

DRIVER AND VEHICLE SERVICES DIVISION

DRIVER LICENSE OFFICE
TRANSPORTATION BUILDING
395 JOHN IRELAND BLVD.
ST. PAUL, MN 55155-1886
612-296-6911



**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY**

May 17, 1994

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Adoption of Rules of the State Department of
Public Safety Relating to Medical Examination Certificates of School Bus
Drivers

Dear Ms. Hruby:

The Minnesota Department of Public Safety intends to adopt the above entitled rules. We plan to publish a Dual Notices Of Intent To Adopt Rules in the May 31, 1994, State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Department has prepared a Statement of Need and Reasonableness which is now available to the public. Also as required, a copy of this Statement is enclosed with this letter.

For your information, we are also enclosing a copy of the Dual Notices Of Intent To Adopt Rules and a copy of the proposed Rules in this matter.

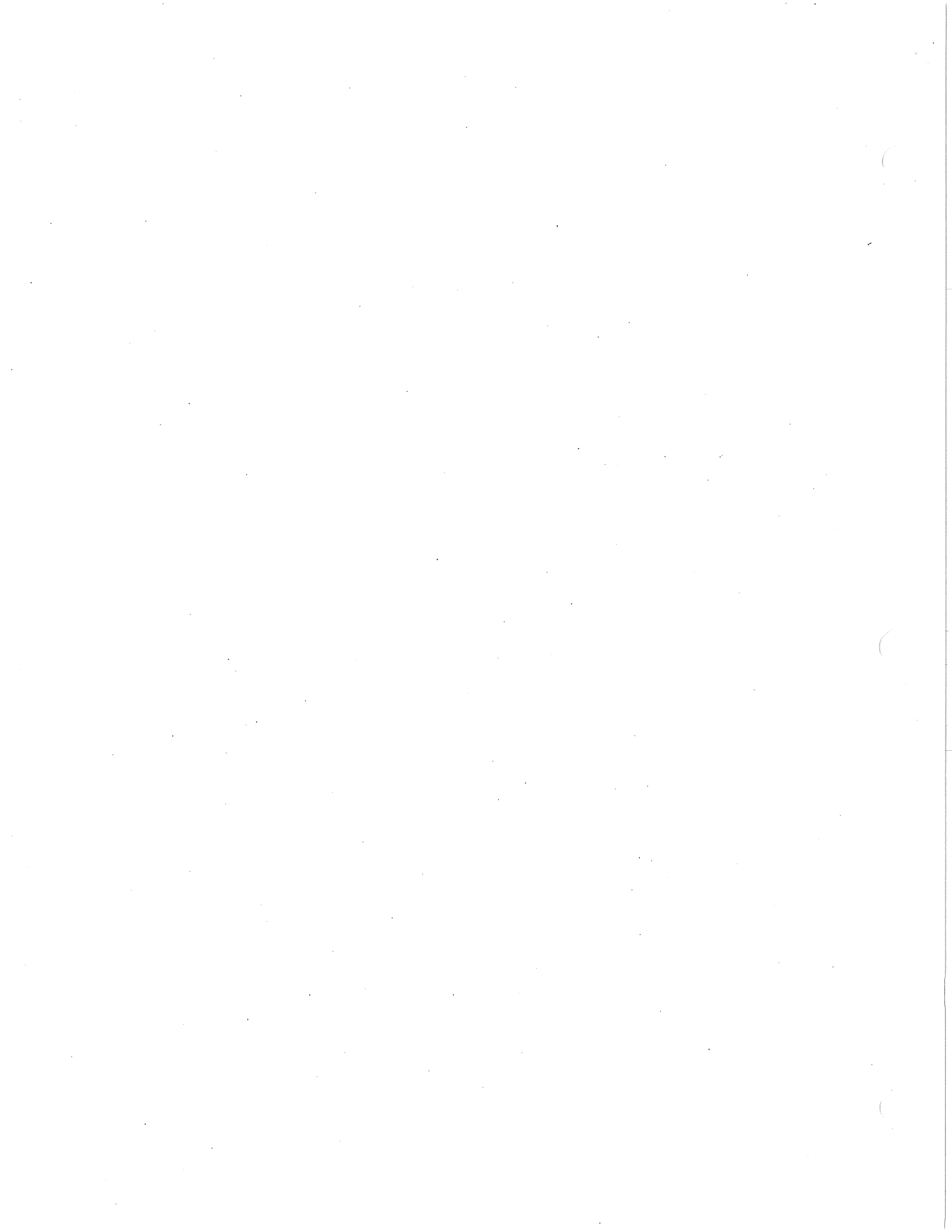
If you have any questions about these rules, please contact me at 296-2608.

Sincerely,

A handwritten signature in cursive script that reads "Laura Nehl-Trueman".

Laura Nehl-Trueman
DVS Administrative Rulewriter

enclosures: Statement of Need and Reasonableness
Dual Notices Of Intent To Adopt Rules
Certified copy of Rules



**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION**

**In The Matter Of The Proposed Rules
Of The Department Of Public Safety
Relating To Medical Examination Certificates
Of School Bus Drivers**

**STATEMENT OF NEED
AND REASONABLENESS**

General Statement

This Statement of Need and Reasonableness addresses the amendments made to Minnesota Rules, part 7414 regarding school bus driver qualifications. In 1993, the legislature amended Minnesota Statutes, section 171.321, subdivision 2, paragraph (a), to provide that the commissioner of public safety include the following exemption in the Department of Public Safety's (Department) rules regarding the qualifications of school bus driver's:

The commissioner of public safety shall prescribe rules governing the qualifications of individuals to drive school buses. The rules must provide that an applicant for a school bus endorsement or renewal is exempt from the physical qualifications and medical examination required to operate a school bus upon providing evidence of being medically examined and certified within the preceding 24 months as physically qualified to operate a commercial motor vehicle, pursuant to Code of Federal Regulations, title 49, part 391, subpart E, or the rules of the commissioner of transportation incorporating those federal regulations.

To implement this legislative initiative, part 7414.1600 has been added to the existing driver qualification rules. Part 7414.1600 adds the above statutory language regarding the exemption and sets forth what documentation is required by the school bus driver to meet the exemption requirements.

Other provisions of Minnesota Rules, part 7414 are also being revised by the Department. However, those revisions are a part of a separate rulemaking project and will be published at a later date. This rule amendment only addresses the 1993 legislative amendment to Minnesota Statutes, section 171.321, subdivision 2, paragraph (a).

Statutory Authority

The specific statutory authority for the promulgation of rules that add an exemption process from the Department physical examination requirements for school bus drivers is set forth in Minnesota Statutes, section, 171.321, subdivision 2, paragraph (a), as cited above. General statutory authority for the promulgation of rules by the Department is set forth in Minnesota Statutes, section 299A.01, subdivision 6, and section 14.06.

Minnesota Statutes, section 299A.01, subdivision 6, provides that the commissioner of public safety shall have the power to promulgate such rules pursuant to chapter 14, as are necessary to carry out the purposes of the statute. Minnesota Statutes, section 14.06, of the Minnesota Administrative Procedure Act, gives the Department general rulemaking authority. Under section 14.06, the commissioner of public safety has the authority to promulgate rules that directly affect the rights of and procedures available to the public.

These rule amendments directly affect the public who apply for a school bus endorsement. Therefore, the procedures should be adopted through the formal rulemaking process. The rulemaking process gives the public the opportunity to comment and participate in the development of the rules of the Department.

Small Business Considerations

Minnesota Statutes, section 14.115, subdivision 2, requires the Department, when proposing rules, to consider the impact such rules will have on small businesses. The Department is to consider the following methods for reducing the impact of the rules on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

Minnesota Statutes, section 14.115, subdivision 3, requires agencies to incorporate into proposed rules any of the above methods "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking."

The amendments to part 7414 do not have a direct impact on small businesses. Rather, the amendments affect the reporting requirements for applicants who obtain a school bus driver endorsement. Such applicants will be exempt from meeting the Department school bus driver physical qualifications if they provide evidence that they are qualified to operate a commercial motor vehicle under the federal regulations under part 7414.1600.

Fees Imposed By The Rules

Minnesota Statutes, section 16A.1285, does not apply because the rules do not fix fees.

Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

Agricultural Land Impact

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of

these rules will not have an impact on agricultural land.

Other Statutory Requirements

Minnesota Statutes, sections 115.43, subdivision 1, 116.07, subdivision 6, and 144A.29, subdivision 4, do not apply to these rules.

Witnesses

If these rules go to a public hearing, it is anticipated that the agency will call witnesses. A list of witnesses will be attached to this Statement of Need and Reasonableness and will be sent to all persons who requested a copy of the Statement of Need and Reasonableness.

Rule-By-Rule Analysis

7414.1400 PERIODIC REEXAMINATION

The amendments in part 7414.1400, make an administrative change in the Department's physical examination reporting period. Currently, the reexamination period runs in conjunction with a school bus driver's birthday. Under the proposed rule, the reporting period will run from the examination date of the most recent physical examination certificate submitted by a school bus driver. A school bus driver will still be required to have a physical examination every two years.

The change in the reporting period is necessary to streamline the Department's reporting process. With the addition of part 7414.1600, the Department will now be accepting the federal physical examination form and/or medical examiner's certificate as proof of meeting the physical qualifications to operate a school bus. The reporting period for the federal physical examination is not based on a school bus driver's birth date but rather on the date of the medical examination. Therefore, the Department will follow the reporting method used by the federal regulations so that all school bus drivers are being reexamined two years from the examination date of their last physical examination.

7414.1600 USE OF FEDERAL MOTOR CARRIER MEDICAL EXAMINATION CERTIFICATE

As previously explained in the General Statement above, in accordance with the legislation that was enacted in 1993, the Department is making an amendment in the rule to allow for the use of the federal commercial motor carrier physical examination form and/or medical examiner's certificate as proof that a person is qualified to operate a school bus. This rule part implements the requirements of that legislation.

Subpart 1. Exemption. This subpart states that an applicant for a school bus endorsement who submits proof of being physically qualified to operate a commercial motor vehicle is exempt from the Department physical examination requirements under part 7414.1100, 7414.1200, 7414.1300, and 7414.1400.

The language of this subpart is the same as the language that appears in the legislation except that this subpart adds the specific Department rule parts that an applicant will be exempt from and sets forth the documentation that is to be provided to

prove that an applicant has been medically examined and certified within the preceding 24 months as physically qualified to operate a commercial motor vehicle.

If an applicant provides evidence that they are physically qualified to operate a commercial motor vehicle, they will be exempt from parts 7414.1100, 7414.1200, 7414.1300, and 7414.1400. These are the rule parts that establish the Department's physical qualifications to operate a school bus.

The evidence that an applicant must submit to the Department to prove that they are physically qualified to operate a commercial motor vehicle is the original or photographic copy of the commercial motor carrier physical examination form and/or medical examiner's certificate as specified under the federal regulations. Submission of the federal physical examination form and/or medical examiner's certificate is the same type of requirement that school bus driver applicants must submit under part 7414.1300. This subpart will be different from part 7414.1300 in that instead of filing a Department physical examination certificate, a school bus driver will submit the federal physical examination form and/or medical examiner's certificate.

Like the Department physical examination certificate, the federal physical examination form and/or medical examiner's certificate must be submitted at the time of initial application and upon renewal of the endorsement. However, the applicant submitting the federal forms are allowed to file the original or a photocopy of the medical examination certificate. The applicant submitting the federal forms is allowed to file a photocopy of those forms because the driver of a commercial motor vehicle is allowed to carry either the original or a photographic copy of the medical examiner's certificate. 49 CFR 391.41(a). Therefore, the Department can not require that the original medical examiner's certificate be submitted to the Department.


Subpart 2. Periodic Reexamination. This subpart is similar to the requirements in part 7414.1400 by requiring a school bus driver to take and pass a physical examination every two years in order to retain the school bus driver endorsement.

The subpart is different from 7414.1400 in that if a school bus driver is using the exemption process under part 7414.1600, the Department will not mail out to the school bus driver the federal physical examination forms. Instead, the school bus driver will be required to obtain the federal physical examination form and/or medical examiner's certificate on his or her own and submit the completed forms to the Department. The Department will still send out a letter to the school bus driver informing the driver of the date that the federal forms must be submitted to the Department.

Conclusion

Based on the foregoing, the Department of Public Safety's proposed amendments to the rules are both necessary and reasonable.

2 May 1994
Date


Michael S. Jordan, Commissioner
Department of Public Safety

**State Of Minnesota
Department Of Public Safety
Driver And Vehicle Services Division**

Proposed Permanent Rules Relating To Medical Examination Certificates of School Bus Drivers

Dual Notice: Notice Of Intent To Adopt Rules Without A Public Hearing Unless 25 Or More Persons Request A Hearing, And Notice Of Hearing If 25 Or More Requests For Hearing Are Received

Introduction. The Minnesota Department of Public Safety intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on June 30, 1994, a public hearing will be held on August 1, 1994. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after June 30, 1994 and before August 1, 1994.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to: Laura Nehl-Trueman, Department of Public Safety, Room 120 Transportation Building, 395 John Ireland Boulevard, St. Paul, MN 55155 (612) 296-2608.

Subject Of Rules And Statutory Authority. The statutory authority to adopt the rule is Minnesota Statutes, section 171.321, subdivision 2. A copy of the proposed rules is published in the State Register. A free copy of the rules is available upon request from Laura Nehl-Trueman.

The rule amendments carry out the legislative requirement under section 171.321, subdivision 2, which provides that the commissioner of public safety must include in the rules regarding the qualifications of school bus drivers "that an applicant for a school bus endorsement or renewal is exempt from the physical qualifications and medical examination required to operate a school bus upon providing evidence of being medically examined and certified within the preceding 24 months as physically qualified to operate a commercial motor vehicle, pursuant to Code of Federal Regulations, title 49, part 391, subpart E, or the rules of the commissioner of transportation incorporating those federal regulations." To implement this legislation, part 7414.1600 has been added to the existing school bus driver qualification rules. Part 7414.1600 adds the above statutory language regarding the exemption and sets forth what documentation is required by the school bus driver to meet the exemption requirements.

Part 7414.1400 is also amended by changing the re-examination reporting period to be consistent with part 7414.1600 and by adding other clarifying amendments.

Comments. You have until 4:30 p.m., June 30, 1994, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Request For A Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing

and must be received by the agency contact person by 4:30 p.m. on June 30, 1994. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rules which caused your request, the reason for the request, and any changes you want made to the proposed rules. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rules as printed in the State Register and must be supported by data and views submitted to the Department or presented at the hearing. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation Of Hearing. The hearing scheduled for August 1, 1994, will be canceled if the Department does not receive requests from 25 or more persons that a hearing be held on the rules. If you request a public hearing, the Department will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Laura Nehl-Trueman at (612) 296-2608 after June 30, 1994, to find out whether the hearing will be held.

Notice Of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in Minnesota Statutes, sections 14.14 to 14.20. The hearing will be held on August 1, 1994, in Conference Room D, 5th Floor Veterans Service Building, 20 West 12th Street, St. Paul, Minnesota 55155, beginning at 9:00 a.m. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the Administrative Law Judge. The Administrative Law Judge assigned to conduct the hearing is Barbara L. Neilson. Judge Neilson can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7604.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rules. You may also mail written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Comments received during this period will be available for review at the Office Of Administrative Hearings. You and the Department may respond in writing with rebuttal arguments or material within five business days after the submission period ends to any new information submitted after the hearing. All written materials and responses submitted to the Administrative Law Judge during the period must be received at the Office Of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by Minnesota Rules, parts 1400.0200 to 1400.1200, and Minnesota Statutes, sections 14.14 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

Statement Of Need And Reasonableness. A Statement Of Need And Reasonableness is now available. This Statement describes the need for and reasonableness of each provision of the proposed rules. It also includes a summary of all the evidence and

argument which the Department anticipates presenting at the hearing, if one is held. A free copy of the Statement may be obtained from Laura Nehl-Trueman at the address and telephone number listed above. The Statement may also be reviewed and copies obtained at the cost of reproduction from the Office Of Administrative Hearings.

Small Business Considerations. In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Rather, the amendments affect the reporting requirements for applicants who obtain a school bus endorsement.

Expenditure Of Public Money By Local Public Bodies. Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

Impact On Agriculture Lands. Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

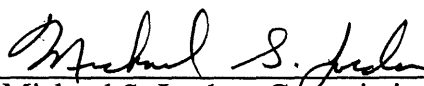
Departmental Charges. Minnesota Statutes, section 16A.1285, subdivisions 4 and 5, do not apply because the rules do not establish or adjust departmental charges.

Lobbyist Registration. Minnesota Statutes, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement should be directed to the Ethical Practices Board at First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612)-296-5148 or 1-800-657-3889.

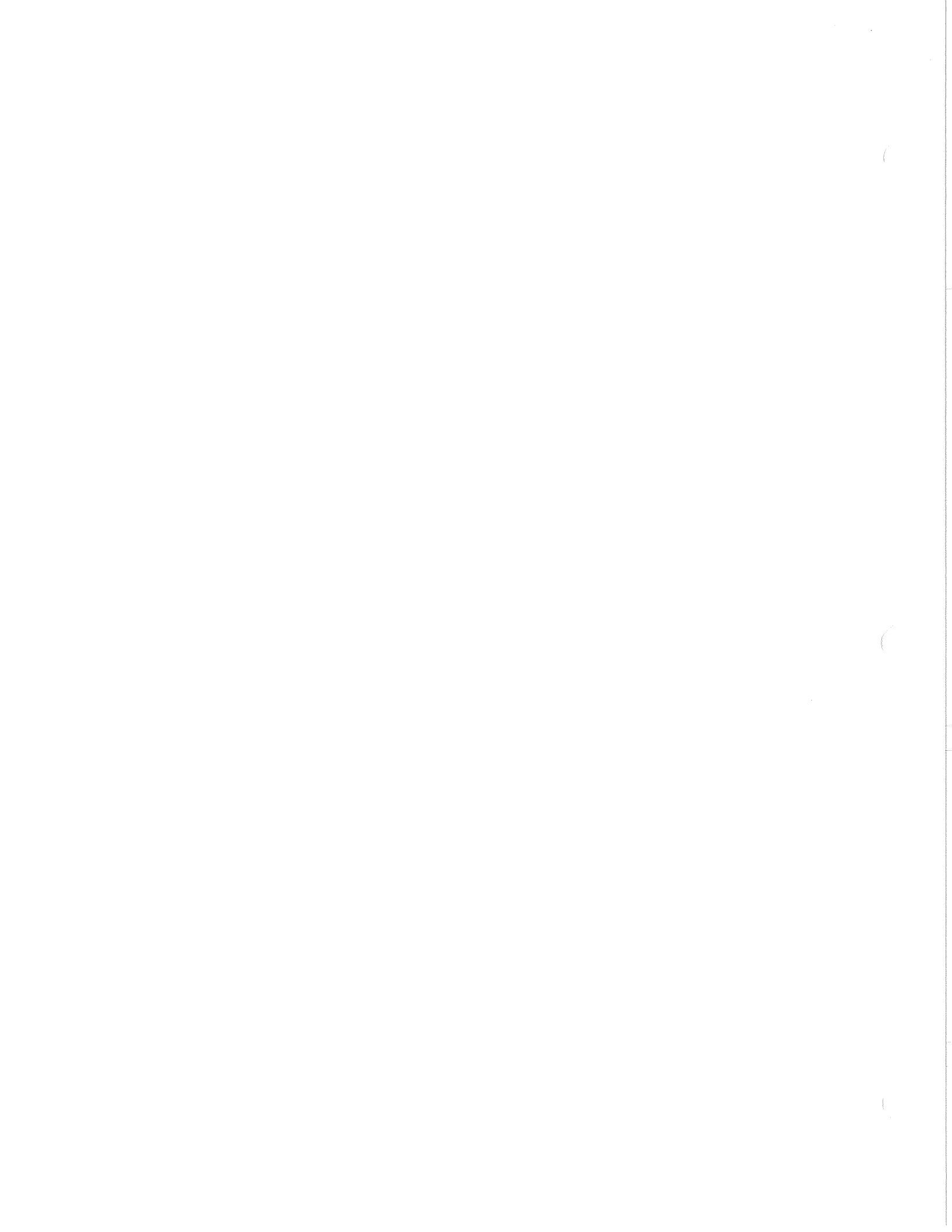
Adoption Procedure If No Hearing. If no hearing is required, after the end of the comment period the Department may adopt the rules. The rules and supporting documents will then be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rules are submitted to the Attorney General or be notified of the Attorney General's decision on the rules. If you want to be so notified, or wish to receive a copy of the adopted rules, submit your request to Laura Nehl-Trueman at the address listed above.

Adoption Procedure After A Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may request to be notified of the date on which the Administrative Law Judge's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. You may also request notification of the date on which the rules are adopted and filed with the Secretary of State. The Department's Notice Of Adoption must be mailed on the same day that the rules are filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rules with the Secretary of State.

12 May 1994
Date



Michael S. Jordan, Commissioner
Department of Public Safety



1 Department of Public Safety

2

3 Proposed Permanent Rules Relating to Medical Examination

4 Certificates of School Bus Drivers

5

6 Rules as Proposed

7 7414.1400 PERIODIC REEXAMINATION.

8 Each school bus driver is required to take and pass a
9 physical examination every two years ~~prior-to-that-person's~~
10 ~~birthday~~ in order to retain a the school bus driver driver's
11 endorsement. The two-year reexamination period will start from
12 the examination date of the most recent physical examination
13 certificate submitted by a school bus driver. The Department of
14 Public Safety will send physical examination certificates to
15 school bus drivers. A school bus driver shall return the
16 certificate, completed by the examining physician, along with a
17 \$2 processing fee, on or before ~~this-birthday~~ the expiration of
18 the two-year period, to the Department of Public Safety.
19 Failure to pass and return the physical examination ~~shall~~ will
20 result in cancellation of the school bus ~~driver driver's~~
21 endorsement from the Minnesota driver license.

22 7414.1600 USE OF FEDERAL MOTOR CARRIER MEDICAL EXAMINATION
23 CERTIFICATE.

24 Subpart 1. Exemption. An applicant for an initial school
25 bus driver's endorsement or for renewal of a school bus driver's
26 endorsement is exempt from parts 7414.1100, 7414.1200,
27 7414.1300, and 7414.1400, upon providing evidence of being
28 medically examined and certified within the preceding 24 months
29 as physically qualified to operate a commercial motor vehicle,
30 pursuant to Code of Federal Regulations, title 49, part 391,
31 subpart E, or rules of the commissioner of transportation
32 incorporating those federal regulations. As evidence of being
33 medically examined and certified, the applicant is required to
34 submit, to the Department of Public Safety, the original or
35 photographic copy of the commercial motor carrier physical

1 examination form or the medical examiner's certificate under
2 those federal regulations.

3 Subp. 2. Periodic reexamination. Each school bus driver
4 is required to take and pass a physical examination every two
5 years in order to retain the school bus driver's endorsement.
6 The two-year reexamination period will start from the
7 examination date of the most recent physical examination form or
8 medical examiner's certificate submitted by a school bus driver
9 under subpart 1. A school bus driver must send the original or
10 photographic copy of the completed physical examination form or
11 medical examiner's certificate, along with a \$2 processing fee,
12 on or before the expiration of the two-year period, to the
13 Department of Public Safety. Failure to pass the physical
14 examination and submit the physical examination form or medical
15 examiner's certificate will result in cancellation of the school
16 bus driver's endorsement from the Minnesota driver's license.

Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Relating to Medical Examination Certificate of School Bus Drivers

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7414

The attached rules are approved for
publication in the State Register

A handwritten signature in cursive script that reads "Ron Ray".

Ron Ray
Senior Assistant Revisor

