account to the credit of any county or urban municipality, after final settlement has been made for the annual maintenance expenditures, shall be automatically transferred to the construction account of said county or municipality.

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[(ff) Advance encumbrance for maintenance. Counties and Urban Municipalities. When the Commissioner approves a request from a county or urban municipality for authority to advance their local funds against future accruals to their State-Aid Maintenance Account, because of an unusually burdensome or unprecedented condition requiring funds over and above the normal State-Aid Maintenance allotment, such local expenditures will be repaid from their subsequent State-Aid Maintenance allotments.]

f. Payment schedule. At the earliest practical date, after the allotments have been determined, the commissioner shall release the following amounts to the respective counties and urban municipalities:

(1) Fifty percent of the maintenance allotment from the regular account of each county.

(2) Fifty percent of the maintenance allotment from the municipal account of each county that has filed a request for advance payments prior to the annual apportionment in January of each year. Such request shall include the estimate of the maintenance expenditures anticipated within said account during the calendar year.

(3) Fifty percent of the maintenance allotment to each urban municipality.

g. On or about July 1 of each year, the commissioner shall release an additional advance from the respective maintenance accounts listed above, in an amount not to exceed forty percent of the total maintenance allocations. The commissioner shall retain the remaining amounts within said allocations pending determination of the final amount due, based upon a report of actual maintenance expenditures and receipt of the district engineer's certification of acceptable maintenance performance. Urban municipalities receiving the minimum maintenance allotment as outlined in Minnesota [Reg.] **Rule** Hwy. 32, G, 1, d above will be eligible to receive the balance remaining in their maintenance account upon **the commissioner's** receipt of the district engineer's certification of acceptable maintenance.

2. Construction apportionments. The construction portion of the annual allocation to each county and urban municipality shall be credited to their respective accounts and retained by the Commissioner for payment on approved projects in accordance with the following procedure:

a. State-Aid contracts. The Commissioner, upon receipt of an abstract of bids and a certification as to the

execution of a contract and bond therein, shall promptly release from the funds available to said county or urban municipality up to ninety percent of the State-Aid portion of said contract. The commissioner, unless otherwise requested, shall retain the remaining percentage of the State-Aid share of said contract, provided funds are available therefor, until the final cost is determined and the project accepted by the district engineer.

b. Federal-Aid [secondary] contracts. The commissioner, under authority of an agency agreement with **the governing body of a county [board] or urban municipality**, and acting as its agent in Federal-Aid operations, will release from **State-Aid** funds available therefor, ninety percent of the county's **or urban municipality's** share of the entire contract obligation for immediate redeposit in an agency account, to be used in paying the county's **or urban municipality's** share of the partial estimates and for advancing the federal share of such estimate payments. The commissioner shall retain the remaining percentage of the contract cost of said project until the final cost is determined and the project accepted by the district engineer. Where other than [County] State-Aid [Highway] funds are to be used for depositing **in the agency account**, [not less than (90)] **one hundred** percent of the [county] **local governmental** share of said contract amounts [in the agency account, the details for such deposits] shall be **deposited in the agency account prior to award of the contract** [set forth in the respective agency agreements].

c. Force Account agreements. Partial estimates will be accepted on all projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall promptly release from funds available therefor ninety percent of the cost of current accomplishments as reported by said partial estimates. Upon request of the county or urban municipality, the commissioner will set aside and retain their State-Aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when final estimate is submitted and upon acceptance by the district engineer.

d. Payment limitations. Approval of State-Aid projects by the Commissioner does not imply that State-Aid payments will be made in excess of the construction funds available from current State-Aid allotments. Any county or urban municipality having depleted their currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless request for advance encumbrance has been approved or a project is completed in a subsequent year and funds are available.

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e. Engineering costs.

(1) Preliminary engineering. Requests for reimbursement of preliminary engineering costs shall be submitted with the report of State-Aid contract or with the initial partial estimate on an approved force account project. The commissioner shall upon receipt of such request **supplemented by such documentation as may be requested by the commissioner** authorize the reimbursement for actual engineering costs, [not to exceed five (5) percent of the total estimated construction costs. Where actual preliminary engineering costs are not available from the normal records of the county or urban municipality, reimbursement can be made on the basis of costs determined to be reasonable, but] not to exceed [five (5)] **eight** percent of the total estimated contract or agreement amount.

(2) Construction engineering. Requests for payment of construction engineering costs shall be submitted along with the final estimate report. The commissioner shall upon receipt of such request, authorize a construction engineering payment which will either be limited to five percent of the eligible construction costs where there are no unusual traffic or construction problems, or which may at the commissioner's discretion be paid in the maximum amount of ten percent of said construction costs on complex projects involving difficult construction features or the continuous movement of dense traffic.

f. Right-of-way. State-Aid payments for right-of-way costs on approved projects shall be limited to ninety percent of the approved claim until the acquisition of all right-of-way required for the project is actually completed and the final costs established.

g. Advances from county funds. When the commissioner approves a request from the county board for the construction of an approved County State-Aid project, which requires County State-Aid highway funds in excess of the available allotment and which excess costs will be initially paid for from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay those locally financed expenditures out of subsequent construction apportionments to the county's State-Aid account in accordance with the terms and conditions specified in the approved request.

h. Advance of [regular] county state-aid highway funds. [to municipal account. Where the Commissioner approves a request from the county board for the advance of regular County State-Aid Highway Funds for use on a municipal section of an approved County State-Aid Highway project, and where repayments to the Regular Account of the County State-Aid Highway Fund are to be made from subsequent accruals to the county's Municipal Account, such repayments will be made by the Commissioner, to the extent authorized by law, in the form of transfers from the

county's Municipal Account to their Regular Account, in the amounts and at the time specified in the authorization.]

(1) **Advance of county regular account funds to county municipal account fund. Where the commissioner approves a request from the county board for the advance of county regular account funds for use on a municipal section of an approved County State-Aid highway project, and where repayments to the county regular account fund are to be made from subsequent accruals to the county municipal account fund, such repayments will be made by the commissioner, to the extent authorized by law, in the form of transfers from the county municipal account fund to the county regular account fund, in the amounts and at the time specified in the authorization.**

(2) **Advance of county municipal account funds to county regular account fund. The commissioner may approve a request from a county board for the advance of County Municipal Account funds for use on an approved County State-Aid highway project provided that notification pursuant to law has been given those municipalities within the county having a population less than 5,000. Advances from the county municipal account fund to the county regular account fund must be repaid to the county municipal account fund from monies accruing to the county regular account fund within a maximum of five years unless the terms and conditions of repayment are otherwise agreed by the county and the governing bodies of those cities within the county having a population of less than 5,000. Repayments will be made by the commissioner to the extent authorized by law, in the form of transfers from the county regular account fund to the county municipal account fund, in the amounts and at the time specified in the agreement.**

i. Advances from urban municipal funds. When the commissioner approves a request from the governing body of an eligible urban municipality for the construction of an approved Municipal State-Aid street project, which requires funds in excess of the available allotment and which excess costs will be initially paid from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay these locally financed expenditures out of subsequent construction apportionments to the urban municipal account of that municipality in accordance with the terms and conditions specified in the approved request.

j. County or municipal bond account. Any county or urban municipality that resolves to issue bonds payable from the appropriate State-Aid fund in accordance with law for the purpose of establishing, locating, relocating, construction, reconstructing or improving State-Aid streets or highways under its jurisdiction shall certify to the commissioner within thirty days following issuance of the bond, the

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amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The commissioner shall set up a bond account therefor, itemizing the total amount of principal and interest involved and he shall annually certify to the [state auditor] **Commissioner of Finance** the amount needed from the appropriate State-Aid construction fund to pay the principal due on the obligation, and the amount needed from the appropriate State-Aid maintenance fund to pay the current interest. Proceeds from bond sales are to be expended only on approved State-Aid projects and for items determined to be eligible for State-Aid reimbursement. A county or urban municipality which intends to expend bond funds on a specific State-Aid project shall notify the commissioner of this intent forthwith upon the award of contract or the execution of a force account agreement. Upon completion of each such project, a statement of final construction costs shall be furnished to the commissioner by the county or the urban municipality.

k. Municipal state-aid funds for county state-aid or trunk highway projects. The governing body of an urban municipality desiring to use a portion of its State-Aid funds for improvements within its boundaries of any state trunk highway or County State-Aid highway, shall request such authorization by resolution. Before any such funds are released for said purposes, the resolution shall be approved by the commissioner. A copy of the approved resolution shall be filed with the State-Aid engineer. This subparagraph does not apply to payments made for interest on bonds sold under Laws of Minnesota 1959, Chapter 538 and Laws of Minnesota 1965, Chapter 443.

3. Semi-annual statements. Within thirty days after the close of each six month period, the commissioner shall submit to each county or urban municipality semi-annual statements as to the status of its respective State-Aid accounts.

4. Other authorized payments. Certain specific allotments or transfers of State-Aid funds have been authorized by law. These will be processed as hereinafter provided:

a. Transfers for hardship conditions or other local use. The county board or governing body of any urban municipality desiring to use a part of its State-Aid funds for this purpose shall certify to the commissioner either that all of its existing State-Aid routes are improved to State-Aid standards or that it is experiencing a hardship condition in regard to financing its local roads or streets, while holding its current road and bridge levy equal to or greater than said levy for previous years. Where a hardship transfer is re-

quested, the commissioner may require fiscal information showing the extent of the financial deficiency. Within thirty days of the receipt of a request for transfer, the commissioner shall act to authorize or deny the transfer of State-Aid funds for use outside of the approved State-Aid system. Upon approval of the requested transfer, the commissioner without requiring any progress reports, shall within thirty days, authorize immediate payment of not less than fifty percent of the total amount authorized, with the balance to be paid within ninety days; or schedule immediate payment of the entire amount authorized if he determines there are sufficient funds available.

b. Township allotments. Upon receipt of a certified copy of a county board resolution, allocating a specific amount of its County State-Aid construction funds for aid to its townships, which resolution shall indicate compliance with the law governing such allocations and be forwarded to the commissioner on or before the second Tuesday of January of each year, the commissioner shall authorize payment of the amount requested for distribution by the county for the construction of township roads.

c. Construction of selected park projects. As provided by law, a portion of the County State-Aid highways funds shall be set aside and used for the construction, reconstruction and improvement of County State-Aid highways which provide access to the headquarters of or the principal parking lot located within a state park. Such funds, so set aside, may be expended for this purpose only on a request from the Commissioner of [Conservation] **Natural Resources**. Projects so selected will be approved by the Commissioner of Highways in accordance with the procedure established for other State-Aid operations.

d. Disaster account. Any disaster appropriation approved by the Commissioner for a county or urban municipality in accordance with law, shall be promptly paid to the county or urban municipality for which such appropriation was authorized. The funds so allotted and paid to the county or urban municipality can only be spent for the purpose for which they were authorized, and within a reasonable time period specified by the commissioner. Forthwith upon completion of the work for which the disaster payment was made, or the expiration of the time specified for doing such work, whichever occurs first, the county or urban municipality shall file a report certifying the extent of the authorized work completed, and showing the total expenditure made therein. In the event the total disaster allotment was not required or used for the purpose specified, the remainder shall be promptly returned to the commissioner for redeposit **in the County State-Aid highway fund or the Municipal**

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State-Aid streets fund, as the case may be, and apportioned by law. [in the disaster account from which it was obtained.] **Damage estimates submitted by a county or urban municipality must exceed ten percent of the current annual State-Aid allotment to the county or urban municipality before the commissioner shall authorize the disaster committee to inspect the disaster area.**

e. Research account. County and Municipal State-Aid funds that may be annually allocated to the research account shall be used solely for those research projects recommended by the local road research board and approved by the commissioner. Unexpended balances in this account shall at the end of each year be transferred back to the State-Aid fund from which they were obtained.

f. Turnback accounts. [The funds in the County and Urban Municipal Turnback Accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. These payments shall be made at the times and in the amounts hereinafter specified.] **A percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State-Aid highway fund and the Municipal State-Aid street fund, and respectively identified as the county turnback account and the municipal turnback account. Further, a percentage of the county turnback account has been set aside and shall be used for replacement or reconstruction of town bridges, 20 feet or more in length, in those counties that have two or more towns, pursuant to law. This latter account shall be known as the county town bridge account.**

[(i) Full eligibility. Any former trunk highway reverted to county or municipal jurisdiction subsequent to July 1, 1965 and which is part of the County State-Aid Highway or Municipal State-Aid Systems, shall be fully eligible for payment to the County or Municipality of all costs covering the reconstruction and improvement of said highway as detailed on approved plans. The duration of eligibility for the initial construction of such projects shall be limited to a period of five years from the date of reversion to the date of plan approval. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status, within one year after plan approval. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds.]

[(ii) Partial eligibility. The Commissioner may, at the request of a county or urban municipality and upon

recommendation of the district engineer, approve for partial payment with turnback funds, a reconstruction or improvement project on a former trunk highway that was reverted to local jurisdiction after January 1, 1957 and prior to July 1, 1965 and which is part of either the county state-aid highway or municipal state-aid street systems. Such projects to be eligible for payment of turnback funds must have the contract awarded or force account agreement signed prior to July 1, 1970. Participation of county or municipal turnback funds on approved state-aid turnback projects within this category shall be limited to 50% of the total cost of said reconstruction or improvement project.]

(1) Town bridge monies allocation. The sums of monies set aside for town bridges shall be allocated to the eligible counties on the basis of town bridge needs.

(2) Surplus turnback funds. At any time the commissioner determines that either the county or municipal turnback accounts, notwithstanding the town-bridge accounts, has accumulated a surplus not needed for turnback purposes, he shall properly notify the ((state auditor)) Commissioner of Finance requesting the transfer of such surplus to the respective County State-Aid highway fund or Municipal State-Aid street fund for apportionment as provided by law.

(3) Advances from county or urban municipal funds. When the commissioner approves a request from the governing body of a county or urban municipality for the construction of an approved County State-Aid or Municipal State-Aid turnback project which will require funds in excess of the available turnback fund balance and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the county's or urban municipality's turnback fund in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the respective turnback funds shall not exceed forty percent of the last county or municipal turnback allotment. Any advances shall be repaid in accordance with the terms of the approved request from money accruing to the respective turnback funds.

(4) Advances from the town bridge account. When the commissioner approves a request from the governing body of a county for the replacement or reconstruction of a town bridge which will require funds in excess of the county's available town bridge account and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the town bridge account in accordance with the terms and conditions specified in the approved request. The total of such advances to be

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reimbursed from the town bridge account shall not exceed forty percent of the last town bridge apportionment. Any advances shall be repaid in accordance with terms of the approved request from monies accruing to the respective town bridge accounts.

(5) Release of turnback account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an [fully] eligible project, the commissioner shall release to a county or urban municipality from turnback account funds up to ninety percent of the turnback share of said contract. [or on a partially eligible project, the Commissioner shall release to a county or urban municipality from turnback account funds up to 90% of the turnback share of said contract.] The commissioner shall retain the remaining percentage of the turnback share of said contract, until the final cost is determined and the project accepted by the district engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall release from the respective turnback account ninety percent of the value as reported by said partial estimates on an [fully] eligible turnback project. [and 90% of the turnback share as reported on a partially eligible turnback project.] Requests for reimbursement of preliminary and construction engineering costs on an eligible turnback project shall be submitted and payment will be authorized in accordance with [and regulations] — Minnesota [Reg.] Rule Hwy. 32, G, 2, 3 (1), (2) engineering costs.

(6) Release of town bridge account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county, from town bridge account funds, up to ninety percent of the town bridge account share of said contract. The commissioner shall retain the remaining ten percent until the final cost is determined and the project is accepted by the district engineer.

H. State-Aid standards. Subject to approval by the commissioner, geometric design standards shall be cooperatively determined for use on all County State-Aid highways and Municipal State-Aid streets.

1. Geometric design standards.

a. Adoption. The commissioner in cooperation with representatives of the Minnesota County Highway Engineers Association or the City [and Village] Engineers As-

sociation of Minnesota, as the case may be, shall establish desirable minimum geometric design standards for use in improving County State-Aid highways and Municipal State-Aid streets.

b. Revisions. When need for revision of State-Aid standards arises, the commissioner shall confer with representatives of the county or city engineers associations and determine such change as might be necessary or desirable, and cause such change to be made in the same manner as outlined above.

2. Specifications. Specifications for construction shall be the latest approved Minnesota Department of Highways specifications, except as modified by special provisions which set forth conditions or requirements for work or materials not covered by the approved specifications, or which set forth conditions or requirements to meet exigencies of construction peculiar to the approved project.

3. Right-of-Way. The minimum widths of right-of-way for all State-Aid routes shall be not less than sixty feet within municipalities and sixty-six feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the commissioner. Prior to construction the counties shall acquire control of such additional widths of Right-of-Way in rural areas, as may be necessary to properly maintain the ditch section.

I. State-Aid operations. State-Aid funds allotted to counties and urban municipalities shall be expended in accordance with the following provisions:

1. Maintenance.

a. The commissioner shall require a reasonable standard of maintenance on all State-Aid routes within the county or urban municipality, consistent with available funds, the existing street or road condition and the traffic being served. This maintenance shall be considered to include, but shall not be limited to:

(1) The maintenance of all road surfaces, shoulders, ditches and slopes and the cutting of brush and weeds;

(2) The maintenance **and inspection** of all bridge, culverts and other drainage structures;

(3) The maintenance of all regulatory and direction signs, markers, traffic control devices and protective structures in conformance with the current manual on **uni-**

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form traffic control devices and consistent with state-wide application;

(4) The striping of all [properly cured bituminous] pavements of 22 feet or more in width, consistent with the traffic service provided, and for which there are no pending improvements;

(5) The enforcement of parallel parking on any approved State-Aid project;

(6) The exclusion of advertising signs, billboards, buildings and other privately owned installations **other than utilities of public interest** from the right of way of any approved State-Aid projects.

b. Unsatisfactory maintenance. When, in the opinion of the commissioner, the maintenance of any County or Municipal State-Aid route is determined to be unsatisfactory, he shall retain up to ten percent of the current annual maintenance apportionment to the responsible county or urban municipality. Funds so retained shall be held to the credit of that county or **urban** municipality until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

(1) Route markers. [On or before January 1, 1973] Approved route markers shall be installed on all rural County State-Aid highways in accordance with the current manual on **uniform** traffic control devices. Failure to comply with this requirement shall result in the withholding of ten percent of the annual maintenance allocation until such markers are properly installed.

c. Biennial report. The commissioner's biennial report to the legislature shall enumerate all such funds retained more than ninety days, together with an explanation for this action.

2. Construction. Survey, plans and estimates for all State-Aid projects shall be made by or under the immediate direction of the county or city engineer in accordance with standards as to form and arrangement prescribed by the commissioner.

a. Plans and estimates. Plans and estimates for each State-Aid construction project must be submitted for review. Each plan shall show all subsequent stages required for the completion of the improvement, portions of which may be covered by later contracts or agreements. Only those projects for which plans are approved by the State-Aid engineer prior to the award of contract or approval of a force account agreement shall be eligible for State-Aid construction funds.

b. Project numbers. Approved projects will be assigned State-Aid project numbers and shall be so identified

in records of the State Highway Department and the local governmental unit.

c. Contract information. Upon award of a State-Aid contract by any county or urban municipality the engineer thereof shall furnish the commissioner with an abstract of bids and a certification as to the specific contract and bond executed for said approved construction work.

d. Force account. Any county or urban municipality desiring to use funds credited to it on a force account basis shall have its engineer file a request with the commissioner for each construction project to be built by the county or urban municipality at agreed unit prices, which shall be based upon estimated prices for contract work, less a reasonable percentage to compensate for move-in, move-out taxes and contractor's profit. Such requests shall contain a complete list of pay items and the unit prices at which it is proposed to do the work. Prior to the approval by the commissioner, the district engineer shall file his recommendations with the commissioner as to the request and the cost estimate. Items of work other than those listed as a pay item or approved by supplemental agreements shall be considered incidental work not eligible for State-Aid payment.

e. Project reports. Prior to final acceptance of each construction project by the commissioner, the county engineer or the city engineer shall submit to the commissioner such final project records as the commissioner may deem necessary or desirable.

f. Project payments. On all State-Aid construction projects, the commissioner shall pay a maximum of ninety percent of the contract amount, or of each partial estimate in the case of force account agreements, until final acceptance of the completed work. Upon receipt of required reports and data and a recommendation of final acceptance by the district engineer, the commissioner shall, within the limits of funds available therefor, authorize final payment for said project within the limitation hereinbefore established.

[(3) Right-of-way. The minimum widths of right-of-way for all State-Aid routes shall be not less than sixty (60) feet within municipalities and sixty-six (66) feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the Commissioner. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section.]

3. Turnback accounts. [a percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State-Aid Highway Fund and the Municipal State-Aid Street Fund, respectively identified as the County Turnback Account and the Municipal Turnback account.] **The funds in the county and municipal turnback accounts shall be**

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expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. Further, a percentage of the county turnback account has been set aside, as provided by law, and shall be used for replacement or reconstruction of town road bridges that are 20 feet or more in length in those counties that have two or more towns.

[(aa) Surplus turnback funds. At any time the Commissioner determined that either the County or Municipal Turnback Accounts has accumulated a surplus not needed for Turnback purposes, he shall properly notify the State Auditor requesting the transfer of such surplus to the respective County State-Aid Highway Fund or Municipal State-Aid Street Fund for apportionment as provided by law.]

a. Eligibility.

(1) Any former trunk highway reverted to county or urban municipal jurisdiction subsequent to July 1, 1965, and which is part of the County State-Aid highway or Municipal State-Aid street systems, shall be eligible for payment from the turnback account to the county or urban municipality of all costs covering the reconstruction and improvement of said highways as detailed on approved plans. Approval of plans for the initial construction of such projects shall be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of said project. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds.

(2) Any town bridge, 20 feet or more in length, is eligible for replacement or reconstruction if after all pertinent data supplied by local citizenry, local units of government, the Regional Development Commission or the Metropolitan Council, is reviewed by the county board and a formal resolution by the county board is adopted identifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to fifty percent of the cost of the bridge, and

will be made in accordance with Minnesota Rule Hwy. 32 G. 3, F, (4).

b. Plan approval and construction requirements. Plans for all County or Municipal State-Aid turnback or town bridge projects must be submitted to the commissioner and be approved before any reconstruction or improvement work is undertaken. All of the State-Aid rules [and Regulations] that are [not in] consistent with the turnback regulations shall apply to all projects to be financed from the county or municipal turnback accounts or the town bridge account.

c. Construction authorization. As soon as the plans for a State-Aid turnback or town bridge project are approved, the county or urban municipality shall be furnished either an authorization to proceed with construction or a notice that sufficient funds are not available within the applicable turnback account or town bridge account and that a priority has been established for said project for construction authorization as soon as funds are available [therefore]. Where local funds are [used] advanced by the county or urban municipality to construct an approved project for which sufficient funds are not available in the turnback account or town bridge account [such project may be resubmitted in the following year for consideration by the Commissioner in making reimbursement from subsequent accruals to said Turnback Account.] authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with Minnesota Rule Hwy. 32 G, 4, f, (3) has been approved by the commissioner.

J. General rules [and regulations]. In addition to those provisions heretofore mentioned, expenditures of State-Aid funds by any county or urban municipality shall conform to the following rules: [and Regulations]

1. Legal requirements. State-Aid construction projects shall comply with all federal, state, and local laws, together with all ordinances, rules, and regulations applicable to the work. Responsibility for compliance shall rest entirely with the local unit of government.

2. Bridge plans. Plans for all bridge construction or bridge reconstruction projects shall be approved by the bridge engineer of the Minnesota Department of Highways, prior to the approval by the State-Aid engineer.

3. Reports and records. Annual reports, status maps, and all maintenance and construction reports and records shall be filed at the time and in the form specifically re-

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quested by the commissioner or his authorized representatives.

4. **Non-Compliance.** The commissioner, upon determination that a county or urban municipality has failed to comply with the established State-Aid requirements, other than for unsatisfactory maintenance, or has failed to fulfill an obligation entered into for the maintenance or improvement of any portion of a state trunk highway or interstate route, shall determine the extent of the failure and the amount of such county's or urban municipality's apportionment that shall be retained until such time as suitable compliance is accomplished, or the obligation fulfilled, as the case may be. The amount withheld shall reasonably approximate the extent of the noncompliance or the value of the [obligation unfulfilled] **unfulfilled obligation**.

5. **Defective work.** Whenever unsatisfactory conditions are found to exist on an approved construction project, the district State-Aid engineer can, if necessary, order the suspension of all work affected thereby until said condition is satisfactorily corrected. Failure to conform with such suspension order shall be considered willful non-compliance. All work or materials which fail to conform to the requirements of the contract or force account agreement shall be considered as defective. Unless the work is satisfactorily remedied or repaired before final acceptance is requested, the commissioner shall either withhold funds in accordance with paragraph 4 [above], or shall establish the reasonable value of the defective work as the basis for settlement with the county or urban municipality.

6. **Engineering and technical assistance.** The commissioner may, as authorized by law, execute agreements with any county or urban municipality for technical assistance from the Department of Highways. These services, if furnished, shall be paid for by the governmental subdivision at the rates established by the Department of [Highways] **Transportation**.

K. **General state-aid limitations.** The extent of state-aid participation on special items shall be limited as follows:

1. **Lighting.** The lighting of hazardous or accident-prone locations, were concurred in by the traffic engineer of the Minnesota Department of [Highways] **Transportation** shall be considered as eligible expense to the following extent:

a. **New construction.** Cost of complete lighting at approved locations only on multiple-lanes. (More than one lane in each direction.)

b. **Cost of lighting approved intersections on single-lane design.** (One lane in each direction.)

c. **Locations where the municipality would nor-**

mally install lighting units are not considered as an eligible expense. The county or urban municipality shall furnish traffic information or other needed data to support its request.

d. **Reconstruction.** All costs incidental to the necessary revision or relocation of existing lighting facilities, up to and including the cost of completing the new base.

2. **Traffic control signals.** Plans for the construction or reconstruction of all traffic control signals shall be approved by the traffic engineer of the Minnesota Department of [Highways] **Transportation** prior to the approval of the State-Aid engineer. The extent of State-Aid participation in all signal installations shall be determined by the State-Aid engineer in relation to the proportion of State-Aid routes involved at each installation.

3. **Right-of-way.** The cost of any lands and properties required to accommodate the design width of the street or highway as governed by the State-Aid standards, including necessary width for sidewalks, shall be considered as eligible expense. This cost may include **relocation and moving costs as provided by law and may include damages** to other lands if reasonably justified to the satisfaction of the commissioner.

4. **Sidewalks.** On County State-Aid projects, sidewalks shall be considered as an eligible expense only where the proposed construction necessitates the alteration of existing walks. On Municipal State-Aid street projects, State-Aid payment for sidewalk may be made when requested by the **urban** municipality.

5. **Storm sewers.** Plans containing items for storm drainage shall be reviewed by the hydraulics engineer for the Minnesota Department of [Highways] **Transportation** and his recommendations obtained as to design features and the proportionate share chargeable to the State-Aid system. These recommendations, along with those of the district engineer shall be considered in determining the maximum State-Aid participation in said work.

L. **Local road research board.** The commissioner shall appoint a local road research board consisting of the following members:

1. Four county engineers, only one of whom may be from a county containing a city of first class.

2. Two city engineers, only one of whom may be from a city of first class.

3. Two Department of [Highway] **Transportation** staff engineers.

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4. One University of Minnesota staff engineer.

5. One Ex officio secretary, who shall be the department's research coordination engineer.

a. Initial appointments. The initial terms of the appointees shall be as follows, beginning January 1, 1960:

- (1) One county engineer — 1 year.
- (2) One county engineer — 2 years.
- (3) Two county engineers — 3 years.
- (4) One city engineer — 2 years.
- (5) One city engineer — 3 years.

b. Future appointments. All future appointments of county and city engineers, except for unexpired terms shall be for three years. The other members shall serve at the will of the commissioner.

c. Operating procedure:

(1) The Board shall initially meet on call from the commissioner, at which time they shall elect a chairman, and establish their own procedure for the selection of research projects to be recommended to the commissioner. Final determination on all such research projects shall be made by the commissioner, and the cost thereof shall be paid out of the State-Aid research accounts provided for by law.

(2) In the event that the board recommends a project covering research in methods of and materials for the construction and maintenance of both the County State-Aid highway system and the Municipal State-Aid street system, the board shall also recommend to the commissioner the proportionate share of the cost of such project to be borne by the respective County State-Aid highway research account, and the Municipal State-Aid street research account, based on the benefits to be realized by each system from such research project.

M. Personal expenses of authorized board or committee members. The commissioner will authorize the payment of all necessary personal expenses in connection with meetings of board and committee members, appointed by him for State-Aid purposes. These expenses shall be reported on forms furnished by the commissioner and paid from the State-Aid administrative fund.

N. Identification and numbering. The commissioner is authorized and empowered to change the numbering system of the approved rules [and Regulations].

O. Severability. The provisions of these rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision or any other part.

Hwy. 32(A) Rules for bridge construction program under Laws of 1976, ch. 339.

A. Purpose. The purpose of Minnesota Rule Hwy. 32A is to carry out the mandate of the legislature and to effectuate that mandate with respect to application, selection and funding of bridge construction projects on key bridges under local jurisdiction as set forth in Minnesota Laws of 1976, Chapter 339.

B. Scope. The scope of Minnesota Rule Hwy. 32A is confined within the framework of and consistent with Minnesota Laws of 1976, Chapter 339, Section 1, and Minnesota Statutes 1974, Chapters 161 and 162 as amended.

C. Definitions. For purposes of Minnesota Rule Hwy. 32A the terms defined in Minnesota Rule Hwy. 32 shall have the same meaning.

D. Any deficient Bridge, 20 feet or more in length, is eligible to be financed wholly or partially by the Minnesota state transportation fund and is subject to State-Aid Standards and Specifications as provided in Minnesota Rule Hwy. 32H.

E. Application for state financing of a project shall be made by resolution of a county board in the case of roads under the jurisdiction of counties, townships or municipalities of less than 5,000 population, or resolution of a city council of an urban municipality. Prior to selection by the commissioner, every application shall be reviewed by the appropriate Regional Development Commissioner Metropolitan Council for consistency with its long-term comprehensive development plan and guides.

F. Criteria for the selection of specific bridge projects will be the same as the six factors required to be consid-

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ered under Minnesota Laws 1976, Chapter 339, Section 1, Subdivision 6 as it may be amended. The commissioner will make the final determination as to priority of construction.

G. Release of funds to the local road authority will be in accordance with Minnesota Rule Hwy. 32 G, 2, a.

H. Minnesota Rule Hwy. 32A shall expire at such time as rules of the Minnesota Department of Transportation implementing Minnesota Laws of 1976, Chapter 339, become effective. Any agreement, obligation or contract entered into pursuant to Minnesota Rule Hwy. 32A shall remain in full force and effect after expiration of the rule.

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Department of Public Safety Liquor Control Division Administration of the Intoxicating Liquor Act

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled manner will be held in Conference Room D, Veterans Service Building (5th Floor), 20 W 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on February 17, 1977, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to participate, by submitting either oral or written data, statements, or arguments. Written materials may be submitted by mail to William Seltzer, Office of Hearing Examiners, 1745 University Ave., St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The Commissioner proposes to adopt rules relating to transfers of responsibilities to the Department of Revenue, distiller and winer representatives, price filing by manufacturers, wholesalers and importers, price discounts to retailers, minimum proof of distilled spirits, advertising, brand label registration, discontinued brands, and standards of fill for wine, intoxicating liquor and malt beverages.

The department's authority to promulgate the proposed rules is contained in Laws of 1976, ch. 5, § 2. One free copy of the proposed rules is available and may be obtained by writing to Diane Hamilton, Department of Public Safety, 210 Transportation Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

A Statement of Need, explaining the need for and reasonableness of the proposed rules and a Statement of Evidence outlining the testimony the department will introduce at the hearing, will be filed with the Office of Hearing Examiners 25 days prior to the hearing and will be available there for public inspection.

Pursuant to Minn. Stat. § 10A.01, subd. 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting

to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity.

Edward G. Novak
Commissioner

Rules as Proposed

Liq 1 In the statutes and [regulations] **rules** the following words and phrases will be used and shall have the meaning as hereinafter defined:

[(g)] **G. Importer**, means any [out-of-state] distiller, rectifier, winer, brewer, wholesale distributor or person **within or without the state** licensed to ship distilled spirits, wine, ethyl alcohol or beer to Minnesota manufacturers and wholesale distributors. [Sections 340.113 and 340.493.] **Sections (a)-(f) and (h)-(k) remain unchanged.**

Liq 2 **As used in these rules the following words shall have the meanings as ascribed thereto:**

A. "Commissioner" means the Commissioner of Public Safety or his duly appointed delegate.

B. "Department" means the Minnesota Department of Public Safety, Liquor Control Division.

C. "Office" or "this office" means the office of the Liquor Control Division.

Liq [2-4] **3-23** Reserved for Future Use.

Chapter Two, Excise and Surtaxes, was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws of 1976, ch. 5, and is therefore deleted from the Liquor Control Rules.

Chapter Three is renumbered to Chapter Two.

Liq 24 Permits and fees. [Minn. Stat. § 340.11, subd. 1 provides that no person shall manufacture, import, transport, sell, purchase for resale, or use in the manufacture of commercial products any alcoholic liquors fit for beverage use unless such person has applied and received from the Commissioner a license or permit authorizing the manufacture, importation, transportation, sale or the purchase for resale of such alcoholic liquors or for the use of such products and ethyl alcohol for industrial or non-industrial pur-

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poses.] Application forms for [such] licenses or permits **required by Minn. Stat., ch. 340** shall be furnished by the Commissioner upon request. **The Commissioner shall not issue any such license or permit unless the applicant therefor has paid the appropriate license and permit fees required by Minnesota law and, if required, has filed a corporate surety bond.**

[Liq 25 Minnesota manufacturer or wholesale license fee and bond required.]

[(a) Minn. Stat. § 340.11, Subd. 14 provides for a license fee for the manufacturer or wholesaler of distilled spirits and wine of \$5,000 and such license shall be in effect for one year from the date of issuance. Minn. Stat. § 340.12 provides for a corporate surety bond in the amount of \$10,000 which shall accompany the license application and fee.]

[(b) The duplicate license fee for a manufacturer or wholesaler of distilled spirits and wine is \$3,000 and such duplicate license shall be in effect and run concurrently with the period of the parent license. No bond is required.]

[(c) Minn. Stat. § 340.485, subd. 2 provides that the licensee shall file a penal bond in the sum not to exceed \$50,000 effective July 1 of each year and which sum shall be determined by the Commissioner. Such bond shall be conditioned on the payment of taxes due the state for each month.]

[Liq 26 Out state distillers, rectifier, winer or wholesale distributor license fee.] [Minn. Stat. § 340.113 provides for a license fee for any out-of-state distiller, rectifier, winer or wholesale distributor of distilled spirits, wine or ethyl alcohol of \$150 and such license shall be in effect for one year from the date of issuance. No bond required.]

[Liq 27 Exclusive manufacturer or wholesaler of wine license fee and bond.] [In addition to the provisions of Liq 25 (c) above, Minn. Stat. § 340.11, subd. 14 provides for a license fee for the manufacturer or wholesaler of wine containing not more than 25 percent of alcohol by volume of \$500 and such license shall be in effect for one year from the date of issuance. Minn. Stat. § 340.12 provides for a corporate surety bond in the amount of \$5,000 which shall accompany the license application and fee.]

[Liq 28 Exclusive wholesaler of sacramental wine license fee and bond.] [Minn. Stat. § 340.17 provides for a license fee for a wholesaler of sacramental wine of \$25 and such license shall be in effect for one year from the date of issuance. A corporate surety bond in the amount of \$1,000 shall accompany the license application and fee.]

[Liq 29 Minnesota brewer license fee and bond.] [Minn. Stat. § 340.402 provides for a license fee for a brewery manufacturing malt beverages containing more than 3.2

percent of alcohol by weight of \$1,000 and such license shall be in effect for one year from the date of issuance. Minn. Stat. § 340.403, subd. 1 provides for a corporate surety bond in the amount of \$5,000 which shall accompany the license application and fee.]

[Liq 30 Wholesale distributor of malt beverage license fee and bond.]

[(a) Minn. Stat. § 340.402 provides for a license fee for a wholesaler of malt beverages containing more than 3.2 percent of alcohol by weight of \$200 and such license shall be in effect for one year from the date of issuance. Minn. Stat. § 340.403, subd. 1 provides for a corporate surety bond in the amount of \$1,000 which shall accompany the license application and fee.]

[(b) Minn. Stat. § 340.402 provides for a duplicate license fee for a wholesaler of malt beverages containing more than 3.2 percent of alcohol by weight of \$15 and such license shall be in effect and run concurrently with the period of the parent license. No bond is required.]

[(c) Minn. Stat. § 340.02, subd. 5 provides for a license fee for a wholesaler of malt beverages containing not more than 3.2 percent of alcohol by weight of \$10 and such license shall be in effect for one year from the date of issuance. No bond is required.]

[Liq 31 Out state brewer license fee and bond.] [Minn. Stat. § 340.493, subd. 2 provides for a license fee for an out-of-state brewer or wholesale distributor of malt beverages of \$100 and such license shall be in effect for one year from the date of issuance. The applicant shall file a corporate surety bond in the amount of not less than \$1,000 and not more than \$5,000; whatever sum shall be required by the Commissioner.]

[Liq 32 Common carrier license fees and bond.]

[(a) Minn. Stat. § 340.11, subd. 3 provides for a license fee for a common carrier selling at retail distilled spirits and wine to passengers of \$100 and such license shall be in effect for one year from the date of issuance. Minn. Stat. § 340.12 provides for a corporate surety bond in the amount of \$1,000 which shall accompany the license application and fee.]

[(b) The duplicated license fee for a common carrier selling at retail distilled spirits or wine to passengers is \$10 and such duplicate license shall be in effect and run concurrently with the period of the parent license. No bond is required.]

[(c) The Sunday license issued by the Commissioner to common carriers as provided by Minn. Stat. § 340.14,

PROPOSED RULES

subd. 5, (c) shall run concurrently with the period of the parent license. No bond is required.]

[(d) Minn. Stat. § 340.02 provides for a license fee for a common carrier selling at retail non-intoxicating malt beverages to passengers of \$25 and such license shall be in effect for one year from the date of issuance. No bond is required.]

[(e) The duplicate license fee for a common carrier selling at retail non-intoxicating malt beverages to passengers is \$2 and such duplicate license shall be in effect and run concurrently with the parent license.]

[Liq 33 Pharmacists' special permit.] [Minn. Stat. § 340.18 provides for a special permit of \$5.00 for pharmacists or druggists to sell intoxicating liquor for medicinal purposes on bonafide prescriptions.]

[Liq 34 Bottle club fees.] [Minn. Stat. § 340.119 provides for a permit fee of \$100.00 for private clubs and public places that qualify to permit their patrons to consume and display alcoholic beverages on the premises as covered by Chapter Eleven of these regulations. Such permits shall be in effect July 1 through June 30 each year.]

Liq [35] **25** Regulatory permit fees. Any person engaged in the purchase, sale, or use for any purpose other than personal consumption, or vehicles used to transport intoxicating alcoholic beverages or ethyl alcohol shall obtain the appropriate regulatory permit and identification card from the Commissioner as provided in this [regulation] **rule**. The regulatory fee for each permit is \$5.00 and shall be submitted together with appropriate application form provided by the Commissioner. All identification cards and permits shall expire on December 31st of the year issued and are not transferable. The authority to order, sell, purchase, solicit or deliver granted by the card or permit in this section may be revoked by the Commissioner upon evidence of a violation of any of the provisions of Minn. [St.] **Stat.** ch. 340, and any rule [or regulation] of the Commissioner made pursuant to law, by the holders of such cards or permits.

[(a)] **A.** [Distillery Representative's Identification Card.] **Representatives' identification cards required.** Any distiller, rectifier, winer, or wholesale distributor [located in other states and] having assigned representatives in the State of Minnesota shall for each representative so assigned apply to the Commissioner on Form No. 46 for a [Distillery] Representative's Card. [Such distillery] **A distiller or winer** representative shall neither solicit nor take orders

from retail licensees, **nor shall he give any financial inducement to any wholesaler's salesman to promote the sale to a retailer of any alcoholic beverage.** [Residents of Minnesota may apply for both Distillery Representative and Salesman's Cards and may be issued both cards subject to approval of the Commissioner.]

[(b)] **B.** Retailer's or pharmacist's identification card. Any "on-sale" or "off-sale" liquor dealer or any purchasing agent of any municipal liquor store or any pharmacist or druggist holding permits issued by the Commissioner to sell medicinal liquors on prescription shall apply to the Commissioner on form No. 84 for a permit to purchase distilled spirits, wine or malt beverages containing more than 3.2 percent of alcohol by weight from any manufacturer or wholesale distributor or any agent or representative thereof. Such identification cards shall be presented to the manufacturer or wholesale distributor or the agent or representative thereof when ordering distilled spirits, wine or malt beverages. Manufacturers or wholesale distributors or any agent or representative thereof shall not sell distilled spirits, wine or malt beverages having alcoholic contents as hereinbefore described to any licensee, permit holder, or purchasing agent of a municipal liquor store unless such person presents a Retailer's or Pharmacist's identification card issued by the Commissioner for the current year.

[(c)] **C.** Salesman's identification card. Minnesota manufacturers, brewers, winers, and wholesale distributors shall for each employee acting in the capacity of a salesman or agent apply to the Commissioner on form No. 80 for a Salesman's identification card, which card shall be the authority for such employee to solicit orders from licensed retail dealers, permit holders, or municipal liquor stores. Salesman's identification cards shall not be issued to retail licensees, managers of clubs, municipal liquor store employees, or persons engaged in the sale of alcoholic beverages at retail in the regular course of their employment.

[(d)] **D.** Vehicle permit. All common carriers over than railroads, their motor affiliates, or public water transportation carriers, transporting into and within the State of Minnesota, distilled spirits, wine, and malt beverages containing more than 3.2 percent of alcohol by weight shall apply to the Commissioner on form No. 38 for vehicle permits for each vehicle used in the transportation thereof. Such permit shall be issued only to common carriers licensed by the Minnesota Railroad and Warehouse Commission and to Minnesota manufacturers, winers, brewers, wholesale distributors, retail "off-sale" dealers licensed to sell intoxicating liquor, and other qualified persons, **PROVIDED** that no permits are required for trailers. Intoxicating liquor trans-

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PROPOSED RULES

ported in any manner other than specified herein shall be confiscated and surrendered to the Commissioner for final disposition.

The following permits shall expire one year from date of issuance.

[(e)] **E.** Doctor's alcohol permit. Any physician, dentist, or veterinarian requiring ethyl alcohol in connection with their profession shall apply to the Commissioner on Form No. 44 for a permit to purchase ethyl alcohol.

[(f)] **F.** Food manufacturer's permit. Any manufacturer of food products requiring intoxicating liquors in connections with such manufacture shall apply to the Commissioner on form No. 76 for a permit to purchase, possess and use intoxicating liquors.

[(g)] **G.** Hospital or sanatorium permit. Any hospital or sanatorium requiring medicinal liquors or ethyl alcohol to administer to patients on physician's prescription shall apply to the Commissioner on form No. 47 for permit authorizing the purchase thereof.

[(h)] **H.** Pharmacist or druggist purchase alcohol permit. Any pharmacist or druggist requiring ethyl alcohol for the compounding of medicine shall apply to the Commissioner on form No. 60 for a permit to purchase, use and possess ethyl alcohol.

[(i)] **I.** Purchase alcohol permit.

1. Any person engaged in the manufacture of medicinal, pharmaceutical, antiseptic, flavoring extracts, syrups, foods, scientific, chemical, mechanical, or industrial products, which are unfit for beverage use, or

2. any municipal, county, state agency, any university, college, laboratory used exclusively for scientific research, hospital or sanatorium using ethyl alcohol in connection with manufacture or research shall apply to the commissioner on form No. 81 for a permit to purchase ethyl alcohol.

Liq [36] 26-37 Reserved for future use.

Chapter Four is renumbered to Chapter Three.

Liq 38 The duties and restrictions upon each manufacturer and wholesale distributor are as follows:

[(a)] **A.** Sales to retailers. Manufacturers and wholesalers shall not sell at retail excepting only the privileges granted to breweries by Minn. [St.] Stat. [Section] § 340.02, subd. 10 and § 340.11, subd. 15. Manufacturers and wholesalers and their respective employees shall not sell or deliver alcoholic beverages to any person, club, or

business establishment unless the purchaser is licensed or authorized to sell the respective beverages at retail. A sale to an unlicensed retailer shall be a violation subject to penalties provided by law or [regulations] rules.

[(b)] **B.** Written invoices. Manufacturers and wholesalers shall furnish a written invoice to each retailer for the alcoholic beverages sold and delivered to said retailers; the invoice shall clearly identify seller and purchaser, date, quantity, and brand names of products sold and the prices. When there are joint purchases as provided for in Minn. [St.] Stat. § 340.408 manufacturers and wholesalers shall, in addition to the above, itemize on the invoice each such retailer purchasing jointly or in lieu thereof shall invoice joint purchases to each retailer separately.

[(c)] **C.** Malt beverage invoices. All brewery and wholesalers' invoices of sale for malt beverages containing more than 3.2 percent of alcohol by weight shall have affixed thereto the signature of the retail dealer purchasing said beverages and also the number of the Retailer's Identification Card issued by the Commissioner for the current year. In addition thereto, such sales invoices shall designate the date of sale, the quantity sold, and the brand names. The failure of producers or wholesale distributors to comply with the provisions of this subsection shall be deemed a violation.

(d) Was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws of 1976, ch. 5, and is therefore deleted from the Liquor Control Rules.

[(e)] **D.** Financial interest forbidden. No manufacturer or wholesale distributor shall directly or indirectly or through any affiliate require by agreement or induce any licensed retail dealer to purchase intoxicating liquor from themselves to the exclusion in whole or in part of other manufacturers or wholesale distributors if the direct effect from such agreement or inducement is to prevent, hinder or restrict any other manufacturer or wholesale distributor from selling or offering for sale intoxicating liquor to any such licensed retail dealer. Manufacturers and wholesalers in respect to retail dealers are forbidden:

1. to acquire or hold any direct or indirect interest in any retail license or proprietary interest in the business of a retail dealer, or

2. to acquire any interest in real or personal property owned, occupied or used by any retail dealer in the conduct of his business; or

3. to furnish, give, rent, lend or sell to a retail dealer any equipment, fixtures, supplies, money, service or other thing of value, except to the extent permitted by statute; or

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4. to pay or credit a retail dealer for any retailer's advertising, display, or distributing service, except to the extent permitted by statute; or

5. to guarantee any loan or repayment of any financial obligation of the retail dealer; or

6. to extend a retail dealer credit for a period in excess of the credit period usual and customary in the industry or in excess of the credit period permitted by law; or

7. to require the retail dealer to purchase and sell a specified quantity of any such products; or

8. to offer or pay a commercial bribe; or

9. to offer or make any gifts or to pay compensation to any proprietor, officer, employee or representative of a retail store; or

10. to coerce a retailer through threat of criminal prosecution, license discipline or denial; or

11. to sell, offer to sell, or contract to sell any licensed retail dealer any intoxicating liquor on consignment or under conditional sale or with the privilege of return on any basis otherwise than a bona fide sale. This subsection shall not apply to transactions involving solely the bona fide return of the product for ordinary and usual commercial reasons arising after the product has been sold.

[(f)] E. Filing wholesale catalogs. Minnesota manufacturers and wholesale distributors of distilled spirits and wines shall file with the Commissioner a catalog or list of all such products which they offer for sale in this state showing brand names and 1 case wholesale prices before such products are sold to the retail dealers. Such catalogs or lists shall remain permanent until amended by the wholesaler. Any amendments to the permanent catalog or list shall be filed on the 10th day of each month. Note: Catalogs or lists will be used as a correlation between the permanent filed 1 case price and the filed "Varying Volume Price" (discount) schedule as provided for by Minn. [St.] Stat. § 340.983.

[(g)] F. Price posting "Varying Volume Prices" (discounts) and amendments.

1. Each manufacturer or wholesaler who sells or distributes distilled liquor or wine in this state of retailers shall file and maintain with the department in quadruple and in such form as the department shall prescribe, a written price schedule showing the "Varying Volume Prices" (discount)

offered by such persons to retail licensees within the state. **All price schedules must be filed as provided in Liq 38 F.3. and must show the 1 case wholesale price of each brand of distilled liquor or wine being offered to retail licensees together with all allowances, discounts or terms of any nature, including but not limited to credit terms, which affect the wholesale price of such distilled liquor or wine.**

2. Such schedules shall be filed by eligible licensees at the time their license is issued and before any sales are made, and shall be effective immediately upon filing with the department. When a manufacturer wholesaler license is transferred from one legal entity to another, new 1 case price schedules and any "Varying Volume Price" (discount) schedules shall be submitted by the new license entity before any sales are made. Such schedules shall become effective immediately upon filing with the department.

3. "All Varying Volume Price" (discount) schedules shall be filed with the department on the [tenth] **first** day of each month, and schedule shall be effective from that day until the [tenth] **first** day of the next month, provided that any filing may be amended within five days after its filing. **No such varying volume price (discount) schedule shall list brands of distilled liquor or wine which are not in stock or on bona fide order at the time such schedule is filed with the department.**

4. Amendments to "Varying Volume Price" (discount) schedules may be deposited in the United States mail, addressed to the department or placed on file with the department after the [tenth] **first** day of the month [however] **but** [on or before the fifteenth] **not later than the sixth** day of the month to become effective on the [sixteenth] **seventh** day of the month and to remain so until the [tenth] **first** day of the following month.

5. For any month for which amendments are not filed by the deadline, the "Varying Volume Price" (discount) schedule previously filed shall remain in effect. For any month for which a "Varying Volume Price" (discount) schedule is not filed by the deadline the last such filed schedule shall remain in effect.

6. The word brand as used herein means "brand, trade mark, label, or name". And if an additional secondary name or different form of label is used each will be considered to be a separate brand.

7. For purposes of this [regulation] **rule**, purchasers who are licensed as common carriers and military units

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PROPOSED RULES

qualified as government instrumentalities are not to be deemed "Retailers".

[8. No wholesaler of distilled spirits or wine shall file a catalog or list of 1 case prices, "Varying Volume Price" (discount) schedule or an amended "Varying Volume Price" (discount) schedule on which is shown a selling price per case at less than the cost thereof to such wholesaler. Cost shall include FOB price from importer, freight, state and federal taxes and duty on imported merchandise.]

[9. An amended "Varying Volume Price" (discount) may be filed at below the wholesalers cost, and when such prices are filed to meet, in good faith, prices filed with the department on similar distilled spirits and wine by a competing wholesaler.]

[10. Any manufacturer or wholesaler can meet competitive prices on the same or similar distilled spirits and wine by mailing or filing with the department on or before the fifteenth day of any calendar month, an amendment to his effective "Varying Volume Price" (discount) schedule which lowers his price or prices per case or increases his quantity discounts. Such amended price schedule shall become effective at the same time the competitive price for the same or similar item of the same or competitive brand shall become effective, or immediately if such competitive price schedule shall have become effective.]

[A quantity discount filed to meet competition may not be filed in an amount that would reduce the net price of the brand, type or size container below the net price of the competitive brand for the same quantity.]

[11.] **8. Wine or other commodities** may not be offered on original or assorted cases with distilled spirits or vice versa, and any quantity discount may not exceed 300 bottles of quarts or smaller bottles, or the equivalent of any authorized standard of fill not to exceed 25 cases. **In addition, no manufacturer, wholesaler or importer may sell or offer to sell to any retailer any brand or brands of intoxicating liquor under circumstances wherein the purchase of any quantity thereof entitles the retailer of a discount on the purchase price of any other brand or brands of intoxicating liquor.**

[12.] **9.** All permanent prices, "Varying Volume Prices" (discount) and amended "Varying Volume Prices" (discount) are public record.

[13.] **10.** All "Varying Volume Prices" (discounts) and/or their filed amendments must be understandable and enforceable by the department. If the department find such filings to be not understandable and not enforceable, they will be rejected by the sixteenth day of the month, setting forth the reason for the rejection.

[14.] **11.** Any filing licensee who publishes, mails, delivers, distributes, advertises or in any other way directly or indirectly, disseminates distilled spirits and/or wine information on 1 case permanent prices, "Varying Volume Price" (discounts) or amended "Varying Volume Price" (discounts) for any brand, to retailers served by him, shall, in any such material, include all such discounts filed by him for such brand, and shall disseminate such information to all retailers served by him.

[15.] **12.** The publication, mailing or delivering of any written material containing less than all of the "Varying Volume Price" (discounts) posted for any brand by a filing licensee shall be deemed a violation of this [regulator.] **rule.**

[16.] **13.** The mailing or delivering of written lists of "Varying Volume Price" (discounts) to selective retailers rather than to all retailers served by the filing licensee shall be deemed a violation of the [regulation] **rule.**

[17.] **14.** The publication of 1 case permanent prices and all "Varying Volume Prices" (discounts) schedules filed with the department by a filing licensee, on or before the effective date thereof, in any trade journal or industry price book of general circulation among retailers, shall be deemed sufficient compliance with the provisions of subparagraphs [(14), (15), (16),] **11., 12., and 13.** of paragraph [(g).] **F.**

[18.] **15.** This [regulation] **rule** does not apply to a licensee's salesman who has in his possession a "Varying Volume Price" (discount) schedule, and from which he orally informs a retailer as to "Varying Volume Price" (discounts) filed with the department.

[19.] **16.** Any manufacturer or wholesaler may at any time file with the department written price schedules showing the one case price and the "Varying Volume Price" (discount) offered on any new brand, to become effective immediately.

[20.] **17.** Whenever the [tenth] **first** day of the month or the [fifteenth] **sixth** day of the month falls on a Saturday, Sunday or a legal holiday, the distilled spirits and wine schedules required to be filed with the department shall be received by the department not later than the close of the next business day [.]; [Consequently, this will extend the 1 case price and the amended filing five days from the first business day when the 1 case price and the "Varying Volume Prices" (discounts) are received in this office,] however, the next months filing will be filed on schedule as provided for by Statute and [Regulations.] **rules.**

[21.] **18.** Pursuant to an order issued by the department any price filings may be changed at any time to reflect changes in Federal or State Excise Taxes on distilled spirits

PROPOSED RULES

and wine, or to comply with the requirements of any order issued by the Federal Government relating to price control.

[22.] **19.** All manufacturers and wholesalers sales to retailers, whether it be individual or joint sales, shall ship every such sale in the full amount at one time during the month of that sale.

[23.] **20.** Manufacturers or wholesalers close out sales. Any manufacturer or wholesaler who desires to close out a brand or type of distilled spirits or wine below his cost for such products, shall apply to the Commissioner to do so. Permission will be granted at the discretion of the Commissioner, when the merchandise has been owned and possessed for a period of at least six months. All such authorized closeouts shall be so noted as close outs on the filed "Varying Volume Price" (discount) schedule. Any manufacturer or wholesaler who closes out a brand or type of spirits or wine may not restock such product for a period of twelve months.

[24.] **21.** If any paragraph, sentence, clause or phrase of this [regulation] **rule** is for any reason declared invalid, such decision shall not affect the validity of the remaining provisions of this [regulation.] **rule**.

[(h)] **G.** Gifts forbidden. No manufacturer, **importer**, or wholesaler distributor of distilled spirits, wines, or malt beverages containing more than 3.2 percent of alcohol by weight, shall, **directly or indirectly, or through any officer, agent or employee**, offer or grant discounts, rebates, free goods, allowances or other concessions in [wholesale] prices **which have been filed with the Department** [unless the same terms are offered uniformly to each retailer in the wholesaler's or manufacturer's trade territory at the same time and for the same period, and any and all such discounts, rebates, free goods, allowances or other concessions made because of quantity purchases or for any other reason shall be specifically noted on the invoice of each and every retailer to whom such concessions are granted.] **Provided, however, and subject to the provisions of Liq 38 F.9., discounts, rebates, free goods, allowances and other concessions in filed prices may be offered by a wholesaler if such offer is made uniformly to each retailer in the wholesaler's trade territory at the same time and for the same period. Any and all such discounts, rebates, free goods, allowances or other concessions made because of quantity purchases or for any other reason shall be specifically noted on the invoice of each and every retailer to whom such concessions are granted.**

[(i)] **H.** Sales discrimination forbidden. Manufacturers and wholesale distributors shall not discriminate in the sale of their products to retail dealers except that manufacturers or wholesale distributors may refuse to sell intoxicating liquor or non-intoxicating malt liquor to a retail dealer who may have violated any law, [commissioner's] [regulation] **rule** or municipal ordinance relating to the sale of such liquor at retail, or who has breached a contract for sale with the manufacturer or wholesaler. Upon notice from the Commissioner, manufacturers and wholesale distributors shall not sell intoxicating liquor or non-intoxicating malt liquor to any "on-sale" or "off-sale" licensee who refuses to sell or serve alcoholic beverages to any person because of race, color, national origin, or who discriminates in the selection of its membership on the basis of race, color, or national origin.

[(j)] **I.** Peddling forbidden. No manufacturer or wholesale distributor of distilled spirits and wine or their employees shall transport such products in vehicles for the purpose of soliciting orders from retail dealers and filling such orders from stocks transported in such vehicles.

[(k)] **J.** Container limitation. No manufacturer or wholesale distributor shall sell distilled spirits to retailers in containers holding more than 64 ounces nor less than 8 ounces, except wine may be sold in containers holding 1/20 gallon (6 2/5 oz.) to on and off sale licensees.

1. Miniature containers shall be sold only to licensed common carriers for dining facilities, licensees who have approved dispensing devices and pharmacists having a permit to sell medicinal liquors on prescription for dispensing to patients in hospitals and nursing homes.

2. No containers of distilled spirits holding less than one-fifth of a gallon shall be sold to retail "on-sale" dealers.

3. Still wines—case sales. Still wines shall be sold by Minnesota manufacturers and wholesalers to retail liquor dealers only in case lots. The cases shall be filled with wines of only one tax class, that is, wines of 14 percent or less of alcohol by volume shall not be combined in a case with wines of more than 14 percent of alcohol by volume.

[(l)] **K.** Identification cards required. Minnesota licensed manufacturers, winers, brewers, wholesale distributors, and out-of-state manufacturers, wholesale distributors and brewers who import their products into Minnesota shall obtain a permit from the Commissioner for each employee acting in the capacity of salesman or sales representative. Such

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PROPOSED RULES

salesman or representative shall not solicit or accept orders from retail dealers unless the dealers exhibit a current Retailer's Identification Card.

[(m)] **L.** Sale or delivery prohibited in certain municipalities. No manufacturer or wholesale distributor shall sell or deliver distilled spirits, wine, ethyl alcohol or intoxicating malt beverages in any municipality prohibiting the sale thereof. However, intoxicating liquors and ethyl alcohol may be sold in such municipalities to persons who are holders of permits to sell such products for industrial or medicinal purposes, or for sacramental use.

[(n)] **M.** Transfer of business and license. Any manufacturer, wholesale distributor or brewer may transfer his business and his license with the approval of the Commissioner. When contemplating transfer the licensee shall submit his license to the Commissioner and all permits issued in connection therewith, together with a complete notarized inventory of alcoholic beverages on hand, giving the brand names, the size and number of containers. The request for transfer shall be accompanied by the license application and bond of the proposed purchaser.

NOTE: Any application for transfer of a license shall be accompanied by a transfer fee of \$10.00.

[(o)] **N.** Branch establishments. Manufacturers and wholesale distributors of distilled spirits, wine and malt beverages licensed by the Commissioner may maintain branch establishments provided that such establishments are directly owned and managed by said manufacturers and wholesale distributors, and that all employees of such establishments are paid only fixed salaries and/or commissions. No branch license shall be granted to holders of wholesale non-intoxicating malt liquor licenses.

[(p)] **O.** Withdrawal of distilled spirits and wine from wholesalers by their employees and distillers or winers representative. No persons employed by importers, distillers, rectifiers, winers, Minnesota licensed manufacturers or wholesalers, shall withdraw distilled spirits or wine from the premises of manufacturers or wholesalers unless such requisition has been approved by the Commissioner on a form prescribed by him.

Paragraph #2 was transferred to the Commissioner of Revenue pursuant to the transfer of functions effected by Laws of 1976, Chapter 5, and is therefore deleted from the Liquor Control Rules.

Liq 39 Sales to wholesalers and manufacturers. All importers are required to offer for sale to all Minnesota wholesalers and manufacturers all intoxicating liquor brought into the State of Minnesota and all such offers shall be made on an equal basis to all such Minnesota wholesalers and manufacturers. This requirement shall

extend to and include any Minnesota-based importer with respect to any intoxicating liquor brought into the State of Minnesota.

A. No importer shall offer any intoxicating liquor for sale to any Minnesota wholesaler or manufacturer without first filing with the department, on a form approved by the Commissioner, an itemized list specifying the price, brand, type, container size, proof and age of the liquor so offered. These prices must be filed on the 15th of the month and shall become effective on the first day of the month next succeeding the first full month after the date of filing and shall remain in effect for a period of not less than 45 days and until changed by a subsequent price filing which shall take effect in like manner.

B. All prices filed shall be the lowest prices, as contemplated by Minn. Stat. § 340.114, subd. 3, at which such liquor is contemporaneously being sold by such importer. All such liquor shall be offered for sale to all Minnesota wholesalers and manufacturers on an equal basis, and at the applicable filed price.

Liq [39 and] 40 Reserved for Future Use.

Chapter Five is renumbered to Chapter Four.

Chapter Six is renumbered to Chapter Five.

Liq 56 "On-sale" dealers.

[(a)] **A.** Containers — minimum quantities; **minimum proof of distilled spirits.** No "on-sale" dealer shall purchase or possess distilled spirits in containers of less than one-fifth gallon **or its metric equivalent.** Containers of less than one-fifth of a gallon, **or its metric equivalent,** shall be subject to confiscation provided, miniatures containing not more than two ounces, or their metric equivalent, may be purchased for dispensing devices, the use of which has been specifically approved by the Commissioner. **In addition, no "on-sale" dealer shall purchase distilled spirits other than cordials, liqueurs, or specialty items which are less than eighty (80) proof.**

[(b)] **B.** Liquor to be consumed on premises. "On-sale" liquor licenses shall sell intoxicating liquor to lawful consumers by the drink for consumption on the premises only. For purposes of this regulation the sale of miniatures in approved dispensing devices shall be considered sale by the drink in guest rooms of hotels as defined in Minn. [St.] Stat. § 340.07, subd. 12.

[(c)] **C.** Display forbidden. No "on-sale" liquor establishment shall display any intoxicating liquor when open to the public during hours when the sale of such liquor is prohibited by law, except as provided by Minn. [St.] Stat. § 340.119.

PROPOSED RULES

[(d)] **D.** Dilution or changing containers. No "on-sale" dealers, or his employees, shall remove intoxicating liquor from the original containers and place said liquor in any other container, nor shall such persons dilute or in any manner tamper with the original contents thereof as provided by Minn. [St.] Stat. §§ 340.141 to 340.143 inclusive, except that wine may be withdrawn from tax paid containers and placed in decanters for service bar purposes.

[(e)] **E.** Containers subject to seizure. Intoxicating liquors in open containers which upon inspection indicate dilution, tampering, refilling or impurities shall be subject to seizure by Liquor Control Inspectors.

[(f)] **F.** Containers must be visible to public. All containers from which alcoholic beverages are sold or dispensed shall be clearly visible to the consuming public, except that malt beverages may be dispensed by tap from the keg when the keg itself is not in sight, and miniatures may be dispensed by approved mechanical devices, provided that the brand label appears on the tap handle or device. No container of intoxicating or malt liquor shall be dispensed from any mechanical or coin operated device, unless said device can be operated in full compliance with all provisions of state law and the [regulations] **rules** of the Commissioner and has been specifically approved for operation by the Commissioner. The Commissioner may impose such conditions as he deems necessary for any such approval and the failure to meet said conditions or the violation thereof shall terminate any approval.

Chapter Seven is renumbered to Chapter Six.

Liq 67 Statements or acts prohibited. All local advertising shall also be subject to the provisions of this chapter as hereinafter stated.

[(a)] **A.** No advertisement of alcoholic beverages shall contain:

1. Any illustration of a female which is not dignified, modest, or in good taste, or depicts a female in provocative dress or consuming a drink. Any family scene in which is portrayed a child or objects (such as toys) suggestive of the presence of a child, or in any manner portrays the likeness of a child, or contains any matter to appeal to immature persons.

2. Any statement that is false or misleading in any manner.

3. Any statement, design, device or representation which is obscene or indecent.

4. Any statement concerning a brand of intoxicating liquor that is inconsistent with any statement on the labeling thereof.

5. Any statement, design, device, or representation relating to any guaranty unless such guaranty is enforceable.

6. Any statement describing such liquor to be beneficial and healthful.

7. Any statement or display relating to the price of such liquor except in windows and premises of licensed establishments.

8. Any statement, design, or device relating to biblical characters or to any public official, agency or branch of the Federal, state or local governments, including former presidents of the United States.

9. Any statement, design, device or pictorial representation capable of being construed as relating to the armed forces of the United States, or the American Flag, or any emblem, seal, insignia or decoration associated with such flag or armed force.

10. Any statement relating to the giving away of alcoholic beverages, premiums or novelties in connection with the sale of any alcoholic beverages.

[(b)] **B.** Restrictions:

1. No alcoholic beverages, prizes, or premiums shall be given away in connection with the sale of alcoholic beverages, except that consumers' advertising specialties, such as ash trays, bottle or can openers, corkscrews, paper shopping bags, matches, printed recipes, wine lists, leaflets, blotters, post cards, pencils, stirrers, glassware, calendars, notebooks, playing cards, greeting cards, folding knives, or any similar articles which bear advertising matter may be furnished or given to consumers. The distribution of such advertising specialties shall be limited to the licensed premises only. Such advertising specialties shall be submitted to and approved by the Commissioner before distribution.

2. No advertisement or display of intoxicating or malt liquor shall contain any statement or illustration of or reference to a bank, bank deposit book, money, gambling, or quotations such as ["Saving,"] ["Economy," "Better Buys," "Will Not Be Undersold," "Cash and Carry," "Free Delivery," "Today's Feature,"] "Moving," "Going Out of Business," "Reduction of Stock," "Sale of Damaged Stock," "School or College Athletics," or "Pay

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PROPOSED RULES

Checks," [or similar illustrations or references] in any form of advertising. However, such references may be included in or on show windows in or on licensed premises.

3. No display of any intoxicating liquor shall be made in any place except the licensed premises.

4. No advertisement or display of malt beverages containing more than ½ of 1% of alcohol by weight shall contain any reference to price of malt beverages, except within windows and premises of licensed establishments.

Chapter Eight is renumbered to Chapter Seven.

Liq 71 Brand label approval. Minn. [St.] Stat. [Section] §340.62 provides that no brand of distilled spirits, wines, or fermented malt beverages containing more than one-half of one percent of alcohol by volume shall be imported into or sold within the State of Minnesota unless the brand label is approved by the Commissioner and registered in the manner provided.

A. For sample purposes only. A licensed importer or wholesaler may, with the prior approval of the Commissioner, import without registration reasonable amounts of alcoholic beverages to be used for sample purposes only. However, all such sample shipments must be manifested, as provided in Liq 83.

[(a)] **B.** Any alcoholic beverages not registered as provided by Minn. [St.] Stat. § 340.62 and Chapter [Eight] **Seven** hereof and not located on a Minnesota licensed wholesaler's premises shall be confiscated.

Liq 73 Registration. A written request for registration of a brand label shall be filed with the Commissioner, accompanied by the following items:

[(a)] **A.** A [certified] check payable to ["Liquor Control Commissioner"] "**Director of Liquor Control**" in the amount of \$10, for payment of the registration fee for each brand and for each type of product.

[(b)] **B.** A duplicate set of front and back labels, [and] any other labels to be affixed to the containers, **a copy of the federal government label approval, and a copy of any federal basic permits indicating any authorized d/b/a's or trade names.** In the case of imported [wines and distilled spirits,] **alcoholic beverages,** the name and address of the importer must be shown on the label.

[(c)] **C.** A duplicate set of photostatic copies of beer cans and lids.

[(d)] **D.** Two labeled and sealed containers of malt beverages for analysis **if requested** by the Commissioner.

[(e)] **E.** A complete, signed chemical analysis of the product and a verified statement that the product to be sold under the label will correspond in all respects to the sample and analysis[,] **may be requested at the discretion of the Commissioner. Provided, however, in the case of both domestic and imported cordials and liqueurs, where a minimum of 10 percent sugar content by weight is required, a signed and dated chemical analysis must be submitted with all label registration requests. In the case of malt beverages, a signed statement of alcoholic content by weight must be furnished by the brand label owner.**

[(f)] **F.** A verified statement by the brand owner or his authorized representative declaring ownership of the label and identifying the United States distributor, if other than the brand owner.

Liq 75 Abandonment. Any brand of alcoholic beverage for which Minnesota importation has been discontinued for two years or which has been abandoned shall not be imported in this state unless the brand label is re-registered in the manner provided in Liq 73. In the case of fermented malt beverages, it is required that the brand label registrant submit a letter to this office [each month] **not later than January 10th** of each year indicating the brand of beer shipped into and/or sold in the State of Minnesota. **Said letter shall also indicate the months in which such beer was shipped into the State of Minnesota during the previous year.**

Chapter Nine is renumbered to Chapter Eight.

Liq 83 Manifest or invoice. Minn. [St.] Stat. [Section] § 340.485, subd. 3 provides that importers of distilled spirits, wines, ethyl alcohol or sacramental wine shall prepare a manifest in quadruplicate on forms prescribed by the Commissioner for each shipment into Minnesota, and shall forward the manifest to the Commissioner prior to the time of shipment.

[(a)] **A.** The manifest shall represent only the shipment in each single conveyance.

[(b)] **B.** The manifest shall designate the consignee and consignor, the date of shipment, name of common carrier, brand name, brand label registration number, the number of packages and the number of containers in each package, the size of each container, the proof of the product and the total gallonage[, and shall state whether or not Minnesota certification labels are affixed].

[(c)] The shipment will not be released to the consignee unless the manifests are received by the Commissioner one or more days prior to the arrival of the shipment.]

Liq 84 Transportation. Only common carriers or duly licensed Minnesota manufacturers or wholesale distributors

PROPOSED RULES

shall transport distilled spirits, wine, ethyl alcohol or malt beverages into this state.

[(a)] **A.** All common carriers except railroads, their motor affiliates and public water transportation carriers, shall obtain a permit as provided in Liq [35 (d),] **25 (D)**, for each vehicle used to transport alcoholic beverages into Minnesota.

[(b)] Common carriers may store shipments of alcoholic beverages in warehouses pending release by the Commissioner. Alcoholic beverages so stored shall be deemed to be in the carrier's possession.]

Chapter Ten is renumbered to Chapter Nine.

Liq 92 standards of fill for distilled spirits.

1/2 gallon	4/5 pint
1 quart	1/2 [pint
4/5 [quart	Minatures containing no
1 pint	more than 2 ounces

[Tolerance in the herein described standards of fill may be allowed by the Commissioner for distilled spirits imported from foreign countries and for domestic cordials.]

Provided that the regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act governing standards of fill now in force, or as they may be hereafter amended, shall be followed in all bottling or selling of distilled spirits in the State of Minnesota.

Liq 95 Standards of fill for wine.

Gallon	128	ounces
1/2 Gallon	64	ounces
Quart	32	ounces
Fifth	25	ounces
Pint	16	ounces

Tolerance in the herein-described standards of fill may be allowed by the Commissioner [for wines imported from foreign countries, or for domestic sparkling wine] **upon prior application.**

Provided that the regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act governing standards of fill now in force, or as they may hereafter be amended, shall be followed in all bottling or selling of wine in the State of Minnesota.

Liq 98 Labeling requirements and alcoholic content. The product that contains more than 3.2% of alcohol by weight, the alcoholic content shall be stated that the product labeled as follows: "contains more than 3.2% of alcohol by weight" or "strong beer," "strong ale," "strong porter," "strong stout," etc.

[(a)] **A.** The product that is sold in cans the word "strong" shall appear on one end of each can [in waterproof ink or paint] **in a permanent medium.** For cone type cans, however, such indication shall be placed on the side. The same indication of type shall also appear on cans of malt beverages containing not more than 3.2% of alcohol by weight and the alcoholic content shall be stated as provided for in [(b)] **B.** of this [section] **rule.**

[(b)] **B.** The product that contains more than 1/2 of 1 percent of alcohol by volume and not more than 3.2% by weight, the alcoholic content shall be stated and the product labeled as follows: "contains not more than 3.2% of alcohol by weight" or similar expression of like meaning.

[(c)] **C.** In place of submitting can containers for malt beverages, duplicate photostatic copies of each can shall be submitted for both "3.2%" and "strong" and such copies shall clearly show the label and the alcoholic content.

[(d)] **D.** The alcoholic content shall be stated if the product contains less than 1/2 of 1 percent of alcohol by volume and shall be labeled "contains less than 1/2 of 1 percent of alcohol by volume."

Liq 100 Standards of fill for malt beverages. The standards of fill for malt beverages in containers, whether domestically manufactured or imported for sale within the State of Minnesota, shall be as hereinafter provided:

	1 Barrel
1/2 barrel	25-3/5 ounce container
1/4 barrel	24 ounce container
1/8 barrel	16 ounce container
288 ounce container	12 ounce container
144 ounce container	10 ounce container
128 ounce container	8 ounce container
64 ounce container	7 ounce container
32 ounce container	6 ounce container

[Tolerance in the herein described standards of fill may be allowed by the Commissioner for malt beverages imported from foreign countries.] **Provided that the regulations adopted by the Secretary of the Treasury pursuant to**

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PROPOSED RULES

the Federal Alcohol Administration Act governing standards of fill now in force, or as they may hereafter be amended, shall be followed in all bottling or selling of malt beverages in the State of Minnesota.

Chapter Eleven is renumbered to Chapter Ten.

Chapter Twelve is renumbered to Chapter Eleven.

Chapter Thirteen is renumbered to Chapter Twelve.

Liq 123 Permit holder's report. Permit holders shall report on Form No. 27 all purchases of ethyl alcohol, the amount used[,] **and** the balance at the end of the [month] year [,] [provided that this section shall not apply if the amount of ethyl alcohol used is less than one per month, wherein an affidavit to that effect shall be submitted to the Commissioner when application is made for the renewal permit]. Manufacturers and wholesale distributors shall report the purchase and sales of ethyl alcohol on Form No. 29.

OFFICIAL NOTICES

Ethical Practices Board Amendments to Advisory Opinion No. 32 Concerning the Definition, Registration and Reporting of Lobbyists

Advisory Opinion No. 32 as printed in the *State Register*, Vol. 1, NO. 22, December 7, 1976, (15 S.R. 895-6), was approved by the Board on January 4, 1977, with the following changes: (new language underlined, deleted language hyphenated).

3. QUESTION

If an association spends in excess of \$250 in a calendar year in the production of material advocating a position and these materials are sent to persons urging them to communicate the position advocated to public officials, must an individual be required to register and report as a lobbyist for that association?

OPINION

Yes. If a person or association spends in excess of \$250 in a calendar year to influence legislative or administrative action, an individual must have been authorized to spend in excess of \$250 and, therefore, an individual from that association must register as a lobbyist to report the lobbying expenses incurred even if the individual is not paid as a lobbyist.

4. QUESTION

Should "urging others to communicate" with public officials for the purpose of influencing legislative or administrative actions be included as lobbying?

OPINION

"Urging others to communicate" with public officials is only included as lobbying, if such urging is related to advocacy of a position. Situations where individuals are merely encouraged to express their own opinions and not urged to support the particular position advocated by the lobbyist are not included as lobbying.

6. EMPLOYEES OF STATE AGENCIES

FACTS

An agency of the state or a political subdivision retains an individual to represent that agency for lobbying purposes; and you ask:

QUESTION

Must that individual register and report as a lobbyist if otherwise fulfilling the time or monetary requirements of a lobbyist?

OPINION

~~No.~~ Yes. An individual not otherwise a regular employee of a state agency or political subdivision retained to represent that agency for lobbying purposes is not regarded as an employee of that agency or subdivision and ~~need not~~ must register and report as a lobbyist, provided that the individual is representing the agency or subdivision in an official capacity. However, an Any individual who represents a non-governmental association of public officials, public employees, or governmental units must register and report as a lobbyist if otherwise qualified as a lobbyist.

7. FUNDRAISER TICKETS

FACTS

A campaign contribution in the form of a ticket to a fundraiser of a candidate is made by an individual who is a lobbyist from personal funds; and you ask:

QUESTION

Is the campaign contribution reportable as a lobbying disbursement?

OPINION

No. The contribution is not a lobbying expense but is a political contribution by the lobbyist of the political committee or fund.

However, if the association is repaying a lobbyist for such a contribution, the lobbyist must designate the source of the contribution to the candidate.

Note: Minn. Stat. § 211.27 prohibits political contributions by corporations. Therefore, a corporation must not reimburse a lobbyist for a contribution. (A lobbyist receiving reimbursement from a corporation may fall under this prohibition).

The question below was severed from the approved opinion for the purpose of further solicitation of opinions from individuals and agencies affected by the question before final approval by the Board.

12. REQUESTED TESTIMONY

FACTS

The Public Service Commission requests individuals to

OFFICIAL NOTICES

testify or submit testimony on the question of whether public utilities should be able to pass along as business expenses to the user contributions to charitable institutions to be used in determining need for rules governing such practice and content of these rules if promulgated.

QUESTION

Must individuals testifying register and report as lobbyists?

OPINION

Yes. Such action is lobbying. However, an individual engaged in lobbying need register and report as a lobbyist only if that individual is engaged for pay, or other consideration or is authorized to spend money AND spends more than five hours in any month or in excess of \$250 in a calendar year to influence legislative or administrative action by communicating with or urging others to communicate with public officials.

Advisory Opinion No. 33

Advisory Opinion No. 33, as printed in the *State Register*, Vol. 1, No. 22, December 7, 1976, (1 S.R. 876) was approved by the Board on January 4, 1977.

Advisory Opinion No. 34 Regulating Funds Used for Hiring a Legislative Aide

Senator Ronald Sieloff
State Office Building
St. Paul, Minnesota 55155

FACTS

As a member of the Minnesota Legislature, you are contemplating the hiring of an aide during the legislative session to assist in taking care of correspondence, constituent calls, constituent meetings, newsletters and other miscellaneous duties which arise during the session.

You wish to use funds in your principal campaign committee account for this purpose.

QUESTION

Can funds from a principal campaign committee be used to pay expenses of an aide during the legislative session? Secondly, must these expenses be reported as a campaign expenditure?

OPINION

It is the opinion of the Board that a principal campaign committee can pay expenses for a legislative aide during legislative sessions and in non-election years for purposes of providing constituents services. These expenses are not campaign expenditures under Minn. State. § 10A.01, subd. 10 (1974). Such expenses are reportable under Minn. Stat. § 10A.20 (1974) as non-campaign expenses, which are not counted toward campaign spending limits. Payments made by a principal campaign committee to an aide for the provision of constituent service after the last day of the legislative session and through general election day in an election year must be reported as a campaign expenditure. This opinion is consistent with Advisory Opinions Nos. 19 and 24 wherein the Board said:

One of the functions of a legislator is to report to his constituents on possible legislative action and to obtain their opinions on matters which come before the Legislature so that he may represent them during the session. Any activities designed to enable him to fulfill that function are legitimate constituent services, even though they may have an incidental effect on the legislator's chances for re-election.

B. Allen Clutter
Executive Director

Department of Transportation Order Adopting Rules Relating to Highway Construction Funds

The above-entitled matter came on for hearing before the Commissioner of Transportation of the State of Minnesota on the 10th day of November, 1976, at 9:00 A.M. in Room 14, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 after proper notice required by Minn. Stat. § 15.0412 (Supp. 1975) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules,

Now, therefore, it is ordered that these rules identified as Hwy. 32 Rules for State Aid Operations under Minn. Stat. chs. 161 and 162 (1975), as amended, are adopted this 14th

OFFICIAL NOTICES

day of December, 1976, pursuant to authority vested in me by Minn. Stat. chs. 15, 161 and 162 as amended.

Jim Harrington
Commissioner

Order Adopting Rules Relating to the Bridge Construction Program in Minnesota

The above-entitled matter came on for hearing before the Commissioner of Transportation of the State of Minnesota on the 10th day of November, 1976, at 9:00 A.M. in Room 14, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 after proper notice required by Minn. Stat. § 15.0412 (Supp. 1975) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, having confirmed the need for the above captioned rules,

Now, therefore, it is ordered that these rules identified as Hwy. 32A Rules for Bridge Construction Program Under Laws of 1976, ch. 339, are adopted this 14th day of December, 1976, pursuant to authority vested in me by Minn. Stat. chs. 15, 161 and 162 as amended.

Jim Harrington
Commissioner

County Attorneys Council Meeting of Board of Governors

The Board of Governors of the County Attorneys Council will meet for their regular monthly meeting on Thursday, January 20, 1977 at 11:00 a.m. in the Main Dining Room of the University Club, 420 Summit Avenue, St. Paul, Minnesota.

Teachers Retirement Association Meeting of Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association, will hold a meeting on Friday, February 4, 1977,

at 9 a.m. in the office of the Association, 302 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, to consider matters which may properly come before the Board.

EQC Monitor Environmental Quality Council

Notice of Public Hearing on Construction Permit for High Voltage Transmission Line

Notice is hereby given that a public hearing will be held on the above entitled matter pursuant to Minn. Stat. § 116C.57 (1974), commencing in:

LeSueur, Minnesota Park Elementary School	Tuesday, February 1, 1977, 7:30 p.m.
Belle Plaine, Minnesota High School	Wednesday, February 2, 1977, 7:30 p.m.
Arlington, Minnesota Community Hall	Thursday, February 3, 1977, 7:30 p.m.
Mankato, Minnesota Midwest Electric Plant Cafeteria (4 miles north of Mankato on Highway 22)	Monday, February 7, 1977, 7:30 p.m.
Waconia, Minnesota High School	Wednesday, February 9, 1977, 7:30 p.m.
Buffalo, Minnesota Wright Co. Courthouse Room A	Thursday, February 10, 1977, 7:30 p.m.

The issue on which testimony will be accepted at the public hearing is the location of a route up to one kilometer wide (about 6/10 of a mile) within the corridor designated by the Environmental Quality Council on May 7, 1976, known as the eastern corridor. Routes and route segments to be considered at these hearings were approved by the Council on December 21, 1976. All testimony given at these hearings will be considered by the Council and by the hearing officer in his findings of fact, conclusions and recommendations submitted to the Council at the close of the hearing.

The line proposed by Cooperative Power Association/United Power Association in south central Minnesota is a 345 kV transmission line extending from the Dickinson

OFFICIAL NOTICES

Substation near Delano to the Wilmarth Substation near Mankato.

Copies of the application and detailed maps showing routes proposed for this line are available at the following locations: libraries in Buffalo, Delano, Watertown, Waconia, Shakopee, Chaska, Belle Plaine, Henderson, New Prague, Mankato, LeSueur, LeCenter, St. Peter, Montgomery, Jordan and Minneapolis; county planning and zoning administrator's offices for LeSueur, McLeod, Wright, Carver, Sibley, Scott and Blue Earth; regional development commission offices in St. Paul (Metropolitan Council), St. Cloud (Region 7W), Willmar (Region 6E), and Mankato (Region 9), the city clerk in Cleveland and the EQC office, 100 Capitol Square, St. Paul, Minnesota, 55101.

Peter Vanderpoel
Chairman

Errata

1. 1 S.R. 634: change "DE 32 A.2." to "DE 52 A.2." at DE 52E.
2. 1 S.R. 706: change "8¼" x 11"" to "8½" x 11"" at EA 1003 B.
3. 1 S.R. 707: add "and" after "in this state;" at EA 1004 S.
4. 1 S.R. 709: remove the comma after "signature(s)" at EA 1031 A.6.
5. 1 S.R. 709: insert "response to" after "in" and before "rule" at EA 1031 B.2.
6. 1 S.R. 709: delete "in" and insert "listed in response to" after "certificate" and before "rule" at EA 1031 B.3., 4., and 5.
7. 1 S.R. 715: change "back filling" to "backfilling" at EA 1055 D.3.
8. 1 S.R. 960: delete "and" after "magnitude and spatial" at B., Design tradeoffs.

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Attn: Edward Burdick, Chief Clerk
Room 211 Capitol
St. Paul, Minnesota 55155

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