



Minnesota Board of Cosmetologist Examiners
1000 University Avenue West, Suite 100 • Saint Paul, MN 55104
p: 651-201-2742 • f: 612-617-2601 • bce.board@state.mn.us • www.bceboard.state.mn.us

Friday, October 27, 2016

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: Proposed Amendment to Rules Governing Mobile Salons and Cosmetology, *Minnesota Rules*, Chapter 2105; Revisor's ID Number 0-4343

Dear Librarian:

The Minnesota Board of Cosmetologist Examiners intends to adopt rules governing Governing Mobile Salons and Cosmetology, *Minnesota Rules*, Chapter 2105; Revisor's ID Number 0-4343

We plan to publish a Notice of Intent to Adopt Rules with or without a Hearing in the October 31, 2106 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Dual Notice of Intent to Adopt Rules.

If you have questions, please contact me at (651) 201-2751.

Yours very truly,

Rebecca Gaspard
Rules Analyst

Enclosure: Statement of Need and Reasonableness

Minnesota Board of Cosmetologist Examiners

STATEMENT OF NEED AND REASONABLENESS

In the Matter of Proposed Revisions of Minnesota Rule Chapters 2015 Governing Mobile Salons

Revisor's # 4343



ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness (SONAR) can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact

Rebecca Gaspard at: rebecca.gaspard@state.mn.us or

1000 University Avenue W, Suite 100,

St. Paul, Minnesota, 55104

651-201-2751 (voice), or fax 612-617-2801.

Persons with hearing loss or speech disabilities may call the Board through their preferred Telecommunications Relay Service.

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Acronyms and Abbreviations

Administrative Law Judge	ALJ
American National Standards Institute	ANSI
Board of Cosmetologist Examiners	Board or BCE
Beauty Continued Education Association	BCEA
Minnesota Rules chapter 2105	Chapter 2105
Minnesota Rules chapter 2110	Chapter 2110
Code of Federal Regulations	CFR
Minnesota Department of Labor & Industry	DOLI
Designated Licensed Salon Manager	DLSM
Office of Administrative Hearings	OAH
Occupational Health and Safety Administration	OSHA
Minnesota Management and Budget	MMB
Minnesota Department of Transportation	MNDOT
National Sanitation Foundation International	NSF
Section (Minn. Stat. Section)	§
Salon and Spa Professional Association	SSPA
Statement of Need and Reasonableness	SONAR

1. INTRODUCTION

The Board of Cosmetologist Examiners proposes to adopt new rules and amend its current rules to provide for the licensing and operations of mobile salons, as directed by Minnesota Session Laws 2015, Chapter 77, art 2, s 81 (a) which directs the Board to "...adopt rules governing the licensure, operation, and inspection of mobile salons, including facility requirements; safety and infection control requirements; a process for a salon licensee to notify the board of the mobile salon's location and times of operation; requirements for supplying and disposing of water and waste products; and the scope of personal services to be provided in mobile salons. The rules must prohibit mobile salons from violating reasonable municipal restrictions on time and place of operation of a mobile salon within its jurisdiction, and shall establish penalties, up to and including revocation of a license, for repeated violations of municipal laws."

Background

The Minnesota Board of Cosmetologist Examiners (BCE) is the regulatory agency charged with the licensing and regulating of cosmetologists, manicurists, estheticians, advanced practice estheticians, salon managers, salons, instructors, school managers, and cosmetology schools in the Minnesota. The Board's mission is to protect the health and safety of the public in the practice of cosmetology (Minnesota Statutes, section 155A.21.)

Historically, regulatory responsibility for cosmetology began in Minnesota in 1927 with the establishment of the Board of Hairdressing and Beauty Culture Examiners. In 1971, the board name was changed to Board of Cosmetology. In 1981, regulatory authority was transferred to the Commissioner of Commerce when the board was eliminated. In 2003, the licensing and regulatory responsibility was transferred to the Barbers Examiners Board, renamed the Board of Barber and Cosmetologist Examiners. In 2009, the legislature created the current Board of Cosmetologist Examiners, which now consists of 7 members appointed by the Governor and a small staff.

1. STATUTORY AUTHORITY

In addition to Minnesota Session Laws 2015, Chapter 77, art 2, s 81 (a), the Board's additional statutory authority to adopt these rules is stated in Minnesota Statutes, section 155A as follows:

- A. §155A.26, which states:
The Board may develop and adopt rules according to chapter 14 that the board considers necessary to carry out sections 155A.21 to 155A.36
- B. §155A.29 Subd. 2., which states, regarding salons:
The conditions and process by which a salon is licensed shall be established by the board by rule.
- C. §155A.29 Subd. 3., which states:
Minimum infection control standards for the operation of a salon shall be established by rule.

Under the session law and the statute, the Board has the necessary statutory authority to adopt the proposed rules.

2. GENERAL STATEMENT OF NEED

The Administrative Procedure Act, Minn. Stat. Ch. 14, requires the Board to establish the need for the proposed rules by an affirmative presentation of the facts.

The Minnesota Legislature directed the Board to develop rules for mobile salons. Minnesota Session Laws 2015, Chapter 77, Article 2, Section 81(a) states: “The Board of Cosmetologist Examiners shall adopt rules governing the licensure, operation, and inspection of mobile salons, including facility requirements; safety and infection control requirements; a process for a salon licensee to notify the board of the mobile salon's location and times of operation; requirements for supplying and disposing of water and waste products; and the scope of personal services to be provided in mobile salons. The rules must prohibit mobile salons from violating reasonable municipal restrictions on time and place of operation of a mobile salon within its jurisdiction, and shall establish penalties, up to and including revocation of a license, for repeated violations of municipal laws.”

3. PUBLIC PARTICIPATION AND STAKEHOLDER INVOLVEMENT

The Board published a Request for Comments (RFC) on Mobile Salons in the State Register on July 20, 2015 (40 SR 1033). As part of the Board’s Additional Notice Plan, approved by the Honorable James LaFave , the Board posted the RFC on the Board’s website, posted information about it on the Board’s Facebook page, and emailed the RFC to licensees with an email address. The RFC was also sent to SSPA, BCEA, the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Association of Townships, and the Minnesota Pollution Control Agency as noted in the approved additional notice plan.

After reviewing the 14 comments that were received, a working draft was approved by the Board’s Rule Committee and posted on the Board’s website on February 8, 2016, and information about the availability of the working draft was posted on the Board’s Facebook page on February 12, 2016. A copy of the working draft was emailed to all parties who submitted comments in response to the RFC, and additional input was sought from the Minnesota Fire Marshal’s office, DOLI, DPS, and MNDOT. The Board met with representatives of SSPA in March, 2016 to discuss the association’s comments on the working draft.

Mobile salon proposed rules were discussed at properly noticed meetings of the Board’s Rule Committee in September, 2015, February, 2016, April, 2016, and October 2016, and progress reports on the rulemaking discussed at properly noticed meetings of the Board in 2015 and 2016.

At the October 17, 2016 Board of Cosmetology board meeting, the Board passed a resolution approving the rules as drafted, and authorizing the actions necessary to adopt the rules, including publishing a Notice of Intent to Adopt Rules without a Hearing.

4. REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and then give the Board’s response.

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

Classes of affected persons: The proposed rules will affect applicants for mobile salon licenses, licensees working in mobile salons, owners of mobile salons, the clients who receive cosmetology services in a mobile salon, and municipalities where mobile salons may operate.

Who will bear the costs of the proposed rules? Licensees and applicants for licensure will bear any potential costs associated with implementation or compliance with the proposed rules. Where a particular proposed rule has a probable cost, that cost is discussed in the rule-by-rule analysis.

Who will benefit from the proposed rules?

Licensees working in mobile salons and clients of mobile salons will benefit because the rules address health and safety issues related to mobile salons. The public, municipalities, and residents and businesses located in close proximity to an operating mobile salon will benefit from the rules related to noise, wastewater disposal, and compliance with local ordinances. Applicants for mobile salon licenses, licensees working in mobile salons, owners of mobile salons, and municipalities where mobile salons may operate and the Board will benefit from the proposed rules amendments because greater transparency makes it easier to comply with requirements and to predict the outcome of applications for licensure, renewal applications, and inspections;

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

The probable costs to the Board are anticipated to be a one-time cost estimated to be approximately \$16,000 for changes to the Board’s licensing software programs, under the current vendor (less than 2% of the Board’s budget for Fiscal Year 2016.) The software changes are necessary to address changes in initial salon licensure requirements and renewal requirements.

There is no anticipated significant effect on state revenue, as the board anticipates less than 10 mobile salon licenses to be initially issued in contrast to the 5,500 salons licensed by the board. In other states where mobile salon licenses are issued, the number of mobile salons has not exceeded ten mobile salons.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

The Board has carefully considered any cost and burden of the proposed rules, and has sought input from interested parties, including those contemplating operating a mobile salon. No comments have been received regarding the potential cost of any specific rule proposed. There were no methods that were less costly or less intrusive which would achieve the purposes of the proposed rules.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

When an alternative method for achieving the purpose of the proposed rule was seriously considered by the Board, the reasons the alternative methods were rejected in favor of the proposed rule are discussed in the rule-by-rule analysis.

“(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals”

The costs of complying with the proposed rules will fall on mobile salon owners. No costs would be borne by governmental units because governmental units are not subject to the proposed rules. Where a probable cost to compliance exists, the cost is discussed in the rule-by-rule analysis.

“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”

There are no probable costs to not adopting the rule, other than potential litigation costs to the state should prospective mobile salon owners opt to litigate the Board’s failure to comply with the constituent driven legislative directive to adopt rules. Without rules establishing the requirements for mobile salon licensure, the Board would be unable to issue mobile salon licenses.

The probable consequences of not adopting the proposed rules are:

- the Board would not be in compliance with the legislature’s directive to adopt rules on mobile salons.
- potential salon owners would be denied the opportunity to choose a mobile salon as a business opportunity.
- licensees would be denied the opportunity to work in a mobile salon environment.
- the public would be denied access to services via a mobile salon.

The consequences of not adopting the proposed rules changes will be borne by the public, licensees and applicants for licensure, and the Board.

“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

There are no existing federal regulations concerning the practice of cosmetology, or the operation of a mobile salon. Some mobile salons may be large enough to be classified as a commercial vehicle, and there are federal regulations related to operation of a commercial vehicle. However, none of the proposed rules address any issues or requirements in federal regulations because the driving or towing of a mobile salon is not regulated by the proposed rules, and therefore there is no difference to discuss.

“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.”

The proposed rules address the regulation of cosmetology in Minnesota, which is not regulated by federal law. The Board is the only regulatory authority addressing cosmetology in Minnesota. Therefore, this consideration is not applicable for this rules amendment.

6. PERFORMANCE-BASED RULES

Minnesota law (Minnesota Statutes, sections 14.002 and 14.131) requires that the SONAR describe how BCE, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the board’s regulatory objectives and maximum flexibility for licensees and applicants for licensure, and the board in meeting those goals.

BCE was guided by performance based regulatory principles as it developed these proposed amendments. By clarifying procedures and processes that applicants for mobile salon licensure and licensees working in mobile salons must follow, the proposed rules amendments help applicants and licensees to comply with requirements designed to protect the health and safety of the public. The Board believes the proposed rules amendments are performance-based to the extent possible because proposed amendments extend duties and

burdens no further than is necessary to meet the Board's regulatory objectives and at the same time preserve optimal flexibility for the licensees and applicants.

7. ADDITIONAL NOTICE PLAN

The Board's Additional Notice Plan was reviewed by OAH and approved by the Honorable Eric L. Lipman on September 28, 2016. As part of the plan, the Board will:

- Email the Notice of Intent to Adopt without a Hearing with links to the rules drafts and SONAR to every licensee who has an email address listed with the board. Licensees include cosmetologists, estheticians, nail technicians, salon managers, salons, instructors, school managers, and schools. Approximately 93% of our 37,2505 licensees list an email address.
- Post the Notice of Intent to Adopt on the Board's website and Facebook Page at with links to the rules drafts and SONAR.
- Offer visitors the Notice of Intent to Adopt without a Hearing with copies of the rules drafts and SONAR to visitors at the Board's office. The Board averages 225 walk in applicants and licensees a month.
- Mail the Notice of Intent to Adopt, the SONAR, and the rules drafts; or email the Dual Notice of Intent to Adopt with links to the rules drafts and SONAR to:
 - the Salon and Spa Professional Association, and the Beauty Certified Education Association, (professional associations for Minnesota licensed practitioners);
 - Minnesota Fire Marshal;
 - Minnesota League of Cities.
 - Association of Minnesota Counties,
 - Minnesota Association of Townships
 - Minnesota Pollution Control Agency
 - Minnesota Department of Transportation
 - Minnesota Office of Commercial Vehicle Services
 - Minnesota Propane Association
- The Additional Notice Plan also includes giving notice required by statute. We will email the Notice of Intent to Adopt with links to the SONAR and the rules drafts to everyone who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1 a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116.
- The Additional Notice Plan does not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.
- The Additional Notice Plan does not including notifying the Council on Affairs of Chicano/Latino People because the rules do not have a primary effect on Chicano/Latino people per Minnesota Statutes, section 3.922.

8. CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Board will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Board's publishing the Notice of Intent to Adopt without a Hearing. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Board will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH with the documents it submits for ALJ review.

9. DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the Board has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Board has determined that they do not because the proposed rules pertain to applicants for mobile salon licensure, owners of mobile salons, and licensees who will work in a mobile salon, and do not pertain to local governments. Compliance with the rules falls on these applicants and licensees. Enforcement of the rules falls solely on the Board.

10. COST OF COMPLYING FOR SMALL BUSINESS OR CITY

Agency Determination of Cost

As required by Minnesota Statutes, section 14.127, the Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Board has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city.

Because the rules do not apply to small cities, the Board determined that there is no cost to implementing the proposed rules for a small city.

The Board made the determination that cost of complying with the proposed rules in the first year for a small business will not exceed \$25,000 based on the probable costs of complying with the proposed rules, as described in the Regulatory Analysis sections of this SONAR. The Board made this determination by adding the costs of rules requirements as discussed in the rule by rule analysis.

11. LIST OF WITNESSES

In the event that a hearing is necessary, the Board anticipates the following witnesses will testify in support of the need for and reasonableness of the rules:

Catrina Mairose, Chief of Staff, BCE
Rhonda Besel, chair of the board
Rebecca Gaspard, Rules Analyst, BCE

12. RULE-BY-RULE ANALYSIS

This section discusses each proposed change. Some rule parts are self-explanatory and thus necessary and reasonable on their face and, therefore, only explained briefly, while others are explained in more detail for future rule interpretation.

Definitions 2105.0010: The Revisor’s office took the opportunity to re-number the definition section of this chapter. Other than renumbering, the only change in a definition is a proposed definition of “mobile structure”. “Mobile structure” is reasonably defined and clarifies that manufactured homes are not included as mobile structures. Salons located in manufactured homes are licensed as residential salons under Minnesota Rules 2105.0393.

2105.0322 Subp. 6. Change of location. This proposed amendment to current rules on requirements for salons that are changing location explains that, for mobile salons, a change to a new vehicle or structure constitutes a location change, and that the new vehicle or structure must be licensed before the salon begins operations in the new mobile salon. It is reasonable to clarify what constitutes a change of location for a mobile salon to eliminate any confusion, and the rule amendment is consistent with proposed rule 2105.0395, Item B.

2105.0395 Subpart 1. Mobile Salons. This proposed rule addresses potential confusion with special event permit holders and homebound service permit holders by clarifying that any vehicle or mobile structure used to provide regulated services must be licensed as a mobile salon. Permit holders may provide cosmetology services outside of a licensed salon, and are an exemption to the statutory requirement that all cosmetology services must be provided in a licensed salon. Special event permit holders may provide only specific and limited, services provided at a special event such as a fair or wedding (Minnesota Statutes, section 155A.275, and Minnesota Rule 2105.0410), Homebound Service Permit holders may provide a full range of cosmetology services to a homebound individual (Minnesota Rules 2105.0410 Subp. 3). If a permit holder wishes to provide services using a mobile vehicle or mobile structure, a mobile salon license would be required and an additional permit would not be required.

This proposed rule also identifies the types of mobile salon licenses that can be issued by the board, and states mobile salons are subject to the provisions in Items A through F.

Item A: This proposed rule clarifies that the current rules related to salons in the rule chapter also apply to mobile salons, except as noted in Items B through F.

Item B: This proposed rule explains that the mobile salon license cannot be transferred to a different vehicle or mobile structure.

Item C: Because a mobile salon might be located in a recreational vehicle designed for overnight occupancy, this proposed rule specifies that the residential and recreational use of the salon is prohibited. for reasons of infection control and safety related to hazardous substances and equipment.

Item D: This proposed rule prohibits the provision of licensed services outside of the salon, to ensure proper sanitation and disposal of nail clippings, hair, and other debris from services.

Item E: This proposed rule requires each mobile salon to have a phone, either a functioning cell phone or Voice over Internet Protocol device. Such a communication device is a reasonable precaution for emergency situations when emergency medical or police services might be necessary, and will assist board inspectors in locating the salon. Because a mobile salon business will likely be equipped with a communication device for business purposes (to enable communications with clients and prospective customers), this requirement is not an additional or unreasonable burden for a mobile salon.

2105.0395 Subpart 2. Mobile Salon License Application: This proposed rule requires the applicant to provide the same information required of all salon applicants, and to additionally provide specific information related to the mobile salon. The information required is reasonable and necessary to assess the application for licensure, and to provide contact information for inspection and communication.

Item A: This rule requires the applicant to provide a description and photographs of the mobile salon. The description and photographs will allow for a more accurate assessment of the compliance with applicant with the physical requirements for the salon.

Item B: This rule requires the provision of the license plate and VIN number of the vehicle/trailer/mobile structure for identification purposes.

Item C: This proposed rule requires the applicant to provide the location and capacity of the water tanks of the mobile salon to allow for assessment of licensing criteria.

Items D through F: These rules require information necessary for communicating with the salon, contacting and inspecting the mobile salon, and involve supplying addresses, parking location, and the phone number or VoIP.

2105.0395 Subpart 3. Water and wastewater requirements for mobile salons: Minnesota Session Laws 2015, Chapter 77, art 2, s 81, specifically requires the Board to adopt requirements for supplying and disposing of water and waste products. These requirements are addressed in this subpart.

Item A: This rule requires a potable water supply because water is essential to the infection control requirements which include washing tools and implements, washing hands, and water necessary to provide various cosmetic services. The rule requires potable water and wastewater tanks to have gauges so that licensees can assess whether sufficient water and disposal capacity exists to provide services and to disinfect tools, and to ensure that sufficient wastewater tank capacity exists to avoid discharge of dirty waters. These are needed and reasonable requirements to ensure licensees can meet infection control requirements identified in Minnesota Rules, 2105.0375. Requiring gauges or level sensors may impose an additional cost, depending on whether the mobile vehicle or structure was already furnished with level sensors or gauges on the tanks. If there are no level sensors already on the tanks, accurate sensors can be obtained for water and holding tanks with prices ranging from \$80 to \$225 dollars.

The proposed rule also requires that the potable water tanks be plumbed into the wastewater or grey water tanks to allow for proper disposal.

Item B: This rule requires that the mobile salon use drinking water hoses certified by ANSI standards for drinking water to fill the potable water tanks. Garden or other hoses not meant for drinking water can potentially leach lead and unsafe chemicals into the salon's potable water supply.

Item C: This proposed rule requires that the wastewater tank has a capacity 15% larger than the water supply holding tank, so that the disposal tank is sized appropriately.

Item D: This proposed rule identifies situations where lack of potable water or lack of disposal capacity for wastewater prohibits the mobile salon from operating. It is reasonable to require salons to have sufficient potable water for infection control, and to prohibit operation when wastewater tanks are nearly full.

Item E: This rule clarifies that mobile salons must have a restroom, equipped with a toilet and a hand sink, and specifies that either a chemical toilet or a composting toilet may be used.

Item F: This rule specifically requires wastewater to be discharged into a sanitary sewage system or sanitary dumping station, and compliance with all sanitary regulations.

Item G: This rule specifies that the only portable sinks acceptable are shampoo containment bowls and portable pedicure tubs, and requires all other sinks to be installed and connected to the salon's potable water supply and waste tanks. A shampoo containment bowl is an alternative to the traditional shampoo bowls which typically can't be installed in a mobile vehicle due to structural limitations. Portable pedicure tubs are used in brick and mortar salons, and are mentioned here to avoid inadvertently prohibiting their use in a mobile salon.

2105.0395 Subpart 4. Electrical and power requirements for mobile salons:

Item A: This proposed rule places common safety requirements on the use of a generator, specifically requiring that it be vented outside, and that all doors and windows be closed when it operates to avoid drawing in exhaust with carbon monoxide into the salon. The proposed rule also requires the salon to comply with local noise ordinances when using a generator.

Item B: This proposed rule places common safety requirements on the use of combustible gas heaters, requiring that the units must be sealed, vented outside, and doors and windows shut to avoid drawing in exhaust with carbon monoxide into the salon.

Item C: This proposed rule requires that all combustible gas containers be stored outside of the salon for safety reasons.

Item D: This proposed rule requires that the mobile salon be equipped with working alarms for carbon monoxide, smoke, and combustible gas. Battery operated alarms meeting these criteria are readily available for \$30 - \$50 dollars at big box home supply stores.

Item E: This proposed rule repeats a requirement for salons in Minnesota Rule 2105.0360 Subp. 5, and is repeated here because of its importance. The proposed rule requires compliance with the state electrical code and fire code. Because it is likely that prospective mobile salon owners will contemplate renovating recreational vehicles and ice houses to create a mobile salon, the rule is repeated to ensure the requirement is not overlooked.

2105.0395 Subpart 5. Safety, infection control, and other requirements for mobile salons.

Item A: This proposed rule establishes safety conditions under which the mobile salon must operate. The rule requires the vehicle engine to be turned off when services are offered, as a safety precaution. A running engine creates unnecessary noise and emits nitrous oxide and carbon monoxide emissions. Air quality is directly related to the health of the public.

The rule requires that the salon be stable and leveled, and that any manufacturer's directions related to stabilizing jacks be followed. For safety reasons, the rule also requires the mobile salon to use at least two wheel chocks to prevent unanticipated movement of the mobile salon when parked. Wheel chocks can be purchased for as little as \$20 a pair, including shipping. Not all mobile salons will require stabilizing jacks because some mobile vehicle and mobile structures have stabilizing mechanisms already included in the structure. If needed, the costs of stabilizing jacks depend on the size/weight of the vehicle or trailer. Jacks for a mobile salon weighing around 5,000 pounds can be purchased for around \$50, and larger mobile salons that may weigh around 10,000 pounds or more will need jacks that average \$150 each.

Item B: This rule prohibits carpeting for infection control reasons except for the driving or cab area of a mobile vehicle. Minnesota Rule 2105.0360, Subp. 4 prohibits carpeting in work areas of a salon. Because of the limited space in a mobile salon, the proposed rule removes any ambiguity over what might be a work area and what might be a reception area in a mobile salon by clarifying that carpet is not allowed unless it is in the cab area.

Item C: This rule is a common-sense safety precaution that requires hazardous substances to be stored upright in secured cabinets when the mobile salon is in transit. Hazardous substances used in salons include microbial pesticides and color or perm solutions, and the rule lessens the likelihood of a hazardous spill.

Item D: This rule requires ventilation systems in mobile salons, to provide fresh air and remove hazardous fumes.

Item E: This rule requires that any moving parts such as slide outs and steps be in working order, to eliminate any unsafe conditions.

2105.0395 Subpart 6. Location and times of operation. This rule requires the salon to provide itineraries to the board when requested. An itinerary is necessary so that the mobile salon can be located for purposes of routine inspections. Minnesota Statutes, section 155A.31 states the board is responsible for inspecting salons to ensure compliance with the statute and rules.

2105.0395 Subpart 7. Compliance with local government law. This proposed rule is consistent with both the legislative directive to require compliance from mobile salons with reasonable municipal ordinances, and with Minnesota Statutes, section 155A.29, Subd. 2(1). The rule identifies some of the more common ordinances that might impact a mobile salon's operations. It also clarifies that it is up to the mobile salon owner to determine what requirements are applicable.

Subpart 8. Penalties for violating local government laws. The legislature also directed the board to write rules establishing penalties for repeatedly violating local ordinances. The proposed rule states that the disciplinary provisions of Minnesota Statutes, section 155a.33 apply when a mobile salon has repeatedly violated a local ordinance. Because the Board lacks jurisdiction over local ordinances unrelated to cosmetology, the proposed rule clarifies that alleged violations of local ordinances are addressed by the involved municipality.

2105.0410 Licensed Services not offered in a licensed salon Subpart 2 Special event permits, Item E: This proposed rule amendment requires mobile vehicles or mobile structures used to provide regulated services must be licensed as a mobile salon even when a special event permit is held.

14. CONCLUSION

In this SONAR, the Board has established the need and reasonableness of the proposed new rules in Chapter 2105. The Board has provided the necessary notifications and in this SONAR documented the Board's compliance with all applicable administrative rulemaking requirements of Minnesota Statute and Rules.

Based on the foregoing, the proposed rules, rule amendments and repeals of rules are needed and reasonable.

Signed on October 17, 2016 by Executive Director Gina Fast

