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CHAPTER 3321

DEPARTMENT OF JOBS AND TRAINING
SERVICES FOR THE BLIND

VENDING STANDS AND BUSINESS ENTERPRISES
OF SERVICES FOR THE BLIND

IN THE MATTER OF THE PROPOSED
AMENDED RULES OF THE DEPARTMENT
OF JOBS AND TRAINING GOVERNING
THE OPERATION OF VENDING STANDS
AND BUSINESS ENTERPRISES

STATEMENT OF NEED
AND REASONABLENESS

INTRODUCTION AND BACKGROUND

Vending Stands and Business Enterprises to provide employment opportunities for the blind were implemented on federal property in 1936 as a result of Public Law 732, commonly known as the Randolph-Sheppard Act. The Act has been amended several times since, as well as regulations (34 CFR Part 395) developed. See appendix, p. 1 to 31. In short, the Act provides a priority for blind persons to operate vending facilities on federal property.

The State of Minnesota implemented this activity on federal property in approximately 1938. Statutory authority to provide such a priority on state property occurred in 1955, and has been amended, along with other Services for the Blind (SSB) statutory provisions. See appendix, pp. 32 to 36. Rules were developed (DPW #79) and effective September 7, 1961. See appendix, pp. 37 to 41. This rule was later amended, becoming known as 12 MCAR Section 2.079, and effective November 2, 1981. See appendix, pp. 42 to 54. 12 MCAR Section 2.079 was converted in format and citation in August of 1984, and became part of Chapter 9570, Department of Public Welfare Rules. See appendix, pp. 55 to 60. Upon transfer of Services for the Blind from the Department of Human Services to the Department of Jobs and Training in 1985, and the housekeeping activity related to Minnesota Rules, all appropriate provisions were transferred to Chapter 3321. See appendix, pp. 61 to 65.

RULE DEVELOPMENT

The proposed amended rule modifies the operation of vending stands and business enterprises. These amended rules have been prepared in accordance with the Minnesota Administrative Procedures Act, Minnesota Statutes, Chapter 14. The amended rules are proposed pursuant to Minnesota Statutes 1988, section 248.07, subdivision 14a (See appendix, p. 35) and Code of Federal Regulations Title 34, Part 395.4. See appendix, p. 19.

The development of these amended rules informally began as a result of action by the Operator Management Committee (OMC) and the Business Enterprises Program (known hereafter as BEP or state

licensing agency or SLA), the activity in the department responsible for administration of the rule, on January 15, 1988. The OMC is an elected group of blind vendors (known hereafter as operators or operator or licensee) responsible to participate with the licensing agency in major administrative decisions and policy and program development, among other duties. See appendix, pp. 6,23,63,64.

There was recognition by both parties that the rule had not been reviewed since 1981 and from time to time review was a necessary activity. Additionally, there was recognition that licensees were responsible, through other documents, for more than was contained in the rule and all applicable responsibilities, conditions of licensing, etc., should be in one place. Finally, There were certain known problems that could only be resolved through rule amendment.

Therefore, a sub-committee of the OMC was formed along with representatives of the BEP. Since that time considerable time has been given to the project, as well as information provided to licensees and their input gained. The rule only applies to operation of the BEP and licensees so the universe was well defined and reachable for input. This is the primary reason a Rule Adopted Without Public Hearing promulgation process has been chosen as consensus on the issues and resolution was gained.

The following is a chronology of the activities leading to the amended rule promulgation:

January 15,1988	OMC appoints sub-committee; BEP appoints staff representatives, known as Committee hereafter.
May 26,1988	Meeting of Committee.
June 16,1988	Meeting of Committee.
August 1,1988	Rule draft 3 to all licensees and staff for input and comment.
August 16,1988	Meetings in Rochester and Faribault with licensees to gain input and comment.
September 8,1988	Meeting in St.Paul with licensees to gain input and comment.
September 20,1988	Meeting in Minneapolis with licensees to gain input and comment.
September 28,1988	Meeting in Duluth with licensees to gain input and comment.
October 14,1988	OMC meeting discusses subject matter.

[Key staff person was reassigned in September 1988 until March 1989]

July 13,1989	Meeting of Committee.
July 14,1989	OMC meeting discusses subject matter.
July 19,1989	Rule draft 4 to all licensees and staff for input and comment.
August 21, 1989	Rule draft 4.1 to staff for comment.

September 15,1989	Meeting of Committee.
September 28,1989	Rule draft 5 to all licensees and staff for input and comment.
	Letter to Rehabilitation Services Administration (U.S. Department of Education) requesting review and comment. (RSA)
November 3,1989	OMC meeting discusses subject matter.
December 20,1989	Meeting in Mankato with licensees to gain input and comment.
January 4,1990	Meeting in Minneapolis with licensees to gain input and comment.
January 9,1990	Phone call from RSA providing review and requested changes in rule draft.
January 25, 1990	Meeting in Grand Rapids with licensees to gain input and comment.
February 13,1990	Meeting in Brainerd with licensees to gain input and comment.
March 9, 1990	Meeting of Committee.
April 20, 1990	Approval by OMC of final draft.

3321.0100 STATUTORY AUTHORITY AND SCOPE OF RULES

Reference to subdivision 14a rather than 11 of Minnesota Statutes, section 248.07 is necessary as it is that citation that gives authority for rulemaking. Justification for previous reference to subdivision 11 is unknown.

The rule part is amended to indicate the exact relationship of the licensee and the State. While never part of rule previously, this statement was included in the operator agreement required under 3321.0500. See appendix, pp. 66 to 69. This is necessary in rule to cover those periods when the licensee is not under a specific agreement with the licensing agency, but is still an active licensee. Additionally, this relationship is so basic and potentially far-reaching that it must be extremely clear from the outset, which can best be accomplished through inclusion in this rule.

3321.0300 PERIOD OF LICENSE

The commencement of licensing is a very important date to licensees and BEP insofaras seniority of experience in operating stands is a primary consideration in awarding new or vacated stands to licensees. The existing rule does not explicitly state when licensing begins. Past practice in lieu of other guidance has dictated that initial licensing begins upon the execution of a first agreement with the potential licensee. The phrase "seniority of experience in operating stands" in the statute supports that practice as it indicates a need for "experience". Experience

cannot be gained in the BEP without first signing an agreement for operation of a particular enterprise.

Subpart B. contains an unexplained error in prior drafting. The definition of blindness referred to in this part is not in subpart A of this citation. Rather, it is in subpart A of 3321.0200.

Subpart D. has been proposed to bring into the rule a policy which has been enforced since 1977. At that time, a document entitled "Business Enterprises Program for the Blind Program Policies" was developed. See appendix, pp. 70 to 86. Many of the those provisions were already part of federal or state rule, some were not. This particular provision was not. The Committee felt that a condition under which a license could be terminated was so important, and coupled with the fact that other such conditions were already included in the rule, it needs to be incorporated in the rule. The merit of the provision at all is based on fairness. The Committee as well as the rank and file operators felt that if a vendor's license meant anything, such as maintaining their seniority to bid on lucrative locations or any other, there must be a minimal level of continuing involvement. Maintaining the status quo was viewed as meeting a "minimal" criteria.

A new passage has been proposed which was also part of the aforementioned policy document. This passage creates a condition where a conditional license is available to a potential licensee who has not completed the total training program, while allowing an opportunity for the full license upon further training. Situations have occurred over the years where persons have not completed vending machine training and then attempted to transfer to such locations. This requirement puts more formal "teeth" into the former policy and is properly put into the rule where other conditions of licensing are formally stated. See appendix, p. 79.

3321.0350 DETERMINATION OF VISUAL STATUS

This whole citation is added to the rule and is migrated from the existing policy book. See appendix, p.85. It was determined by the Committee and Counsel that such an important issue that affects an operator's licensure, must be in the rule.

3321.0600 FURNISHING EQUIPMENT AND INITIAL STOCKS

Subpart A is amended to reflect longstanding practice, training and philosophy. Without amendment the current passage could be interpreted to mean that the licensing agency (BEP) was responsible in every case for all maintenance activities. The philosophy of the BEP and department, however, has been that blind vendors should be as independent as possible. While this has social benefit, more importantly it is the blind vendor who is on site where a maintenance problem exists and the sooner the problem is corrected, the more sales volume and ultimately profit will be derived. Each vendor is trained in maintenance activities consistent with their individual ability. Therefore, the amendment is reasonable in that the passage reflects a shared responsibility

for maintenance activities.

Subpart B is amended to allow flexibility in determining appropriate inventory levels. The current language assumes that the original inventory level was appropriate for the business. Experience of the BEP is clear that this is a false assumption. Vendors leaving a specific stand from time to time have too much inventory. The new vendor becomes responsible for that inventory pursuant to 3321.0700. As the vendor pays for the provided merchandise, there are cases where the amended language would allow both parties to lower the required level of inventory. Less storage space required would result as well as less capital tied up in inventory.

3321.0700 RIGHT TO, TITLE TO, AND INTEREST IN THE VENDING STAND EQUIPMENT AND STOCKS.

Several amendments are proposed for this citation. First, language is proposed to more broadly encompass the actual situations that arise when a vendor changes business enterprises. Current language appears to only apply to a situation where an operator's license is terminated. This occurs occasionally, but more regularly occurs the situation where an operator moves from one business enterprise to another. The language proposed extends the same practice to that more common situation. The language proposed reflects actual practice for more than 20 years. Minor clarifying language is also proposed to identify the new and departing individuals.

A second more substantial amendment is proposed which relates to BEP activity in cases of operator death. The proposed language has been in place since 1977 as part of the aforementioned policy document. See appendix, p. 8-9. The language has worked well, and because of direct connection to other responsibilities already in the rule related to inventory, it was felt the language should become part of the formal rule.

The final change in the citation was initially the most controversial of any proposed amendment. Most all parties agreed that change was necessary. Specific language that provided fairness to all parties was the basis for initial disagreement. In the acquisition of inventory by a new vendor, there are three interests involved- the new vendor, the departing vendor, and the merchandise revolving fund. The merchandise revolving fund is the source for purchase of new inventory, including that from departing operators, and the depository for the repayment for said inventory from the new operator.

Past practice found BEP purchasing all salable inventory and supplies from departing operators, pursuant to existing rule. In many cases, however, more merchandise than necessary was on site, as well as product that while salable under the right circumstances, was not a good purchase for the new operator. These items include holiday candy, cards, and off-brand merchandise. Some operators commenting on this portion of the rule

wanted the new operator to have complete discretion to determine what, if any, merchandise they would purchase from the departing operator. Opponents wanted to be sure they would be reimbursed for their inventory when they left, but did not want the revolving fund to pay them for the merchandise not able to be re-sold, creating a negative flow on the fund. The OMC drafted its own proposal which is the substance of proposed subpart 2.

Subpart 2 provides for the new operator to determine what, if any, merchandise and supplies would be purchased from the departing vendor. If the departing vendor objects, the SLA would make the determination. Additionally, there is a 1 year "grandfather clause" on this subpart to give adequate time for disposition by any vendor of product potentially being objected to by other parties. This process gives all parties formal input into the purchase/sale transaction, and provides an appeal provision. It should be noted that the SLA decision could further be appealed pursuant to 3321.1200, REVIEW OF AGENCY DECISIONS. See appendix, pp.64-65.

3321.0800 FUNDS SET ASIDE FROM VENDING STAND PROCEEDS

This citation is proposed to be amended by adding a due date for set aside as defined in the citation. Current language only indicates "The operator shall pay these set-aside funds monthly to the licensing agency." A due date is important in order to determine if an operator is current in these payments. Due dates are commonplace in business transactions in order to be clear about exactly when one must act to remain in good standing with one's creditors. The reports upon which set aside is determined are due on the 10th of the following month in question. See appendix, pp.62-63. Slightly greater than two weeks, taking into account mailing time, was determined by the Committee to be adequate and reasonable.

3321.1000 POLICIES GOVERNING DUTIES, SUPERVISION, TRANSFER, AND PARTICIPATION OF OPERATORS.

Subpart 2.C.is amended to include other regulation the operator must comply with in the operation of the sub-contracted business. The operator is already bound to this in the standard contract (See appendix, p.67), but the Committee felt it was consistent with the provisions already in the this rulepart relating to "health laws and regulations" and the passage should therefore be similarly included in the formal rule document. To be bound to all applicable laws and regulations is consistent with the sub-contracting relationship in most venues and is a reasonable condition for the awarding of the privilege of operating a business enterprise.

Subpart 2, D. and E. are proposed to be deleted from the rule. Subpart D. Requires that merchandise purchases by an operator be made strictly in cash unless permission is gained. This requirement cannot be strictly adhered to in practice, and in fact has not been. The nature of business with many wholesalers is that

they prefer to do business by monthly billings, rather than cash. Also making requests in writing to the SLA as well as written responses is burdensome because no real purpose is served in requiring cash purchases. The SLA does not become responsible for the purchase if it is or is not made in cash, with or without permission. The only benefit may be to try to assure that the operator not get behind in their debts. The Committee believed responsible adults should be left to grapple with this dilemma on their own, within reasonable limits. See subpart 3, E., below.

Old subpart 2, E., is philosophically related to the previous discussion as well as also not being possible in every business enterprise. A number of business enterprises are on state property where there is a captive or custodial population who do not have cash to make purchases but rather make "charge" purchases which the state makes good on through a state warrant. To retain in rule an inappropriate or unenforceable provision is not reasonable.

New subpart 2, D., adds a clarification to the requirement that operators list their daily sales in their monthly reports by type. The SLA is responsible to review said reports and to provide supervision and assistance so that each vending stand be operated in the most productive and efficient manner possible. Towards that end, listing sales by type allows for in-depth analysis of the sales upon which guidance and decision making can occur. Sales may be from a variety of sources.

New subpart 2, E., migrates language from the standard operator contract into this rulepart where other operator duties and responsibilities are stated. See appendix, p.68.

New subpart 2,F., migrates language from the standard operator contract into this rulepart where other operator duties and responsibilities are stated. A change has been made, however, lengthening the time required of the notice from 30 days to 60 days. The licensing agency is required to operate a procedure to fill the anticipated vacancy and the Committee determined that more advance time was necessary to operate the process .

Subpart 3, A., is proposed to be changed in several ways.

A change is proposed such that an operators ability to transfer from one location to another is at least contingent on their ability to meet their obligations to the SLA under existing and new ruleparts. Operators and SLA alike for some time have felt strongly that operators not current in their payments and reports to the SLA should be limited in their transferability. This is evidenced by the OMC having passed a policy in this regard. See appendix, p.79. At the least, the expectation that operators provide timely payments and reports pursuant to the rule or have their "preference" impinged upon is supported by Minnesota Statutes section 248.07, subdivision 8 which reads:

" In granting licenses for new or vacated stands preference on the basis of seniority of experience in operating stands under

the control of the commissioner shall be given to capable operators who are deemed competent to handle the enterprise under consideration." See appendix, p. 34.

The proposed language provides specific conditions under which an operator is deemed not capable nor competent. The proposed language is reasonable for several reasons. First, the 30 day late period for reports and payments takes into account almost all acceptable reasons an operator may have for tardiness, such as routine vacations, acute medical conditions, lost invoices, or similar circumstances. This time period is so benevolent that only those who do not want to report or pay will be affected.

Second, the operator is given two chances before the preference is limited. Additionally, the operator may regain full preference upon a showing of improved performance for such a duration (6 months) that all parties can be assured that changed behavior has resulted.

A safeguard for operators is that the licensing agency must notify them of default so that they have advance notice of the potential for transfer limitations as well as an opportunity to question whether or not they are in default, as the situation occurs.

Operators around the state noted that while they agreed with the limitation on an operator's ability to transfer based on their record of payment and report submittal, they felt that for the most part this did not address the issue of late reports and payments by operators who did not have an interest in moving. They suggested that language be developed to charge a penalty to operators for late submittal of reports and payments. The Committee therefore developed the language, in conjunction with language limiting transfer, such that a penalty fee be imposed. The $ 20.00 fee was felt to be large enough to be stimulatory for tardy submission, but yet not outrageous for the offense.

Also contained in this part is language which has been migrated from the BEP policy manual regarding bidding back into one's own business in the same bidding sequence. This policy was passed by the OMC many years ago to protect the integrity of the bid process. See appendix, p. 79. Should an operator accept another business, his/her enterprise is then "bid out". This policy precluded them to bid back into their own business and disrupt the process for other operators. This circumstance had occurred and the OMC adopted this policy as a result. The policy has been unchallenged and supported by operators, the only group to which it applies.

Significant language is also proposed regarding leaves of absence. For many years there have been policies regarding sick leave. See appendix, pp.75-78. The previous policies had three tiers with varying responsibilities for the parties involved at all three levels. The experience of the SLA and the OMC, however, was that the circumstances presented by operators did not fit neatly into these three tiers. Therefore, the parties agreed to variations which better fit the circumstances.

Two variations have emerged, a "short-term" medical leave and a "long-term" medical leave. Both have conditions in common, which provide reasonableness in their application. Both

require a doctors statement to assure a condition exists of the severity to require a leave; both require the SLA's and the OMC's approval, and both provide that the vendor's seniority continue to accrue. Differences include the length of time, and whether the operator retains responsibility and preference for the particular location. In the case of the long term medical leave, the operator gives up any claim to the current location. The SLA and OMC believe this is essential in order to assure continuity and stability of service to customers. This is and must be a major consideration in all decisions made by the parties. Long term medical leaves of this nature have been granted five times in the last seven years and have shown to be a good tool for all parties.

A new type of leave has been introduced in these proposed ruleparts, a general leave of absence. This language has been developed as a result of a situation several years ago. The OMC and SLA was approached by an operator who wanted to return to school for training in an unrelated area. Unsure if he would be successful, he requested a leave of absence and wanted to retain his seniority.

The SLA and the OMC were sympathetic for several reasons, not the least of which were both parties responsibilities for "upward mobility" training pursuant to Code of Federal Regulations section 395.11,.14,.3 . See appendix, pp.18,22-23.

At the time, however, there were not state ruleparts which were viewed as supportive and the leave was not granted. It was clear, however, that changes needed to made in the state rule to better specify conditions under which such a leave could be granted.

The current language was drafted in such a way as to provide opportunity for operators who wished to try other things, or just needed a break, while protecting operators actively involved in the BEP. This protection is provided through assuring that no operator on a general leave of absence accrues seniority during the leave, but rather their seniority is "frozen" at the amount they have accrued up to the time of the leave. The BEP and OMC believe this is a reasonable balance of opportunity and protection.

Subpart 3, B., is changed to reflect that it is the operator's responsibility for the hiring of employees, not the SLA. As noted in the discussion of proposed language in Rulepart 3321.0100, STATUTORY AUTHORITY AND SCOPE OF RULES., the operator is not an employee of the SLA, and continuing with that theme, neither is his/her employee. While the SLA and OMC endorse the first consideration of another visually impaired or otherwise handicapped employee, it is first and foremost the responsibility of the employer-in this case the operator.

Old Subpart 3, D. is proposed deleted. This passage, while well intended, has never been applied evenly, if at all. The original motivation for such a passage was spawned by a concern that a new, naive operator may change their suppliers without a full knowledge of their business. That concern continues, but has not been a significant problem. When weighed against the fact that the provision as written applies to seasoned operators as well, if enforced, the only reasonable action is deletion.

Amended Subpart 3, D., reflects the fact that while still

responsible for acquisition of insurance, "purchase" may not be the correct term. This has resulted because funds the BEP has accrued from non-appropriated sources over the last several years have, with the approval of the OMC, been used for the purchase of individual liability insurance policies for operators. An operator may have any other policy for which they must pay for. There is no guarantee such policies will be purchased in this fashion in the future, and it is therefore necessary that operators continue to be responsible for acquisition which includes "purchase", should it be so necessary.

Workmen's compensation insurance is added to this section of the rule not because it is a new requirement, but rather, because this section discusses insurance and it was determined that not noting it might be less clear than the redundancy in noting the requirement. Operators are required under other sections of the rule and their contract to obtain such insurance, if applicable to them. See appendix, pp.62,67.

New Subpart 3, E., has been developed to assure that the SLA review all operator books and take those steps necessary to stimulate the operator to pay outstanding debts. The OMC has a very strong, clear concern that the reputation of blind business persons, and the BEP, not be unnecessarily tarnished through operator indebtedness and specifically requested this statement be included in the rule. Situations have occurred where such diligence to detail and action were lacking.

3321.1100 OPERATOR MANAGEMENT COMMITTEE

Subpart 2, E., is amended to set the minimum number of OMC meetings per year at four, rather that two. The OMC set this policy for themselves some years ago. While this is reasonable considering current subpart 2, F., which allows the OMC to establish by-laws for their operation, this expansion of the minimum number of meetings is reasonable insofaras for atleast the last five years this number of meetings has been necessary to deal with all matters referred to the OMC for discussion, review or action.

3321.1200 REVIEW OF AGENCY DECISIONS

Proposed changes in subpart 3., Hearing Procedures, are brought about by changes in Minnesota Statutes, comment by RSA, and certain personnel "title" changes. It is of note that there has never been a hearing in the history of the BEP.

Both in Item B. and original Item D. the term "administrator" or "state administrator" have been replaced with the term "director". This change is necessary and reasonable because the Minnesota Department of Employee Relations has classified the person in charge of matters related to SSB as the "director".

All other new language in subpart 3. has been requested by RSA in phone conversations followed up with submission to SSB of an RSA Program Instruction related to the subject matter. See appendix, pp.87-93. Their basic request is that the following procedural elements are necessary to be contained in state BEP

rules: Notice; Right to represented by counsel;Impartial presiding official; Right to present witnesses and cross examination; Decision on the record; Transcript of the proceeding; and Reasonable time limits for the total proceeding. See appendix, pp. 89-90.

While it may be argued that these elements are contained in statute or rule related to "Chapter 14", Contested Case Hearings, these documents are not readily available to operators. Because these ruleparts already contain provisions related to hearing procedures, it is reasonable that these necessary, requested procedural elements be re-stated herein.

Language is being deleted from the final item of this subpart because of changes in Minnesota Statutes. For many years there was statutory language which enabled an operator, when given an adverse decision, to request a three person appeal committee to review the proposed decision by the state administrator. That language was deleted from statute. See appendix, p. 35. In any event, there is still a three person arbitration panel available to the operator upon appealing the matter further to the secretary of the Department of Education. See subpart 4 of this rulepart and p.22-23 of the appendix.

Subpart 4 of this rulepart is amended to correctly reflect the changes made in the Code of Federal Regulations revised as of July 1, 1981. See appendix, pp. 13-31.

3321.1300 ACCESS TO PROGRAM AND FINANCIAL INFORMATION

This rulepart is modified to reflect recent changes in statute related to the access by the OMC of data which may be considered to be "private data on individuals". See appendix, p. 94. It is necessary to restate the statute here because this is the primary document used by operators in fulfilling their responsibilities as a part of BEP as well as understanding the overall operation of the BEP and how it may effect them as individuals. The language is reasonable as it properly conveys state law to the reader.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minnesota Statutes, section 14.115, requires that an agency proposing rules consider methods for reducing the impact on small businesses, as so defined. The instant situation is somewhat unique.

This rule "regulates" the operation of a small, distinct group of legally blind persons operating small businesses providing services on primarily public property under a contract with the department. The rule does not apply to any other small or large business in the state. Federal regulation requires SSB to promulgate rules and regulations which are adequate to assure the effective conduct of the program and the operation of each facility in accordance with the federal rule as well as other federal and state laws. See appendix,, p.19.

Further, federal and state regulation require the Operator

Management Committee to participate with the state licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the program. See appendix, pp.23, 64. The OMC as well as a great number of vendors from across the state have been involved in the process. The OMC has approved these proposed rules. It should be noted that the Committee considered the necessity for and appropriateness of any proposed change as well as reviewing the whole rule.

When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses as defined in the statute, the agency shall consider the following methods for reducing the impact on small businesses:

The establishment of less stringent compliance or reporting requirements for small businesses.

As noted earlier, longstanding policies developed by the Program and the OMC have been folded into the proposed rules. No additional compliance or reporting requirements beyond those are included in the proposed rules. The OMC and the department believe the current reporting and compliance issues are necessary.

The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

New language in section 3321.0800 establishes a due date of the 25th of the month for the payment of funds set aside from vending stand proceeds. The rule already requires a due date for submission of operator books on the 10th of each month. The Committee felt the 25th was adequate. In any event, no penalty accrues to the operator unless the books or the payment of funds are submitted more than 30 days beyond the due date. The OMC and department agree on this issue.

The consolidation or simplification of compliance or reporting requirements for small businesses.

The compliance requirements are already familiar to all affected blind vendors. The compliance and reporting requirements are already minimal and any additional streamlining would only undermine the system.

The establishment of performance standards to replace design or operational standards required in the rule.

No design standards are required by this rule. All operational requirements are consistent with federal regulation and approved by the OMC and the Agency.

The exemption of small businesses from any and all requirements of the rule.

Exempting these small businesses from a rule that only applies to them is contrary to the federal rule requiring such regulation and is therefore inappropriate.

CONCLUSION

The Department of Jobs and Training recommends the adoption of these proposed rules.

5/29/90

Date

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