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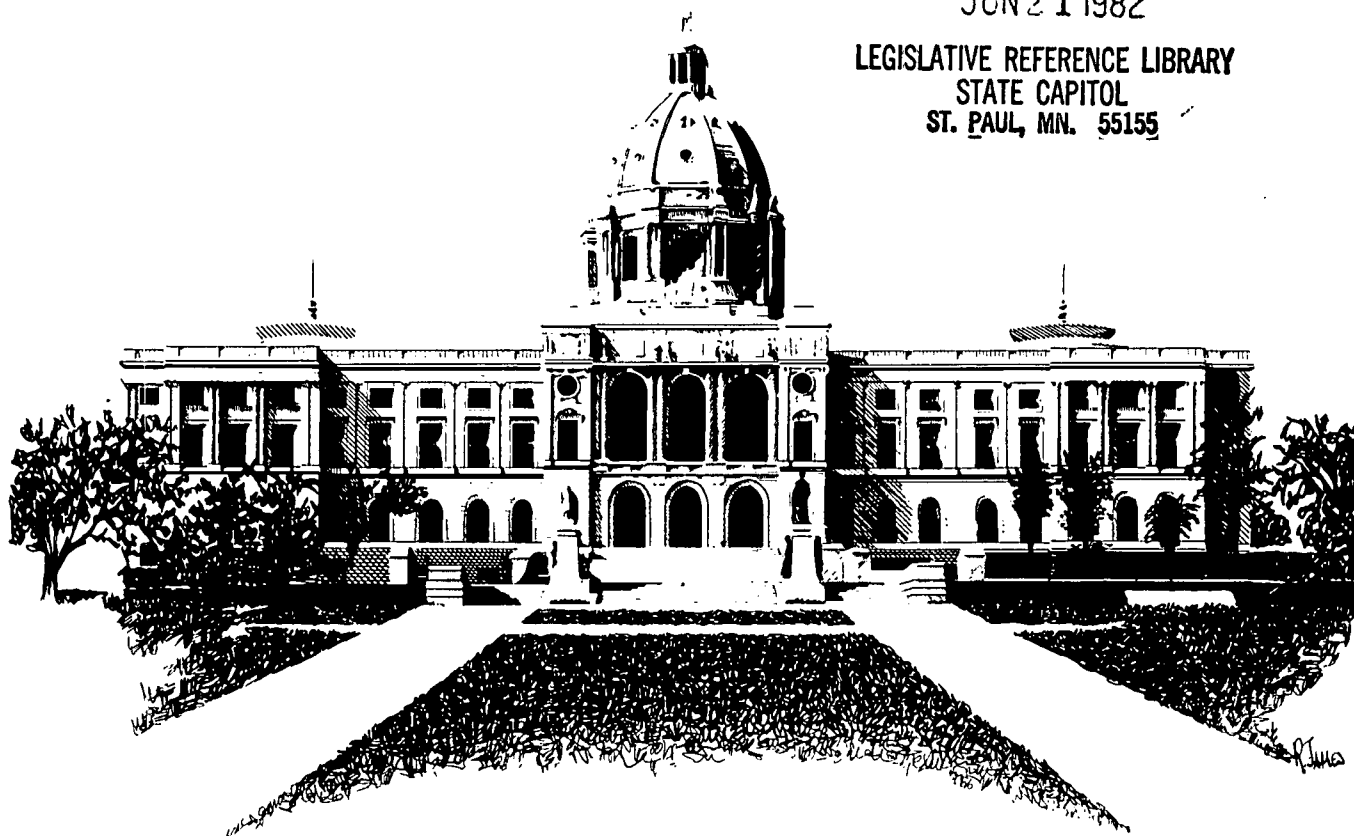
# STATE REGISTER

STATE OF MINNESOTA

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### Printing Schedule for Agencies

| Issue Number          | *Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules | *Submission deadline for State Contract Notices and other **Official Notices | Issue Date     |
|-----------------------|---|--|----------------|
| SCHEDULE FOR VOLUME 6 |   |  |                |
| 52                    | Monday June 14  | Monday June 21   | Monday June 28 |
| SCHEDULE FOR VOLUME 7 |   |  |                |
| 1                     | Monday June 21  | Monday June 28   | Monday July 5  |
| 2                     | Monday June 28  | Friday July 2  | Monday July 12 |
| 3                     | Friday July 2   | Monday July 12   | Monday July 19 |

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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### How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

#### The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

#### The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

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|-------------------------------|-------------------------------|
| Issues 1-13, inclusive        | Issue 39, cumulative for 1-39 |
| Issues 14-25, inclusive       | Issues 40-51, inclusive       |
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# PROPOSED RULES

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Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
  2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
  3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

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## Department of Health

### **Proposed Amendments to Life Support Transportation Service Rules (7 MCAR §§ 1.601-1.611) and Repeal of Emergency Medical Technician Registration Rules (7 MCAR §§ 1.541-1.545)**

#### **Notice of Hearing**

A public hearing concerning the above entitled matters will be held in Room 105, Minnesota Health Department Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Thursday, July 29, 1982, commencing at 9:30 a.m. and continuing until all interested persons have had an opportunity to be heard.

Following the agency's presentation at the hearing, all interested or affected persons will have the opportunity to participate. Statements may be made orally and written material may be submitted at the hearing. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, (612) 341-7645. Unless a longer period, not to exceed 20 calendar days, is ordered by the hearing examiner at the hearing, the record will remain open for the inclusion of written material for five (5) working days after the hearing ends. The proposed amendments are subject to changes as a result of the rules hearing process. The agency strongly urges those who may be affected in any manner by the proposed amendments to be considered in this hearing, to participate in the rules hearing process. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having common viewpoints or interests in these proceedings, join together where possible and present a single statement on behalf of such interests. All such statements will be entered with and become a part of the record.

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR (Minnesota Code of Agency Rules) §§ 2.101-2.113. If you have any questions about the procedure, call or write the hearing examiner.

The statutory authority for the Commissioner of Health to adopt amendments to these rules is contained in Minn. Stat. § 144.804, which requires the commissioner to promulgate as rules standards for the operation of life support transportation services. The proposed amendments would amend rules which were originally adopted April 21, 1980. The Emergency Medical Technician Registration Rules which were adopted in 1979 will be repealed and replaced by the provisions for EMT certification in the proposed amendments. The authority for adoption of the registration rules is contained in Minn. Stat. § 214.13 which authorizes the commissioner only to register the occupation. Registration is optional. Most EMT's in Minnesota are not registered. Registration confers no advantage relative to employment for ambulance attendants. Therefore, given the implicit authority of the commission to repeal rules which are no longer required for the safety and well being of the citizens of the state, these rules will be repealed.

The proposed amendments to the Life Support Transportation Service Rules cover the following subjects:

1. Definitions of terms;
2. Applications for licensure;
3. Personnel standards; basic life support transportation services including air services;

4. Staffing standards; basic life support transportation services;
5. Quality of life support treatment required to be assured by licensee;
6. Restricted treatments and procedures which include the use of I.V. infusions and therapy; esophageal obturator airway; medical anti-shock trousers; drugs; and defibrillation;
7. Equipment standards; basic life support transportation services;
8. Ambulance standards;
9. Communications;
10. Personnel standards; advanced life support transportation services including air services;
11. Staffing standards; advanced life support transportation services;
12. Quality of life support treatment;
13. Equipment standards; advanced life support transportation services;
14. Compliance with ambulance standards;
15. Communications;
16. Standards for the operation of scheduled life support transportation services;
17. Life support transportation services operated by a nonprofit entity and limited exclusively to providing service by contract for special events and meetings;
18. Life support transportation services provided by an employer for the benefit of its employees;
19. Disasters;
20. Advertisement;
21. Enforcement provisions;
22. Primary service area;
23. Compliance with approved local ordinances;
24. Emergency care course program approval, course requirements; examination; certification and refresher courses;
25. Intermediate emergency care course program approval; course requirements; examination; certification and continuing education;
26. Advanced emergency care course programs for paramedics; course approval, requirements, examination, certification and continuing education;
27. Trip reports;
28. License fees and expiration dates including biennial licensing system;
29. Waivers; and
30. Variances for restricted treatments and procedures; certain personnel; and in general.

A free copy of the rules may be obtained by contacting Jim Stoffels, Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota 55440, (612) 296-5518. Additional copies will be available at the hearing. If you have any questions about the rules, please contact Mr. Stoffels.

Twenty-five (25) days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include all of the evidence which the agency intends to present at the hearing to justify both the need for and the reasonableness of the proposed rules. The agency intends to present only a summary of the statement of need and reasonableness at the hearing; however, additional evidence may be submitted in response to questions raised by interested persons. You are urged to review the statement of need and reasonableness before the hearing and to attend the hearing. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge. Additional copies will be available at the hearing.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## PROPOSED RULES

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to Mr. Stoffels, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, (1980) as any individual:

a. Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

b. Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone: (612) 296-5615.

The adoption of the proposed amendments to these rules will not require expenditure of public funds totaling or exceeding \$100,000 by local public bodies in either of the two years immediately following adoption of these amendments.

June 3, 1982

George R. Pettersen, M.D.  
Commissioner of Health

### Rules as Proposed

7 MCAR § 1.601 Definitions. For the purposes of 7 MCAR §§ 1.601-1.630, the following terms have the meanings given them.

A. Air ambulance. "Air ambulance" means an ambulance that is designed and manufactured to travel by air, ~~and~~ It includes fixed wing aircraft and helicopters.

B. ~~"ALS" means advanced life support transportation service.~~ Base of operation. "Base of operation" means the address at which the physical plant housing ambulances, related equipment and personnel is located.

~~C. "BLS" means basic life support transportation service.~~

~~D. "Central base of operation" means a base of operation for a life support transportation service that serves as the coordinating point for other bases of operation of a licensee within a single primary service area.~~

C. Basic cardiac life support. "Basic cardiac life support" means cardiopulmonary resuscitation by one and two persons, infant resuscitation, and management of the obstructed airway in conscious and unconscious persons.

~~E. D. Change.~~ "Change" means an action or occurrence by which a situation relevant to licensure has become distinctly and materially different such that it can reasonably be expected that the licensee will not meet the conditions of its current license.

~~F. E. Change in type of service.~~ "Change in type of service" means any change in the schedule of:

1. ~~Skills and equipment used in patient care~~ Level of service when the change is from basic life support to advanced life support;

2. Hours during which service will be available; or

3. ~~The group(s) group of individuals for whom services will be exclusively provided exclusively such that a new type or types of licenses are license is required.~~

~~G. F. Change of base of operation.~~ "Change of base of operation" means ~~a change involving a the relocation of vehicles, related equipment, and personnel housed at one location for housing at to another location such that it is no longer possible for the service making the change to meet the conditions of its license regarding its designated primary service area.~~

~~H. G. City of the first class and city of the second class.~~ "City of the first class" and "city of the second class" have the meanings given to them in Minn. Stat. ~~ch. 410 § 410.01.~~

~~I. H. Commissioner.~~ "Commissioner" means Commissioner of Health.

~~J. I. Communications base.~~ "Communications base" means the ~~location at which equipment is housed~~ composite collection

## PROPOSED RULES

of radio base station equipment which is used for ~~use in~~ two-way radio communications ~~with~~ between ambulances ~~or~~ and medical facilities.

~~K.~~ J. Disaster. "Disaster" means a sudden occurrence or other temporary condition ~~determined to have resulted~~ causing or ~~to be likely to result in~~ cause such widespread damage and such mass casualties or threats to the health and safety of members of the public that available life support transportation services cannot reasonably be considered adequate to respond to the emergency needs of the affected public.

K. Drug. "Drug" means all medicinal substances and preparations recognized by the 'United States Pharmacopoeia National Formulary,' issued by the United States Pharmacopoeial Convention (Rockville, Maryland) or by any revision of that publication. It also means all substances and preparations intended for external and internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal, and all substances and preparations, other than food, intended to affect the structure or any function of the body of man or other animal.

L. Emergency medical technician. "Emergency medical technician" means a person certified under 7 MCAR § 1.624 to provide basic life support service.

~~L.~~ M. Full operating condition and good repair. "Full operating condition and good repair" means a condition ~~whereby~~ in which all systems, parts, elements, and components are completely workable, operational, and reliable.

N. Intermediate emergency medical technician. "Intermediate emergency medical technician" means a person who is certified under 7 MCAR § 1.624 and 7 MCAR § 1.625 to provide basic life support service and who may, under the medical direction of a physician, perform advanced life support procedures using intravenous infusions, medical antishock trousers, and esophageal obturator airways.

O. Intravenous infusion. "Intravenous infusion" means the introduction of a fluid other than blood into a vein for fluid volume replacement only.

P. Intravenous therapy. "Intravenous therapy" means the establishment of an intravenous line and the administration of intravenous fluids and drugs.

~~M.~~ Q. Land ambulance. "Land ambulance" means an ambulance that is designed and manufactured to travel on land.

R. Medical adviser. "Medical adviser" means a physician who:

1. Provides advice on training and orientation of personnel;
2. Provides advice on upgrading and purchasing equipment;
3. Provides triage, treatment, and transporting protocols to assure that patients requiring care are transported to appropriate medical facilities; and
4. Helps to develop and operate an internal quality assurance mechanism that includes a review of services provided.

~~N.~~ S. Medical control. "Medical control" means the direction by ~~physicians~~ a physician of out-of-hospital emergency medical care ~~delivered by non-physicians~~ that is provided ~~directly on the scene or, through direct oral communication by radio or telephone; or indirectly through written patient triage, treatment, and transfer guidelines or protocols, and that includes the following:~~

1. ~~providing advice on training and orientation of personnel;~~
2. ~~providing advice on upgrading and purchasing equipment;~~
3. ~~prescribing and maintaining any standing orders;~~
4. ~~providing triage and transporting guidelines to assure that patients requiring care are transported to appropriate medical facilities for treatment; and~~
5. ~~assisting with the development and operation of an internal quality assurance mechanism that includes review of services provided.~~

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T. Medical director. "Medical director" has the following meanings:

1. "Medical director" means a physician who accepts responsibility for the quality of care provided by drivers and attendants of an advanced life support transportation service and who:

- a. Provides standards for training and orientation of personnel;
- b. Provides standards on upgrading and purchasing equipment;
- c. Prescribes any standing orders for the provision of life support care;
- d. Provides triage, treatment, and transporting protocols to assure that patients requiring care are transported to appropriate medical facilities;
- e. Assists with the development and operation of an internal quality assurance mechanism that includes a review of services provided;
- f. Provides written procedures for the storage and administration of drugs;
- g. Provides written standards for medical equipment and supplies used to provide advanced life support transportation services.

2. With respect to a basic life support transportation service that has been granted a variance to perform a restricted treatment or procedure listed in 7 MCAR § 1.606 B., "medical director" means a physician who accepts responsibility for the quality of care given in the course of providing the restricted treatment or procedure who provides:

- a. Standards for training and continuing education with respect to the restricted treatment or procedure for which the variance was granted;
- b. Standards for the purchase of medical equipment and supplies necessary for the restricted treatment or procedure;
- c. Standing orders for performing the restricted treatment or procedure; and
- d. Regular review of the quality of care provided under the variance.

~~Q.~~ U. Nonbreakable. "Nonbreakable" means not easily broken and not liable to be broken through normal use and minor abuse such as dropping.

~~P.~~ V. Osteopath. "Osteopath" means a person licensed to practice osteopathy pursuant to under Minn. Stat. §§ 148.11-148.16 prior to 1963 or licensed to practice medicine pursuant to under Minn. Stat. ch. 147.

W. Paramedic. "Paramedic" means a paramedic emergency medical technician certified under 7 MCAR § 1.626 to provide advanced life support service under the medical control of a physician.

X. Parenteral. "Parenteral" means not through the alimentary canal, but rather by injection, through some other route.

~~Q.~~ Y. Physician. "Physician" means a person licensed to practice medicine pursuant to under Minn. Stat. ch. 147.

Z. Program coordinator. "Program coordinator" means a person who serves as the administrator of an emergency care training program and who is responsible for the following:

1. Planning, conducting, and evaluating the program;
2. Selecting the students;
3. Selecting qualified instructors;
4. Documentation and maintaining of records;
5. Developing a curriculum; and
6. Helping to coordinate examination sessions and clinical training.

AA. Program medical director. "Program medical director" means a physician who accepts responsibility for the following elements of an emergency medical care training program:

1. Insuring an accurate and thorough presentation of the medical content of an emergency care training program;

2. Certifying that each student has successfully completed the training course; and

3. In conjunction with the program coordinator, planning the clinical training that takes place in the hospital and ambulance.

~~R.~~ BB. Registered nurse. "Registered nurse" means a person licensed to practice professional nursing ~~pursuant to~~ under Minn. Stat. ~~ch. 148~~ §§ 148.171-148.285.

~~S.~~ "Scheduled advanced life support transportation service" means an advanced life support transportation service that:

1. restricts the availability of its services to specified periods of time;
2. restricts the availability of its services to a specified group of people; or
3. restricts the type of services it provides to a specified medical category or categories.

~~T.~~ "Scheduled basic life support transportation service" means a basic life support transportation service that:

1. restricts the availability of its service to specified periods of time;
2. restricts the availability of its services to a specified group of people; or
3. restricts the type of services it provides to a specified medical category or categories.

~~U.~~ CC. Scheduled life support transportation service. "Scheduled life support transportation service" means basic or advanced life support transportation service that:

1. restricts the availability of its services to specified periods of time;
2. restricts the availability of its services or to a specified group of people; or
3. restricts the type of services it provides to a specified medical category or categories.

~~V.~~ DD. Single-service. "Single-service" means designed and manufactured to be used once and then disposed of, not to be reused.

~~W.~~ EE. Sterile. "Sterile" means ~~the state of being~~ free from microorganisms.

FF. Substation. "Substation" means the location from which ambulances and personnel operate to provide life support transportation service which is supplementary to that provided from the base of operation and which enables the licensee to serve all points in its primary service area in accordance with the requirements in 7 MCAR § 1.622.

~~X.~~ GG. Telemetry. "Telemetry" means the direct transmission of electronic signals indicating measurement of patient physiological ~~parameters~~ vital signs.

~~Y.~~ HH. Treatment. "Treatment" means the use of the skills or equipment required by ~~these rules~~ 7 MCAR §§ 1.601-1.630 for the management and care of an ill or injured person or of a pregnant woman for the purpose of combating disease, minimizing disability, preventing death, or preserving health.

II. Triage. "Triage" means the sorting out and classification of ill or injured persons to determine priority of need and place of treatment.

~~Z.~~ JJ. Variance. "Variance" means permission to comply in a manner other than that ~~generally~~ specified by 7 MCAR §§ 1.601-1.630.

~~AA.~~ KK. Waiver. "Waiver" means permission not to comply with 7 MCAR §§ 1.601-1.630.

#### 7 MCAR § 1.602 Applications for licensure.

##### A. Contents of all applications.

1. An application for license renewal, or for licensure of a new service, change in primary service area, change ~~in~~ of base of ~~operations~~ operation, or type of service provided ~~shall~~ must be made on a form provided by the commissioner and ~~shall~~ must include, at a minimum, the following categories of information to allow a determination of compliance with the requirements of Minn. Stat. §§ 144.801 ~~et seq.~~ -144.807 and to provide sufficient information for local and regional reviews as prescribed in Minn. Stat. § 144.802.

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- a. Identification, location, and pertinent telephone numbers for the proposed service and the name of the individual responsible for accuracy of the application;
- b. The ~~address~~ addresses of ~~all bases~~ the base of operation and substations;
- c. The names, addresses, and telephone numbers of ~~the following~~:
  - (1) the medical ~~advisor~~ adviser or medical director of the service; and
  - (2) the base hospital or affiliated medical facility, if any, for the service;
- d. The location of the communications base and a description of the communications equipment on the licensee's ambulances and at its communications base;
- e. ~~the type of action requested~~ (Whether the application is for a new license, license renewal, change in primary service area, change of base of operations, or change in type of service provided);
- f. The type and identification of ownership;
- g. The type and identification of the entity responsible for operation, if different from ownership;
- h. ~~a declaration of proposed primary service area according to the requirements of 7 MCAR § 1.608 F.;~~
- ~~i.~~ Back-up coverage, including reserve ambulance(s) ambulances owned by applicant, back-up services, and indication copies of signed mutual aid agreements with neighboring providers;
  - ~~j.~~ i. Other licensed providers in the primary service area;
  - ~~k.~~ j. A description of the population to be served;
  - ~~l.~~ k. Type of service to be licensed;
  - ~~m.~~ l. Actual past and estimated future utilization of the service;
  - ~~n.~~ m. Basic actual or estimated financial data, including:
    - (1) actual and in-kind revenue or income ~~(actual and in-kind)~~,
    - (2) actual or projected patient charges,
    - (3) sources of revenue by type, and
    - (4) actual and imputed expenses ~~(actual and imputed)~~ by category and projected capital costs and operating costs;
  - ~~o.~~ n. Qualifications of personnel, including:
    - (1) ~~numbers~~ number of and credentials of attendants and drivers; and
    - (2) names and addresses of key personnel; and
  - ~~p.~~ o. A listing and description of all ambulances to be used by the service if licensed;
2. ~~Applicants shall also furnish such other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.~~
3. ~~Applicants shall furnish or retain in file documentation of all statements made in application for licensure.~~
- B. ~~Contents of applications for license of new services, expansions of primary service area, and changes in base of operation or type of service.~~
  1. ~~An application for licensure of a new service or for a change in base of operation, primary service area, or type of service shall include, at a minimum, the following categories of information to allow for a determination of need for the proposed service by local units of government, local boards of health, and Health Systems Agencies, as prescribed in Minn. Stat. § 144.802, subd. 3, and to allow for a determination of the applicability of Minn. Stat. §§ 145.832-144.845, the Minnesota Certificate of Need Law:~~
    - ~~a.~~ p. A description of the any proposed new service, change in of base of operation, expansion of primary service area, or change in type of service;
    - ~~b.~~ q. A justification of the need for the any proposed new service or modification in service;
    - ~~c.~~ a description of the population to be served by the proposed new service or modified service;
    - ~~d.~~ r. A declaration of the proposed primary service area, including a description of the geographic features of the primary service area that have a direct bearing on the proposed service or modified service; and.

e. A statement of all costs associated with the new service, including any capital costs as defined in Minn. Stat. §§ 145.832-145.845, operating costs and projected patient charges for at least one year, and other related information.

2. Applicants shall ~~also~~ furnish ~~such~~ other information that may be needed by the commissioner to clarify incomplete or ambiguous information presented in the application.

3. Applicants shall retain in their files documentation of all statements made in applications for licensure.

~~C. B. Contents of applications for life support licensure by health care facilities subject to certificate of need review under Minn. Stat. §§ 145.832-145.845.~~

1. Applicants for life support licensure that are health care facilities as defined in Minn. Stat. § 145.833, subd. 2, shall submit sufficient information on the ~~forms~~ form described in ~~7 MCAR § 1.602 A. and B. above A.1.~~ to allow for a ~~determination of the commissioner to determine the need for review~~ for a certificate of need review as prescribed in Minn. Stat. § 145.834.

2. Applicants for life support licensure that are determined to be subject to certificate of need review by the commissioner shall provide ~~such~~ additional information as ~~may be~~ required by Minn. Stat. § 145.836; ~~such~~. The information ~~shall must~~ be submitted on forms provided by the commissioner and ~~shall must~~ meet all criteria specified in rule and statute for certificate of need applications.

~~7 MCAR § 1.603 Personnel standards for operation of;~~ basic life support transportation services.

~~A. Personnel.~~

~~1. Qualifications in general.~~

~~a. Except for persons functioning as pilots of air ambulances, no person shall may function as an attendant or driver or represent himself or herself as an attendant or driver of a basic life support transportation service (BLS) ambulance unless that person:~~

~~(1) 1. Possesses a current American Red Cross advanced first aid certificate; or~~

~~(2) 2. Until two years after the effective date of 7 MCAR §§ 1.601-1.630, possesses a current emergency care certificate issued by the commissioner pursuant to under Minn. Stat. § 214.13; or~~

~~(3) Possesses a current emergency care certificate that complies with the provisions of 7 MCAR § 1.609; or~~

~~(4) Meets the qualifications of 7 MCAR § 1.604 A. for an advanced life support transportation service ambulance.~~

~~b. The requirement set forth in 7 MCAR § 1.603 A.1.a. shall not apply to persons functioning as pilots of air ambulances.~~

~~3. Possesses a current certificate issued under 7 MCAR § 1.624, 7 MCAR § 1.625, or 7 MCAR § 1.626.~~

~~B. Air ambulance attendants. No person may act as an attendant of a basic life support air ambulance unless that person:~~

~~1. Possess a current certificate issued under 7 MCAR § 1.624, 7 MCAR § 1.625, or 7 MCAR § 1.626; and~~

~~2. Has received training approved by the licensee's medical adviser which includes instruction in the physiological changes due to decreased atmospheric pressure, acceleration, vibration, and changes in altitude; instructions in the medical conditions requiring special precautions; and contra indications to air transport. The medical adviser must sign and file with the licensee, a statement that each attendant has successfully completed such training.~~

~~2. 7 MCAR § 1.604 Staffing standards; basic life support transportation services.~~

~~a. A. Attendants; drivers. Each BLS basic life support transportation service licensee shall employ or otherwise have on its staff a minimum of five persons qualified under 7 MCAR § 1.603 A.1.a. and shall maintain:~~

~~(1) 1. A current roster, including the name, address, and qualification of such those persons; and~~

~~(2) 2. Files documenting personnel qualifications.~~

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~~b-~~ B. Medical adviser. Each licensee that operates air ambulances and by July 1, 1985, each licensee that operates land ambulances shall have a physician medical adviser responsible for at least: adviser.

- (1) Providing advice on training and orientation of personnel;
- (2) Providing advice on upgrading and purchasing equipment;
- (3) Prescribing and maintaining any standing orders;
- (4) Providing triage and transporting guidelines to assure that patients requiring care are transported to appropriate medical facilities for treatment; and
- (5) ~~Assisting with the development and operation of an internal quality assurance mechanism that shall include review of services provided.~~

~~e-~~ C. File documents. The licensee shall maintain in its files the name and address of the medical adviser ~~adviser~~ and a written statement signed by the medical adviser ~~adviser~~ indicating his or her acceptance of the responsibilities as specified defined in 7 MCAR § 1.601 R. 7 MCAR § 1.603 A.2.b. shall be maintained in the files of the licensee.

~~d-~~ If a life support transportation service finds it impossible to arrange for an attendant to accompany a driver in responding to a medical emergency, the driver may proceed to the site of the emergency and transport the patient to a health care facility without an accompanying attendant, provided that the service shall:

- (1) make all reasonable efforts to arrange for an attendant to be present at the site of the emergency and enroute to a health care facility;
- (2) document each case in which it was impossible to arrange for an attendant to be present at the site of the emergency and to accompany the driver during transport of the patient (such documentation shall include an explanation of what reasonable efforts were made to arrange for an attendant to be present); and
- (3) maintain such documentation in its files.

~~3-~~ D. Operational requirement. An attendant shall be in the patient compartment while transporting a patient or patients except as allowed by Minn. Stat. § 144.804, subd. 2. If a life support transportation service finds it impossible to arrange for an attendant to accompany a driver in responding to a medical emergency, the driver may proceed to the site of the emergency and transport the patient to a health care facility without an accompanying attendant. Under these conditions the service shall:

1. Make all reasonable efforts to arrange for an attendant to be present at the site of the emergency and en route to a health care facility;
2. Document each case in which it was impossible to arrange for an attendant to be present at the site of the emergency and to accompany the driver during transport of the patient and explain what reasonable efforts were made to arrange for an attendant to be present; and
3. Maintain this documentation in its files.

### 7 MCAR § 1.605 Quality of life support treatment.

A. Quality control. Each licensee shall:

1. Assure that attendants and drivers that it employs or has on its staff have current certificates issued by the commissioner or an American Red Cross advanced first aid certificate;
2. Assure that its attendants and drivers use only equipment that they are trained to use; and
3. Assure that its attendants and drivers provide care that conforms to the general standard of care expected of persons who are trained and certified as those attendants and drivers are trained and certified.

B. Complaints. Each licensee shall establish and implement a procedure for responding to complaints about its life support transportation service.

### 7 MCAR § 1.606 Restricted treatments and procedures.

A. Restricted treatments and procedures. Basic life support transportation services may use medical antishock trousers only as allowed under 7 MCAR § 1.607 B.

B. Restrictions. Except as authorized under 7 MCAR § 1.630 D., basic life support transportation services may not offer or provide the following:

1. Use of an esophageal obturator airway;
2. Use of a cardiac monitor or defibrillator;
3. Establishment or maintenance of intravenous lines or administration of intravenous infusions; and
4. Transfer of patients for whom maintenance of intravenous therapy is required.

C. Prohibitions. Basic life support transportation services may not administer drugs other than oxygen, syrup of ipecac, and nonprescription drugs.

**E-7 MCAR § 1.607 Equipment standards; basic life support transportation services.**

**A. Minimum equipment standards.**

~~a.~~ All ambulances ~~shall~~ must carry equipment that complies with the following standards:

~~(1)~~ 1. They must carry splinting equipment that ~~shall include~~ includes:

~~(a)~~ a. One lower-extremity traction splint; fashioned so as to permit determination of distal pulse, sensitivity, and range of movement after the application of the splint;

~~(b)~~ b. Fixation splints for fractures of both legs and both arms; and

~~(c)~~ c. One short and one long backboard with head immobilization gear and patient fixation straps;

~~(2)~~ 2. They must carry ventilation assistance and airway maintenance equipment that ~~shall include~~ includes:

~~(a)~~ a. One portable oxygen system complying with the following specifications:

~~(i)~~ (1) High-pressure tank regulated to 50 ~~psi~~ pounds per square inch at flowmeter;

~~(ii)~~ (2) Calibrated to deliver to the patient two to 15 liters of oxygen per minute;

~~(iii)~~ (3) Minimum of 20 minutes supply at a rate of 15 liters per minute;

~~(iv)~~ (4) Single service tubing from regulator valve outlet to patient, except for oxygen-powered, manually-cycled valves;

~~(v)~~ Single service nasal cannula and single-service inhalation mask (5) Equipment for the administration of low concentrations of oxygen that consists of either one venturi-type face mask capable of a minimum flow of 24 percent oxygen or one single-service nasal cannula;

~~(vi)~~ One each of infant, child and adult masks for administration of oxygen at a concentration of at least 40% (6) Equipment for the administration of high concentrations of oxygen that consists of one each of pediatric and adult partial rebreather or non-rebreather face masks; and

~~(vii)~~ (7) Capability for use as an oxygen source as described in 7 MCAR § 1.603 B.1.a. (2)(e) below c.;

~~(b)~~ b. One oxygen system for use in the ambulance that complies with 7 MCAR § 1.603 B.1.a. (2)(a)(i), (ii), (iv)-(vii); such a system shall be a.(1), a.(2), and a.(4)-(7) and that is capable of delivering a minimum of 60 minutes supply at a rate of 15 liters per minute and a minimum of 30 minutes uninterrupted supply;

~~(c)~~ c. One ~~each~~ clear-domed mask for infant, child, and adult patients with a 15/22 ~~mm~~ millimeter adapter and oxygen inlet port for mouth-to-mouth or mechanical-device mask ventilation; or one each of infant, child, and adult masks with an oxygen-powered manually cycled valve connected to an oxygen source capable of delivering a minimum of 30 minutes oxygen supply at 15 liters per minute;

~~(d)~~ d. Portable suction apparatus with catheter or oral suction equipment that ~~shall~~:

~~(i)~~ Use (1) Uses a nonbreakable bottle for collection of the aspirated material, and

~~(ii)~~ Be (2) Is capable of producing a vacuum of 150 ~~mmHg~~ millimeters of mercury with an air flow of 15 liters per minute for a period of at least five minutes; ~~except that if the power source is oxygen, this requirement shall be~~ is in addition to the time requirement for the administration of oxygen to the patient); and

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- (e) ~~e.~~ One ~~each~~ set of oropharyngeal airways suitable in use in adult, child, and infant sizes; patients.
- (3) ~~3.~~ They must carry dressings, bandages, and bandaging equipment that ~~shall include~~ includes, at a minimum:
- (a) ~~a.~~ Two universal or multitrauma dressings approximately ten inches by 30 inches;
  - (b) ~~b.~~ Twelve sterile gauze pads or twelve sterile abdominal pad dressings;
  - (c) ~~c.~~ Two rolls of adhesive tape three-quarters of an inch to three inches wide;
  - (d) ~~d.~~ Six soft rolled bandages, approximately three to six inches wide and five yards long; and
  - (e) ~~bandage~~ e. Blunt tip shears; capable of cutting through heavy clothing.
- (4) ~~4.~~ They must carry one poison-treatment kit that ~~shall include~~ includes:
- (a) ~~a.~~ two ounces of syrup of ipecac; and
  - (b) ~~b.~~ one quart drinking water liquid in a nonbreakable container;.
- (5) ~~5.~~ They must carry one emergency obstetric kit that ~~shall include~~ includes:
- (a) ~~a.~~ Three sterile towels and two sterile drapes;
  - (b) ~~b.~~ Bulb syringe;
  - (c) ~~c.~~ Four sterile pads or sterile sanitary napkins;
  - (d) ~~d.~~ Plastic bag or basin;
  - (e) ~~e.~~ Two sterile cord clamps or ties;
  - (f) ~~f.~~ One 18-inch by 25-foot roll of aluminum foil in an unopened original package or one ~~aluminum~~ reflective blanket, either of which must be sterile clean and wrapped, or a clean blanket designed for keeping premature infants warm;
  - (g) ~~g.~~ Sterile shears or scalpel; and
  - (h) ~~h.~~ Single service sterile gloves;.
- (6) ~~6.~~ They must carry equipment for determination of vital signs that ~~shall include~~ includes:
- (a) ~~a.~~ one stethoscope, and
  - (b) ~~b.~~ one sphygmomanometer with cuffs for use with child and adult patients;.
- (7) ~~7.~~ They must carry a detailed current map for use in locating all points in the primary service area;.
- (8) ~~8.~~ They must carry extrication equipment that ~~shall include~~ includes either one ~~twenty-four~~ 24-inch wrecking bar or a commercial extrication device (~~KT tool or similar device~~); and.
- (9) ~~9.~~ They must carry other equipment that ~~shall include~~ includes:
- (a) ~~a.~~ One stretcher 72 to 84 inches long and 18 to 24 inches wide;
  - (b) ~~b.~~ Two sheets, two blankets, and one pillow;
  - (c) ~~c.~~ Emesis container;
  - (d) ~~d.~~ One flashlight; ~~and~~
  - (e) ~~e.~~ One fire extinguisher, five-pound dry-chemical type with A:B:C rating; and
  - f. Three bidirectional reflective triangles or three flares.

~~b. Inflatable~~ B. Authorization for use of medical antishock trousers. Medical antishock trousers may be carried and used by BLS basic life support transportation services only if:

(1) ~~all~~ 1. Attendants and drivers who will use the equipment have been trained in ~~their~~ its use and are certified under 7 MCAR § 1.624;

(2) ~~2.~~ Use of such equipment has been authorized by the licensee's medical ~~advisor~~ adviser; and

(3) ~~3.~~ Documentation of (1) 1. and (2) 2. is retained in the licensee's files.

C. Variance for certain personnel. Basic life support transportation service licensees that use drivers and attendants who possess only an American Red Cross advanced first aid certificate must obtain a variance in the manner required in 7 MCAR § 1.630 D.1. to authorize those drivers and attendants to use equipment listed in A. for which no training was provided in the advanced first aid course.

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~~e.~~ D. Equipment storage. All equipment carried by in an ambulance ~~shall~~ must be stored so that the patient, attendant, and ~~for~~ driver are not injured or ~~otherwise interfered with~~ inconvenienced in the event of a sudden stop or movement of the ambulance during transport.

~~d.~~ All equipment required by ~~7 MCAR § 1.603 B.1.a.~~ shall A. must be permanently stored and kept on or in the ambulance unless otherwise provided for in ~~7 MCAR § 1.603 B.2.~~ E.

~~2.~~ E. Air ambulance equipment.

~~a.~~ 1. Air ambulances licensed to provide basic life support transportation service ~~shall~~ must carry all equipment listed in ~~7 MCAR § 1.603 B.1.a.~~ A. with the exception of the equipment in ~~7 MCAR § 1.603 B.1.a.(8) and (9)(e)~~ A.8. and A.9.e. and A.9.f.

~~b.~~ 2. Life support transportation services provided by air ambulances ~~shall~~ must comply with the regulations of the Federal Aviation Administration and the rules of the Minnesota Department of Transportation, Aeronautics Division.

~~e.~~ 3. Equipment required in ~~7 MCAR § 1.603 B.2.a.~~ 1. that is not permanently stored on or in an air ambulance ~~shall~~ must be kept separate from the air ambulance in a modular prepackaged form so as to be available for rapid loading and easy access aboard the aircraft at the time of response to a call.

~~3.~~ F. Maintenance and sanitation, and testing.

~~a.~~ 1. All equipment ~~shall~~ must be maintained in full operating condition and in good repair.

~~b.~~ 2. All equipment and containers used for storage of equipment ~~shall~~ must be kept clean so as to be free from dirt, grease, and other offensive matter.

~~e.~~ 3. Sheets and pillowcases ~~shall~~ must be changed after each use.

~~d.~~ 4. Single-service equipment ~~shall~~ must be wrapped, stored, and handled so as to prevent contamination and ~~shall~~ must be disposed of after use.

~~e.~~ 5. Reusable equipment ~~shall~~ must be cleaned after each use so as to be free from dirt, grease, and other offensive matter.

~~f.~~ 6. Equipment, soiled or otherwise not free from dirt, grease, and other offensive matter, ~~shall~~ must be kept in plastic bags or securely covered containers until disposed of or prepared for reuse.

~~g.~~ 7. Procedures for the periodic performance testing of mechanical equipment listed in ~~7 MCAR § 1.603 B.1.a.(2) A.2. and (6)(b)~~ shall A.6.b. must be developed, maintained, and followed; and records of such performance testing ~~shall~~ must be kept in the licensee's files. Testing must occur at the intervals suggests by the manufacturer of the equipment.

~~C.~~ 7 MCAR § 1.608 Ambulance standards.

~~1.~~ A. Land ambulances.

~~a.~~ 1. All new land ambulances purchased by a licensee after June 30, 1981, ~~shall~~ must comply with the following standards:

(~~1~~) a. The size of the patient compartment ~~shall~~ must be a minimum of 116 inches long and ~~54~~ 52 inches high from (floor to ceiling) and ~~shall~~ must provide in width:

(~~a~~) not less than 69 inches (wall to wall); or

(~~b~~) attendant walkway ~~and kneeling space that shall consist of:~~

(~~i~~) not less than 12 inches ~~of clear walkway~~ between the stretcher and fixed bench and between stretchers; ~~and.~~

(~~ii~~) not less than 25 inches width and 9 inches height of kneeling space for attendants along the right hand side of the forward half of the primary stretcher, measured at floor level from the forward right hand corner of the primary stretcher;

(~~2~~) b. The door openings to the patient compartment ~~shall~~ must be a minimum of 30 inches wide and 42 inches high

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and the doors to the patient compartment must be operable from inside the ambulance; and must be capable of being fully opened and held open by a mechanical device.

(3) c. The interior storage areas ~~shall~~ must provide a minimum of 30 cubic feet of storage space to accommodate all required equipment and other equipment carried and ~~shall~~ must be located ~~so as to provide for~~ easy access to all equipment;.

(4) d. The interior lighting in the patient compartment ~~shall~~ must include overhead or dome lighting ~~and~~, be designed so that no glare can be reflected to the driver's line of vision while the ambulance is transporting the patient; ~~illumination shall and provide a minimum intensity of 40 foot candles at the floor level to allow illumination for administering life support services;~~ sufficient lighting to allow visual determination of patient vital signs.

(5) e. Environmental equipment ~~shall~~ must include a heater for the patient compartment that ~~shall have~~ has a minimum output of 21,000 BTUs; ~~and BTU.~~

(6) f. The ambulance ~~shall~~ must:

(a) (1) Have an overall height, including roof-mounted equipment except for radio antenna, of 110 inches or less;.

(b) (2) Have fuel capacity to provide no less than 175 miles range;

(c) (3) Have ground clearance of at least six inches when loaded to ~~C.V.W.~~ gross vehicle weight rating; and

(d) (4) Be capable of full performance at ambient temperatures of minus 30 degrees F. ~~Fahrenheit~~ to +25 110 degrees F. ~~Fahrenheit~~.

g. The ambulance must be marked to show the name of the service as shown in the current license issued by the commissioner, in letters not less than three inches in height and in a position and color to allow identification of the service from the sides and rear of the vehicle.

b. 2. Land ambulances that comply with the standards issued by the Department of Transportation General Services Administration in Federal Specifications KKK-1822 for Ambulance Specification KKK-A-1822 A for Emergency Medical Care Surface Vehicle (dated January 2, 1974 and amended June 25, 1975), dated April 1, 1980 with the exception of sections 3.14, 3.15, and 3.16 are deemed to comply with the standards contained in ~~this section~~ 1., 3., and 4.

e. 3. All ambulances ~~purchased by a licensee~~ originally put into service by the licensee on or before June 30, 1981, ~~shall~~ and all ambulances other than land or air ambulances must substantially comply with the standards contained in ~~this section~~ 1. as determined by the commissioner according to the following considerations:

(1) a. Size of the patient compartment ~~to must~~ must allow adequate space for administering life support services;

(2) b. Dimensions of door openings to the patient compartment and the operation of the doors to the patient compartment ~~to must~~ must allow ~~for~~ easy access;

(3) c. Design and location of interior storage areas ~~to must~~ must allow ~~for~~ adequate storage and easy access;

(4) d. Design and operation of interior lighting in the patient compartment ~~to allow~~ must provide adequate illumination for administering life support services;

(5) e. Design and operation of environmental equipment ~~to allow for~~ must provide proper heating; and

(6) f. Design, operation, and suspension ~~to allow for~~ must provide safe and stable transport.

4. All land ambulances must be equipped with a siren capable of emitting sound that is audible under normal conditions from a distance of not less than 500 feet and at least one light capable of displaying red light that is visible under normal atmospheric conditions from a distance of 500 feet from the front of the ambulance.

### 2- B. Air ambulances.

a. Life support transportation services provided by air ambulances shall must comply with the regulations of the Federal Aviation Administration and the rules of the Minnesota Department of Transportation, Aeronautics Division.

### 3. Standards for ambulances other than land or air ambulances.

a. ~~Ambulances other than land or air ambulances shall substantially comply with 7 MCAR § 1.603 C.1.a. as determined by the commissioner according to the consideration set forth in 7 MCAR § 1.603 C.1.e.(1) (6).~~

### 4. C. Restraining devices.

a. All ambulances ~~shall~~ must be equipped with restraining devices for the stretcher and all seating places in the patient compartment for patient and attendant.

~~5.~~ D. Maintenance and sanitation.

~~a.~~ 1. Each ambulance ~~shall~~ must be maintained in full operating condition and in good repair and documentation of such maintenance ~~shall~~ must be kept in the licensee's file.

~~b.~~ 2. The interior of the ambulance, including all storage areas, ~~shall~~ must be kept clean so as to be free from dirt, grease, and other offensive matter.

~~c.~~ 3. If an ambulance has been used to transport a patient who is known or should be known by the attendant or driver to have a transmissible infection or contagious disease (, other than a common cold), liable to be transmitted from person to person through exposure or contact, surfaces in the interior of the ambulance and surfaces of equipment and materials that come in contact with such patient ~~shall~~ must, immediately after each use, be cleaned so as to be free from dirt, grease, and other offensive matter and be disinfected or disposed in a secure container so as to prevent the presence of a level of microbiologic agents injurious to health.

4. Smoking in any portion of the ambulance is prohibited.

~~D.~~ 7 MCAR § 1.609 Communications.

~~1.~~ Compliance. All BLS services shall comply with these communication standards by June 30, 1981.

~~2.~~ A. Standards and radio frequency assignments.

~~a.~~ 1. Ambulances ~~shall~~ must have a two-way Very High Frequency (VHF) mobile radio, with Continuous Tone Coded Squelch System (CTCSS), capable of operating on at least two VHF high-band radio-frequency (~~r-f~~) channels.

~~b.~~ 2. Each BLS basic life support transportation service ~~shall~~ must have the capability of using a communications base that has a two-way VHF base radio, with CTCSS capable of operating on at least two VHF high-band ~~r-f~~ radio-frequency channels.

~~c.~~ Ambulances and their communication bases shall use Channel One of the mobile and base radios as the main operating channel for medical communications as provided in 7 MCAR § 1.603 D.2.d. and shall use Channel Two for statewide communications.

~~d.~~ 3. Ambulances and communications bases ~~shall~~ must select and operate Channel One one channel at the radio frequency assigned to the district within which the communications base is located, as follows:

~~(1) Agassiz~~ a. Northwestern district (Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Pennington, Red Lake, Clearwater, Hubbard, Norman, and Mahnomen Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.325 MHz megahertz (MHz);

~~(2) Arrowhead~~ b. Northeastern district (Koochiching, St. Louis, Lake, Cook, Itasca, Carlton, and Aitkin Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.355 MHz;

~~(3) Min Dak~~ c. West central district (Clay, Becker, Wilkin, Ottertail, Grant, Douglas, Stevens, Traverse, and Pope Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.355 MHz;

~~(4) d.~~ Central district (Cass, Wadena, Crow Wing, Todd, Mille Lacs, Isanti, Pine, Chisago, Kanabec, Morrison, Stearns, Benton, Sherburne, and Wright Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.385 MHz;

~~(5) Southwest~~ e. Southwestern district (Swift, Kandiyohi, Meeker, Lac qui Parle, Chippewa, Yellow Medicine, Renville, McLeod, Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, Big Stone, and Jackson Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.400 MHz;

~~(6) f.~~ South central district (Sibley, LeSueur, Nicollet, Brown, Watonwan, Blue Earth, Waseca, Martin, and Faribault Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.355 MHz;

~~(7) g.~~ Southeastern district (Rice, Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston Counties) ~~shall have Channel One r-f~~ has one channel radio frequency of 155.385 MHz; and

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(8) h. Metropolitan district (Anoka, Hennepin, Ramsey, Washington, Carver, Scott, and Dakota Counties) ~~shall have Channel One~~ shall have one channel radio frequency of 155.325 MHz.

~~e.~~ 4. The CTCSS tone operation on ~~Channel One~~ of the channel assigned to the district frequency on the mobile radio ~~shall~~ must be the same as the CTCSS tone operation of the base radio for that channel and frequency.

~~f.~~ 5. Ambulances and communications bases ~~shall~~ must operate ~~Channel Two~~ one channel assigned to the national frequency at ~~an~~ a radio frequency of 155.340 MHz and ~~shall~~ must use a CTCSS tone of 210.7 Hz for that ~~channel two.~~

6. Each channel must be labeled to show use.

7. The base station or other receiving site must be configured to receive the CTCSS tone of 210.7 Hz for operation of its speaker, but must not transmit the tone. The receiver must be operated with a digital dial decoder that bypasses the tone circuit for base to base communications on 155.340 MHz.

8. The ambulance radio must be configured to transmit the CTCSS tone of 210.7 Hz on 155.340 MHz radio frequency, and the radio must be connected in a manner that allows operation of the speaker system without reception of the tone.

~~g.~~ 9. Ambulances and communications bases ~~shall~~ may communicate by telephone and ~~other alternative~~ other means of communication ~~rather other~~ than radio ~~communications~~ communications when radio communications are not necessary ~~and when readily available.~~

~~h.~~ 10. Mobile telephone services ~~shall~~ are not be acceptable as an alternative to the required two-way radio operation.

3. B. Equipment performance. All communications equipment ~~shall~~ must be capable of transmitting and receiving clear and understandable voice communications to and from the licensee's communications base and all points within the licensee's primary service area.

4. C. Equipment maintenance. All communication equipment ~~shall~~ must be maintained in full operating condition and in good repair, ~~and documentation of such maintenance shall be kept in the licensee's file.~~

7 MCAR § 1.604 1.610 Personnel standards for operation of; advanced life support transportation services.

A. Personnel.

1. ~~Qualifications and training requirements.~~

~~a.~~ Qualifications of attendants. Except for persons functioning as pilots of air ambulances, no person ~~shall~~ may function as an attendant or represent himself ~~or herself~~ as an attendant of an advanced life support transportation service (ALS) ambulance unless that person:

(1) ~~is registered by the commissioner pursuant to Minn. Stat. § 214.13 to provide paramedic services; or~~

(2) ~~has successfully completed the written examination and the practical examination approved by the commissioner according to the provisions of 7 MCAR § 1.604 A.2. and fulfills the continuing education requirements set forth in 7 MCAR § 1.604 A.3 possesses a current certificate issued under 7 MCAR § 1.626.~~

~~b.~~ B. Qualifications of drivers. Except for persons functioning as pilots of air ambulances, no person ~~shall~~ may function as a driver or represent himself ~~or herself~~ as a driver of an ALS advanced life support transportation service ambulance unless that person:

~~(1) possesses a current emergency care certificate issued by the commissioner pursuant to Minn. Stat. § 214.13, or~~

(2) possesses a current ~~emergency care~~ emergency certificate ~~that complies with the provisions of~~ issued under 7 MCAR § 1.609; 1.604, 7 MCAR § 1.625, or 7 MCAR § 1.626.

(3) Meets the requirements of 7 MCAR § 1.604 A.1.a.

~~e.~~ The requirement set forth in 7 MCAR § 1.604 A.1.b. ~~shall not apply to persons functioning as pilots of air ambulances.~~

2. Written and practical examinations.

~~a.~~ A written examination for attendants of ALS ambulances shall test for competency in the subject areas identified below in order to be approved by the commissioner.

(1) role, responsibilities and training of paramedics;

(2) human systems and patient assessment;

(3) shock and fluid therapy;

- (4) general pharmacology;
- (5) respiratory system;
- (6) cardiovascular system;
- (7) central nervous system;
- (8) soft tissue injuries;
- (9) musculoskeletal system;
- (10) medical emergencies;
- (11) obstetric/gynecological emergencies;
- (12) pediatrics and neonatal;
- (13) management of the emotionally disturbed patient;
- (14) rescue techniques; and
- (15) telemetry and communications.

b. A practical examination for attendants of ALS ambulances shall test for competency in the subject areas identified below in order to be approved by the commissioner.

- (1) trauma management including primary and secondary assessment; treating of trauma victims and setting priorities for BLS and ALS management;
- (2) cardiology including electrocardiogram interpretation and treatment and related questions;
- (3) cardiac arrest, including intubation, intravenous therapy, administration of intravenous medication, and defibrillation;
- (4) cardiopulmonary resuscitation (CPR) including one- and two-person CPR, obstructed airway care, and infant resuscitation; and
- (5) fracture immobilization.

e. Examiners for practical examinations shall be physicians or nurses with the exception that persons who qualify as attendants under 7 MCAR § 1.604 A.1.a. or drivers under 7 MCAR § 1.604 A.1.b. may serve as examiners for the competencies specified in 7 MCAR § 1.604 A.2.b.(4) or (5).

d. Written and practical examinations shall be administered by the commissioner or by a designated representative.

e. The National Registry of Emergency Medical Technicians Examination for Emergency Medical Technician-Paramedics as of the effective date of these rules is deemed to comply with 7 MCAR § 1.604 A.2.a.-c.

### 3. Continuing education requirements.

a. Continuing education requirements for persons qualifying as ALS ambulance attendants pursuant to 7 MCAR § 1.604 A.1.a.(2) are as follows:

- (1) successful completion every two years of 48 hours of refresher training in the subject areas listed in 7 MCAR § 1.604 A.2.a.(1)-(15);
- (2) successful completion every year of a course in CPR, up to four hours of a course of such instruction, if successfully completed, may be applied or partial fulfillment of the 48 hours required every two years;
- (3) successful completion every two years of instruction in advanced cardiac life support; up to sixteen hours of a course or such instruction, if successfully completed, may be applied as partial fulfillment of the 48 hours required every two years; and
- (4) retention of the competencies listed in 7 MCAR § 1.604 A.2.b.(1)-(5) as documented in a statement of satisfaction by the medical director.

b. Continuing education courses taken to fulfill the requirements of 7 MCAR § 1.604 A.3.a. shall be approved in writing by the licensee's physician medical director; documentation of such approval shall be maintained in the licensee's file.

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~~e. Successful completion of the National Registry of EMT Paramedics continuing education requirements for EMT Paramedic re-registration shall be deemed to be complete fulfillment of the continuing education requirements set forth in 7 MCAR § 1.604 A.3.a.~~

~~4. Issuance of certificates.~~

~~a. Persons successfully completing the written and practical examinations approved by the commissioner pursuant to 7 MCAR § 1.604 A.2. shall be issued a certificate by the commissioner or a designated representative.~~

~~b. The certificate shall remain valid for two years from the date of issuance. The certificate may be renewed after each successful completion of the continuing education requirements specified in 7 MCAR § 1.604 A.3. and only for periods of two years.~~

C. Qualifications; air ambulance personnel. The licensee shall maintain in its files documentation that each person who works as an attendant of an advanced life support air ambulance:

1. Complies with A.; and

2. Has received training approved by the licensee's medical director which includes instruction in the physiological changes due to decreased atmospheric pressure, acceleration, vibration, and changes in altitude; instructions in the medical conditions requiring special precautions; and contraindications to air transport. The medical director must sign and file with the licensee, a statement that each attendant has successfully completed such training.

5. 7 MCAR § 1.611 Staffing requirements standards; advanced life support transportation services.

~~a. A. Attendants; drivers. Each ALS advanced life support transportation service shall employ or have on its staff a minimum of:~~

~~(1) 1. Five persons meeting the qualifications of attendants set forth in qualified under 7 MCAR § 1.604 1.610 A.1.a.;~~  
~~or~~

~~(2) 2. Three persons meeting the qualifications of attendants set forth in 7 MCAR § 1.604 1.610 A.1.a. and three persons meeting the qualifications of drivers set forth in 7 MCAR § 1.604 A.1.b. 1.610 B.~~

~~b. In addition, each ALS service shall maintain:~~

~~(1) A current roster, including the names and addresses of all current attendants and drivers, and~~

~~(2) Files documenting current personnel qualifications.~~

~~e. B. Medical director. Each licensee shall have a physician medical director responsible for at least the responsibilities set forth in 7 MCAR § 1.603 A.2.b.(1)-(5). The medical director must have completed training in advanced cardiac life support that includes training in the following elements:~~

1. Basic cardiac life support;

2. Use of adjunctive equipment and special techniques for establishing and maintaining effective ventilation and circulation;

3. Cardiac monitoring and dysrhythmia recognition;

4. Establishing and maintaining an intravenous infusion line;

5. Employment of therapy in the treatment of the patient with suspected or overt acute myocardial infarction during cardiac arrest, dysrhythmia and in the postarrest phase; and

6. Use of drugs and defibrillation.

The advanced cardiac life support training course must be approved by the commissioner.

C. Roster; files. Each advanced life support transportation service licensee shall maintain:

1. A current roster, including the name, address, and qualifications of each attendant and driver;

2. Files documenting personnel qualifications; and

3. A written statement signed by the medical director stating acceptance of the responsibilities of medical director.

~~d. D. Operational requirement. The staffing requirements for BLS services as set forth in 7 MCAR § 1.603 A.2.e. d. shall be applicable 1.604 D. apply to ALS advanced life support transportation services.~~

~~e.~~ E. Affiliation with medical facility. Each ~~ALS~~ advanced life support transportation service ~~shall~~ must have a formal affiliation with a medical facility ~~capable of providing~~ which agrees to provide medical control for patient care by means of immediate two-way voice communication 24 hours a day, seven days a week. The name and address of the affiliated medical facility and a statement signed by the administrator of the medical facility and the medical director of the ~~ALS~~ advanced life support transportation service documenting the terms of the formal affiliation ~~shall~~ must be maintained in the files of the licensee. The terms of the formal affiliation must include a written policy on the administration of medical control for the service. The policy must address the following issues:

1. Use of telemetry and two-way radio for physician direction of attendants;
2. Patient triage;
3. Use of standing orders; and
4. The means by which medical control will be provided 24 hours a day.

~~6. Operational requirement.~~ An attendant ~~shall be in the patient compartment while transporting a patient or patients except as allowed by Minn. Stat. § 144.804, subd. 2.~~

7 MCAR § 1.612 Quality of life support treatment. The quality assurance requirements set forth in 7 MCAR § 1.605 apply to advanced life support transportation services.

~~B.~~ 7 MCAR § 1.613 Equipment standards; advanced life support transportation services.

~~1.~~ Minimum standards.

~~a.~~ A. Basic life support transportation standards transferred. Equipment standards for ~~BLS~~ ambulances set forth in 7 MCAR § ~~1.603 B.1.a. through B.2.e.~~ shall be 1.607 A. and D.-F. are applicable to ~~ALS~~ advanced life support transportation service ambulances.

~~b.~~ B. Additional equipment. In addition to compliance with the equipment standards in ~~7 MCAR § 1.604 B.1.a.~~ A., all ~~ALS~~ advanced life support transportation service ambulances ~~shall be required to have~~ must carry the following equipment:

- ~~(1)~~ 1. Advanced cardiac care equipment that ~~shall include~~ includes one portable ~~cardioscope~~ cardiac monitor and defibrillator;
- ~~(2)~~ 2. Airway maintenance equipment that ~~shall include~~ includes one esophageal obturator airway;
- ~~(3)~~ 3. Equipment for intravenous therapy and the administration of intravenous ~~medication~~ fluids;
- ~~(4)~~ Medications 4. Drugs and ~~medication~~ drug administration equipment and supplies; and
- ~~(5)~~ 5. One set ~~inflatable~~ of medical antishock trousers.
6. The portable oxygen system which is required under A. must be equipped with an oxygen-powered, manually-cycled valve and must provide a minimum of 30 minutes continuous supply at a rate of 15 liters per minute when used with an oxygen-powered, manually-cycled valve.

~~c.~~ C. Documentation of use. All equipment or supplies ~~specified in 7 MCAR § 1.604B.1.b.(3) and (4) required under B.3. and B.4. and any additional equipment and supplies used to provide advanced life support shall~~ must be specified in writing by the medical director and documented in the licensee's files.

~~d.~~ Medications shall be securely stored according to written procedures developed and maintained by the licensee's medical director and shall comply with applicable rules of the Minnesota Board of Pharmacy.

~~2.~~ D. Maintenance and, sanitation, and testing.

~~a.~~ The maintenance ~~and~~, sanitation, and testing requirements for ~~BLS~~ services set forth in 7 MCAR § ~~1.603 B.3.a. b.~~ shall be applicable 1.607 F. apply to ~~ALS~~ advanced life support transportation services.

~~b.~~ Procedures for the periodic performance testing of airway maintenance and electronic equipment shall be developed, maintained and followed, and records of such testing shall be kept in the licensee's files.

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~~C. 7 MCAR § 1.614 Compliance with ambulance standards. All ALS advanced life support transportation service ambulances shall must~~ comply with 7 MCAR § ~~1.603~~ 1.608.

~~D. 7 MCAR § 1.615 Communications.~~

~~1. Compliance. All ALS services shall comply with these communication standards by June 30, 1981.~~

~~2. A. Standards and radio frequency assignments.~~

~~a. 1. Each ALS advanced life support transportation service shall must~~ have the capability of using a communications base that complies with the provisions of 7 MCAR § ~~1.604~~ D.2.b. c 2. or 3.

~~b. 2. Ambulances and their communications bases that operate telemetry shall must~~ have:

~~(1) a. One two-way Ultra High Frequency (UHF) radio, with CTCSS Continuous Tone Coded Squelch System (CTCSS), capable of operating on ten UHF voice and telemetry radio-frequency channels; or~~

~~(2) b. One two-way UHF radio, with CTCSS, capable of operating on eight UHF voice and telemetry channels and one UHF or one VHF radio, with CTCSS, capable of operating on two dispatching radio-frequency channels.~~

~~c. 3. Ambulances and communications bases that do not operate telemetry shall comply with 2. or 7 MCAR § 1.604 D.2.b. or 7 MCAR § 1.603 D.2.a. b 1.609 A.1.-2.~~

~~d. 4. Ambulances and communication communications bases using VHF shall comply with 7 MCAR § 1.603 D.2.c. f 1.609 A.3.-8.~~

~~e. 5. Ambulances and communications bases using UHF for dispatching shall must~~ have the capacity of using the following radio frequencies for such functions:

~~(1) a. 462.950 MHz megahertz (MHz) or 467.950 MHz for the mobile radio and 462.950 MHz for the base radio; and~~

~~(2) b. 462.975 MHz or 467.975 MHz for the mobile radio and 462.975 MHz for the base radio.~~

~~f. 6. Ambulances and communications bases while operating telemetry shall in the UHF band must~~ use only the following radio frequencies for medical control:

~~(1) a. 468.000 MHz or 463.000 MHz for mobile radio and 463.000 MHz for base radio;~~

~~(2) b. 468.025 MHz or 463.025 MHz for mobile radio and 463.025 MHz for base radio;~~

~~(3) c. 468.050 MHz or 463.050 MHz for mobile radio and 463.050 MHz for base radio;~~

~~(4) d. 468.075 MHz or 463.075 MHz for mobile radio and 463.075 MHz for base radio;~~

~~(5) e. 468.100 MHz or 463.100 MHz for mobile radio and 463.100 MHz for base radio;~~

~~(6) f. 468.125 MHz or 463.125 MHz for mobile radio and 463.125 MHz for base radio;~~

~~(7) g. 468.150 MHz or 463.150 MHz for mobile radio and 463.150 MHz for base radio; and~~

~~(8) h. 468.175 MHz or 463.175 MHz for mobile radio and 463.175 MHz for base radio.~~

~~7. Ambulances and communications bases while operating telemetry in the VHF band may use only those radio frequencies that have been approved by the Federal Communications Commission.~~

~~g. 8. Ambulances and communications bases shall must~~ have the capability of communicating on the statewide VHF radio frequency specified in 7 MCAR § ~~1.603 D.2.f 1.609 A.5. Documentation of such capability shall be kept in the licensee's file.~~

~~h. 9. Ambulances and communications bases shall must~~ comply with the provisions of 7 MCAR § ~~1.603 D.2.e., g., and h 1.609 A.4.-9.~~

~~3. B. Equipment performance. Communications equipment shall must~~ comply with 7 MCAR § ~~1.603 D.3 1.609 B.~~

~~4. C. Equipment maintenance. Communications equipment shall must~~ comply with 7 MCAR § ~~1.603 D.4 1.609 C.~~

7 MCAR § ~~1.605~~ 1.616 Standards for the operation of scheduled life support transportation services.

A. General standards.

1. Scheduled life support transportation services shall must be either basic or advanced life support transportation services.

2. Scheduled basic life support transportation services shall must comply with the provisions of 7 MCAR §§ 1.603-1.609, and scheduled advanced life support transportation services shall must comply with provisions of 7 MCAR

§§ ~~1.604~~ 1.610-1.615, except that such services ~~shall be~~ may be exempt from compliance with those provisions that ~~would specifically prohibit or~~ are not required for their operation as scheduled BLS basic life support or ALS advanced life support services in accordance with 7 MCAR § ~~1.605~~ this rule.

**B. Declaration of and adherence to schedule.**

1. An applicant for licensure as a scheduled life support transportation service shall declare at the time of application the specific schedule of its intended restrictions as to time, group served, and ~~type(s)~~ type of service provided.

2. A licensed scheduled life support transportation service ~~shall may~~ provide only the declared schedule of services approved by the commissioner in the granting of the license ~~pursuant to~~ under Minn. Stat. § 144.802. Any change in this schedule is subject to the provisions of Minn. Stat. § 144.802.

C. Primary service area. An applicant for licensure as a scheduled life support transportation service shall comply with 7 MCAR § ~~1.608 F.~~ 1.622, with the exception of 7 MCAR § ~~1.608 F.1.e.~~ 1.622. A.3.

7 MCAR § ~~1.606~~ 1.617 Life support transportation services operated by a nonprofit entity and limited exclusively to providing service by contract for special events and meetings. Life support transportation services operated by a nonprofit entity and limited exclusively to providing service by contract for special events and meetings are scheduled life support transportation services and shall comply with the provisions of 7 MCAR § ~~1.605~~ 1.616.

7 MCAR § ~~1.607~~ 1.618 Life support transportation services provided by an employer for the benefit of its employees. Life support transportation services that are operated by or for an employer for the benefit of its employees are scheduled life support transportation services and shall comply with provisions of 7 MCAR § ~~1.605~~ 1.616.

7 MCAR § ~~1.608~~ 1.619 General provisions.

**A. Waivers.**

~~1. Application for waiver. A life support transportation service may apply to the commissioner for a time-limited waiver of any of these rules. Such a waiver will be granted if the applicant affirmatively substantiates that:~~

~~a. the rule or rules in question do not address a problem of significance to the public in relation to the applicant's service;~~

~~b. The application of the rule or rules would impose an undue burden upon the applicant; and~~

~~c. The granting of a waiver will not adversely affect the public health or welfare.~~

~~2. Renewal, revocation, and reporting.~~

~~a. A waiver may be renewed upon re-application in conformance with the process described in 7 MCAR § 1.608 A.1.~~

~~b. A waiver may be revoked if a material change in the circumstances justifying its granting occurs.~~

~~c. Any life support transportation service that has been granted a waiver shall immediately notify the Department of Health in writing of any such material change in circumstances.~~

**B. Variances.**

~~1. Application for variance. A life support transportation service may apply to the commissioner for a time-limited variance from any of these rules. Such a variance will be granted if the applicant specifies alternative practices or measures equivalent or superior to those prescribed in the rule or rules in question and affirmatively substantiates that:~~

~~a. the rationale for the rule or rules in question can be met or exceeded by the specified alternative practices or measures;~~

~~b. The application of the rule or rules would impose an undue burden upon the applicant; and~~

~~c. The granting of the variance will not adversely affect the public health or welfare.~~

~~2. Compliance. Any life support transportation service that is granted a variance shall comply with the alternative practices or measures specified in its successful application for the variance.~~

~~3. Renewal, revocation, and reporting.~~

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~~a.~~ A variance may be renewed upon re-application in conformance with the process described in 7 MCAR § 1.608  
~~B.1.~~

~~b.~~ A variance may be revoked if a material change in the circumstances justifying its granting occurs.

~~c.~~ Any life support transportation service that has been granted a variance shall immediately notify the Department of Health of any such material change in circumstances.

~~C.~~ Disasters.

~~1.~~ These Rules shall 7 MCAR §§ 1.601-1.630 do not apply to life support transportation services provided during time of disaster, mass casualty, or other public emergency.

~~2.~~ The commissioner reserves the right to determine whether a disaster, mass casualty, or other public emergency is occurring or has occurred so as to cause these rules 7 MCAR §§ 1.601-1.630 to be nonapplicable.

~~D.~~ 7 MCAR § 1.620 Advertisement.

~~1.~~ No life support transportation service may advertise itself, allow itself to be advertised, or otherwise hold itself out as providing services of a type different from those life support transportation services that it is licensed to provide under these rules 7 MCAR §§ 1.601-1.630.

~~2.~~ All life support transportation services shall observe designated primary service areas as prescribed in 7 MCAR § 1.605  
~~C. or 7 MCAR § 1.608 F. in conducting or allowing any form of advertisement for its service(s).~~

~~E.~~ 7 MCAR § 1.621 Enforcement provisions.

~~1.~~ A. Inspections. Life support transportation services shall may not hinder the inspection activities of authorized agents of the commissioner pursuant to under Minn. Stat. § 144.808.

~~2.~~ B. Correction order. Violation of any of these rules 7 MCAR §§ 1.601-1.630 or of the provisions of Minn. Stat. §§ 144.801-144.808 shall constitute constitutes grounds for the issuance of a correction order. Any life support transportation service licensee that is issued a correction order shall correct the violation within the time period specified in the correction order.

~~3.~~ C. Time periods for correction of violations.

~~a.~~ Violations of these rules 7 MCAR §§ 1.601-1.630 or of Minn. Stat. §§ 144.801-144.808 that create a risk of serious harm to patients of the life support transportation service shall must be corrected within time periods ranging from 0 to 14 days as specified by the commissioner or authorized agent.

~~b.~~ All other violations of these rules 7 MCAR §§ 1.601-1.630 or of Minn. Stat. §§ 144.801-144.808 shall must be corrected within time periods ranging from 15 to 120 days as specified by the commissioner or authorized agent.

~~4.~~ D. Noncompliance. If, upon reinspection, it is determined that a life support transportation service has not complied with the provisions of a correction order, such noncompliance shall constitute constitutes grounds for the initiation of suspension, revocation, or nonrenewal proceeding pursuant to under Minn. Stat. § 144.803.

~~F.~~ 7 MCAR § 1.622 Primary service area.

~~1.~~ A. Designation of primary service area.

~~a.~~ An applicant for licensure as a service shall, at the time of application for new service, for a change in type of service or base of operation, or for an expansion of primary service area, declare the primary service area that it intends to serve as a primary provider of life support transportation service and for which it seeks designation. Such

~~1.~~ An applicant for a new license, for a change in type of service or base of operation, or for expansion of a primary service area must declare the primary service area that it intends to serve and seek designation of that area. A primary service area shall must contain one or more bases base of operation and may contain substations.

~~b.~~ 2. In applying for initial designation of a primary service area or an for expansion of a primary service area, an applicant shall affirmatively substantiate must show the reasonableness of the primary service area for which designation is sought according to the following considerations:

~~(1)~~ a. The average and maximum probable response times in good and severe weather from its proposed base of operations operation to the most distant boundary in its proposed primary service area; or, if the applicant's primary service area is to contain more than one a base of operation and substations, the average and maximum probable response times in good and severe weather from each the base of operation and substations to the most distant point covered by that the base of operation;

(2) b. The projected distances to be traveled to provide such service;  
 (3) c. The specific ~~type(s)~~ type of service to be provided;  
 (4) d. The applicant's current status as a licensed provider of life support transportation services to the population of that area; and

(5) e. The applicant's intention to be responsible to the ~~general~~ population of the declared primary service area or to a specified group of persons as a ~~primary~~ source of the life support transportation service ~~for which it requests licensure~~.

~~e.~~ 3. The maximum primary service areas designated, as measured from a base of operation or substation, ~~shall~~ may not exceed:

(1) a. Eight miles or ~~distance equivalent to~~ ten minutes travel time at maximum allowable speeds ~~in good weather~~, whichever is greater, for proposed primary service areas that include any portion of a city of the first ~~and second~~ class; or

(2) b. Fifteen miles or 20 minutes travel time at maximum allowable speeds, whichever is greater, for proposed primary service areas that include any portion of a city of the second class; or

c. Twenty-five miles or ~~distance equivalent to~~ 30 minutes travel time at maximum allowable speeds ~~in good weather~~, whichever is greater, for proposed primary service areas that do not include any portion of a city of the first or second class.

d. Licensees that have declared primary service areas in licensure applications current as of September 30, 1980, shall have those declared primary service areas designated in licensure beginning October 1, 1980, provided:

(1) that such primary service areas are consistent with 7 MCAR § 1.608 F.;

(2) that no change in primary service area base of operations, type or schedule of services, schedule of patients to be served, or schedule of availability has been made by the licensee since the receipt of the current effective license; and

(3) that licensees are eligible for licensure beginning October 1, 1980.

Licensees that do not meet criteria set forth in 7 MCAR § 1.608 F.1.d.(1)-(3) shall comply with the provisions of 7 MCAR § 1.608 F.1.a.-e.

~~2.~~ B. Observance of primary service areas.

~~a.~~ 1. No life support transportation service shall may regularly provide its services within an area other than its primary service ~~area(s)~~ area.

~~b.~~ 2. Nothing in 7 MCAR § 1.608 F.2.a. shall prohibit 1. prohibits a life support transportation service from responding to a request for service in any location in the state when it can reasonably be expected that:

(1) a. Such a response is required by the immediate medical need of an individual; and

(2) b. No other licensed life support transportation service is capable of or available for immediate and appropriate response.

~~3.~~ C. Air Life support transportation services provided by air. 7 MCAR § 1.608 F.1.e. shall A.3. does not apply to life support transportation services provided by air ambulances.

~~C.~~ D. Mutual aid.

~~1.~~ Life support transportation service other than scheduled services shall must have written agreements with at least one neighboring life support transportation service for coverage during times when the licensee's ambulances are not available for service in its primary service area. ~~Such~~ The agreements shall must specify the duties and responsibilities of the agreeing parties.

~~2.~~ A copy of each mutual aid agreement shall must be maintained in the files of the licensee.

~~H.~~ 7 MCAR § 1.623 Compliance with approved local ordinances. Life support transportation services that are subject to local ordinances, rules, or regulations that have been approved by the commissioner pursuant to under Minn. Stat. § 144.804, subd. 5, shall must comply with the provisions of such ordinances, rules, and regulations.

7 MCAR § ~~1.609~~ 1.624 Emergency care course and emergency care refresher course approval.

~~A.~~ Emergency care course program.

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### ~~1-~~ A. Application for initial course program approval.

~~a-~~ 1. Application for initial approval of an emergency care course ~~shall~~ program for emergency medical technicians must be made on a form provided by the commissioner, and ~~shall must~~ include information ~~so as to permit that permits~~ a complete evaluation of whether the applicant meets the requirements for course program approval as specified by 7 MCAR § 1-609 A.3-7 in A. and C.-F. The information provided on the application ~~shall must~~ include the following:

- (1) ~~a.~~ Course Content of courses;
- (2) ~~b.~~ The length of course courses and course schedule schedules;
- (3) ~~c.~~ The number of times per year the course will be given;
- (4) ~~d.~~ The number of trainees anticipated per year;
- (5) ~~e.~~ Identification of source materials, text books, references, and equipment to be used;
- (6) ~~f.~~ Name, address, and qualifications of physician the program medical advisor director;
- ~~g.~~ Name, address, and qualifications of the program coordinator;
- (7) ~~h.~~ Names ~~and~~ addresses, and qualifications of physician, nurse and lay instructors;
- (8) ~~i.~~ Name and ~~address~~ addresses of affiliated hospital hospitals;
- (9) ~~j.~~ Admission requirements of trainees; and

(10) ~~k.~~ Other information ~~as that~~ the commissioner ~~may require~~ requires to clarify incomplete or ambiguous information presented in the application.

~~b-~~ 2. Applicants shall ~~furnish or~~ retain in a file documentation of all statements made in the application for licensure program approval.

3. Applicants who are approved to teach emergency care courses must notify the commissioner of the starting date of each course before that starting date.

~~e-~~ 4. The approval of an emergency care course ~~shall expire~~ program expires two years from the date of approval unless renewed according to ~~the requirements of 7 MCAR § 1-609 A.2-~~ B.

### ~~2-~~ B. Application for renewal of course program approval.

~~a-~~ Applications for ~~renewal~~ renewed approval of an emergency care course ~~approval shall~~ program must be made on a form provided by the commissioner and ~~shall must~~ specify any changes from the information provided for initial approval, and other information ~~as which~~ the commissioner ~~may require~~ requires to clarify incomplete or ambiguous information presented in the application.

~~b-~~ An applicant for program renewal ~~shall must~~ have given the emergency care course at least two times during the previous biennial approval period. The commissioner, in determining whether a renewal application will be approved, shall consider whether the applicant has complied with the requirements of A.-F.

### ~~3-~~ C. Course C. Program personnel.

~~a-~~ 1. Each course shall program must have a physician program medical advisor, who shall be present for a minimum of ~~three (3) hours during each course~~ director.

~~b-~~ 2. Each program must have a program coordinator.

3. A minimum of ~~fourteen (14) eight~~ hours of the curriculum ~~shall~~, including patient physical assessment, must be personally taught by a physician ~~or physicians~~.

~~e-~~ 4. Instructors ~~shall must~~ be physicians, registered nurses, ~~or others qualified as specified in 7 MCAR § 1-603 A.1.a.(2) (4)~~ emergency medical technicians, intermediate emergency medical technicians, paramedics, or others qualified by training and experience and approved by the commissioner.

~~d-~~ Documentation including the name, address, and qualifications of the medical advisor, and each of the instructors shall be maintained in the files of the applicant.

5. Instructors who are not physicians and who teach more than six hours of any course must possess the following qualifications:

- a. Two years or 4,000 hours experience in emergency medical care;
- b. Certification as a basic cardiac life support instructor; and

c. Current state certification or licensure in the instructor's field.

e. 6. At least one instructor ~~shall be~~ is required for every ten ~~(10)~~ students in the practical skill sessions and at least one instructor shall be required for every one hundred ~~(100)~~ students in the classroom didactic sessions.

4. Course D. Program content.

a. 1. An emergency care course ~~shall have a total of not less than~~ must provide at least 81 total hours of instruction with a minimum of ~~60~~ 71 hours classroom didactic and practical skills instruction and a minimum of ~~40~~ ten hours clinical experience five of which must be in a hospital.

b. 2. The following subjects ~~shall~~ must be included in the course ~~content~~ curriculum:

- (1) Role, responsibilities and equipment of BLS ambulance attendant;
  - (2) Ambulance operation;
  - (3) Communications;
  - (4) Emergency room procedures;
  - (5) Airway obstruction and cardiopulmonary resuscitation;
  - (6) Mechanical aids to breathing and pulmonary resuscitation;
  - (7) Determination of vital signs;
  - (8) Introduction to intravenous therapy;
  - (9) Bleeding;
  - (10) Shock;
  - (11) Wounds, dressings, bandages and bandaging;
  - (12) Fractures of upper and lower extremities;
  - (13) Injuries to chest, abdomen and pelvis, face, eye, head, neck, spine and genitalia;
  - (14) Medical conditions including poisons, stings, bites, unconscious state, stroke, heart attack, epilepsy, acute abdomen, intestinal bleeding, communicable disease, diabetes, and dyspnea;
  - (15) Medical conditions due to environmental factors including burns, cold, heat, radiation, electrical hazards, water accidents, and explosions;
  - (16) Emergency childbirth;
  - (17) Care of the pediatric patient;
  - (18) Care of the disturbed and unruly patient;
  - (19) Emergency care of the drug abuser; and
  - (20) Extrication and rescue techniques.
- a. Introduction to emergency care training; anatomy and physiology; vital signs;
- b. Airway obstruction and respiratory arrest;
- c. Cardiac arrest;
- d. Mechanical aids to breathing and resuscitation;
- e. Bleeding, shock, pulmonary and cardiopulmonary resuscitation;
- f. Dressing and bandaging of wounds;
- g. Principles of musculoskeletal care and fractures of the upper extremity;

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- h. Fractures of the pelvis, hip, and lower extremity;
- i. Injuries to the head, face, neck, and spine;
- j. Injuries to the eye, chest, abdomen, and genitalia;
- k. Medical emergencies, including poisoning, bites, stings, heart attack, stroke, dyspnea, and practice in patient assessment.
- l. Medical emergencies including diabetes, acute abdominal problems, communicable diseases, abnormal behavior, alcohol and drug abuse, epilepsy, pediatric emergencies and practice in patient assessment;
- m. Emergency childbirth including resuscitating the newborn and care of the premature infant;
- n. Environmental emergencies including burns, heat cramps, heat exhaustion, heat stroke, and frostbite, and care of the patient exposed to water hazards;
- o. Techniques of lifting and moving patients and care of suspected spine injuries;
- p. Extrication and rescue of patients; and
- q. Ambulance operations, triage, review of vital signs and patient assessment, and communications.

E. Content of clinical experience. The clinical training in a hospital must include observation in the emergency room or any of the following hospital clinical areas: coronary care; intensive care; labor and delivery room; operating room and postanesthetic recovery room; and morgue.

### 5. F. Equipment and supplies.

- a. Courses shall have 1. Programs must use student and instructor texts and current reference sources in emergency care; and
- b. Courses shall have must use standard teaching aids consisting of such items as projectors, screens, films, and slides and other equipment and material used by the instructor to facilitate learning.
- e. Courses shall 2. Instructors shall use emergency care equipment of the following types so as to train each student as a BLS ambulance attendant:

- (1) a. Splinting equipment including backboards;
- (2) b. Ventilation assistance and airway maintenance equipment and suctioning devices;
- (3) c. Dressings, bandages, and bandaging supplies;
- (4) d. Emergency obstetrical kit;
- (5) e. Poison treatment kit described in 7 MCAR § 1.607 A.4.;
- (6) f. Burn treatment supplies;
- (7) g. Equipment for determination of vital signs; and
- (8) h. Extrication and rescue equipment.

6. G. Testing. In order to complete an approved emergency care course successfully, each student shall pass the written and the practical examinations approved by the commissioner and administered by the commissioner or a designated representative.

### 7. Test approval.

- a. The written and the practical examinations that test for competency in the subjects specified in 7 MCAR § 1.609 A.4.b. are eligible for approval by the commissioner.
- 1. In order to complete an approved emergency care course successfully, each student must pass written and practical examinations approved by the commissioner.
- 2. The examinations must test for competency in the subjects specified in D.2.
- 3. The practical examination must test the following skills:
  - a. Patient assessment including primary and secondary assessments;

## PROPOSED RULES

- b. Care and immobilization of cervical and spinal injuries including use of the long and short backboards;
- c. Care, immobilization, and traction splinting of long bone fractures;
- d. Wound care, bandaging, and bleeding control;
- e. Recognition and care of shock; and
- f. Cardiopulmonary resuscitation by one and two persons, infant resuscitation, and management of the obstructed airway in conscious and unconscious persons.

4. The commissioner or a designated representative shall administer the written and practical examinations.

5. Examiners must possess current certificates issued under 7 MCAR § 1.624, 7 MCAR § 1.625, or 7 MCAR § 1.626 and must comply with 7 MCAR § 1.624 C.5.

b. 6. The written portion of the National Registry of Emergency Medical Technicians Examination for Emergency Medical Technicians—Ambulance as of the effective date of these rules 7 MCAR §§ 1.601-1.630 is deemed to comply with the written examination required in 7 MCAR § 1.609 A.7-a G.1.

B. Emergency care refresher course.

1. applications for initial course approval shall comply with 7 MCAR § 1.609 A.1. 7., with the exception of 7 MCAR § 1.609 A.3.b. and A.4.

2. Course content.

a. A refresher course shall provide a total of not less than 20 hours of instruction and four hours of testing.

b. The content of a refresher course shall include the subjects listed in 7 MCAR § 1.609 A.4.b.

C. H. Issuance of certificates.

1. Persons who successfully completing an complete an approved emergency care course shall will be issued a certificate by the commissioner or a designated representative.

2. The certificate shall expire two years from the date of issuance and may only be renewed for a period of two years on successful completion of a refresher course.

D. Course audit. Approved applicants shall cooperate with and in no way hinder the audit activities of authorized agents of the commissioner.

E. Enforcement. Failure to comply with the provisions of 7 MCAR § 1.609 A.3. D. shall constitute grounds for disapproval or nonrenewal.

2. Upon request of an applicant the commissioner shall evaluate emergency care courses, training, and examinations that are offered in other states to determine whether they are equivalent in content to courses, training, and examinations described in A.-G.

3. Persons who have successfully completed courses, training, and examinations that the commissioner has determined to be equivalent to those described in A.-G. shall be issued a certificate by the commissioner. The certificate shall be issued for the duration of the applicant's certification period in another state but not to exceed two years.

4. Certificates initially issued from January 1 to June 30, expire on December 31 of the following year. Certificates issued from July 1 to December 31 expire on December 31 of the second following year. All subsequent certificate renewal periods are for the full two-year period running from January 1 to December 31.

5. A certificate must be renewed according to the requirements in 6. or it will lapse.

6. An applicant for renewal of the certificate must successfully complete an emergency care refresher course approved under I. and must pass approved written and practical examinations before the certificate expiration date. Evidence of

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completion of the requirements in J. must be submitted to the commissioner within 90 days after the certification expiration date. The emergency care refresher course must be taken during the second half of the certification period.

### I. Emergency care refresher course program.

1. Applications for initial approval of emergency care refresher course programs must comply with the requirements in A.1. and A.2.

2. The approval of an emergency care refresher course program expires two years from the date of approval unless renewed according to the requirements of B.

3. Each program must have a program medical director and a program coordinator.

4. Providers of emergency care refresher course programs shall comply with the requirements in C.4.-6. and F.

5. An emergency care refresher course must provide not fewer than 20 hours of instruction and four hours of testing in the subjects listed in D.2. Instruction must be provided in cardiopulmonary resuscitation by one and two persons, infant resuscitation, and management of the obstructed airway in conscious and unconscious persons.

### J. Refresher course examination.

In order to successfully complete an approved emergency care refresher course, each student must pass written and practical examinations approved by the commissioner. The written examination must test knowledge of subjects listed in D.2. The practical examination must test the skills listed in G.3. The commissioner or designated representative must administer the examinations approved by the commissioner.

### K. Issuance of renewal certificates.

1. Persons who have successfully completed approved emergency care refresher courses will be issued a renewal certificate by the commissioner.

2. Upon request of an applicant the commissioner shall evaluate emergency care refresher courses, training, and examinations offered in other states to determine whether they are equivalent in content to courses, training, and examinations described in I. and J. Persons who have successfully completed courses, training, and examinations that the commissioner has determined to be equivalent to those described in I. and J. shall be issued a renewal certificate by the commissioner.

3. Successful completion of the National Registry of Emergency Medical Technician continuing education requirements, in effect on the effective date of 7 MCAR §§ 1.601-1.630, is deemed to comply with the emergency care refresher course requirements set forth in H.6.

### L. Lapsed certificates. An applicant may renew a lapsed certificate as follows:

1. Within 12 months of the certificate expiration date, complete an approved emergency care refresher course and pass the written and practical examinations approved by the commissioner; or

2. If more than 12 months have passed since the certificate expiration date, complete an approved emergency care course and pass the written and practical examinations approved by the commissioner.

M. Program audit. Persons approved to offer emergency care course and emergency care refresher course programs shall cooperate with the audit activities of the commissioner. The audit may include course inspection, classroom observation, review of instructor qualifications and student interviews.

## 7 MCAR § 1.625 Intermediate emergency care course program.

### A. Application for initial course program approval.

1. Application for initial approval of an intermediate emergency care course program must be made on a form provided by the commissioner, and must include information that permits a complete evaluation of whether the applicant meets the requirements for program approval specified in A. and C.-F. The information provided on the application must include the following:

a. Content of course;

b. The length of courses and course schedules;

- c. The number of times per year the course will be given;
- d. The number of trainees anticipated per year;
- e. Identification of source materials, text books, references, and equipment to be used;
- f. Name, address, and qualifications of the program physician medical director;
- g. Name, address, and qualifications of the program coordinator;
- h. Names, addresses, and qualifications of instructors;
- i. Names and addresses of affiliated hospitals;
- j. Admission requirements of trainees;
- k. Names of persons who will supervise clinical training; and
- l. Other information that the commissioner requires to clarify incomplete or ambiguous information presented in the application.

2. Applicants shall retain in a file documentation of all statements made in the application for program approval.

3. The approval of an intermediate emergency care course program expires two years from the date of approval unless renewed according to the requirements of B.

B. Application for renewal. Application for renewal of intermediate emergency care course program approval must be made on a form provided by the commissioner and must specify any changes from the information provided for initial approval and other information that the commissioner requires to clarify incomplete or ambiguous information presented in the application. An applicant for program renewal must have given the intermediate emergency care course at least once during the previous biennial approval period. The commissioner, in determining whether a renewal application will be approved, shall consider whether the applicant has complied with the requirements in A.-F.

C. Program personnel.

- 1. Each program must have a program medical director.
- 2. Each program must have a program coordinator.
- 3. Instructors must be physicians, registered nurses, intermediate emergency medical technicians, paramedics, or others holding equivalent certificates approved by the commissioner. Instructors who are not physicians and who teach more than six hours of any course must comply with the requirement in 7 MCAR § 1.624 C.5.
- 4. At least one instructor is required for every ten students in the practical skill sessions.

D. Program content.

- 1. An intermediate emergency care course must provide at least 52 total hours of classroom instruction and practical skills instruction.
- 2. The following subjects must be included in the course:
  - a. Instruction in the role and the legal and medical responsibilities of intermediate emergency medical technicians;
  - b. Classroom and practical skills instruction in human physiological systems and patient assessment;
  - c. Classroom and practical skills instruction in shock and fluid therapy, including the use of medical antishock trousers; and
  - d. Classroom and practical skills instruction in the respiratory system and use of the esophageal obturator airway.

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3. Each program must provide supervised clinical training in the hospital. During clinical training each student must practice under direct visual supervision, the following:

- a. Performance of a patient physical assessment including conducting a physical examination, taking and recording vital signs, and auscultation of heart, lung and bowel sounds;
- b. Providing assistance and review of treatment of trauma cases and medical emergencies;
- c. Providing assistance in triage of patients;
- d. Assisting in trauma cases requiring hemorrhage control and splinting;
- e. Performance of peripheral intravenous insertions using both a straight needle and an over the needle catheter device;
- f. Drawing blood samples;
- g. Maintaining an airway in an unconscious patient using manipulations, position of head, oropharyngeal airways, esophageal obturator airway, and suctioning; and
- h. Administering oxygen.

E. Student admission requirement. Students admitted to an intermediate emergency care course must meet the following requirements:

1. Current certification as an emergency medical technician; and
2. Employment or service as a volunteer with a licensee that provides or intends to provide the type of emergency care and treatment that is taught in the intermediate emergency care course. Written verification of employment or volunteer service must be provided by the licensee's medical director.

F. Equipment and supplies.

1. Programs must use student and instructor texts and current references in advanced emergency medical care.
2. Programs must use standard teaching aids consisting of projectors, screens, films, and slides.
3. Instructors shall use emergency care equipment of the following types:
  - a. Esophageal obturator airways and intubation mannequins;
  - b. Medical antishock trousers;
  - c. Intravenous infusion equipment and supplies;
  - d. Ventilation assistance and airway maintenance equipment; and
  - e. Equipment for the determination of vital signs.

G. Testing.

1. In order to complete an approved intermediate care course successfully, each student must pass written and practical examinations approved by the commissioner.

2. The commissioner or a designated representative shall administer the written and practical examinations that test for competency in the subjects listed in D.2.

3. The practical examination must test the following skills:

- a. Ability to perform a physical assessment for trauma which includes a first and second degree assessment, knowledge of treatment for trauma victims, and triage skills;
- b. Esophageal obturator airway insertion and removal;
- c. Administration of intravenous infusions; and
- d. Application and removal of medical antishock trousers.

The skills in a. must be tested by a physician.

4. The written and practical portions of the National Registry of Emergency Medical Technicians-Intermediate examination as of the effective date of 7 MCAR §§ 1.601-1.630, are deemed to comply with the examinations required in 1.

H. Issuance of certificates.

1. Persons who successfully complete an approved intermediate emergency care course will be issued a certificate by the commissioner.

2. Upon request of the applicant, the commissioner shall evaluate intermediate emergency care courses, training, and examinations that are offered in other states to determine whether they are equivalent in content to courses, training, and examinations described in A.-G.

3. Persons who have successfully completed courses, training, and examinations that the commissioner has determined to be equivalent to those described in A.-G., shall be issued a certificate by the commissioner. The certificate shall be issued for the duration of the applicant's certification period in another state but not to exceed two years.

4. Certificates initially issued from January 1 to June 30 expire on December 31 of the following year. Certificates initially issued from July 1 to December 31 will expire on December 31 of the second following year. All subsequent certificate renewal periods are for the full two-year period running from January 1 to December 31.

5. The certificate may be renewed after submission of evidence of successful completion of the continuing education requirements set forth in I., and submission of a statement of satisfactory skill maintenance signed by the physician medical director of the licensee by whom the applicant is employed.

I. Continuing education requirements. Each applicant for certificate renewal shall successfully complete within the certification period:

1. Annual certification in basic cardiac life support;

2. An approved emergency care refresher course and examination approved by the commissioner; and

3. Twelve hours of continuing education in the subjects listed in D.2.;

4. Evidence of completion of continuing education requirements must be submitted to the commissioner within 30 days after the certificate expiration date.

J. Approval of continuing education courses. Continuing education courses taken to fulfill the requirement in I. must be approved in writing by the licensee's physician medical director. Documentation of approval must be kept in the licensee's file.

K. Skill documentation. The medical director of a licensee shall document that the applicant for certificate renewal has the skills described in G.3. This document must be submitted to the commissioner within 30 days after the certificate expiration date.

L. Certification renewal.

1. Persons who successfully complete the continuing education requirements set forth in I. and meet the requirement in K. will be issued a certificate by the commissioner.

2. Upon request by an applicant, the commissioner shall evaluate continuing education requirements in other states to determine whether they are equivalent to requirements described in I. and K. Applicants who have completed continuing education and examinations that are equivalent in content to those required in I. and who have submitted evidence of skill retention as required in K. shall be issued a renewal certificate by the commissioner.

3. Successful completion of the National Registry of Emergency Medical Technicians-Intermediate requirements for reregistration as of the effective date of 7 MCAR § 1.601-1.630 is deemed to comply with the requirements in I. and K.

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M. Program audit. The commissioner may audit the courses approved under 7 MCAR § 1.625. The audit may include course inspection, classroom observation, review of instructor qualifications, and student interviews.

### 7 MCAR § 1.626 Advanced emergency care course programs for paramedics.

#### A. Application for initial approval.

1. Application for initial approval of an advanced emergency care course program must be made on a form provided by the commissioner and must include information that permits a complete evaluation of whether the applicant meets the requirements for program approval specified in A. and C.-F. The following information must be provided:

- a. Content of course;
- b. The length of the courses and course schedules;
- c. The number of times per year the courses will be given;
- d. The number of trainees anticipated per year;
- e. Identification of source materials, text books, references, and equipment to be used;
- f. Name, address, and qualifications of the program medical director;
- g. Name, address, and qualifications of the program coordinator;
- h. Names, addresses, and qualifications of the instructors;
- i. Names and addresses of affiliated hospitals;
- j. Admission requirements of trainees;
- k. Names of persons who will supervise clinical training in the hospital; and

l. Other information that the commissioner requires to clarify incomplete or ambiguous information presented in the application.

2. Applicants shall retain in a file documentation of all statements made in the application for program approval.

3. The approval of an advanced emergency care course program expires two years from the date of approval unless renewed according to the requirements of B.

B. Applications for renewal. Applications for renewal of an advanced emergency care course program must be made on a form provided by the commissioner and must specify any changes from the information provided for initial approval and other information which the commissioner requires to clarify incomplete or ambiguous information presented in the application. Applicants for program renewal must have given the advanced emergency care course program for paramedics at least once during the previous biennial approval period. The commissioner, in determining whether a renewal application will be approved, shall consider whether the applicant has complied with the requirements of A.-F.

#### C. Program personnel.

1. Each program must have a program medical director.

2. Each program must have a program coordinator.

3. Instructors must be physicians, registered nurses, paramedics, or others approved by the commissioner. Instructors who are not physicians and who teach more than six hours of any course must comply with the requirements in 7 MCAR § 1.624 C.5.

#### D. Program content.

1. An advanced emergency care course must provide classroom instruction and practical skills instruction in the following subjects:

- a. The role and the legal and medical responsibilities of paramedics;
- b. Human systems and patient assessment;
- c. Shock and fluid therapy;

- d. General pharmacology;
- e. The respiratory system;
- f. The cardiovascular system;
- g. The central nervous system;
- h. Care of soft tissue injuries;
- i. The musculoskeletal system;
- j. Medical emergencies;
- k. Obstetric and gynecological emergencies;
- l. Pediatrics and neonatal medical care;
- m. Emergency care of the emotionally disturbed patient;
- n. Rescue techniques; and
- o. Telemetry and communications.

2. In addition to the instruction required in 1., each student must receive clinical training in a hospital and ambulance. The clinical training must be conducted under the direct, visual supervision of a physician, registered nurse, or paramedic certified under 7 MCAR § 1.626. Clinical training must include demonstration of the skill by the supervisor and observation by the student; practice and successful performance of the skill by the student; and evaluation by the supervisor.

E. Student prerequisite. Only persons who have successfully completed an emergency care course and who are currently certified as emergency medical technicians or intermediate emergency medical technicians may be admitted to an advanced emergency care course.

F. Equipment and supplies.

- 1. Programs must use student and instructor texts and current references in advanced emergency medical care.
- 2. Programs must use teaching aids consisting of projectors, screens, films, and slides.
- 3. Programs must use emergency care equipment of the following types:
  - a. Splinting equipment;
  - b. Ventilation assistance and airway maintenance equipment including esophageal obturator airways, endotracheal intubation equipment, and suction equipment;
  - c. Dressings, bandages, and bandaging supplies;
  - d. Emergency obstetrical kit;
  - e. Poison-treatment kit described in 7 MCAR § 1.607 A.4.;
  - f. Burn treatment supplies;
  - g. Equipment for the determination of vital signs;
  - h. Medical antishock trousers;
  - i. Intravenous therapy equipment; and
  - j. Advanced cardiac care equipment including a portable cardiac monitor and defibrillator.

G. Testing.

- 1. In order to complete an approved advanced emergency care course successfully, each student must pass written and practical examinations approved by the commissioner.
- 2. The commissioner or a designated representative shall administer written and practical examinations that test for competency in the subjects specified in D.1.

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3. Examiners for practical examinations must be physicians, or registered nurses except that persons who are certified under 7 MCAR § 1.626 and who meet the requirements in 7 MCAR § 1.624 C.5. may serve as sole examiners for the skills specified in G.4.d., and e. and accessory examiners for the skill specified in G.4.a.-c. A physician must be present at the practical examination and must monitor all stations of the examination and answer questions relating to the evaluation of skill performance.

4. The practical examination must test knowledge and skill in the following:

a. Trauma management including primary and secondary assessment, treating of trauma victims, and setting priorities for basic life support and advanced life support management;

b. Cardiology including electrocardiogram interpretation and treatment and related questions;

c. Cardiac arrest, including intubation, intravenous therapy, administration of intravenous drugs, and defibrillation;

d. Cardiopulmonary resuscitation including one- and two-person resuscitation, obstructed airway care, and infant resuscitation; and

e. Fracture immobilization.

5. The written and practical portions of the National Registry of Emergency Medical Technicians-Paramedic examination as of the effective date of 7 MCAR § 1.601-1.630 are deemed to comply with the examinations required in I.

### H. Issuance of certificates.

1. Persons who successfully complete an advanced emergency care course approved by the commissioner will be issued a certificate by the commissioner.

2. Upon request of the applicant, the commissioner may evaluate advanced emergency care courses, training, and examinations that are offered in other states to determine whether they are equivalent in content to courses, training, and examinations described in A.-G.

3. Persons who have successfully completed courses, training, and examinations which the commissioner determines to be equivalent to those described in A.-G. shall be issued a certificate by the commissioner. The certificate shall be issued for the duration of the applicant's certification period in another state but not to exceed two years.

4. Certificates initially issued from January 1 to June 30 expire on December 31 of the following year. Certificates initially issued from July 1 to December 31, expire on December 31 of the second following year. All subsequent certification renewal periods are for the full two-year period running from January 1 to December 31.

5. All certificates may be renewed for a period of two years when the applicant provides evidence of successful completion of the continuing education requirements in I. and submits a statement of satisfactory skill maintenance signed by the licensee's medical director as required in J.

6. Evidence of compliance with the requirements in 5. must be submitted by the applicant within 90 days after the certificate expiration date.

### I. Continuing education requirements.

1. Each applicant for certificate renewal must successfully complete the following:

a. Forty-eight hours of continuing education in the subject areas listed in D.1.;

b. During one year of the certification period, a course in basic cardiac life support, up to four hours of which may be applied as partial fulfillment of the 48 hours of continuing education required in a.; and

c. During the alternate year of the certification period, instruction in advanced cardiac life support, up to 16 hours of which may be applied as partial fulfillment of the 48 hours of continuing education required in a.

2. Continuing education must be approved in writing by the licensee's physician medical director. Documentation of such approval must be maintained in the licensee's file.

J. Skill documentation. The medical director of an advanced life support transportation service must document that the applicant for certificate renewal retains proficiency in the following skills:

1. History taking;

2. Physical examination;
3. Cardiopulmonary resuscitation;
4. Infant resuscitation;
5. Esophageal obturator airway placement and endotracheal intubation;
6. Bag valve mask and bag valve tube ventilation;
7. Interpretation of oscilloscopic and hard copy electrocardiograms;
8. Spinal immobilization;
9. Fracture immobilization including use of traction splint;
10. Voice and electrocardiogram telemetry communications procedures, including actions during communications failure;
11. Intravenous therapy;
12. Parenteral drug administration;
13. Application and removal of medical antishock trousers; and
14. Obstetrical procedures.

K. Certification renewal.

1. Persons who successfully complete the requirements set forth in I. and J. will be issued a certificate by the commissioner.

2. Upon request of the applicant, the commissioner shall evaluate skill proficiency requirements and continuing education courses offered in other states to determine whether they are equivalent to those described in I. and J. Persons who have successfully completed courses that the commissioner has determined to be equivalent to those described in I. and who have current evidence of skill proficiency retention for which documentation has been submitted as required in J., shall be issued a renewal certificate. The certificate shall be issued for the duration of the applicant's certification period in another state but not to exceed two years.

3. Successful completion of the National Registry of Emergency Medical Technician-Paramedics continuing education requirements for Emergency Medical Technician-Paramedic reregistration as of the effective date of 7 MCAR §§ 1.601-1.630 is deemed to comply with the continuing education requirements set forth in I. and J.

L. Program audit. Approved applicants shall cooperate with the audit activities of the commissioner. The audit may include course inspection, classroom observation, review of instructor qualifications and student interviews.

7 MCAR § ~~1.610 Documentation~~ 1.627 Trip reports.

A. Documentation requirements for licenses.

1. Personnel records and documentation shall include:

- a. Current roster and documentation of qualifications of attendants and drivers required in 7 MCAR § 1.603 A.2.a. and 7 MCAR § 1.604 A.5.b.;
- b. Name and address of and signed statement by the medical advisor or director required in 7 MCAR § 1.603 A.2.c. and 7 MCAR § 1.604 A.5.d.;
- c. Documentation of reasonable efforts to arrange for second attendants under special circumstances as required in 7 MCAR § 1.603 A.2.d.(2) (3) and 7 MCAR § 1.604 A.5.d.;
- d. Continuing education course approval required by 7 MCAR § 1.604 A.3.b., and

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- e. The name and address of the affiliated medical facility and signed statement required by 7 MCAR § 1.604 A.5.e.
  - 2. Equipment records and documentation shall include:
    - a. Documentation by the medical advisor regarding the use of inflatable anti shock trousers as specified in 7 MCAR § 1.603 B.1.b.
    - b. Performance testing of equipment required in 7 MCAR § 1.603 B.3.g. and 7 MCAR § 1.604 B.2.b.;
    - c. Any written approval of the medical director of the advanced life support equipment and supplies required in 7 MCAR § 1.604 B.1.c. and
    - d. Any written procedures for secure storage of medications required in 7 MCAR § 1.604 B.1.d.
  - 3. Ambulance records and documentation shall include maintenance of ambulance required in 7 MCAR § 1.603 C.5.a. and 7 MCAR § 1.604 C.
  - 4. Communications records and documentation shall include:
    - a. Maintenance of communications equipment as required in 7 MCAR § 1.603 D.4. and 7 MCAR § 1.604 D.4.,
    - and
    - b. Communications capability as required in 7 MCAR § 1.604 D.2.g.
  - 5. Other records and documentation shall include:
    - a. Licensure application information required in 7 MCAR § 1.602;
    - b. A copy of mutual aid agreements required in 7 MCAR § 1.608 C.2.;
    - c. Copies of all pertinent correspondence between the Department of Health to the licensee; and
    - d. Each licensee shall maintain trip reports for every run in which patient care was offered to be provided or provided, so as to meet the reporting requirements of Minn. Stat. § 144.807.
- ~~B. Documentation requirements for approved emergency care and refresher courses. Approved emergency care and refresher courses shall comply with the following documentation requirements:~~
- ~~1. Approval application information required in 7 MCAR § 1.609 A.1.b., and~~
  - ~~2. The names, addresses and qualifications of the physician medical advisor and instructors required in 7 MCAR § 1.609 A.3.e. The report must contain at least the following information:~~
    - ~~A. History of patient's presenting illness, including the findings of the physical examination;~~
    - ~~B. Patient's name and address;~~
    - ~~C. Vital signs;~~
    - ~~D. Treatments provided by the licensee's attendants;~~
    - ~~E. Identification of life support transportation service;~~
    - ~~F. Date and time of request for service;~~
    - ~~G. Identification of crew members;~~
    - ~~H. Destination to which patient was transported; and~~
    - ~~I. Whatever additional information the medical director requires.~~

Trip reports may be reviewed by the commissioner.

### ~~7 MCAR § 1.611~~ 1.628 License fees and expiration dates.

A. License fees. Each application for a license to operate a life support transportation service, ~~as defined in Minn. Stat. §§ 144.801 to 144.806,~~ shall to change or add a new base of operation, to offer a new type of service, or to expand a primary service area must be accompanied by a basic fee of ~~\$35.00~~ \$96 plus a ~~\$10.00~~ \$48 fee for each ambulance to be operated by the applicant. The licensee shall pay an additional ~~\$10.00~~ \$48 fee for the full licensure period or \$2 per month for any fraction of the period for each ambulance added to the life support transportation service during the period for which the license is issued. License fees are not refundable.

B. Expiration dates. Life support transportation services shall be licensed annually for a period from October 1 (or from the

## PROPOSED RULES

date the original license is issued) until September 30. Applicants for license renewal shall submit complete applications by June 30 of each year on a form provided by the commissioner. The licenses of life support transportation services that are licensed as of the effective date of these rules are hereby extended until September 30, 1980.

1. Life support transportation services are licensed biennially.

2. Applicants for renewal shall submit complete applications for renewal as required by 7 MCAR § 1.602 A. at least 90 days before the expiration date shown on the license.

3. There are eight licensing periods. Each period begins on the first day of a calendar month and ends on the last day of the 24th month from the beginning of the period.

4. For licensing periods beginning October 1, 1982, and all subsequent periods, license renewal dates will be assigned according to the district as described in 7 MCAR § 1.609 A.3. in which the licensee's base of operation is located as follows:

a. Northwestern district: October 1, in years ending with an even number;

b. Northeastern district: January 1, in years ending with an odd number;

c. West central district: April 1, in years ending with an odd number;

d. Central district: July 1, in years ending with an odd number;

e. Metropolitan district: October 1, in years ending with an odd number;

f. Southwestern district: January 1, in years ending with an even number;

g. South central district: July 1, in years ending with an even number.

h. Southeastern district: July 1, in years ending with an even number.

5. Applicants for new or renewal licenses after October 1, 1982, may be issued a license for a period remaining until the renewal date listed under 4. If the commissioner issues a license for less than 24 consecutive months, the license fee will be apportioned.

6. Renewal dates for licenses issued between October 1, 1982 and the time shown for renewal in 4., will be extended until the time for renewal shown in 4. After July 1, 1984, all licenses will be renewed every two years.

C. Identification of ambulances. The commissioner will issue a certificate for each licensed ambulance. The certificate must be affixed to the vehicle.

### 7 MCAR § 1.629 Waivers.

A. Application. The commissioner may waive any of 7 MCAR §§ 1.601-1.630 except 7 MCAR § 1.630 D.5. if the applicant shows that:

1. Applying the rule would impose an undue burden on the applicant; and

2. Granting the waiver will not adversely affect the public health or welfare.

B. Renewal, revocation, and reporting.

1. The commissioner may renew the waiver upon reapplication in conformance with A.

2. The commissioner may revoke a waiver if a material change occurs in the circumstances that justified granting the waiver.

3. An applicant that has been granted a waiver shall notify the Department of Health in writing of any material change in circumstances.

C. Limitation. No waiver may be granted for a period longer than the current license period.

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### 7 MCAR § 1.630 Variances.

A. Application. The commissioner may grant a variance from 7 MCAR §§ 1.601-1.630 except 7 MCAR § 1.630 D.8. if the applicant proposes alternative practices equivalent or superior to those prescribed in the rule in question and shows that:

1. Applying the rule would impose an undue burden on the applicant; and
2. Granting the variance will not adversely affect the public health or welfare.

### B. Renewal, revocation, and reporting.

1. The commissioner may renew a variance upon reapplication in conformance with A.
2. The commissioner may revoke a variance if:
  - a. A material change occurs in the circumstances which justified granting the variance; or
  - b. The applicant fails to comply with the alternative practice specified in its successful application for a variance.
3. An applicant that has been granted a variance must notify the Department of Health of any material change in circumstances.

### C. Limitation. No variance may be granted for a period longer than the current license period.

### D. Specific variances.

1. A basic life support transportation service licensee will be granted a variance under 7 MCAR § 1.607 C. upon compliance with the following:

a. The licensee must submit to the commissioner a list of attendants who have received additional medically supervised training, specifying for each attendant, the subjects covered, the length of training, the nature of the medical supervision; and

b. A statement signed by the licensee's medical adviser stating approval of the training received by the attendants.

2. A basic life support transportation service licensee that seeks a variance to provide a treatment or procedure that is restricted under 7 MCAR § 1.606 shall have a physician medical director who agrees to provide medical direction regarding attendant training, equipment, standing orders, continuing education, and assessment of the quality of care provided with respect to the treatment or procedure offered or provided pursuant to the variance.

3. The commissioner may grant a variance to allow the establishment or maintenance of intravenous infusions by basic life support transportation services only if the applicant shows that:

a. It will be established or maintained by attendants or drivers who have been trained in its establishment and maintenance;

b. The establishment or maintenance of intravenous infusions has been approved by the licensee's medical director;

c. The medical director has developed or approved written standing orders and protocols for the establishment or maintenance of intravenous infusions;

d. Continuing education or clinical training is provided annually to persons authorized to establish or maintain intravenous infusions;

e. The administration of intravenous infusions is restricted to solutions administered only for fluid volume replacement; and

f. Documentation of a.-e. is retained in the licensee's file.

4. Persons who possess intermediate emergency medical technician and paramedic certificates are deemed to comply with the requirement in 3.a.

5. The commissioner may grant a variance to allow the use of a portable cardiac monitor or defibrillator by a basic life support transportation service only if the applicant shows that:

a. It will be used only by attendants and drivers who have received training in its use and the training has been approved by the licensee's medical director;

## PROPOSED RULES

- b. The use of the cardiac monitor or defibrillator has been authorized by the licensee's medical director;
  - c. The medical director has developed or approved standing orders for the use of the cardiac monitor or defibrillator;
  - d. Continuing education or clinical training on the use of the cardiac monitor or defibrillator is provided at least annually to persons authorized to use the equipment; and
  - e. Documentation of a.-d. is retained in the licensee's files.
- 6. The commissioner may grant a variance to allow the use of an esophageal obturator airway by attendants of a basic life support transportation service only if the applicant shows that:
  - a. The attendants who will use the equipment have been trained in its use or have successfully completed intermediate emergency medical technician or paramedic training described in 7 MCAR § 1.625 and 7 MCAR § 1.626.
  - b. Use of the esophageal obturator airway has been approved by the licensee's medical director;
  - c. The licensee's medical director annually assures that each attendant authorized to use the airway retains skill proficiency and signs a statement that the attendant has satisfactorily demonstrated proficiency; and
  - d. Documentation of a.-c. is retained in the licensee's files.
- 7. The commissioner may grant a variance to allow basic life support transportation service licensee's to transport patients who are receiving intravenous therapy only when the following conditions are met:
  - a. Transportation is provided only between health care facilities; and
  - b. The intravenous therapy was established by the facility from which the patient is transported; and either
    - c. A physician, registered nurse, or paramedic from the facility from which the patient is transported or a paramedic, accompanies the patient and rides in the patient compartment in addition to the attendant required by 7 MCAR § 1.604 D.; or
    - d. The patient's physician provides written information and precautions to the ambulance service attendants about the intravenous therapy which the patient is receiving, the service maintains a copy of the written information in its files and the attendant is certified under 7 MCAR § 1.624 and has completed training approved by the medical director in the maintenance of intravenous therapy equipment.
- 8. Basic life support licensees may not be granted variances for the following:
  - a. Parenteral administration of any drugs except solutions for intravenous infusion;
  - b. Nonparenteral administration of any drugs except sugar solutions for oral administration to conscious diabetic patients, oxygen, and syrup of ipecac and drinking liquids provided under 7 MCAR § 1.607 A.4.; and
  - c. Establishment of intravenous therapy involving the use of drugs other than solutions for intravenous infusion.

Repealer. Rules 7 MCAR §§ 1.541-1.543 are repealed.

Effective date. These rules are effective October 1, 1982, or five working days after the notice of adoption is published in the State Register, whichever is later.

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### Department of Public Safety Bureau of Criminal Apprehension

#### Proposed Rules Governing the Issuance of Permits for the Use of Police Communications Equipment in Motor Vehicles

##### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

John Gundersen  
Bureau of Criminal Apprehension  
1246 University Avenue  
St. Paul, MN 55104

The department's authority to adopt the proposed rules is contained in Minn. Stat. § 299C.37. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Department of Public Safety upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subd. 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7.

John P. Sopsic  
Commissioner of Public Safety

John D. Erskine  
Superintendent of the Bureau of Criminal Apprehension

**Rules as Proposed (all new material)**

11 MCAR § 1.3071 **Statutory authority.** Rules 11 MCAR §§ 1.3071-1.3077 are adopted under the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minn. Stat. § 299C.37, subd. 4.

11 MCAR § 1.3072 **Definitions.**

- A. **Applicability.** The terms used in 11 MCAR §§ 1.3073-1.3077 have the meanings given them in B.-H.
- B. **Application.** "Application" means BCA form 04-012 (373) for permission to equip a motor vehicle with any radio equipment capable of receiving law enforcement frequencies.
- C. **Bureau.** "Bureau" means Minnesota Bureau of Criminal Apprehension.
- D. **Good moral character.** "Good moral character" of the applicant means that within the past ten years the applicant has not been convicted of or confined for a crime that is punishable by death or imprisonment for more than one year, or that involves dishonesty or false statement, regardless of the punishment.
- E. **Law enforcement frequencies.** "Law enforcement frequencies" means radio frequencies used solely by Minnesota law enforcement agencies to transmit signals, messages, or information.
- F. **Permit.** "Permit" means the written permit issued annually by the superintendent to individuals or collective agencies who follow the procedures in 11 MCAR § 1.3074.
- G. **Radio equipment capable of receiving law enforcement frequencies.** "Radio equipment capable of receiving law enforcement frequencies" means any radio equipment programmed to receive information from a law enforcement agency assigned a frequency by the Federal Communications Commission.
- H. **Superintendent.** "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR § 1.3073 **Permit requirements.** A person or collective agency wishing to equip a motor vehicle with any radio equipment capable of receiving law enforcement frequencies shall first obtain a permit from the superintendent of the Bureau of Criminal Apprehension. All permits expire on December 31 of each year. The permit procedures in 11 MCAR § 1.3074 must be followed.

11 MCAR § 1.3074 **Application procedures.**

- A. **Application form.** The applicant shall submit to the superintendent one completed BCA form 04-012 (373) for each law enforcement frequency that is programmed to be received by the radio equipment that he or she wishes to use in a motor vehicle.
- B. **Fee.** The applicant shall send a \$5 nonrefundable fee with each application.
- C. **Investigation.** The applicant shall ask for an investigation of his or her background, to be done by the sheriff or chief of police of the law enforcement agency that is assigned the radio frequency listed on the applicant's permit application form. The purpose of the investigation is to verify that:
  - 1. the applicant is of good moral character;
  - 2. the applicant has shown good cause to use radio equipment capable of receiving law enforcement frequencies; and
  - 3. the use of the equipment is necessary to the lawful pursuit of a business, trade, or occupation.A reasonable fee that may not exceed \$25 may be charged for each investigation.
- D. **Notice to superintendent.** The applicant shall ask the sheriff or chief of police who conducted the investigation to send the superintendent a written notice:
  - 1. verifying that the applicant is of good moral character, the applicant has shown good cause to use radio equipment capable of receiving law enforcement frequencies, and the use of the equipment is necessary to the lawful pursuit of a business, trade, or occupation; and
  - 2. authorizing the applicant to equip a motor vehicle with radio equipment capable of receiving law enforcement frequencies.

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## PROPOSED RULES

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### 11 MCAR § 1.3075 Decision by superintendent.

A. Decision deadline. Within two weeks after receiving the application, fee, and written notice described in 11 MCAR § 1.3074, the superintendent shall notify the applicant of the decision to grant or deny a permit to equip a motor vehicle with radio equipment capable of receiving law enforcement frequencies.

B. Issuance of permit. The superintendent shall issue a permit to an applicant if all the procedures and qualifications in 11 MCAR § 1.3074 are met.

C. Denial or revocation of permit. The superintendent shall deny or revoke a permit if the applicant:

1. misrepresents information on the application form;
2. fails to fulfill the requirements of 11 MCAR § 1.3074; or
3. violates Minn. Stat. § 299C.37 or 299C.38.

The superintendent shall give the applicant a written notice of the reason for denial or revocation of the permit.

11 MCAR § 1.3076 Right to contest decision. An applicant may contest a superintendent's decision to deny or revoke a permit. These proceedings must be conducted according to the Administrative Procedure Act, Minn. Stat. §§ 15.0418-15.0426 and 9 MCAR §§ 2.201-2.222 of the Office of Administrative Hearings.

11 MCAR § 1.3077 Data practices. The bureau shall keep a file of all applications, approvals or denials, accompanying letters, and other related material. These documents are public data.

## ADOPTED RULES

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

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## Department of Economic Security

### Adopted Rules Governing the Unemployment Insurance Program Relating to Payment of Benefits and Collection of Employer Taxes

#### Rules as Adopted

#### Chapter One: General Definitions

8 MCAR § 4.3000 Definitions. For the purpose of chapters one, two and three the following terms have the meanings given them.

A. Commissioner. "Commissioner" means the Commissioner of the Department of Economic Security or his duly authorized representative.

B. Department. "Department" means the Minnesota Department of Economic Security.

C. Unemployment office. "Unemployment office" means a location where the department offers unemployment insurance claim services.

#### Chapter Two: Benefits

8 MCAR § 4.3001 Applicability. Rules 8 MCAR §§ 4.3001-4.3011 apply to determinations of a claimant's eligibility for regular benefits as defined in Minn. Stat. § 268.071, subd. 1, clause (7) and to extended benefits pursuant to Minn. Stat. §§ 268.03-268.24 § 268.071, subds. 1-6.

8 MCAR § 4.3002 Definitions. For the purposes of 8 MCAR §§ 4.3001-4.3011 the following terms have the meanings given them.

A. Credit week. "Credit week" means any week within the base period for which wages in the required amount have been paid or were due and payable but not paid for performing services or for vacation periods. Except for vacation payments, those payments which are wages as defined in Minn. Stat. § 268.04, subd. 25 or department rules but for which the individual performs no services within the calendar week shall not be used to establish a credit week.

B. Labor market area. "Labor market area" means the geographic area in which the claimant can reasonably be expected to seek and find employment. In determining the labor market area, the commuting patterns of persons with the same or similar occupations residing in the claimant's locality shall be considered.

C. Seasonal worker. "Seasonal worker" means a claimant whose employer customarily suspends or significantly curtails operations for regularly recurring periods or whose usual occupation cannot be performed for any employer in the labor market area because climatic conditions prohibit performance of the normal duties of the occupation.

8 MCAR § 4.3003 Able to work.

A. Generally. ~~A claimant~~ To be able to work a claimant must have the physical and mental ability to perform the usual duties of his customary occupation or the usual duties of other work for which he is ~~reasonably~~ fitted by training, experience or capability and which is gainful employment engaged in by others as a means of livelihood ~~as an employee under conditions ordinarily existing during a normal work week.~~ The burden of establishing ability to work is on the claimant, but there will be no presumption that a claimant is not able to work.

B. Particular situations. In determining whether a claimant is able to work the department will consider the facts and circumstances of the claimant's particular situation. The determination shall be made by applying the criteria listed in ~~4.4. 1.~~ and 2.

1. Medical evidence. Where doubt exists as to the claimant's ability to work the department ~~may~~ shall require him to furnish medical evidence of his ability to work. Failure of the claimant to furnish requested medical evidence ~~may~~ shall result in a suspension or a denial of benefits.

~~2. Medical separation from work. A claimant who was separated from employment due to his own serious illness must demonstrate his ability to perform other work to be deemed able to work.~~

~~3. No presumption of inability to work. There will be no presumption a claimant is not able to work.~~

~~4. 2. Ability to work part-time only. Normally a claimant is required to be able to work and available for full-time work for all shifts which are customary for his occupation. However, a claimant whose physical or mental condition restricts his availability to part-time work or to a particular shift will~~ shall be deemed able to work if there is ~~a reasonable possibility of obtaining work within these restrictions~~ are jobs in his labor market area consistent with the limitations or such jobs can be expected to arise within a reasonable period of time.

8 MCAR § 4.3004 Available for work.

A. Generally. Except as provided in 8 MCAR § 4.3003 B.2., a claimant is considered available for work only if he is ready and willing to accept full-time suitable employment work. There must be no restrictions, either self-imposed or created by circumstances, which prevent accepting employment full-time work. A restriction does not prevent accepting employment full-time work if there are good favorable prospects for obtaining employment full-time work within the restrictions within a reasonable period of time.

B. Absence from labor market area. A claimant who is absent from his labor market area for personal reasons is presumed to be not available for work. ~~However, an absence of two days or less from his labor market area due to a family emergency or for other compelling personal reasons does not make him unavailable for these days.~~ This presumption is rebuttable.

C. Alien status. A claimant who is an alien must present proof that he is authorized under federal law to work in the United States to be available for work.

D. Change of residence. A claimant who ~~has moved permanently~~ moves to an area where his chances of securing work are materially lessened ~~and who does not make a diligent~~ shall expand his work search, expand his availability to other

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## ADOPTED RULES

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occupations, and accept the prevailing wages, hours and other conditions of work ~~is not available for work~~ in the labor market to which he moves.

E. Claimant cannot be contacted. Unless good cause exists for the failure to be reachable by the department a claimant who cannot be reached after reasonable efforts by the department for referral to possible employment is not available for work.

F. Failure to report. A claimant who fails without good cause to report as directed to ~~an unemployment office or to a job service office of the Department of Economic Security~~ is not available for work. The department may presume that a claimant who fails without good cause to report as directed to an unemployment office to discuss his eligibility for benefits is not available for the days that he fails to report. A claimant who fails to report as directed to an unemployment office to discuss his eligibility for benefits for a prior period will be determined eligible or ineligible for the prior period based solely on the facts available to the office if the claimant has made no effort within 14 days to report to the office to establish eligibility.

G. Incarcerated. A claimant who is incarcerated and who is unable to accept employment under a work release program is not available for work.

H. Labor market area. A claimant must offer his services unequivocally to the labor market area to be available for work.

I. Length of unemployment. As a claimant's duration of unemployment lengthens, prospects for obtaining employment in the customary occupation or other work in a reasonable time may change. Therefore, work that is unsuitable at one point in time may become suitable at another point. To be available for work, a claimant must be ready and willing to accept different work which becomes suitable as his prospects for customary work change. Thus, he may be required to broaden the geographic area in which he will accept work, seek and accept employment on a different shift, accept counseling for possible retraining or change in occupation, or seek and accept employment and the prevailing wages in a new occupation.

J. Seasonal worker. A seasonal worker who is not willing to accept suitable work in other occupations during the off season is not available for work.

K. Self-employment. A claimant is not available for work if he is self-employed and no longer seeking other suitable work as an employee because of his being self-employed or if he is planning to become self-employed and he is devoting time and effort to his self-employment so that he cannot accept work during customary hours for his occupation or other suitable work will not accept other suitable work.

L. Time or shift restriction. Except as provided in 8 MCAR § 4.3003 B.2., a claimant who imposes restrictions on the hours of the day or days of the week which he is willing to work which are not normal for his usual occupation or other suitable work is not available for work. A claimant who imposes restrictions on the hours of the day or days of the week which he is willing to seek work which prevent him from meeting the work search requirements of the department is not available for work.

M. Transportation. A claimant to be available for work must have transportation from his residence to his labor market area.

N. Union membership. A claimant who is seeking work only through his union is not available for work unless he is in an occupation or trade where it is customary that substantially all the hiring in that locality is done through his union. He must submit evidence, when required by the department, that he is a union member in good standing, is registered with the union for work and is in compliance with other union rules.

O. Wage restriction. A claimant who has demanded wages exceeding those customary in his labor market area for the type of work he is seeking is not available for work.

### 8 MCAR § 4.3005 Actively seeking work.

A. Generally. A claimant must make reasonable, diligent efforts to actively seek suitable work for each week for which he files a claim. Reasonable, diligent efforts are those that a person in similar circumstances would make if genuinely interested in obtaining suitable employment under the existing conditions in the labor market area. A claimant who fails to make reasonable, diligent efforts to actively seek suitable work or who limits the search to positions that are not available or are above his training, experience and qualifications is not actively seeking suitable work.

B. Scope of work search. A claimant is not actively seeking work if he has not sought suitable work in accordance with specific and reasonable instructions of the department. The claimant may be required to do any or all of the following to establish that he is actively seeking suitable work:

1. Register with the department's job service and report to the department's job service office when such reports are a required part of an active work search and may improve his opportunities of finding work;
2. Register with his union hiring or placement facility and meet the union requirements concerning dispatch to a job;
3. Register with a placement facility of his professional organization;

4. Register with a placement facility of a school, college, or university;

5. Apply for employment with former employers; however, claimants may refuse to reapply for work with employers if the claimant previously terminated employment with the same employer with a good cause attributable to the employer and the conditions constituting good cause for the prior quit continue to exist and will affect the claimant upon reemployment;

6. Make application with employers who may reasonably be expected to have suitable openings;

7. Make applications or take examinations for suitable openings in the civil service of a governmental unit;

8. Respond to want ads for suitable work; or

9. Perform any other reasonable action which the department finds to constitute an effective means of seeking work suitable to the claimant.

C. Number of contacts. The number of employer contacts required to be considered actively seeking employment varies. In determining adequacy of work search in terms of the number of contacts required the department will consider the employment opportunities as well as the qualifications of the claimant and normal practices and methods of seeking work.

D. Type of work sought. ~~A claimant will generally be allowed to seek work in his usual trade or occupation before being required to seek other types of work that may be suitable. The length of time allowed to seek work at his usual trade or occupation will be governed by the availability of that work in the labor market area where he is seeking work. A claimant will be required to seek work outside his customary occupation if one of the following conditions prevails:~~

~~1. There are available openings outside the claimant's customary occupation and there are few workers unemployed in the locality for whom these openings would be more suitable than for the claimant;~~

~~2. The claimant's prospects of securing work in his customary occupation are not as favorable as his prospects of securing work outside his customary occupation; or~~

~~3. Work which exists outside the claimant's customary occupation is suitable for the claimant. A claimant will be allowed to limit his work search to work in his usual or customary trade or occupation if he has favorable prospects of returning to work in his usual trade or occupation within a reasonable period of time under 8 MCAR § 4.3007 J. The length of time allowed to a claimant to limit his work search to work in his usual trade or occupation will be governed by the availability of that work in the labor market area where he is seeking work. When the claimant does not have favorable prospects, he shall be available for other suitable work under guidelines in 8 MCAR § 4.3006 E.~~

E. Permanent and temporary work. Except as provided in 8 MCAR § 4.3006 C., claimants are required to actively seek suitable permanent work. However, a claimant who is on a temporary layoff and who has a verifiable assurance of return to work may limit his search for employment to temporary work.

F. Seasonal workers. A claimant who is seasonally unemployed is not relieved of the responsibility to actively seek work.

G. Incarcerated worker. A claimant who is incarcerated and who is unable to seek work is not actively seeking work.

H. Filing and reporting only. If due to economic conditions within the labor market area the department finds that for a particular occupation or class of claimants the existence of suitable job openings other than those listed with a union hiring hall, professional organization or similar placement facility or the department are so few that any effort to search for openings would be fruitless to the claimant and burdensome to employers, then registering with and maintaining the requirements for referral by the hiring hall or placement facility or the department shall constitute an active search for employment.

#### **8 MCAR § 4.3006 Suitable work.**

A. Applicability. Rules 8 MCAR §§ 4.3006-4.3008 shall be used in determining if an individual ~~failed~~ is disqualified from receiving regular benefits by failing to apply for or accept suitable work or suitable reemployment without good cause.

B. Policy. The suitable work provisions of Minn. Stat. §§ 268.03-268.24 and 8 MCAR §§ 4.3006-4.3008 shall be administered so as to promote the department's dual responsibilities of ensuring that benefits are paid to only those persons who are involuntarily unemployed through no fault of their own and, as promptly as possible, matching workers with jobs which best utilize their skills, knowledges, and abilities. Toward this end, "suitable work" is to be interpreted to recognize a worker's skills and abilities but not to provide a haven for those who do not wish to work.

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Ideally, the department could match job seekers with jobs in their usual occupation with wages, hours, and other conditions of work identical to those previously enjoyed. As a practical matter economic conditions may prohibit this ideal and so a reasonable alternative must be developed. Any reasonable alternative should be based on the policy that it is best for employers, workers and society as a whole to maximize use of existing skills and abilities for the largest number of workers possible under the existing economic conditions, temporary or permanent, of the labor market area.

C. Suitable work. In general, suitable work is available work in the claimant's labor market area which is reasonably related to a claimant's qualifications. In determining whether a particular job is suitable, the department shall consider the degree of risk involved to the claimant's health, safety, and morals; the claimant's physical fitness; the claimant's prior training and experience; the claimant's length of unemployment and prospects of securing local work in his customary occupation; and the distance of the work from the claimant's residence.

D. Unsuitable work. Work is not suitable under any of the following conditions:

1. if the position offered is vacant due directly to a strike, lockout, or other labor dispute;
2. if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
3. if, as a condition of being employed, the individual would be required to join a union or to resign from or refrain from joining any bona fide labor organization; or
4. if the individual is in training with the approval of the commissioner.

~~C.~~ E. General. The In determining what is suitable work, the department shall give primary guidelines for determining suitable work must give consideration to the temporary or permanent nature of the unemployment claimant's separation from employment and whether it be temporary or permanent and the he has favorable prospects of the individual finding work in his usual or related occupations customary occupation within a reasonable period of time. The specific statutory interpretations of Rules 8 MCAR §§ 4.3007-4.3008 shall also be considered in light of the following general guidelines:

1. For persons who have a verifiable assurance of work in the near future within six weeks, suitable work consists of is limited to available, temporary work in their usual or a related trade or occupation or substantially equivalent employment in the labor market area;

2. For persons with a verifiable assurance of work in the more distant future than six weeks, suitable work is includes available, temporary work under 1. or other temporary work in a related trade or occupation for which the claimant is reasonably suited by virtue of his education, training, work experience or ability and which is a reasonable departure from his usual occupation;

3. For seasonal workers suitable work is includes temporary work under 2. in their usual occupation or a related occupation which provides conditions of employment approximating their past employment; however, Other employment is suitable if it meets the following conditions:

- a. There are available openings in a lower skilled or paid occupation; and
- b. There are few, if any, unemployed workers for whom these openings would be more suitable;
- c. The opening is one for which the claimant is reasonably fitted by virtue of his being able to perform the work; and
- d. b. The work pays a wage equaling at least 150 percent of the claimant's weekly benefit amount.

4. For persons without a verifiable assurance of work, suitable work is permanent work in their usual or related occupations substantially equivalent employment which provides wage and conditions of employment approximating those of their past employment if their prospects of finding the work are favorable. If prospects are unfavorable, work at lower skill or wage levels is suitable if there are few, if any, workers unemployed in the locality for whom these openings would be more suitable than for the claimant, the claimant is reasonably suited for the work by virtue of education, training, work experience or ability and the work offered is a reasonable departure from his usual occupation.

In general, "near future" as used in 1- means six weeks or less and "more distant future" as used in 2- means more than six weeks-

"Verifiable assurance" means an assurance that can be confirmed by claimant or employer information or independent department knowledge of the situation.

Paragraph 2. may be applied only when the claimant does not have favorable prospects for finding work in his usual trade or occupation or substantially equivalent employment.

**8 MCAR § 4.3007 Statutory terms interpreted.**

A. ~~Generally~~ Applicability. The terms and phrases used in Minn. Stat. § 268.09, subd. 2 ~~as guidelines for determining suitability of work~~ shall have the meanings and explanations given in B.-R.

B. To apply. "To apply" means that the claimant must comply with all necessary application processes, beginning with the notice to appear for the interview with the job service and including actually calling at the place of business of the prospective employer when so advised by the department.

C. Failure to apply. "Failure to apply" includes any willful action or neglect which demonstrates a lack of good faith in applying for employment.

D. Failure to accept. "Failure to accept" ~~may consist~~ consists of a direct statement of refusal by the claimant or the claimant's failure to take reasonable steps to accept ~~the job~~ suitable work after it has been offered to him.

E. Available, suitable work. "Available, suitable work" means that there is a definite job or vacancy to apply for or accept. Work is not available to the claimant when the employer finds the claimant unqualified for the position.

F. Of which he was advised. "Of which he was advised" means that a claimant was made aware of a job by the department and offered an opportunity to apply for it. Although the employer's name need not be provided to the claimant unless he accepts the referral, the job must be described in sufficient detail so the claimant is aware of the terms and conditions of employment.

G. Risk involved to his health and safety. Work is not suitable for a claimant if the employment presents a risk to his health or physical condition which is not usually customary to that occupation. Extra hazardous work shall not be suitable work unless the claimant has training or experience in that occupation. When a claimant has a demonstrated fear of performing a particular employment that employment shall not be suitable employment. A claimant's loss of ability to avoid previously accepted hazards must be considered.

H. His physical fitness. To determine suitability of work in terms of the claimant's physical fitness the department shall consider the type of work the claimant has most recently performed, any existing physical conditions, whether the work requires any ~~strenuous~~ physical ability the claimant does not possess, and other factors affecting his physical ability to perform the work. If the claimant's physical condition prevents him from doing the work the work is unsuitable. Medical evidence may be required to support the claimant's statement that the work offered is not suitable because of the claimant's physical condition.

I. Prior training and experience. Work that requires a skill or particular training which the claimant does not already possess may be unsuitable. However, if the claimant lacks the skills and training needed to perform offered work, that work may be suitable if as part of the job the claimant is provided with the training necessary to develop the work skills needed or if the time and effort required to develop the skills is minimal.

J. Prospects of securing work in his customary trade or occupation. If the prospects of a claimant finding work in his usual trade or occupation are unfavorable, then work in other occupations may be suitable work if the general conditions of 8 MCAR § 4.3006 are satisfied. In determining whether a claimant's prospects in a reasonable period of time are favorable or unfavorable, the department shall consider the following factors:

1. Whether the claimant's particular skill or trade is not in demand because of protracted economic conditions, technological changes or other reasons;

2. The number of unemployed persons seeking employment in the claimant's customary trade or occupation compared to the number of positions available;

3. The extent of the claimant's training and experience in his customary trade or occupation compared to the training and experience of other individuals seeking similar work if openings are limited;

4. The extent to which the claimant has investigated or exhausted the prospects available in his labor market area;

5. The length of time normally required to find work in the claimant's usual trade or occupation;

6. The prospects of work in his customary trade or occupation compared to the prospects of other suitable work;

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### 7. The claimant's verifiable assurances of work.

K. Distance of the available work from his residence. To determine suitability in terms of distance, all factors must be considered, including distance, proximity to transportation, cost of transportation, type of transportation, transportation schedules and time required for transportation. This determination is made not only in comparison to the claimant's most recent job but also in relation to that which is customary in his occupation. If it is customary in the claimant's occupation to relocate or change job sites, regardless of distance, then the work requiring relocation is suitable. ~~To determine the suitability of work located outside the locality of the claimant's residence, the factors to be considered are the claimant's prospects for equally steady work in his home area, the duration of his unemployment, the remuneration offered as related to the cost of transportation, and the distance to the place of employment.~~

L. Wages. The wages offered must approximate the prevailing wage for the work to be suitable. To determine suitability of work in terms of wages the total earnings must be considered. These include the wage rate, hours of work, method of payment, overtime practices, bonuses, incentive payments and fringe benefits. When the offered work is at a rate of pay lower than the claimant's former rate consideration must be given to the length of the claimant's unemployment and the proportion of difference in the rates. The importance of the difference between the wages offered and the previous rate decreases as the period of unemployment increases. Work which may not be suitable because of lower wages during the early weeks of the claimant's unemployment may become suitable for him as his duration of unemployment lengthens and it becomes evident that prospects are remote for obtaining work in line with prior wages. A wage that is below the person's previous wage may be suitable if it is not substantially less favorable than that prevailing for similar work in the community.

M. Hours. To determine suitability of work in terms of hours, the arrangement of hours in addition to the total number of hours are to be considered. An offer to work on a second, third, rotating or split shift is suitable work if ~~workers are generally hired on these shifts~~ it is customary in the trade or occupation in the labor market area. However, the shifts are always suitable for individuals who customarily work for employers who use several shifts.

N. Other conditions of work. The suitability of the work ~~may~~ shall be determined by considering the provisions of the employment agreement, whether express or implied, including the physical conditions under which the work is done pursuant to the agreement. The term "other conditions of work" includes but is not limited to provisions for work rules, safety rules, sanitation, heat, light, and ventilation.

O. Substantially less favorable to the individual. Whether provisions of the work offered are substantially less favorable to the individual can be determined only by comparison of the conditions of the work offered to those prevailing for similar work in the local labor market area. The conditions of work offered are not compared to the previous work of the individual. Both the extent of the difference as well as its effect on the worker shall be considered. If the work offered has differences of no substantial consequence for the worker, it will not be considered to be substantially less favorable. If the wages offered are more than ten percent below the prevailing rate of pay or less than the applicable federal or state minimum wage for the type of work being considered, it will be considered to be substantially less favorable than that prevailing for similar work in the locality.

P. Prevailing. Prevailing wages, hours and other conditions of work are those which are offered to those who commence employment in similar work in the locality.

Q. Locality. Locality means the claimant's labor market area.

R. Good cause. A claimant has good cause for refusal of suitable work only when there is some necessitous and compelling reasons for refusal. Good cause for refusing a job may, but need not be attributable to the employer. Good cause reasons for refusal are usually personal to the claimant and extraneous to the employment. ~~Good cause for refusal of suitable employment must be, and are usually of a temporary and emergency in character nature~~ so as not to detach the claimant from the labor market.

**8 MCAR § 4.3008 Reemployment offer.** A claimant is considered to have refused an offer of suitable reemployment from a base period employer unless the terms and conditions of the offer are substantially less favorable than the terms and conditions under which the principal part of the wage credits were earned with that employer in the claimant's base period ~~were earned with that employer.~~

A refusal of reemployment shall be with good cause if the claimant had previously quit the employment for good cause attributable to the employer and the conditions which were the basis for good cause still exist.

A refusal of reemployment shall be with good cause if the claimant previously separated from that employment because of his own serious illness and the work offered would adversely affect that illness.

**8 MCAR § ~~4.009~~ 4.3009 Partial benefits exemption.** 8 MCAR §§ 4.3001-4.3008 shall not apply to a claimant with respect to a claim for partial unemployment benefits.

**8 MCAR § 4.3010 Benefit claim procedure.**

A. Purpose and scope. This rule defines claim procedure and eligibility criteria under Minn. Stat. § 268.08, subd. 1.

B. Initial claim. To file a new claim for benefits or to reactivate an inactive claim, an individual shall report in person at an unemployment office and shall there:

1. Present a valid social security account number card or other acceptable evidence of his social security number;
2. File an initial claim for benefits on a prescribed form; and

3. Register for work, except that the initial claim for benefits may also constitute the individual's registration for work if it is determined that normal registration should be waived or postponed.

The claim shall be effective on the Sunday of the calendar week in which the claim is reactivated or filed.

C. Claim acceptance form. If the unemployment office cannot provide claim service on a given day an individual shall be given a claim acceptance form to verify his attempt to file a claim on that date. If the individual presents a claim acceptance form to one of the local unemployment service offices within 14 days from the date of issuance of the claim acceptance form or when service is next provided in a part-time unemployment office, the initial claim shall be backdated as if filed in the calendar week in which the claim acceptance form was issued.

D. Part-time unemployment office. Any individual who resides in an area in which there is a part-time unemployment office may report in person at that office and file a new or reactivated claim for benefits effective as of the Sunday of the first week of the individual's unemployment, provided that his first day of unemployment is subsequent to the last previous day that service was provided by the part-time unemployment office. No claim shall be effective more than 28 days prior to the calendar week in which the individual reports to file the claim.

E. Permitted benefit years. An initial claim for benefits shall not establish a benefit year which begins prior to the Sunday next following the end of any previous benefit year except as otherwise provided by rule or law.

F. Withdrawal of claim. An initial claim for benefits which has been filed with the department may not be withdrawn by the claimant or otherwise terminated by the department except as provided by other rule or law.

G. Continued claim. A continued claim is a certification to the completion of one or more weeks of unemployment and a request for benefit credit for that period. To establish eligibility for benefits or waiting period credit for a week or weeks of unemployment following a new or reactivated claim an individual shall continue to report in person or by mail and file continued claims as directed by the department to the office responsible for the administration of his unemployment insurance, in this or any other state.

H. Transferred claim. Any claimant filing continued claims covering more than four weeks of benefits through a single area office in this or some other state other than the area office where his initial claim or transferred claim is filed shall transfer his claim to that single office. No claimant shall be ineligible for failure to transfer his claim to another office unless, prior to the filing of a continued claim, the claimant has been directed to transfer his claim and has failed without good cause to comply.

I. Late filed claim. Any individual who fails to file a continued claim in the manner and at the time and place specified by the department may report in person or by mail and file the claim within 14 days following the date specified by the department. Waiting period credit or benefits for each week that was covered by the delinquent claim shall be authorized if the claimant is otherwise eligible. No credit or benefits shall be authorized for subsequent weeks which were not claimed properly.

Any individual who for good cause fails to file a continued claim in the manner and at the time and place specified by the department may file the claim in person or by mail not more than 35 days following the expiration of his benefit year. The claimant, if otherwise eligible, shall be entitled to waiting period credit or benefits for each week that good cause for failure to report is established.

J. Assistance in filing claim. The department shall make reasonable efforts to assist claimants who because of physical impairment or inability to communicate in the English language cannot provide information necessary to file benefit claims without assistance.

K. Requirement to notify department of address and telephone changes. The claimant's address and telephone number on a new or reactivated claim form shall constitute the last known address and telephone number for purposes of mailing notices of

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determination or otherwise contacting the claimant unless a written notice of address or telephone change is received by the unemployment office where his claim is on file. Any change of address or telephone number shall constitute the last known address or telephone number for only those transactions occurring after written notice was received.

### 8 MCAR § 4.3011 Week of unemployment.

A. Scope and purpose. This rule further defines "week" as defined under Minn. Stat. § 268.04, subd. 23.

B. Week calculated, labor dispute. An individual's week of unemployment shall consist of the consecutive seven-day period beginning with the day on which registration is made effective except following the termination of a labor dispute. Following termination of a labor dispute, week of unemployment is the remainder of the calendar week in which the labor dispute ended. An individual, if otherwise eligible, shall be entitled to one-fifth credit for each day, excluding Saturday, following the date on which the labor dispute ended.

### Chapter Three: Taxation

### 8 MCAR § 4.3100 Definitions.

A. Generally. Unless the context otherwise requires, terms used in 8 MCAR §§ 4.3100-4.3108 shall be construed in the sense in which they are defined in Minn. Stat. §§ 268.03-268.24, or in these or other rules of the department.

B. Pay period. "Pay period" means that period of time during which the wages due on any regular pay day were earned. If the period exceeds 31 days, then 31 days shall be deemed to constitute a pay period.

### 8 MCAR § 4.3101 Wages.

A. Purpose. This rule further defines "wages" as defined in Minn. Stat. § 268.04, subd. 25, and used in Minn. Stat. §§ 268.03-268.24, 8 MCAR §§ 4.3101-4.3108, interpretations, forms and other official pronouncements issued by the department.

B. Types of wages, generally. "Wages" means remuneration for services. The remuneration may take any form, be paid at various times, and be computed in various ways. Remuneration may be in cash or in a medium other than cash, on the basis of piece work or percentage of profits, or by commission. Remuneration may be paid on an hourly, daily, weekly, monthly, annual or other basis.

C. Paid and payable wages. Wages includes remuneration payable and remuneration paid. "Remuneration payable" is wages that have been earned but that were not paid when due. "Remuneration paid" is wages that have been actually or constructively delivered to, or for the benefit of, an employee.

D. Types of wages. Wages include the monetary value of:

1. Dwelling unit rent, utilities, meals, exchange of services or other goods or services that are to compensate for an employee's services;

2. Vacation pay or payment in lieu of vacation;

3. Termination, severance, or dismissal payment or payment in lieu of notice whether notice is required or not;

4. That portion of the payment which compensates for services rendered received in the form of an award or allowance in accordance with a contractual agreement or settlement reached through any arbitrator, regulatory agency or court;

5. Profits, sometimes referred to as dividends, other than those designated as capital gain distributions or return of capital, distributed or allocated to officers and shareholders who perform services for a corporation organized under the rules of Subchapter S of the Internal Revenue Code of 1954. The distribution or allocation of undistributed profits is reportable at the time it is received by, or credited to the account of, the officers and shareholders;

6. The value of any consideration, award, bonus or prize which accrues before separation from employment;

7. Payments for accrued sick leave when not related to a specific absence due to sickness or injury, regardless of whether or not the employer maintains a sick pay plan as defined in Minn. Stat. § 268.04, subd. 25, clause (2);

8. Idle time or standby compensation paid by an employer for a guaranteed minimum number of hours of employment per week when employees are to be available for a specific period of time and payment is made to them for idle time even if they do not render services for the minimum number of hours;

9. Advances or draws against future earnings, when paid, unless the payments are designated as a loan or return of capital on the books of the employer at the time of payment;

10. Amounts paid to corporate shareholders and or officers, although designated as loans, where repayments are not made pursuant to a payoff schedule, lack business purpose and fail to provide for the payment of reasonable interest, if the

shareholders or officers perform services for the corporation for remuneration below that which would approximate reasonable compensation for services;

11. Payments made directly or indirectly to an individual to perform or assist in performing the work of any employee of the employer provided that the employer had actual or constructive knowledge that the work was being performed:

12. Payments made for services as a caretaker. Unless there is a contract or other proof to the contrary, remuneration shall be considered as being equally received by a married couple where the employer makes payment to only one spouse, or by all tenants of a household who perform services where two or more individuals share the same dwelling and the employer makes payment to only one individual;

13. Payments made for services by a migrant family. Where services are performed by a married couple or a family and an employer makes payment to only one individual each worker shall be considered as having received an equal share of the remuneration unless there is a contract or other proof to the contrary;

14. An employer's vehicle furnished to an employee to the extent the vehicle is used for personal purposes. If the employee has use of the vehicle without charge, the amount deemed to be wages shall be \$200 per month or, if for less than a calendar month, \$7 for each day that the employee has use of the vehicle for personal purposes. If the employee reimburses the employer for the use of the vehicle, the amount deemed to be wages shall be determined as follows:

a. If the employee reimburses the employer at an established rate of less than 20 cents per mile for each mile of personal use, the amount deemed to be wages shall be the difference, if any, between the amount reimbursed and 20 cents per mile; or

b. If the employee reimburses the employer at an established daily, weekly or monthly rate, the amount deemed to be wages shall be the difference, if any, between the amount reimbursed and \$200 per month, or, if for less than a month, \$7 for each day that the employee has use of the vehicle for personal purposes;

15. Amounts withheld or deducted from an employee's ~~earning~~ earnings because of a deferred compensation agreement which an employee agrees to participate in or which is part of an employment contract. A deferred compensation agreement generally means an arrangement between the employee and the employer for the withholding or deduction of a specific amount from his earnings, to be distributed to the employee by the employer or a third person at a later time, usually in post-retirement years.

#### E. Tips and gratuities.

1. Accounted for to the employer. Tips and gratuities are accounted for to the employer in various manners or forms including if ~~when~~ they are:

- a. Added to the customer's bill by the employer;
- b. Added to the bill by a customer using credit for the purchase;
- c. Disbursed by the employer from a tip pool; or
- d. Reported to the employer in compliance with the Internal Revenue Code of 1954.

2. Paid to an employee by a customer. Tips and gratuities are considered paid to an employee by a customer if they are:

- a. Received directly from the customer;
- b. Distributed from a tip pool, whether controlled by the employer or employees; or
- c. Received as part of a plan or system under which the person initially receiving them, whether directly from the customer or from a tip pool, distributes a portion of the tips to other employees.

Under a.-c. the tips are considered as being paid by the customer to the person ultimately receiving them.

#### F. Valuing non-cash remuneration.

1. Except as this rule may otherwise provide, the cash value of remuneration for personal services payable in any medium other than cash shall be:

- a. The fair market value of meals or any value agreed upon between the employer and employee if it is not less than

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the allowance as provided in Minn. Stat. §§ 177.21-177.35, the Minnesota fair labor standards act, and rules promulgated thereunder;

b. The value of rent of a house, apartment or other lodging, furnished to an employee that would be paid by an employee for similar or equivalent accommodations, but in no event less than the allowance provided in Minn. Stat. §§ 177.21-177.35 and rules promulgated thereunder; or

c. The fair market value, determined when received, of any other remuneration for services unless a higher value is agreed upon between the employer and the employee.

2. If the ~~department~~ commissioner determines that the reasonable fair market value is other than as determined by the employer ~~it may~~ he shall, after affording the employer reasonable opportunity for the submission of relevant information, determine the reasonable cash value of board, rent, housing, meals, or similar advantage.

### G. Employee equipment.

1. The wages of the operator and supplier of a truck, bulldozer, tractor or similar equipment whose remuneration includes wages for personal services as well as the cost of operating and hiring the equipment shall, in the absence of an agreement between the parties, be determined as follows:

a. The value of that part of the total remuneration received which is wages for personal services shall not be less than the prevailing wage scale for similar services by operators of equipment of the same size and type in the locality where the services are performed; or

b. If there is no prevailing wage in the locality in which the services are performed, 40 percent of the total remuneration received from the employer shall constitute wages.

2. Payments to an employee that include advances or reimbursements for use of his personal vehicle of up to 9,000 pounds gross vehicle weight in the employer's business are wages unless the amount attributable to the use of the vehicle is separately paid or stated as prescribed in H.8. and the advance or reimbursement is not unreasonable or arbitrary in which case only the amount attributable to services performed shall be wages.

3. If the commissioner finds that the wage determination of the equipment operators or employees who use their personal vehicles in the employer's business prescribed by 1. and 2. would be unreasonable or arbitrary in ~~the~~ a particular case, then the commissioner ~~may~~ shall determine the amount of the wages of the employee involved.

### H. Exempt wages. The term "wages" shall not include:

1. The value of any special discount or mark down allowed to an employee in goods purchased from or services supplied by the employer where the purchases are optional and do not constitute regular or systematic remuneration for services rendered;

2. Customary and reasonable directors' fees paid to individuals who are not otherwise employed by the corporation of which they are directors;

3. Moneys allowed to employees for reimbursement of meal expenses when employees are required to perform work after their regular hours;

4. Any payment made to or on behalf of an employee by the employer for legal or dental service plans if provided for all employees generally or for a class or classes of employees;

5. Payments for periods of sickness or injury after the end of six calendar months after the calendar month in which the employee last worked for the employer, if the payments are made by an employer who does not maintain a regular sick pay plan as defined in Minn. Stat. § 268.04, subd. 25, clause (2);

6. Compensation, reimbursement, fees, meals or other remuneration paid or provided through a court to an individual for services performed as a juror;

7. Royalties to an owner of a franchise, license, copyright, patent, oil, mineral or other right;

8. Amounts paid specifically as advances or reimbursements for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer. Traveling and other reimbursed expenses must be identified either by making separate payments or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment;

9. Remuneration paid to radio and television artists which represents residual payments and ~~are~~ which is accrued subsequent to the production of musical jingles, spot announcements, radio transcriptions and film sound tracks; or

10. Any payment to or on behalf of an employee under a plan or system established by an employer, which makes provisions for his employees generally or for a class or classes of his employees for the supplementation of unemployment

benefits under the written terms of an agreement, contract, trust arrangement, or other instrument if the plan or system provides benefits which are only supplemental to, and does not replace or duplicate any state or federal unemployment compensation. The plan or system must provide that funds are to be used solely for the supplementation of state unemployment benefits. Potential recipients of the plan or system must be required to file for unemployment benefits in accordance with state law. The plan or system shall not allow the assignment of benefits or the payment of any consideration in lieu of any benefit upon the employee's withdrawal from the plan or system, his termination of employment or the termination of the plan or system. The plan or system must not be designed for the purpose of avoiding the payment of unemployment taxes on moneys disbursed from its plan or system.

#### 8 MCAR § 4.3102 Employment.

A. Definitions. For the purpose of 8 MCAR § 4.3102 the following terms have the meaning given to them.

1. "Control" is the power to instruct, direct or regulate the activities of an individual whether or not the power is exercised.
2. "Employing unit" has the meaning given to it in Minn. Stat. § 268.04, subd. 9, and includes any individual or type of organization that engages, retains, or secures the services of, an individual.
3. "Employment" has the meaning given to it in Minn. Stat. § 268.04, subd. 12, and includes the services of any individual performed for an employing unit under its direction, rule or control as to both the method of performing or executing the services and the result to be effected or accomplished. Whether an individual is performing services in employment shall be determined by the preponderance of the evidence.
4. "Method" is the way, procedure or process for doing something; the means in attaining a result as distinguished from the result itself.

B. Obtaining a determination or opinion. If an employing unit is unsure of the status of an individual performing services for it, the employing unit may obtain a written determination by submitting all relevant facts to the commissioner on questionnaires prescribed for these determinations. The determination shall be final unless a written protest is filed with the commissioner as set forth in Minn. Stat. § 268.12, subd. 13. If any person contemplates hiring or engaging a worker to perform services and is unsure if the services would be deemed employment, a written opinion may be obtained by submitting information about the proposed work arrangement, as the hiring person perceives it will be, on questionnaires prescribed by the commissioner. The commissioner's opinion does not have the effect of a determination and is not subject to appeal. The person requesting the opinion shall clearly indicate that the situation is hypothetical and that an opinion, rather than a determination, is being sought. If an individual is hired or engaged to perform the services in question, a determination may be obtained. This paragraph in no way limits the department's authority under Minn. Stat. § 268.12, subd. 13, clause (1) to make determinations on its own motion.

~~B-~~ C. Procedures for determining control. The department ~~may~~ shall determine if control exists by:

1. Reviewing written contracts between the individual and the employing unit;
2. Interviewing the individual or employing unit;
3. Obtaining statements of third parties;
4. Examining regulatory statutes governing the organization, trade or business;
5. Examining the books and records of the employing unit; and
6. ~~Any other appropriate means~~ Making any other investigation necessary to determine if the elements of control specified in D. exist.

~~C-~~ D. Evidence of control. Paragraphs 1.~~42~~-13. describe criteria for determining if there is control over the method of performing or executing services. The total circumstances must be considered to determine if control is present.

1. Authority over individual's assistants. ~~Hiring, supervising, and payment of an individual's assistants by the employing unit shows~~ Control over the individual is indicated when the employing unit hires and pays the individual's assistants and supervises the details of the assistant's work.

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2. Compliance with instructions. ~~Control exists when an individual is required to comply with instructions about when, where and how he is to work. Some individuals may work without receiving instructions because they are highly proficient in their line of work; however, the control factor is present if the employing unit has the right to instruct or direct. Instruction may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished. Control is indicated when an individual is required to comply with detailed instructions about when, where, and how he is to work including the order or sequence in which the service is to be performed. Mere suggestions as to detail or necessary and usual cooperation where the work furnished is part of a larger undertaking, does not normally evince control. Some individuals may work without receiving instructions because they are highly proficient in their line of work; nevertheless, the control factor is present if the employing unit has the right to instruct or direct the methods for doing the work and the results achieved. Instructions may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished. However, instructions required by state or federal law or regulation or general instructions passed on by the employing unit from a client or customer, generally does not evince control.~~

3. Oral or written reports. Control is indicated if regular oral or written reports relating to the method in which the services are performed must be submitted to the employing unit. Periodic reports relating to the accomplishment of a specific result may not be indicative of control if, for example, the reports are used to establish entitlement to partial payment based upon percentage of completion of a job, or the reports are needed to determine compliance with the terms of a contract. Completion of receipts, invoices and other forms customarily used in the particular type of business activity or required by law does not constitute written reports.

4. Place of work. Doing the work on the employing unit's premises is not control in itself; however, it does imply that the employer has control, especially when the work could be done elsewhere. When work is done off the premises it does indicate some freedom from control; however, in some occupations, the services are necessarily performed away from the premises of the employing unit and are still considered to be in employment.

5. Personal performance. ~~If the services must be rendered personally it indicates that the employing unit is interested in the method as well as the result. Personal performance might not be indicative of control if the work is very highly specialized and the worker is hired on the basis of his professional reputation, as in the case of a consultant known in academic and professional circles to be an authority in the field. Control is indicated if the services must be personally rendered to the employing unit. Personal performance of a very specialized work, when the worker is hired on the basis of professional reputation, as in the case of a consultant known in the academic and professional circles to be an authority in the field, is a less reliable indicator of control. Lack of control may be indicated when an individual has the right to hire a substitute without the employing unit's knowledge or consent.~~

6. Establishment of work sequence. ~~If a person must perform services in the order or sequence set for him by the employing unit it indicates the worker is subject to control. Often, because of the nature of an occupation, the employing unit does not set the order of the services, or sets them infrequently; however, it is sufficient to show control if the employing unit retains the right to do so. Existence of a continuing relationship. The existence of a continuing relationship between an individual and the person for whom he performs services is a factor tending to indicate the existence of an employer-employee relationship. Continuing services may include work performed at frequently recurring, though somewhat irregular intervals, either on call of the employing unit or whenever work is available.~~

7. Right to discharge. The right to discharge is a very important factor indicating that the right to control exists particularly if the individual may be terminated with little notice, without cause, or for failure to follow specified rules or methods. An independent worker generally cannot be terminated if he produces an end result which measures up to his contract specifications. Contracts which provide for termination upon notice or for specified acts of nonperformance or default are not solely determinative of the right to control. That a right to discharge is restricted because of a contract with a labor union or with other entities does not mean there is not control.

8. Set hours of work. The establishment of set hours of work by the employing unit indicates control. Where fixed hours are not practical because of the nature of the occupation, a requirement that the worker work at certain times is an element of control.

9. Training. Training of an individual by an experienced employee working with him, by required attendance at meetings, and by other methods, is a factor of control especially if the training is given periodically or at frequent intervals.

10. Amount of time. If the worker must devote his full time to the activity, control is indicated. Full time does not necessarily mean an eight hour day or a five or six day week. Its meaning may vary with the intent of the parties, the nature of the occupation and customs in the locality. Full time services may be required even though not specified in writing or orally. For example, a person may be required to produce a minimum volume of business which compels him to devote all of his working time to that business, or he may not be permitted to work for anyone else.

11. Tools and materials. The furnishing of tools, materials and supplies by the employing unit is indicative of control over the worker. When the worker furnishes these items it indicates a lack of control, but lack of control is not indicated if the individual provides tools or supplies customarily furnished by workers in the trade.

12. Expense reimbursement. Payment by the employing unit of either the worker's approved business or traveling expenses, or both, is a factor indicating control over the worker. A lack of control is indicated when the worker is paid on a job basis and has to take care of all incidental expenses.

13. Satisfying requirements of regulatory and licensing agencies. If an employing unit is required to enforce standards or restrictions imposed by regulatory or licensing agencies, such action does not evince control.

~~D.~~ E. Independent contractor or employee, factors to consider. Among the factors to be considered, in addition to factors of control, when determining if services are employment are those listed in 1.7-8.

1. Availability to public. That an individual makes his services available to the general public on a continuing basis is usually indicative of independent status. An individual may offer his services to the public in a number of ways including having his own office and assistants, displaying a sign in front of his home or office, holding a business license, having a listing in a business directory or a business listing in a telephone directory, or advertising in a newspaper, trade journal or magazine.

2. Compensation on job basis. A person working in employment is usually paid by the hour, week or month. Payment on a job basis is customary where the worker is independent. Payment by the job may include a predetermined lump sum which is computed by the number of hours required to do the job at a fixed rate per hour or periodic partial payments based upon a percent of the total job price or the amount of the total job completed. The guarantee of a minimum salary or the granting of a drawing account at stated intervals with no ~~requirements~~ requirement for repayment of the excess over ~~earning~~ earnings indicates the existence of employment.

3. Realization of profit or loss. An individual who is in a position to realize a profit or suffer a loss as a result of his services is generally independent, while the individual who is working in employment is not in that position.

4. Obligation. An individual working in employment usually has the right to end his relationship with his employer at any time he wishes without incurring liability, although he may be required to provide notice of his termination for some period in advance of the termination. An independent worker usually agrees to complete a specific job. He is responsible for its satisfactory completion and is liable for failure to complete the job.

5. Substantial investment. A substantial investment by a person in facilities used by him in performing services for another tends to show an independent status. The furnishing of all necessary facilities by the employing unit tends to indicate the absence of an independent status. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, and similar items that are provided by individuals working in employment as a common practice in their particular trade. A substantial expenditure of time or money for an individual's education is not necessarily indicative of an independent relationship. Substantial investment means a monetary investment representing something of considerable worth, in relation to the overall requirements of the person's chosen profession, trade, occupation or vocation.

6. Simultaneous contracts. If an individual works for a number of persons or firms at the same time, it indicates an independent status because the worker is usually free from control by any of the firms. It is possible that a person may work for a number of people or firms and still be an employee of one or all of them.

7. Responsibility. An employing unit is usually responsible for the negligence, personal behavior and work actions of a person working in employment in his contacts with customers and the general public during times that he is performing services for the employing unit. An independent worker is usually accountable for his own actions.

~~E.~~ 8. Services in the course of the employing unit's organization, trade or business. Services that are in the course of the employing unit's organization, trade or business consist of services which are a part or process of the employing unit's organization, trade or business and ancillary or incidental services. ~~An individual who performs services which are a part or process of the employing unit's trade or business is in employment and does not have independent status~~ Services which are a part or process of the employing unit's trade or business are generally performed by individuals in employment. Therefore, it is a consideration in determining the status of an individual. This consideration, as with all other considerations, is not a sole determinative factor. "Part" and "process" are not synonymous. Process refers to those services which directly carry out the fundamental purposes for which the organization, trade or business exists, for example, painting and repairing automobile

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bodies in an automobile body paint and repair shop. Part refers to any other services which are essential to the operation or maintenance of the organization, trade or business, for example, routine cleaning of premises and maintenance of tools, equipment and buildings. Ancillary or incidental services include landscaping the areas around an automobile body paint and repair shop. Other services that meet the part, process or ancillary classification are those services in connection with purchasing, receiving, storing, pricing, displaying, selling and delivery of merchandise and housekeeping services required for the safety and comfort of customers and the general public or to maintain the premises in a manner as to promote business.

F. Independent status, determination. When determining if an individual is in employment or is an independent contractor the factors considered must be weighed to make a determination of the relationship under the facts of the particular case. ~~The weight to be given to a factor is not always constant and there may be other factors not specifically identified in this rule that should be considered. The degree of~~ There are five essential factors to be considered. The two most important are those:

1. That indicate the right or the lack of the right to control the means and manner of performance; and
2. To discharge the worker.

The other essential factors to be considered are: the mode of payment; furnishing of materials and tools; and control over the premises where the work is performed.

Other factors, including some not specifically identified in this rule, may be considered if a determination is inconclusive when applying the essential factors, and the degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation.

G. Agent-drivers and salespersons. Certain classes of agent-drivers, salespersons and commission persons are statutory employees even though they are independent contractors under common law rules. Minn. Stat. § 268.04, subd. 12, clause (1)(b) sets forth the conditions which must be present for members of each class to be employees.

1. Full-time. In the case of a traveling or city salesperson, other than an agent-driver or commission-driver, Minn. Stat. § 268.04, subd. 12 provides that the individual must be engaged on a full-time basis. "Full-time" means the number of hours in the calendar week during which individuals engaged in the same or similar occupations usually or customarily perform services, except that any week during which an individual worked 40 hours or more providing those services shall be deemed to be full-time.

2. Substantial investment in facilities. Agent-drivers, commission-drivers, and traveling or city salespersons to be employees must not have a substantial investment in facilities, other than facilities for transportation, used in connection with the performance of the services.

a. "Facilities" means equipment or premises necessary to perform the work. Inventory, clothing and items not actually required to adequately perform the assigned tasks are not facilities.

b. "Substantial investment" refers to a monetary investment representing something of considerable worth in relation to the overall investment requirements in the distribution or sale of the particular product involved.

H. In employment by federal law. An individual is in employment if he performs services which are subject to Section 3300 of the Internal Revenue Code of 1954 (Federal Unemployment Tax Act) or performs services which are required by federal law to be covered employment by state law.

I. In employment, general inclusions. The following services described in 1.-3. are considered to be in employment:

1. Services performed by an employee as an insurance agent, insurance solicitor or real estate salesperson for the pay period in which payments for the services not constituting commissions were paid or became due and payable. The exclusionary provisions of Minn. Stat. § 268.04, subd. 12, clauses (15)(m) and (o) apply to services which require a Minnesota real estate or insurance agent's sales license and to those individuals, except corporate officers, possessing the license. Services of corporate officers, who are employees by statute, shall not be considered in the application of this exclusionary provision. Noncommission remuneration includes guaranteed salary, training allowance, bonus, and draws or advances against future earnings as described in 8 MCAR § 4.3101 D.9. For the purpose of this paragraph commission means remuneration paid to individuals as a direct result of a sale, including the percentage of the sale price paid to the salesperson responsible for the sale, and payments including overrides, listing fees, and closing fees which are related to the sale;

2. Services performed as election judges; and

3. Services performed by factory demonstrators who are placed by a manufacturer or distributor in stores and other locations to aid in the sale of products, who are hired by, who are paid directly or indirectly by, and who work under the direction of the manufacturer or distributor, although this direction may be delegated to the retailer, ~~and they~~ are in the employment of the manufacturer or distributor making the placement. If the retailer, not acting as an agent for the manufacturer

or distributor, hires, directs and pays the demonstrator directly, the retailer is the employer. If the wages are paid in part by the manufacturer or distributor, and in part by the retailer, the demonstrator is in the employment of both. Each is required to pay contributions on the part of the remuneration which ~~he~~ it pays, provided that ~~they are employers~~ it is an employer under Minn. Stat. §§ 268.03-268.24.

**J. Casual labor.**

1. Casual labor not in the course of the employing unit's trade or business, although excluded from the term employment by Minn. Stat. § 268.04, subd. 12, clause (15)(b), is conditionally included as employment under the provisions of Chapter 23, Section 3300 of the Internal Revenue Code of 1954 (Federal Unemployment Tax Act). Minn. Stat. § 268.04, subd. 12, clause (6) provides that the term employment shall include any service which is deemed to be employment under the Federal Unemployment Tax Act; therefore, casual labor is considered employment unless it meets the exclusionary provisions of that act. The exclusionary provisions of that act are in 2.

2. Service not in the course of the employing unit's trade or business, performed in any calendar quarter by an employee is excluded employment unless the cash remuneration earned for the service is \$50 or more, and the service is performed by an individual who is regularly employed by the employing unit. For the purpose of this paragraph, an individual shall be deemed to be regularly employed if for some portion of each of 24 days or more, whether or not consecutive, during the current or preceding quarter the individual performs service that is not in the course of the employing unit's trade or business. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining if the cash remuneration test is met. Casual labor not in the course of the employing unit's trade or business includes service that does not promote or advance the trade or business of the employing unit; for example, work performed in connection with the employing unit's hobby or recreational activities, or work as an employee in repairing the employing unit's private home. Service for a corporation cannot be considered as nonbusiness or casual labor.

**K. Localized employment.**

1. If an employee works in more than one state, it is necessary to determine if the employment is localized in, and reportable to Minnesota. In making this determination, only the regular services for which the employee was hired, and not those characterized as incidental, temporary, transitory or an isolated transaction are to be considered. An employee's services are considered localized in Minnesota in any calendar quarter in which 80 percent or more of his regular services are performed in Minnesota.

2. Regular services include those services performed in an office located in the home of the employee if all of the following conditions are met:

- a. The employer does not provide other facilities;
- b. The office meets the requirements of the Internal Revenue Code of 1954 for the deduction of business related expenses; and
- c. The services performed are an integral part of the employee's regular duties.

3. Incidental, temporary, transitory and isolated services include:

- a. Attending periodic meetings or returning to one's residence which is located outside his area or territory, by salespersons or others who normally perform services within a given area or territory; and
- b. Any other services which are apart from or not a permanent part of an employee's regular duties.

**L. Multi-state employment.** When an individual's services are not localized, and absent any reciprocal agreement provided for in Minn. Stat. § 268.13, subd. 1, clause (1), the employee is a "multi-state" worker and the application of the tests listed in 1.-4. below is required, to determine whether the services are reportable to Minnesota.

1. Base of operations. If an individual's services are not localized in any state and some services, other than those determined to be incidental, temporary, transitory or isolated transactions, are performed in Minnesota and the base of operations is in Minnesota, the employee's entire services are reportable to Minnesota. "Base of operations" means the place, usually permanent in nature, from which the employee starts his work, to which he customarily returns, and to which the

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employer may direct instructions to the employee. A branch office of the employer or the place of residence of the employee could be a base of operations.

2. Direction and control. If an individual's services are not localized in any state and the base of operations test does not apply, all of the services are reportable to Minnesota if Minnesota is the state from which the employer exercises general direction and control over the employee, and if some services, other than those determined to be incidental, temporary, transitory or isolated services, are performed in Minnesota.

3. Residence. If an individual's services are not localized within any state and the base of operations and the direction and control tests do not apply, the individual's entire services are reportable to Minnesota if the individual's residence is located in Minnesota and some services, other than those determined to be incidental, temporary, transitory; or isolated transactions are performed in Minnesota.

4. Service not covered under the laws of any other state or Canada. If 1.-3. do not apply, and the individual's services are not covered under the laws of any other state or Canada, the services are covered under Minn. Stat. §§ 268.03-268.24 if the services are directed and controlled from Minnesota.

M. Employment partially exempt within a pay period; 50 percent rule.

1. Minn. Stat. § 268.04, subd. 12, clause (15)(p) does not apply to an individual who performs services as an independent contractor and in employment within the same pay period, but does apply to all employment defined in Minn. Stat. § 268.04, subd. 12, except clauses (10)(a) and (b), relating to certain employees of religious organizations.

2. If an individual's services within the pay period consist of 50 percent or more of excluded employment none of that individual's services for that pay period are taken into account nor does any of that individual's remuneration for that pay period constitute wages.

3. Although not applicable to services by an individual referred to in Minn. Stat. § 268.04, subd. 12, clauses (10)(~~+~~)(a) and (b), other services performed by the same individual are subject to all other provisions of Minn. Stat. §§ 268.03-268.24.

N. Previously excluded employment. If within a calendar year an individual's services and remuneration should no longer be excluded because his employing unit has met the employment or wage requirement for that individual's class of workers all of the previously excluded employment for that class within the same calendar year is subject to the provisions of Minn. Stat. §§ 268.03-268.24. The previously excluded wages for all workers in that class of employment are reportable in the calendar quarters in which the wages were paid or were due and payable.

O. Employment, general exclusions. Minn. Stat. § 268.04, subd. 12, clause (10)(d) excludes services which are performed as part of a program designed to relieve unemployment, if the specific program, and not just the employing unit, is assisted or financed by any federal agency or an agency of a state or political subdivision thereof. "Assistance" may be in the form of supervision, advice in organizing and operating the program, but it must be substantial and continuing. Occasional, intermittent or incidental services would not be sufficient to invoke the exclusion. Where other than incidental physical facilities or material are furnished the program by a federal agency, the state or any of its political subdivisions, the program has been "assisted or financed".

P. Employment, special exclusion. In the trucking industry, an owner-operator of a vehicle which is licensed and registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory agency is an independent contractor, not an employee, while performing services in the operation of his truck, if each of the following factors are substantially present:

1. The individual owns the equipment or holds it under a bona fide lease arrangement;

2. The individual is responsible for the maintenance of the equipment;

3. The individual bears the principal burdens of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road;

4. The individual is responsible for supplying the necessary personal services to operate the equipment;

5. The individual's compensation is based on factors related to the work performed including a percentage of any schedule of rates or lawfully published tariff and not on the basis of the hours or time expended;

6. The individual generally determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier and specifications of the shipper; and

7. The individual enters into a contract that specifies the relationship to be that of an independent contractor and not that of an employee.

**8 MCAR § 4.3103 Agricultural labor.**

A. Purpose. This rule further defines and clarifies terms used in Minn. Stat. § 268.04, subd. 12, clause (15)(a) and in this rule.

B. Definitions.

1. Agricultural and horticultural commodity. "Agricultural or horticultural commodity" includes nuts, fruits, mushrooms, vegetables, honey, milk, eggs and grain, flowers, cut flowers, trees, sod and shrubbery, animal feed or bedding, grass seed, vegetable and cereal seed, flax, soy beans, sunflower seeds, corn, medicinal herbs and other crops.

2. Commodity. "Commodity" refers to a single product. For example, all apples are one commodity. Apples and peaches are two separate commodities.

3. Crop purchase agreement. "Crop purchase agreement" means an agreement whereby a crop is raised under contract with a buyer.

4. Cultivating. "Cultivating" means cultivating of the soil, irrigating crops, spraying, dusting and other related operations.

5. Farm. "Farm," unless otherwise excluded in this rule, means land or buildings if their primary use is for raising agricultural or horticultural commodities or for activities generally associated with the operation of a ranch, range, livestock or dairy operation. A farm need not be a specific size and it need not be composed of contiguous plots. The performance of agricultural services does not by itself render the place where they are performed a farm.

6. Fur-bearing animals. "Fur-bearing animals" are animals raised for the eventual use of their fur in the manufacture of clothing or other products.

7. Harvesting. "Harvesting" includes baling hay and straw, shredding fodder, combining small grains, hulling nuts, and course grinding of alfalfa. Horticultural commodities including flowers, trees, shrubbery and plants are harvested when they are taken up for sale or storage.

8. Livestock. "Livestock" is any useful domestic animal kept for use on a farm or raised for sale and profit or for eventual consumption.

9. Poultry. "Poultry" is any domestic fowl raised for meat or eggs and includes chickens, turkeys, ducks and geese.

10. Primary. "Primary" means 70 percent or more.

11. Raising. "Raising" as it pertains to livestock, bees, poultry, fur-bearing animals and wildlife means any or all stages of development, including breeding, which are necessary in their maturing for use on the farm or for sale. Raising does not include services in potting, watering, heeling, or otherwise caring for trees, shrubbery, plants, flowers or similar items that are purchased in saleable condition for the purpose of resale.

12. Terminal market. A "terminal market" includes a packing or processing plant or any place where a farmer-producer customarily relinquishes his economic interest in the commodity, its future form or its destiny.

13. Wildlife. "Wildlife" refers to frogs, birds, fish and all animals belonging to a species or class generally considered wild regardless of the element which they inhabit.

C. Farms, exclusions.

1. Feedlots, hatcheries and horse breeding and training. Feedlots, hatcheries and horse training and breeding enterprises are not in themselves farms although they require services generally considered to be agricultural labor.

2. Wildland. Property left in its wild state with no effort expended to perform common farming operations is not a farm.

D. Farms, inclusions.

1. Wild rice. Land developed for seeding, cultivating and raising wild rice is a farm.

2. Christmas trees. A plot of land used primarily for raising Christmas trees is a farm.

3. Mushrooms. Land and structures used primarily for raising mushrooms is a farm.

4. Wildlife. A parcel of real property used for raising any form of wildlife is a farm.

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5. Ranges. Land used primarily for grazing is a farm.

### E. Crop purchase agreements, farms, agricultural labor.

1. Farm operator. A person agreeing to purchase a commodity grown under a crop purchase agreement does not by that reason qualify as an operator of a farm even though he conducts some or all of the operations necessary for the production and harvesting of the crops purchased.

2. Agricultural labor. Services performed on a farm in the employ of either party to a crop purchase agreement in connection with the raising and harvesting of crops is agricultural labor.

F. Agricultural labor on farms. Services connected with the following activities must be performed on a farm as defined in Minn. Stat. § 268.04, subd. 12, clause (15)(a)(5) and in this rule, to be agricultural labor:

1. Breeding and training horses;

2. Hatching poultry;

3. Aerial seeding, fertilizing, spraying and dusting including services related to the mixing of the spray or dust material or the loading of the material into the airplane, as well as services related to the measuring of the swaths and the marking and flagging of fields to be dusted or sprayed;

4. Clerical, bookkeeping and other office work in conjunction with the services referred to in Minn. Stat. § 268.04, subd. 12, clause (15)(a)(1); or

5. Holding, feeding and fattening livestock in feed lots.

### G. Agricultural labor, ~~specific cases~~ conditional situations.

1. Generally. The services described in 2.-5. are not agricultural labor unless they meet the specific requirements set forth in 2.-5. with regard to where and for whom they are performed. When reference is made to "incidental to ordinary farming operations", that means services of the character ordinarily performed by employees of a farmer or of a farmer's cooperative organization or group as a prerequisite to marketing in its unmanufactured state any agricultural or horticultural commodity produced by the farmer, organization or group.

2. Clerical work. Record keeping and other clerical or office work performed in connection with the functions described in Minn. Stat. § 268.04, subd. 12, clauses (15)(a)(2) and (4) unless they are:

a. Performed in the employ of the owner or tenant or other operator of a farm;

b. Rendered in major part on a farm; and

c. Performed incidentally to ordinary farming operations.

3. Commodity retailing. Retailing agricultural or horticultural commodities, on or off the farm, unless:

a. The services are performed for, and the commodities are produced by the operator of the farm; and

b. Less than 50 percent of the employee's time is devoted to the services. The 50 percent test is to be applied to each employee with respect to either a pay period or 31 days, whichever is less.

4. Waterways work. Services in the construction of canals, reservoirs, waterways or drainage ditches, unless in the employ of the owner or tenant or other operator of a farm.

5. Land clearance. Services in the clearing of stumps, brush and debris from land in preparation for its use as a farm, unless done in the employ of the owner tenant or other operator of the farm.

### H. Agricultural labor exclusions.

1. Generally. Services connected with the following activities do not constitute agricultural labor:

a. Breeding, raising and caring for mice, rats and other rodents and creatures commonly held for sale in pet shops or raised for research and experimental purposes;

b. Breeding, raising, caring for, exhibiting and boarding dogs and cats;

c. Racing, exhibiting and boarding horses, including services connected with a riding stable or academy;

d. Lumbering or landscaping;

e. Collecting and processing maple sap into maple syrup or sugar;

f. Trapping animals;

g. Harvesting native wild rice not grown on land developed specifically for that purpose; or

h. Raising and harvesting worms.

2. Packing plants. Services performed in the employ of any person other than the operator of a farm in hauling crops to a packing plant and services within the plant do not constitute agricultural labor.

1. Agricultural labor, separate commodities. The services with respect to each commodity are to be considered separately in determining whether the conditions set forth in Minn. Stat. § 268.04, subd. 12, clause (15)(a)(4) have been satisfied.

**8 MCAR § 4.3104 Domestic service.**

A. Purpose. This rule further defines and clarifies terms used in Minn. Stat. § 268.04, subd. 12, clause (14) and in this rule.

B. Definitions.

1. Domestic service. "Domestic service" means work ordinarily performed as an integral part of household duties that contribute to the maintenance of the employer's private home or administers to the personal wants and comforts of the employer and other members of the employer's household. In general domestic service includes work performed by cooks, waiters, waitresses, butlers, housekeepers, housemen, watchmen, governesses, maids, companions, nursemaids, valets, baby sitters, laundresses, furnace men, caretakers, gardeners, footmen, grooms, seamstresses, handymen and chauffeurs of family automobiles. Domestic service performed for fraternities and sororities also ~~include~~ includes services performed by housemothers.

2. Local college club. "Local college club" means a club operated and controlled by and for the benefit of students enrolled at a university or college.

3. Private home. "Private home" means the fixed abode of one or more persons. Any shelter used as a dwelling may be considered as a private home including a tent, boat, trailer, or a room or suite in a hospital, hotel, sanatorium, or nursing home. A cooperative boarding and lodging facility may also be a private home. In an apartment house, each apartment, together with its stairways, halls, and porches is a private home. Parts of the premises devoted to common use, such as an office, furnace room, lawns, public stairways, halls and porches, are not a part of the private home. If a facility is used mainly as a commercial rooming or boarding house only that part of the house which is used as the operator's living quarters is considered to be a private home.

C. Domestic service, general.

1. Non-domestic service, treatment. If service performed by an employee in or around the private home of an employing unit is not domestic service within the meaning of this rule, it is subject to the other provisions of Minn. Stat. § 268.04, subd. 12.

2. Maintenance of the employer's private home. Domestic service in connection with the maintenance of an employer's private home is service which contributes directly to the protection, cleaning and normal maintenance, in contrast to major repair projects, of the home and surrounding area. It does not include service which is not ordinarily a part of home duties or which involves the use of skilled or specialized training including service performed by persons in the construction trades.

3. Administering to the personal wants and comforts of the employer. Certain services, although performed in or around the private home of the employer are not domestic services because they are too remotely associated with the requirement that they administer to the personal wants and comforts of the employer. Examples of non-domestic services include those performed by a private or social secretary, tutor, librarian, bookbinder, museum assistant and medical nurse.

4. Domestic service performed by relatives. Domestic service performed by relatives, other than that excluded from employment by Minn. Stat. § 268.04, subd. 12, clause (15)(d), is domestic service within this rule if there is a contractual agreement between a relative and the employing unit.

5. Service performed by employees of landlords or rental agencies. Service of a household nature performed in or around rental units by employees of landlords and rental agencies is not domestic service. Service performed by domestic workers in and around the private home of the landlord is not within this exception.

6. Workers obtained through a referral or placement agency. Domestic workers referred to jobs through employment placement agencies that neither supervise nor pay them directly are in the employ of the recipient of the services. However, if an agency is in the business of providing temporary services to clients the agency is the employing unit and the workers are not providing domestic services.

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7. Service performed for a minister, priest, rabbi or any other member of a religious order. Service performed in the private home of a minister, priest, rabbi or any member of a religious order is considered domestic service if the worker is in the employ of the recipient of the service. If the worker is in the employ of the church or religious order the service is excluded employment. The recipient of the service is the employer if the funds for the payment of the domestic worker are not specifically provided by the church or religious order. Funds provided by a congregation of a church are considered as being provided by the church. If funds are not provided by the church specifically for domestic service and the spouse hires, directs and otherwise controls the worker, the spouse is the employer.

8. Registered and licensed practical nurses. Registered nurses performing private duty services are generally performing service as independent contractors if they have full discretion in administering their professional services and are not subject to direction and control. Registered and licensed practical nurses who are engaged by hospitals, nursing homes, physicians, government agencies or commercial businesses generally are not performing services as an independent contractor and the services are non-domestic.

9. Nurses aides and patient helpers. Nurses aides and patient helpers who are engaged to perform services in the private home of the patient, although they may occasionally administer medication, are usually performing services that are primarily domestic in nature. Patient helpers who are selected by patients who require their services, either in the hospital or after returning to their homes, are generally in the employ of the patient.

10. Service authorized or provided by agencies. Any agency providing or authorizing the hiring of homeworkers or personal care attendants in the private home of an individual is the employer of those individuals performing the services and the services are not considered domestic if the recipient would not receive the care unless provided or funded for by the agency. It is immaterial whether the agency pays the homemaker or attendant directly or if the agency provides the funds to the recipient.

### D. Location of domestic service.

1. Domestic service is service which is performed only in a private home of the employer, local college club, or local chapter of a college fraternity or sorority.

2. A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter or university faculty club.

### 8 MCAR § 4.3105 ~~Employer~~ Records, reports and payments.

A. Scope. This rule clarifies an employer's employing unit's duty with regard to records, reports and payments as required under Minn. Stat. §§ 268.06, subd. 1; 268.11, subds. 2 and 3; and 268.12, subd. 8.

#### B. Notification.

1. ~~Change or transfer of business. The department shall be notified on reports prescribed by the department within 30 days of the start, change, transfer, sale, acquisition or termination of a business in whole or in part. Subsequent requests for additional information required in determining liability, modifying an existing account and assignment of experience rates must be completed and returned to the department within time limits established by the department. Establishment of new business or change in an existing business. Each employing unit shall notify the department within 30 days of a change in legal entity, or of the start, transfer, sale, acquisition, or termination of a business, in whole or in part, insofar as the transaction results in the creation of a new or different employing unit or affects the establishment of employer accounts, the assignment of rates, or the transfer of experience records as provided in Minn. Stat. § 268.06. If the information as submitted is incomplete, subsequent requests for additional information required in determining liability, modifying an existing account and assigning or transferring of experience rates must be completed, signed and returned to the department in accordance with the instructions on the form or accompanying correspondence.~~

2. Employer death. The executor, administrator or other legal representative of a deceased employer shall be responsible for notifying the department of the employer's death as soon as possible.

3. Bankruptcy. In the case of bankruptcy or receivership proceedings, or any proceedings for the relief of a debtor who is an employer, the trustee in bankruptcy, receiver, or person designated by order of the court as the one in control of the assets of the debtor shall promptly file notice of ~~that~~ the proceedings with the department.

C. Records. Each employing unit shall establish, maintain and preserve records with respect to individuals performing personal services for it for a period of not less than five years after the calendar year in which the remuneration for the services was paid or payable. The records shall show for each individual the following:

1. Name;
2. Social security number;

3. Days in which the individual performed personal services;
4. Location where services were performed;
5. Wages paid and wages due but not paid for personal services, showing separately:
  - a. Money wages, excluding special payments;
  - b. Wages paid and wages due but not paid, in any medium other than money, excluding special payments;
  - c. Special payments such as bonuses, gifts, and prizes, showing separately money payments, other special payments and the character of the payments;
  - d. Days for which sick pay was paid; and
  - e. Tips and gratuities paid to an employee by a customer and accounted for by the employee to the employer as defined in 8 MCAR § 4.3101 E.1. and 2.
6. Rate and base unit of pay;
7. Amounts paid as allowances or reimbursement for travel or other activity pertaining to the furtherance of the employing unit's business which were not included as wages. The account shall show each item of expense incurred during each pay period or calendar month; ~~or if paid per diem, the dates the employee was away from home overnight;~~
8. The date of separation and the reason, in detail, for the termination;
9. The complete resident address of the employee; and
10. For each pay period:
  - a. The beginning and ending dates of the period;
  - b. The total amount of wages paid and wages due but not paid for personal services performed; and
  - c. The date of payment.

D. Records, instate and outstate. For services performed within and without Minnesota the records required by C. shall include:

1. The city or county and state in which the employing unit maintains a base of operations, as defined in 8 MCAR § 4.3102 L.1., used by the individual;
2. The city or county and state from which the services are directed and controlled, if the employing unit does not have a base of operations in the states in which an individual performs services; and
3. A list of the states in which the individual performs other than temporary or incidental services and the dates services were performed at each location.

E. Records, covered and uncovered employment. For services performed in both employment and excluded employment within a pay period the records required by C. shall include the hours spent performing services in employment and the hours spent performing excluded services.

F. Filing reports. An employer's tax report must be filed on a form prescribed by the department, or a reasonable facsimile thereof, not later than the due date for payment of quarterly contributions. Failure to receive forms from the department shall not constitute a valid reason for not filing reports on or before the due date thereof or ~~to pay for not paying~~ any contribution due. Consolidated reports of corporations having common ownership shall be recognized or permitted only if expressly allowed under 8 MCAR § 4.3106. If the report first submitted is erroneous, the employer shall promptly submit the corrected information on forms prescribed by the department and make any additional payment due.

**8 MCAR § 4.3106 Consolidated reports.**

A. When permitted. Consolidated reports of parent and subsidiary corporations, or other employing units having common ownership, shall be recognized or permitted only in the case of two or more related corporations:

1. Who concurrently employ the same individuals, including officers, whose wages during the calendar quarter are paid by one of the related corporations as a common paymaster; and

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2. Whose application for a joint account has been approved by the commissioner or his delegated representative.

B. Related corporations tests. For the purpose of this rule and Minn. Stat. § 268.06, subd. 21, clause (2), corporations are related for an entire calendar quarter if they satisfy one of the following four tests of 1.-4., at any time during that calendar quarter.

1. Test one. They are either:

a. Members of a parent-subsidiary controlled group which is a group of two or more corporations connected through stock ownership with a common parent corporation if more than 50 percent of the total combined voting power or more than 50 percent of the total value of shares of all classes of stock of each corporation, except the common parent corporation, is owned by one or more of the corporations and the common parent corporation owns stock with more than 50 percent of the total combined voting power of at least one of the other corporations. There shall be excluded in computing the percentage of voting power or value, any treasury stock owned by the subsidiary corporation;

b. Members of a brother-sister controlled group consisting of two or more corporations in each of which five or fewer of the same individuals, estates or trusts own stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of all shares of all classifications of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

c. Members of a combined group, which is a group of three or more corporations each of which is a member of a parent-subsidiary or brother-sister controlled group and one of which is a common parent corporation included in a parent-subsidiary controlled group and is included in a brother-sister controlled group; or

d. Life insurance companies subject to income tax under Section 802 of the Internal Revenue Code and the provisions of a., b. or c. are met and all other members of the controlled group are subject to Section 802 of the Internal Revenue Code.

2. Test two. They are a corporation that does not issue stock and 50 percent or more of the board of directors, or other governing body, of each of the corporations are the same, or the same holders possess 50 percent or more of the voting power to elect directors to each corporation.

3. Test three. Fifty percent or more of one corporation's officers are concurrently officers of the other corporation.

4. Test four. Thirty percent or more of one corporation's employees are concurrently employees of the other corporation.

C. Stock defined. For the purpose of this rule "stock" does not include:

1. Non-voting stock which is limited and preferred as to dividends;
2. Treasury stock; or
3. Stock that is treated as excluded stock.

D. Excluded stock, parent-subsidiary. "Excluded stock" for a parent-subsidiary controlled group means:

1. Stock in a subsidiary held in trust that is part of an employee's deferred compensation plan;
2. Stock in a subsidiary owned by an individual who is a principal stockholder or an officer of the parent corporation. A "principal stockholder" is one that owns five percent or more of the voting power or five percent or more of the value of all stock of the parent corporation; or
3. Stock in a subsidiary corporation owned by an employee of the subsidiary corporation but only if the parent or subsidiary corporation restricts or limits the employee's right to dispose of the stock.

E. Excluded stock, brother-sister group. "Excluded stock" for a brother-sister controlled group means:

1. Stock in a member corporation held by an employee's employees trust if the trust is for the benefit of the employees;
2. Stock in a member corporation owned by an employee of the corporation but only if substantial limits or restrictions are imposed on the employee's right to dispose of the stock. A bona fide reciprocal stock repurchase arrangement will not be considered as one that restricts or limits the employee's right to dispose of the stock; or
3. Stock in a member corporation that is held by a nonprofit educational or charitable organization.

F. Limits on groups. A corporation may be treated as a component member of only one controlled group.

G. Concurrent employment. "Concurrent employment" as used in Minn. Stat. § 268.06, subd. 21 and this rule means the simultaneous existence of an "employment" relationship between an individual and two or more related corporations, as defined in Minn. Stat. § 268.04, subd. 12.

An employment relationship shall require the performance of services by the employee for the employing corporation in exchange for wages which, if not for the provisions of Minn. Stat. § 268.06, subd. 21, clause (2) and this rule, would be reportable by the employing corporation.

The fact that a particular employee is on leave or otherwise temporarily inactive is immaterial in the determination of concurrent employment. Employment is not concurrent with respect to one of the related corporations if there is no employment relationship with that corporation during periods when the employee is not performing services for that corporation.

An individual who does not perform substantial services in exchange for wages for a corporation is presumed not employed by that corporation.

Wages paid to an employee ceasing to be concurrent for services rendered while the employee was in concurrent employment is reportable by the common paymaster. If the employment relationship is nonexistent during a quarter, that employee may not be counted towards the 30 percent test set forth in B.4.

H. Cash payments only. This rule applies only to wages disbursed in money, check or similar instrument by one of the related corporations or its agent, and excludes the value of non-cash compensation such as room and board, received by the common employee from a member corporation other than the common paymaster.

I. Common paymaster.

1. A "common paymaster" of related corporations is any related member that disburses wages to employees of two or more of the related corporations on their behalf and that is responsible for keeping books and records for the payroll with respect to those employees.

2. The common paymaster is not required to disburse wages to all employees of two or more related corporations, but this rule does not apply to any wages that are not disbursed through a common paymaster.

3. Although a corporation may be treated as a component member of only one controlled group, the related corporations may designate more than one common paymaster but only one common paymaster may be designated for each class of employee.

J. Joint account. A joint account application shall be on forms prescribed by the department. A joint account shall be maintained as a separate unit of the employer account of the common paymaster until that account is terminated or notification is received ~~of~~ regarding a change ~~in~~ of the common paymaster. A joint account cannot be made retroactive prior to January 1 of the year preceding the year in which the application is received.

K. Joint and several liability. The common paymaster has the primary responsibility for the remittance of any contributions, penalties and interest due on wages it disburses as the common paymaster but each related corporation using the common paymaster is jointly and ~~severely~~ severally liable for its proportionate share of any unpaid contributions, penalties and interest.

L. Common paymaster responsibilities. The common paymaster has the sole responsibility for filing contribution reports, wage and separation information and ~~protest~~ protests and appeals pertaining to concurrent employees and to establish effective communications between the related corporations to ensure timely response on all matters affecting claims for unemployment benefits.

M. Reports. Each related corporation which is the employer of an individual will be responsible for reporting the individual's wages and remitting the appropriate contributions for calendar quarters where the related group or concurrent employment conditions are not met, regardless of which corporation disburses the wages.

N. Work other than for common paymaster. If an employee works for a related corporation other than the common paymaster prior or subsequent to the effective period of the agreement, the wages earned and reportable by the employing corporation shall not be combined with the wages reportable by the common paymaster in determining the maximum taxable wage described in Minn. Stat. § 268.04, subd. 25.

O. Non-related or noncurrent. Where related group or concurrent employment conditions are not met, each employing corporation of an individual shall be responsible for submitting wage and separation information, protests and appeals pertaining to any claim for unemployment benefits of that individual.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

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P. Wages, wage credits and experience rate factors of a joint account. All wages reportable and benefits charged under the joint account shall remain with that account for contribution, benefit eligibility and experience rating purposes.

Q. Relation cessation. If any corporation ceases to be related the common paymaster shall notify the department within 30 days of the end of the calendar quarter in which the cessation occurs.

R. Termination of agreement. The commissioner may immediately terminate the agreement if it is found that consolidated reporting is not in compliance with this rule, or it is determined that the approved related group changed its common paymaster for the purpose of attaining more favorable experience rates.

S. Written protest. If an application to report under the provisions of Minn. Stat. § 268.06, subd. 21, clause (2) and this rule is denied, or an existing agreement is terminated at the discretion of the commissioner, the denial or termination shall be final unless a written protest is filed with the commissioner as set forth in Minn. Stat. § 268.06, subd. 20.

### 8 MCAR § 4.3107 Payments of interest.

A. Scope. This rule establishes the conditions upon which interest on contributions due may be waived as provided for in Minn. Stat. § 268.16, subd. 1.

B. Waiver. The commissioner may waive all or part of the interest charges on contributions that are not paid by the due date if:

1. The late payment was caused by department error of misinformation; or
2. The late payment was a result of unreasonable delay not attributable to the employer.

C. Application. Each application for waiver of interest under this rule must be made in writing by the employer or his authorized representative, except that the commissioner may on his own motion waive interest if in the best interest of the State of Minnesota.

### 8 MCAR § 4.3108 Contribution rates.

A. Notice of rate. Any employer determined liable by the department prior to January 1 shall be assigned a contribution rate pursuant to Minn. Stat. § 268.06 which shall be mailed on or before March 15 of the year effective.

B. Time limit on voluntary contributions. In no event shall a voluntary contribution paid by an employer pursuant to Minn. Stat. § 268.06, subd. 24 after the expiration of the first 120 days for the period the rate is effective be used in the computation of a new experience ratio.

**Repealer.** Department of Economic Security rules ES-1, ES-2, ES-3, ES-4, ES-5, ES-6, ES-8, ES-9, ES-10, ES-11, ES-12, ES-17, ES-19, ES-20, ES-27, and ES-28 are repealed.

## Minnesota Pollution Control Agency Solid and Hazardous Waste Division

### Adopted Rule Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

The rule proposed and published at *State Register*, Volume 6, Number 34, pages 1471-1479, February 22, 1982 (6 S.R. 1471) is adopted with the following modifications:

#### Rule as Adopted

6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

#### C. Definitions.

1. "Acceptable plan" means a written report prepared by a grantee to provide the planning information set out in Minn. Stat. § 115A.46. To be considered an acceptable plan under this rule, the written report shall:

- a. Contain descriptions, estimates, or assessments of existing and proposed waste practices, including the following:

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery, as defined in Minn. Stat. § 115A.03, subd. 27, including an assessment of:

- (a) The alternative degrees of reduction achievable;
- (b) The comparative costs of the alternatives, including capital and operating costs; and
- (c) The effects of the alternatives on the cost to generators of the waste.

D. Grant eligibility criteria.

2. Eligible costs.

a. The following costs are grant eligible:

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government of qualified consultants employed to develop or publish an acceptable plan, including reasonable attorney's fees;

F. Grant application content. Applications for grants shall include the following information:

9. A list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills; and

G. Agency review of grant applications and award of grants.

3. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. This priority ranking shall be made pursuant to a.-c.

a. The agency shall make the lists and determinations specified in (1)-(5).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in (2) is environmentally undesirable. The agency shall determine that a landfill's location is environmentally undesirable if the landfill meets one or more of the following criteria:

(a) The landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;

(b) The landfill is located less than 300 feet from a stream;

(c) The landfill is located within a 100 year flood plain;

(d) The landfill is located within a wetland; and

(e) The landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(5) After making the determinations specified in (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

b. The agency shall divide the grant ~~applicants~~ applications into two groups. All ~~applicants~~ applications whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5), shall be placed in group number one. All other ~~applicants~~ applications shall be placed in group ~~num~~ number two.

c. The agency shall determine the population growth rate within each ~~applicant's~~ application's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to ~~applicants~~ applications in groups one and two as provided in (1) and (2).

(1) First, the agency shall divide the ~~applicants~~ applications in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. ~~In all cases~~ Priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

(a) Group 1, subgroup 1;

(b) Group 1, subgroup 2;

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

(c) Group 2, subgroup 1; and

(d) Group 2, subgroup 2.

4. The agency shall award grants to applicants in the order of the priority ranking in 3.c. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the agency has determined which grantees applicants will receive grants, the agency shall proceed as follows:

b. Within three weeks of the notification required by a., the agency shall draft a grant agreement for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with F.4.

3. Grant Funds for projects not performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

## TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

### State of Minnesota

### Tax Court

Shirlee Maland, as personal  
Representative of the  
Estate of Thilmer J. Maland,

Appellant,

v.

The Commissioner of Revenue,

Appellee.

In the Matter of the Appeal  
from the Commissioner's  
Order dated June 16, 1980,  
Relating to Inheritance Tax  
of Thilmer J. Maland, deceased.

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER FOR JUDGMENT

Order dated: June 10, 1982.  
Docket No.: 3134

The above entitled matter was submitted to the Honorable John Knapp, Chief Judge, of the Minnesota Tax Court, on a Stipulation of Facts executed by the parties and on briefs of counsel in support of their divergent positions. Charles K. Frundt of the law firm of Frundt, Frundt and Johnson appeared for the Appellant and James W. Neher, Special Assistant Attorney General, appeared for the Appellee.

#### Syllabus

Minn. Statutes Section 291.051, subd. 1, which provides a greater marital exemption for inheritance tax purposes to a surviving spouse domiciled in Minnesota than to a surviving spouse not domiciled in Minnesota is constitutional.

From the Stipulation of Facts and from the files and records herein the Court now makes the following:

#### Findings of Fact

1. Thilmer J. Maland died November 13, 1978, a resident of the State of Colorado. At the time of his death Mr. Maland left an estate in the State of Minnesota which is subject to Minnesota inheritance tax. Mr. Maland left his entire estate to his wife, Shirlee Maland, also a Colorado resident.

2. On June 16, 1980, the Commissioner of Revenue of the State of Minnesota executed an Order claiming a balance of inheritance tax due in the amount of \$2,997.32. It was from this Order that the above appeal was taken by Appellant.

3. The Commissioner, in calculating the tax ordered in the Order of June 16, 1980, made a \$1,000.00 error so that the calculation of tax plus interest under the Commissioner's theory of taxation should have been \$1,967.54 plus interest at 8% per annum from March 27, 1980 until payment was received.

4. The Commissioner of Revenue calculated the tax based upon the requirement that the taxpayer use IG-1 Schedule C which is prepared by the Department of Taxation for use by non-resident decedents who died after January 1, 1973.

5. The personal representative of the estate filed the return and paid the tax using the alternative marital exemption tax computation.

6. The Commissioner of Revenue objects to the use of the alternative marital exemption tax computation on the basis that, pursuant to Minn. Stat. § 291.051, subd. 1 (1978), it is available only to the surviving spouse of a decedent domiciled in Minnesota at the time of his death.

7. By letter dated September 25, 1981, filed September 29, 1981, the Commissioner filed an Amended Answer to the Notice of Appeal. The Amended Answer challenges the jurisdiction of the Tax Court to determine the constitutionality of a statute. The defense was not raised in the original Answer because the Answer was filed prior to the decision of the Minnesota Supreme Court in *Guilliams* and *McCannel* which was decided in October of 1980.

#### Conclusions of Law

1. The denial of the exemption to a surviving spouse of a non-resident decedent is not a violation of that spouse's constitutional rights under the Equal Protection Clause or the Privileges and Immunities Clause of the Federal constitution.

2. Because Minnesota taxes only certain types of property transferred by a non-resident decedent, viz, real estate and tangible personal property located in the state at the time of the decedent's death, a substantial difference does exist between non-resident and resident estates.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

Dated: June 10, 1982.

John Knapp, Chief Judge  
Minnesota Tax Court

#### Memorandum

The Notice of Appeal in the instant case was filed in Tax Court on July 14, 1980. Both the *McCannel* and *Guilliams* decisions were announced in October of 1980.

In a footnote in the case of *Guilliams v. Commissioner of Revenue*, 299 N.W. 2d 138 at page 139, the Minnesota Supreme Court said:

1. Our recent case of *In the Matter of the Petitions of McCannel to Review Objections to Real Estate Taxes*, 301 N.W. 2d 910 (Minn. 1980) holds the tax court, as essentially an administrative agency, has jurisdiction to determine the constitutionality of tax statutes when, in the first instance the constitutional issue is raised in the district court before the case is transferred to the tax court. See Minn. Stat. § 271.01, subd. 5 (1978).

This case originates in the tax court. Since constitutional questions were raised, the proceeding should have been brought in district court. Since, however, *McCannel* has only just been announced and since the issue is now here, we will entertain the appeal.

Like *Guilliams*, the appeal in the instant case was filed prior to the decision of the Minnesota Supreme Court in the *McCannel* matter, and because the time for appeal from the Order of the Commissioner had expired prior to the decision in the *McCannel* matter, this Court will now consider the constitutional issue in spite of *Guilliams*.

This is an appeal from an Order of the Commissioner of Revenue dated June 16, 1980, assessing additional inheritance taxes in the matter of the Estate of Thilmer J. Maland, deceased. The primary issue is the constitutionality of Minnesota Statutes Section 291.051, subd. 1, which provides a larger marital exemption of the net taxable value of a decedent passing to the surviving spouse of a decedent domiciled in Minnesota and to the surviving spouse of a decedent who is not domiciled in Minnesota. The Appellant contends that the statute is unconstitutional because it discriminates against non-residents.

Minn. Stat. § 291.051, subd. 1 (1978), provides in relevant part as follows:

#### 291.051 MARITAL EXEMPTION TAX.

Subdivision 1. Definitions. For the purposes of this section, the terms defined in this subdivision shall have the meaning given them herein.

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## TAX COURT

"Marital exemption" means 50 percent, but not more than \$250,000, of the net taxable value passing to the surviving spouse of a decedent domiciled<sup>1</sup> in Minnesota at the time of his death.  
(Emphasis added).

The statute by its expressed language makes the marital exemption available only to surviving spouses of decedents who were residents of Minnesota at the time of their deaths. All others, whatever their residency, are identically situated in that the exemption is not available to them.

In *Guilliams v. Commissioner of Revenue*, 299 N.W. 2d 138, at page 142, the Minnesota Supreme Court said:

" . . . There is, of course, a presumption in-favor of the constitutionality of the statute, and the challengers 'have the burden to show beyond a reasonable doubt that act conflicts with the Uniformity Clause of the State Constitution.' *Contos v. Herbst*, 278 N.W. 2d 723, 736 (Minn. 1979); *Miller Brewing Co. v. State*, 284 N.W. 2d 353 (Minn. 1979). Indeed, in the field of taxation, the legislature's power is inherently broader and its exercise more flexible than in other areas. *Reed v. Bjornson*, 191 Minn. 254, 263, 253 N.W. 102, 106 (1934)."

The pertinent section of the Fourteenth Amendment provides as follows:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny any person within its jurisdiction the equal protection of the laws."

We conclude that in its application Minnesota Statutes § 291.051, subd. 1, makes a rational distinction between residents and non-residents. The statute taxes only property within the State of Minnesota. The record does not show, but the decedent could have had a million dollars worth of other property which is not taxed and cannot be taxed by Minnesota, but would be taxed if the decedent had been a resident of Minnesota. So there is clearly a distinction, and the statute is constitutional.

In *Maxwell v. Bugbee*, 40 S.C. 2, the United States Supreme Court sustained the constitutionality of a New Jersey inheritance tax statute which taxed the estates of non-residents at higher rates than the estates of residents. In that case, the Court said:

"In our opinion, there are substantial differences which within the rules settled by this court permit the classification which has been accomplished by this statute."

The Minnesota statute like the New Jersey statute at issue in *Maxwell v. Bugbee*, taxes only certain types of property transferred by a non-resident decedent, viz, real estate and tangible personal property located in the state at the time of the decedent's death.

Although *Maxwell vs. Bugbee* is in part modified by the decision in *Treichler vs. Wisconsin*, 338 U.S. 251, 94 L. Ed. 37, the basic principle, enunciated in *Maxwell vs. Bugbee*, to the effect that as between resident and non-resident decedents equal protection must be decided as classes rather than by the incidence of the tax upon the particular estate is still followed by the Supreme Court. Hence, we conclude that Minn. Stat. Sec. 291.051, subd. 1 does not violate either the Equal Protection Clause or the Privileges and Immunity Clause of the Federal Constitution, because it makes a valid distinction between resident and non-resident taxpayers as classes and it does not tax any property located outside the State of Minnesota.

J.K.

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## SUPREME COURT

### Decisions Filed Friday, June 11, 1982

Compiled by John McCarthy, Clerk

51792 Cecelia E. Rice, Appellant, v. Norman Perl and Richard Hunegs, individually and d.b.a. DeParcq, Anderson, Perl, Hunegs & Rudquist; DeParcq, Anderson, Perl, Hunegs & Rudquist, P.A., W. F. Browne, Aetna Casualty & Surety Company. Hennepin County.

Defendant law firm and defendant attorney Perl breached their fiduciary obligations to plaintiff, their client, and forfeited attorneys' fees by failing to disclose the law firm's professional relationship with the insurance claims adjuster responsible for settling plaintiff's claim.

It was error without prejudice for the trial court to deny plaintiff a reasonable period of time to engage in discovery prior to the hearing of defendants' motions for summary judgments.

Affirmed. Otis, J. Took no part, Kelley, J.

**81-386 State of Minnesota v. Douglas L. Caswell, Appellant. Washington County.**

The trial court did not commit a prejudicial error either in refusing to admit certain evidence bearing on a rape complainant's credibility, or in its instructions on the credibility of witnesses.

Affirmed. Otis, J.

**81-812 Patricia L. and Raymond C. Tuenge, wife and husband, Appellants, v. Michael James Konetski. Hennepin County.**

Offset provisions of Minnesota No-Fault Automobile Insurance Act, Minn. Stat. § 65B.51, subd. 1 (1980), apply only to the extent necessary to eliminate duplicate recovery of economic loss.

Remanded. Otis, J.

**81-1355, 82-24 Mary E. Murphy, individually and as trustee for the heirs of Gary K. Murphy, Decedent, v. Milbank Mutual Insurance and Kemper Insurance Companies, Appellants. Chisago County.**

Motor vehicle carrying liability insurance in amount complying with law of state where vehicle is garaged is "uninsured motor vehicle" as defined in Minn. Stat. § 65B.49, subd. 4(3) (1976), if coverage is less than that required by Minnesota law for Minnesota vehicles.

Basic economic loss benefits cannot be stacked across priority levels even though injured party is a named insured under the lower priority policies and has paid premiums on those policies.

Affirmed. Peterson, J.

**51741/Sp. Donald Lewis, Director, Department of Human Rights, ex rel. George R. Welles, complainant, Appellant, v. Metropolitan Transit Commission. Ramsey County.**

The employment practices of the Metropolitan Transit Commission are subject to regulation by the St. Paul Department of Human Rights where those regulations are, as here, not in conflict with state statute.

The trial court's determination that complainant bus driver posed a serious threat to the safety of others is not clearly erroneous.

Where consideration for the safety of passengers and the public is involved, a bona fide occupational qualification is established by the employer if there is a rational basis in fact to believe that elimination of the vision standard involved would increase the likelihood of risk of harm to its passengers.

The finding of the trial court that the transit company's vision requirement was a bona fide occupational qualification is not clearly erroneous.

Affirmed. Wahl, J. Took no part, Kelley, J.

**81-767/Sp., 81-874 State of Minnesota, Appellant, (81-767), Respondent, (81-874), v. Pearline Carson, etc., Respondent, (81-767), Appellant, (81-874). Ramsey County.**

Trial court properly denied motion to suppress (a) evidence seized in warranted search, (b) identification testimony, and (c) confession, and trial court properly departed from presumptive sentence established by Minnesota Sentencing Guidelines.

Affirmed. Kelley, J.

**81-1154/Sp. Dwight W. Kelsey, petitioner, Appellant, v. State of Minnesota, State ex rel. Robert Erickson, Warden, etc. Washington County.**

District court properly denied petition for habeas corpus.

Affirmed. Kelley, J.

## **Decision Filed Monday, June 7, 1982**

**82-428/Sp. State of Minnesota, Plaintiff, v. William Newton Hood. Washington County.**

Issuance of limited driver's license pursuant to Minn. Stat. § 169.123, subd. 9, (1980), did not constitute reinstatement of driver's license for purposes of section 169.129, the aggravated driving while under the influence statute.

Remanded for trial. Otis, J.

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## **SUPREME COURT**

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### **Decision Filed Tuesday, June 8, 1982**

82-280/Sp. State of Minnesota v. Bruce E. Willis, Appellant. Hennepin County.

District court properly denied postconviction petition for resentencing according to the Minnesota Sentencing Guidelines where petitioner failed to meet his burden of proving that his early release from sentence would not present a danger to the public and would not be incompatible with the welfare of society.

Affirmed. Amdahl, C. J.

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## **STATE CONTRACTS**

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

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### **Minnesota State Arts Board**

#### **Notice of Request for Proposals for Program Evaluation Services**

The Minnesota State Arts Board is seeking proposals on a contract for the evaluation of its Arts in Education grants program. The agency or individual awarded the contract will conduct a statistical and analytical assessment of the State Arts Board's past arts in education activities and will make recommendations for the administration of future MSAB Arts in Education grant programs.

Projected dates for the contract will extend from August 23, 1982 through October 25, 1982. The estimated amount of the contract will not exceed \$5,000.00.

The guidelines to be used in the preparation of a proposal are available from the Minnesota State Arts Board offices. Deadline for receipt of proposals in the office is 4:30 p.m., Wednesday, July 28, 1982. To obtain a copy of the guidelines, write or call:

Cindy Olson  
Minnesota State Arts Board  
432 Summit Avenue  
Saint Paul, MN 55102  
(612) 297-2603 or  
1-800-652-9747 (toll-free)

### **Department of Corrections**

#### **Minnesota Correctional Facility—St. Cloud**

##### **Notice of Request for Proposals for Pharmacist Services**

The Department of Corrections, Minnesota Correctional Facility—St. Cloud, requests contract proposals for the services of a Pharmacist(s). The contract will run from August 1, 1982 through June 30, 1983 and will provide on-site and on-call services of a registered pharmacist(s) to manage a unit dose system including ordering, inventory control, pre-packaging and related functions. The contract must include on-site coverage Monday through Friday, plus after-hours and weekend on-call availability. The estimated 11 month cost is \$12,500.

Final submission date of completed contract proposal is July 9, 1982. Submit inquiries to:

David Ek, Business Manager  
Minnesota Correctional Facility—St. Cloud  
Box B  
St. Cloud, Minnesota 56301  
(612) 251-3510

## **Department of Transportation**

### **Notice of Request for Proposals for Debt Collection Services**

The Minnesota Department of Transportation is seeking qualified firms to enter into a contract for the collection of debts.

#### **Scope of Duties**

The contractor will provide professional services to the Commissioner of Transportation as described below:

1. Agree to accept unpaid accounts for collection upon the terms and conditions set forth by the Commissioner of Transportation.
2. The contractor's employees will act as independent agents and will not represent themselves as state employees.
3. Implement thorough collection procedures in its attempt to achieve a maximum recovery of debts. Such procedures are to include telephone calls, mail efforts, reasonable skip tracing procedures and, as authorized, forwarding to attorneys. It is understood that the charges made by the contractor are not dependent upon any services rendered by the attorneys on behalf of the state, but are for the separate services and expenses of the contractor for its efforts to effect collection.
4. Keep all accounts confidential and comply with data privacy laws.

#### **Submission of Proposals**

All proposals must be sent to and received by—

Richard P. Braun  
Commissioner of Transportation  
411 Transportation Building  
St. Paul, MN 55155

—not later than 4:30 p.m., July 9, 1982. Late proposals will not be accepted. Submit one copy of the proposal only, please. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. The proposal must be signed in ink, by an authorized member of the firm.

#### **Contents of Proposals**

The contents of the proposal should contain but not necessarily be limited to a statement of the company's experience, reputation and resources in collection activities they engage in.

#### **Evaluation**

All proposals received by the deadline will be evaluated by representatives of the Department of Transportation and Department of Administration. In some instances an interview will be part of the evaluation process.

Evaluation and selection will be completed by July 16, 1982. Results will be sent immediately by mail to all responders.

This request for proposals does not obligate the state to enter into a contract for the services described in the solicitation, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

June 14, 1982

Richard P. Braun  
Commissioner

# OFFICIAL NOTICES

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Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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## Department of Agriculture Agronomy Services Division

### Notice of Special Local Need (SLN) Registration for "Amizine Herbicide"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on June 8, 1982, issued a Special Local Need (SLN) Registration for "Amizine Herbicide," EPA Registration Number 264-124, manufactured by Union Carbide Agricultural Products Company, Research Triangle Park, North Carolina 27709.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the use of this pesticide in black walnut nursery plantations to control competitive vegetation.

The application and other data required under Minnesota Statutes §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN82-0011) is on file for inspection at:

Minnesota Department of Agriculture  
Agronomy Services Division  
Pesticide Control Section  
90 West Plato Boulevard  
Saint Paul, Minnesota 55107  
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signature and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purpose of revoking, amending, or upholding this registration.

June 6, 1982

Mark W. Seetin  
Commissioner

### Notice of Special Local Need (SLN) Registration for "Velpar L Weed Killer"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture, on June 8, 1982, issued a Special Local Need (SLN) Registration for "Velpar L Weed Killer," EPA Registration Number 352-392, manufactured by E.I. duPont deNemours and Company, Wilmington, Delaware 19898.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need (SLN) Registration permits the use of this product in forestry site preparation and wildlife openings, where red pine and white spruce are grown and allows for aerial application.

The application and other data required under Minnesota Statutes §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN No. MN82-0010) is on file for inspection at:

Minnesota Department of Agriculture  
Agronomy Services Division  
Pesticide Control Section  
90 West Plato Boulevard  
Saint Paul, Minnesota 55107  
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purpose of revoking, amending, or upholding this registration.

June 8, 1982

Mark W. Seetin  
Commissioner

### **Notice of Special Local Need Registration for "GardStar Insecticide Cattle Ear Tags"**

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B, the Minnesota Department of Agriculture, on June 8, 1982 issued a Special Local Need Registration for "GardStar Insecticide Cattle Ear Tags," distributed by Y-Tex Corporation, Box 1450, Cody, Wyoming 82414.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

This Special Local Need Registration permits the use of this pesticide formulated as an ear tag for control of horn flies, spinose ear ticks, and to aid in control of stable flies and house flies on dairy and beef cattle and calves.

The application and other data required under Minnesota Statutes §§ 18A.22, subd. 2(a-d); 18A.23; and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN #MN82-0009) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
90 West Plato Boulevard  
Saint Paul, Minnesota 55107  
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, have thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purpose of revoking, amending, or upholding this registration.

June 8, 1982

Mark W. Seetin  
Commissioner

## **Department of Agriculture Planning Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Agricultural Research and Promotion Councils and the Administration of Promotional Orders**

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing agricultural research and promotion councils. The promulgation of these rules is authorized by Laws 1982, ch. 582, §§ 2 and 5, which requires the agency to set requirements for the organization, conduct of elections, referenda, and meetings of the councils, and the administration of promotional orders.

The department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment may be addressed to:

Gerald Heil  
Minnesota Department of Agriculture  
90 West Plato Blvd.  
St. Paul, MN 55107

## OFFICIAL NOTICES

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Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by July 21, 1982. Any written material received by the department shall become part of the hearing record.

June 11, 1982

Mark W. Seetin  
Commissioner

Rollin M. Dennistoun  
Deputy Commissioner

### **Department of Agriculture Grain Inspection Division**

#### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Rules Governing the Licensing of Local Grain Warehouses and Warehouses Other Than Grain or Cold Storage (Chapters Nine and Ten: PSC 240-269)**

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to promulgate amendments to the rules governing the licensing of local grain warehouses and warehouses other than grain or cold storage. The promulgation of these amendments is authorized by Laws of 1979, chap. 332, art. 1, §§ 67-78, which requires the agency to exercise general supervision over the grain interests of the state and of the buying, selling, handling and storing grain, and of the management of public warehouses and public grain markets; and by Laws of 1982, chap. 508, §§ 3 and 5, which requires the department to promulgate rules establishing the penal sum for grain warehouse operator's bonds, and allows the department to authorize audits of grain warehouses to be conducted by qualified nongovernmental units.

The department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment may be addressed to:

Gerald Heil  
Minnesota Department of Agriculture  
90 West Plato Blvd.  
St. Paul, MN 55107

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by July 21, 1982. Any written material received by the department shall become part of the hearing record.

June 11, 1982

Mark W. Seetin  
Commissioner

Rollin M. Dennistoun  
Deputy Commissioner  
Minnesota Department of Agriculture

### **State Board of Education Department of Education Executive Division**

#### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Education**

Notice is hereby given that the State Department of Education is seeking information or opinions from sources outside the agency in preparing to recommend the repeal of State Board of Education rules which are obsolete and amendments to those

which are unclear. In addition, the department is seeking information or opinions from sources outside the agency in preparing to recommend the repeal of State Board of Education rules which have become unnecessarily costly or burdensome to school districts. The promulgation of these rules is authorized by Minnesota Statutes § 121.11, subd. 12, which permits the board to adopt rules.

The State Department of Education requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Dr. E. Raymond Peterson, Associate Commissioner  
Department of Education  
713 Capitol Square Building—550 Cedar  
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2414 and in person at the above address.

All statements of information and comment shall be accepted until August 15, 1982. Any written material received by the State Department of Education shall become part of the record in the event that the rules are promulgated.

June 8, 1982

## **Department of Public Safety Driver & Vehicle Services Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Appointment of Deputy Registrars and Regulation of Deputy Registrar Facilities**

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing deputy registrars. The rules must cover such subjects as volume and location criteria for establishing a new deputy registrar facility, requirements for layout and security of deputy registrar facilities, and general rules of operation for deputy registrars.

The promulgation of these rules is authorized by Minnesota Statutes § 168.33, which authorizes the Commissioner of Public Safety to appoint deputy registrars and for cause discontinue such appointments.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Marlene Swanson  
Room 161 Transportation Bldg.  
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-2001 and in person at the above address.

All statements of information and comment shall be accepted until July 5, 1982. Any written material received by the State Department of Public Safety shall become part of the record in the event that the rules are promulgated.

John P. Sopsic  
Commissioner of Public Safety

## **Department of Transportation Program Management Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Standards for Special Transportation Service**

Notice is hereby given that the Department of Transportation is seeking information or opinions from sources outside the agency in preparing to amend or promulgate new rules governing Operating Standards for Special Transportation Services. The

## OFFICIAL NOTICES

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promulgation of these rules is authorized by Minnesota Statutes § 174.30, subd. 2, which requires the department to "adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service."

The Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gordon W. Boldt  
Acting Director—Office of Motor Carrier Safety and Compliance  
404 Transportation Building  
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 296-0331 and in person at the above address.

All statements of information and comment shall be accepted until 4:30 p.m., July 26, 1982. Any written material received by the Department of Transportation shall become part of the record in the event that the rules are promulgated.

June 14, 1982

Richard P. Braun  
Commissioner

### Department of Transportation

#### Petition of the County of Lac Qui Parle for a Variance from State Aid Standards for Design Speed and Bridge Width

Notice is hereby given that the County Board of Lac Qui Parle County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for CSAH 40 from the State Line to CSAH 14, for CSAH 34 from T.H. 75 to Co. Rd. 67 and for CSAH 19 from CSAH 26 to Louisburg, and for a variance from minimum bridge width for CSAH 40.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit a minimum design speed of 43 miles per hour instead of a minimum design speed of 45 miles per hour and to permit a bridge width of 19 feet instead of a required width of 23 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested hearing has been held on the request.

Dated this 10th day of June, 1982.

Richard P. Braun  
Commissioner of Transportation

#### Petition of the County of Todd for a Variance from State Aid Standards for Design Speed and Bridge Width

Notice is hereby given that the County Board of Todd County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for CSAH 1 from West County Line to CSAH 10 and for CSAH 15 from the South County Line to Co. Rd. 100.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit minimum design speeds of 40 and 30 miles per hour instead of a minimum design speed of 45 miles per hour and to permit an 18 foot wide bridge to remain as is instead of widening same to the in place pavement width of 24 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 10th day of June, 1982.

Richard P. Braun  
Commissioner of Transportation

### **Petition of the County of Dodge for a Variance from State Aid Standards for Design Speed**

Notice is hereby given that the County Board of Dodge County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for the following County State Aid Highways:

CSAH 24 Between T.H. 56 and CSAH 22  
CSAH 10 Between CSAH 3 and T.H. 56  
CSAH 16 Between CSAH 9 and 900' West of CSAH 17  
CSAH 18 Between CSAH 11 and CSAH 17  
CSAH 13 Between CSAH 6 East and 4.672 Miles North  
CSAH 9 Between T.H. 14 and CSAH 16  
CSAH 16 Between T.H. 56 and CSAH 9  
CSAH 6 Between CSAH 13 and East County Line.

The requests are for a variance from 14 MCAR § 1.5032 H.1.d. Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit minimum design speeds of 30, 35 and 40 miles per hour instead of a minimum design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 10th day of June, 1982.

Richard P. Braun  
Commissioner of Transportation

### **Petition of the City of Duluth for a Variance from State Aid Standards for Street Width**

Notice is hereby given that the City Council of the City of Duluth has made a written request to the Commissioner of Transportation for a variance from minimum design standards for street width along Hawthorne Road from Superior Street to Vermillion Road, Vermillion Road from Hawthorne Road to St. Marie Street, and St. Marie Street from Vermillion Road to Wallace Avenue.

The request is for a variance from 14 MCAR § 1.5032 H.1.c., Rules for State Aid Operations under Minnesota Statutes, Chapters 161 and 162 (1978) as amended, so as to permit a minimum street width of 24 feet with no parking permitted on both sides of the street instead of a required width of 28 feet with no parking permitted.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 10th day of June, 1982.

Richard P. Braun  
Commissioner of Transportation

## OFFICIAL NOTICES

### Department of Transportation Technical Services Division

#### Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Wednesday, June 30, 1982, at 9:30 A.M. in room 817, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by 14 MCAR § 1.5032 M.4.b., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of the City of Champlin for a variance from Standards for Design Speed on 114th Avenue between Maryland Avenue and Jersey Avenue and on Maryland Avenue between 112th Avenue North and 114th Avenue North.
2. Petition of Stearns County for a variance from Standards for Design Speed on CSAH 17 between CSAH 13 North of Melrose and the City of St. Rosa.
3. Petition of Goodhue County for a variance from Standards for Design Speed on a Stanton Township Road 0.2 miles north of Junction CSAH 24.
4. Petition of Dodge County for a variance from Standards for Design Speed on CSAH 24 between T.H. 56 and CSAH 22; CSAH 10 between CSAH 3 and T.H. 56; CSAH 16 between CSAH 9 and 900 feet west of CSAH 17; CSAH 18 between CSAH 11 and CSAH 17; CSAH 13 between CSAH 6 East and 4.672 miles north; CSAH 9 between T.H. 14 and CSAH 16; CSAH 16 between T.H. 56 and CSAH 9; and CSAH 6 between CSAH 13 and East County Line.
5. Petition of Lac Qui Parle County for a variance from Standards for Design Speed on CSAH 40 between the State Line and CSAH 15; CSAH 34 between T.H. 75 and Co. Rd. 67; and CSAH 19 between CSAH 26 and Louisburg.
6. Petition of Todd County for a variance from Standards for Design Speed and Bridge Width on CSAH 1 between West County Line to CSAH 10 and for a variance from Standards for Design Speed on CSAH 15 between South County Line to Co. Rd. 100.
7. Petition of St. Louis County for a variance from Standards for Design Speed on CSAH 128 from T.H. 1 to a point 1.9 miles South.
8. Petition of Itasca County for a variance from Standards for Design Speed on CSAH 35 between the Village of Inger and a point 6.1 miles North of Inger.
9. Petition of the City of So. St. Paul for a variance from Standards for Street Width on 5th Avenue between Marie Avenue and 3rd Street North.
10. Petition of the City of Fairmont for a variance from Standards for Street Width on Prairie Avenue from State Street to Blinkman Street.
11. Petition of the City of Duluth for a variance from Standards for Street Width on Hawthorne Road from Superior Street to Vermillion Road; Vermillion Road from Hawthorne Road to St. Marie Street, and St. Marie Street from Vermillion Road to Wallace Avenue.
12. Petition of the City of Minneapolis for a variance from Standards for Street Width on the Motley Bypass between Fulton Street and University Avenue and for a variance from Standards for Parking on West Franklin Avenue between Dupont and Logan Avenues South.
13. Petition of the City of St. Louis Park for a variance from Standards for Parking along Virginia Avenue South between CSAH 16 (Cedar Lake Road) and Burd Place.

The Cities and Counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

|       |                   |
|-------|-------------------|
| 9:30  | City of Champlin  |
| 9:45  | County of Stearns |
| 10:00 | County of Goodhue |
| 10:15 | County of Dodge   |

|       |                         |
|-------|-------------------------|
| 10:45 | County of Lac Qui Parle |
| 11:00 | County of Todd          |
| 11:15 | County of St. Louis     |
| 1:00  | County of Itasca        |
| 1:15  | City of So. St. Paul    |
| 1:30  | City of Fairmont        |
| 1:45  | City of Duluth          |
| 2:00  | City of Minneapolis     |
| 2:30  | City of St. Louis Park  |

Dated this 10th day of June, 1982.

Richard P. Braun  
Commissioner of Transportation

## **Waste Management Board**

### **Notice of Intent to Solicit Outside Opinions and Information Concerning Rules on Accepting, Evaluating, and Selecting Applications for Permits for Certain Hazardous Waste Processing Facilities**

Notice is hereby given that the Waste Management Board is seeking opinions and information from sources outside the agency for the purpose of preparing rules on accepting, evaluating, and selecting applications for permits for certain hazardous waste processing facilities. Such rules are authorized by 1980 Minn. Stat. § 115A.10.

Under 1980 Minn. Laws, ch. 564, arts. II and III, the Waste Management Board is required to prepare an inventory of sites for the chemical processing, incineration and transfer and storage of hazardous waste. The rules referred to in this notice will establish a basis for accepting, evaluating, and selecting applications for permits for facilities to be located at these sites. The rules must address standards and procedures for making determinations on minimum qualifications, including technical competence and financial capability, of permit applicants.

Any person desiring to submit information or comment on the subject of the proposed rules may do so either orally or in writing. All statements of information or comment must be received by July 16, 1982. Any written material received by this date will become part of the record of any rules hearing on this subject. Written or oral information or comment should be addressed to:

Waste Management Board  
Attn: Sharon Decker and Gordon Hester  
123 Thorson Building  
7323 58th Avenue North  
Crystal, Minnesota 55428  
612/536-0816

June 11, 1982

Robert G. Dunn, Chairman  
Waste Management Board

## **Waste Management Board Pollution Control Agency**

### **Notice of Hearing for Proposed Candidate Sites for Hazardous Waste Disposal Facilities in Carver, Scott, Sibley, Renville, and Clay Counties**

It is hereby ordered and notice is given that information gathering hearings concerning the above-entitled matter will be held by the Waste Management Board ("board") and the Minnesota Pollution Control Agency ("agency") pursuant to Minn. Stat. § 115A.21, subd. 2 (Supp. 1981) at the times and places listed below.

## OFFICIAL NOTICES

The purpose of the hearing is twofold: 1) to gather information relevant to the agency's decision on the intrinsic suitability of the board's proposed candidate sites; and 2) to gather information relevant to the board's decision on candidate site selection. (See Minn. Stat. § 115A.21, subd. 2) (Supp. 1981)

The procedures which will be followed at the hearing were published in the *State Register* on February 15, 1982 (6 S.R. 1450). Amendments to these procedures were published in the *State Register* on June 7, 1982 (6 S.R. 2236). Questions regarding the hearing may be directed to the following persons.

Robert Pulford  
Minnesota Waste Management Board  
2372-58th Avenue North  
Crystal, MN 55424  
Phone (612) 536-0816, 1-800-652-9747

John Holck  
Minnesota Pollution Control Agency  
1935 W. County Road B-2  
Roseville, MN 55113  
(612) 296-2707

The following information is provided for each hearing: (1) the date and location of the hearing, (2) name and address of the hearing examiner assigned to conduct the hearing, (3) the proposed site to be considered at that hearing, (4) the Minnesota Pollution Control Agency Director's preliminary recommendation relating to the intrinsic suitability certification of the proposed sites, and (5) the names and addresses of locations where the Board's prefiled testimony and the report on the Director's recommendation will be available for inspection prior to the hearing. The above-mentioned information for each of the counties is as follows:

### SIBLEY AND RENVILLE COUNTIES

| <u>Date:</u>  | <u>Time:</u>                                |
|---------------|---|
| July 12, 1982 | 10:30 a.m.                                  |
| July 13, 1982 | 10:30 a.m.                                  |
| July 13, 1982 | 1:30 p.m.) Sibley site only<br>7:30 p.m.)   |
| July 14, 1982 | 10:30 a.m.                                  |
| July 15, 1982 | 1:30 p.m.) Renville site only<br>7:30 p.m.) |

#### Location:

|                        |  |
|------------------------|--|
| July 12, July 13, 1982 | Winthrop Community School<br>High School Auditorium<br>North Cottonwood St.<br>Winthrop, Minnesota |
| July 14, July 15, 1982 | Hector High School (Old Gym)<br>220 W. 3rd Street<br>Hector, Minnesota                             |

#### Hearing Examiner:

Allan Klein  
400 Summit Bank Building  
310 South Fourth Avenue  
Minneapolis, Minnesota 55415  
(612) 341-7609

#### Areas to be considered:

An area in Township 113N, Range 30W, Sections 8, 9, 16, and 17, County of Sibley, State of Minnesota  
An area in Township 114N, Range 32W, Sections 7, 8, 17, and 18, County of Renville, State of Minnesota

#### MPCA Director's Preliminary Recommendation:

The director has recommended that the eastern half of the Sibley County site be certified as intrinsically suitable for a hazardous waste disposal facility and that the remainder of the site not be certified as intrinsically suitable for use as a hazardous waste facility.

The director has recommended that the southern half of the Renville County site be certified as intrinsically suitable for a hazardous waste disposal facility and that the remainder of the site not be certified as intrinsically suitable for use as a hazardous waste facility.

**Pre-filed Testimony:**

Gibbon Public Library  
Gibbon, MN 55335

John Dixon  
Hector City Clerk  
Box 347  
Hector, MN 55342

Bill Novasak  
Sibley County Auditor  
Box 171  
Gaylord, MN 55334

Tom Pulanski  
Renville County Auditor  
Courthouse  
Olivia, MN 56277

Floyd Kent  
Gibbon City Clerk  
City Hall  
Gibbon, MN 55335

Samuel Shult  
Winthrop City Clerk  
106 East 1st Street  
Winthrop, MN 55396

**SCOTT COUNTY**

Date:  
July 19, 1982

Time:  
10:00 a.m.  
7:30 p.m.

Location:  
New Prague High School  
(New Auditorium)  
721 Central Avenue N.  
New Prague, Minnesota

**Hearing Examiner:**

Thomas Jensen  
828 Midland Bank Building  
401 Second Avenue South  
Minneapolis, Minnesota 55401  
(612) 332-0337

**Area to be considered:**

An area in Township 113N, Range 23W, Sections 19, 20, 29, 30 and 32, County of Scott, State of Minnesota

**MPCA Director's Preliminary Recommendation:**

The director has recommended that the southern half of section 29 and all of Section 32 of the proposed site be certified as intrinsically suitable for a hazardous waste disposal facility. The remainder of the site, except for shoreland, is certified as intrinsically suitable for an above-ground hazardous waste disposal facility only.

**Pre-filed Testimony:**

New Prague Public Library  
400 East Main Street  
New Prague, MN 56071

Jerome Bohnsack  
New Prague City Clerk  
P.O. Box 24  
New Prague, MN 56071

Thomas Henmen  
Scott County Auditor  
428 S. Holmes Street  
Shakopee, MN 55379

**CARVER COUNTY**

Date:  
(Site #1)  
July 21, 1982

Time:  
10:00 a.m.  
8:00 p.m.

Location:  
Norwood City Hall  
Elm Street  
Norwood, Minnesota

(Site #2)  
July 22, 1982

10:00 a.m.  
8:00 p.m.

Norwood City Hall  
Elm Street  
Norwood, Minnesota

## OFFICIAL NOTICES

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### Hearing Examiner:

Kent Roberts  
400 Summit Bank Building  
310 Fourth Avenue  
Minneapolis, Minnesota 55415  
(612) 341-7612

### Areas to be considered:

#### (Site #1)

An area in Township 114N, Range 25W, Sections 2 and 3, County of Carver, State of Minnesota, and in Township 115N, Range 25W, Sections 34 and 35, County of Carver, State of Minnesota.

#### (Site #2)

An area in Township 116N, Range 25W, Sections 6, 7, 17 and 18, County of Carver, State of Minnesota

### MPCA Director's Preliminary Recommendation:

The director has recommended that Site #1 be certified as intrinsically suitable for a hazardous waste disposal facility.

The director has recommended that Site #2 be certified as intrinsically suitable for a hazardous waste disposal facility, except for the SE 1/4 of Section 17 and the portions of Sections 7, 17 and 18 that are shoreland.

### Pre-filed Testimony:

Waconia Public Library  
233 South Olive Street  
Waconia, MN 55387

Earl Keusemann  
Norwood City Clerk  
Norwood, MN 55368

Richard Stolz  
Carver County Auditor  
Box 1—600 E. 4th Street  
Chaska, MN 55318

### CLAY COUNTY

Date:  
July 28, 1982

Time:  
10:30 a.m.  
7:00 p.m.  
8:00 a.m.—11:00 a.m.

Location:  
Council Chambers  
Moorhead City Hall  
500 Center Avenue  
Moorhead, Minnesota

### Hearing Examiner:

Thomas Triplett  
The Minnesota Project  
618 East 22nd Street  
Minneapolis, MN 55404  
(612) 870-4700

### Areas to be Considered:

An area in Township 138N, Ranges 46W and 47W, Sections 13, 17, 18, 19, 20 and 24, County of Clay, State of Minnesota

### MPCA Director's Preliminary Recommendation:

The director has recommended that the proposed site be certified as intrinsically suitable for a hazardous waste disposal facility.

**Pre-filed Testimony:**

Barnesville Public Library  
111 2nd Street NE  
Barnesville, MN 56514

Jack Fredericks  
Planning Director  
Clay County Courthouse  
Moorhead, MN 56560

Evelyn Leach  
Elkton Township Clerk  
Glyndon, MN 56547

Lake Agassiz Regional Library  
115 South 6th Street  
Moorhead, MN 56560

Jerry H. Cook  
Elmwood Township Clerk  
Baker, MN 56513

The prefiled material for all proposed sites is also available for review at the agency and board offices listed above.

**Errata**

At 6 S.R. 227 (June 7, 1982, Department of Education proposed rule 5 MCAR § 1.0782 B.4.), insert "c." before the sentence "The provisions of a. and b. do not apply to an adult supplementary license."

STATE OF MINNESOTA  
State Register and Public Documents Division  
117 University Avenue  
St. Paul, Minnesota 55155

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**Weekly Wrap-Up**—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

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