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DRIVER AND VEHICLE SERVICES DIVISION

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STATE OF MINNESOTA  
DEPARTMENT OF PUBLIC SAFETY

September 27, 1995

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 Permanent Rules of the State Department of Public Safety Governing Vision Requirements for Driver's License Applicants

Dear Ms. Hruby:

The Minnesota Department of Public Safety intends to adopt the above entitled rules. We plan to publish a Dual Notice of Intent to Adopt Rules in the October 9, 1995, 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 Notice 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 Notice 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  
Governing Vision Requirements for  
Driver's License Applicants.**

**STATEMENT OF NEED  
AND REASONABLENESS**

**General Statement**

The Statement of Need and Reasonableness addresses the amendments to Minnesota Rules, part 7410.2400 regarding vision requirements for applicants applying for or renewing a driver's license. The rules currently address vision requirements for visual acuity. The visual acuity requirements, with a few exceptions, have remained the same. The additional proposed amendments add visual field standards. Screening for visual field has become possible because the Department of Public Safety, Driver and Vehicle Services Division (Department) has obtained new vision equipment that is capable of screening an applicant's visual field.

In developing the visual field standards, the department has considered the vision rules of other states that conduct visual field screening, recent medical literature, the recommendations of the Low Vision Committee of the American Academy of Ophthalmology, and the recommendations of the department's advisory task force members. The advisory task force was composed of ophthalmologists, a representative from the American Association of Retired Persons, and department program staff. In addition, prior to publication of the proposed rule in the State Register, copies of the rule drafts were submitted to the 300 members of the Minnesota Ophthalmology Association, the President of the Board of Optometry, the President of the Optometric Association, and the physician for the Courage Center located in Golden Valley, Minnesota, for their review and comments.

**Statutory Authority**

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 driver's license. 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. Subdivision 3, requires agencies to incorporate into proposed rules any of the listed 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 7410.2400, do not have a direct impact on small businesses, rather, these rules will affect individuals that apply for their driver's license.

### **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 made available and will be sent to all persons who requested a copy of the Statement of Need and Reasonableness and other persons who request a copy.

### **Rule-By-Rule Analysis**

#### **7410.2400 VISION**

**Subpart 1. In general.** The sentence which states that the vision screening device shall be of a type accepted by the American Medical Association has been deleted. It is necessary to delete this sentence because the American Medical Association no longer recommends or comments on the types of devices that are used to screen vision by motor vehicle departments. It is reasonable to delete this reference to the American Medical Association when the statement is no longer supported by the Association.

**Item A.** Some of the amendments in item A were made by the revisor. For example, “each applicant” was replaced by “applicants,” and the words “are required to” and “necessary” were deleted by the revisor. The department replaced the word “guarantee” with the word “ensure” and the word “substandard” with the word “insufficient.”

The word “ensure” was used to be consistent with the use of the word “ensure” in subpart 6. The word “insufficient” was substituted because this term, rather than “substandard” is used on other correspondence and documents regarding vision by the department. These changes are reasonable because they provide for continuity between the rules and other related documents used by the department.

**Item B.** The phrase “in traffic” was removed from item B because the department is concerned with ensuring safe driving on all public roads and highways not only while a person is driving “in traffic.”

**Subpart 1a. Definitions.** Subpart 1a is a new provision which sets forth definitions for this part of the rules regarding vision standards. Providing definitions will clarify the meanings of the terms for the public.

**Items A and B.** Item A defines the term “visual acuity” and item B defines the term “visual field.” It is necessary to define visual acuity and visual field because the terms are used throughout the rules without adequate definition. It is also necessary to define the two terms to distinguish the terms from each other so that the public will know the difference between the two vision standards.

The definitions for visual acuity and visual field are those that are found in Taber’s Cyclopedic Medical Dictionary, p. 36, 2183, 17th edition, 1993. It is reasonable to use the definitions from Taber’s medical dictionary because it is a dictionary that is commonly used throughout the medical community. The dictionary also provided clear definitions for the terms that did not rely on complex medical terminology for the definition so that they would be more understandable for the general public.

**Subpart 2. Unrestricted/corrective lens restriction.** Subpart 2 has been amended to include the provisions of subpart 3, and subpart 3 has been repealed. It was necessary to merge the two provisions together because of the overlap between the two sections. Merging the two provisions will clarify the requirements for the public. It is important to note that the standards for visual acuity under item A and the corrective lens requirement in this subpart have not been changed. The amendments with regard to visual acuity have been made to streamline and clarify the language in the rule provision overall.

What is new for subpart 2 is the addition of standards for visual field that appear in item B. As previously defined, in subpart 1, visual field means the area within which an object may be seen when the eye is fixed. Visual field has more commonly been referred to as “peripheral vision.” One of the reasons that the department is adding standards for visual field is because of the acquisition of new vision screening equipment which can now screen an applicant’s visual field.

Another reason for the addition of visual field standards, is the guidelines of the Low Vision Committee of the American Academy of Ophthalmology (Academy) recommending standards for visual acuity and visual field for the issuance of noncommercial driver's licenses. Vision Requirements for Driving, Low Vision and Vision Rehabilitation, Vol. 7, No. 2, p. 197, June 1994. In its statement, the Academy states that "adequate peripheral awareness is one of the most important prerequisites for driving safety." Id, p. 198.

The visual field standards will be another tool that the department can use in conjunction with visual acuity screening and written and road tests to determine the ability of an applicant to operate a motor vehicle safely. As the Academy correctly points out,

Driving requires several different sets of abilities:

1. The sensory ability to perceive changes in a rapidly changing environment.
2. The mental ability to judge this information in a timely fashion and to make appropriate decisions.
3. The motor ability to execute these decisions.
4. Compensatory factor and abilities, which may compensate for some loss of ability in other areas. Id. p. 197.

Other studies also confirm the importance of visual field in driving performance. One study explains that "...the peripheral visual field, which normally extends 90 degrees on either side of fixation, is indispensable for spatial orientation tasks such as driving. In fact, accurate visual guidance can be subserved by the peripheral field alone as can be illustrated by walking with the central field blocked. The role of the periphery is also to monitor the visual field and to signal the presence of objects of interest which can then be fixated. In the case of driving, the peripheral fields provide critical information regarding the approach of other vehicles or pedestrians which is absolutely essential to vehicle guidance." Leibowitz, H. W., Vision and Driving: Past Limitations and Future Possibilities, Alcohol, Drugs and Driving, Vol. 9, Numbers 3-4, p. 214, 1993.

Studies have also been conducted which show a direct correlation between the loss of visual field and increase in automobile accidents. In one study, "[a]utomated visual field screening of 10,000 volunteers (20,000 eyes) showed the incidence of visual field loss was 3.0% to 3.5% for person aged 16 to 60 years but was approximately 13.0% for those older than 65 years. Approximately half of the persons with abnormal visual fields were previously unaware of any problem with peripheral visions. Follow-up results suggested that the most common causes of visual field loss were glaucoma, retinal disorders, and cataracts. Drivers with binocular visual field loss had accident and conviction rates twice as high as those with normal visual fields....Our results have important implications for mass visual field screening to detect eye diseases and for vision-related factors in traffic safety." Johnson, C.A., Keltner, J. L.: Incidence of Visual Field Loss in 20,000 Eyes and Its Relationship to Driving Performance. Arch Ophthalmol Vol. 101, p. 371, March 1983.

Johnson and Keltner concluded in their report "that using automated visual field test to perform mass visual field screening is feasible and may be a valuable supplement to eye care programs for large populations. In addition, the significantly higher accident and conviction rate we found for drivers with binocular visual field loss suggests that a reevaluation of visual screening procedures for driving might be useful. To date, only one third of the United States perform any kind of screening test for peripheral

vision in new drivers, and only one fourth of the states require such test for license renewal." Id. p. 374.

Another study conducted after Johnson and Keltner's study confirmed the relationship between loss of the visual field and increased accident rate in drivers. Like the Johnson and Keltner study one of the goals of this study was to "determine if patients with peripheral visual field loss were at greater risk for having an accident." The authors of the study reported that "[o]ur results are consistent with those of Johnson and Keltner (1983), whose survey showed that participants with field loss in both eyes (due to a variety of causes) had higher numbers of accidents within a three-year period. The subjects in our study who had binocular peripheral field loss due to RP [retinitis pigmentosa] also had past histories of more automobile accidents within a five-year period than a normally sighted control group. Not surprisingly, there was also a greater difference between the two groups in the number of accidents involving objects approaching from peripheral locations. In addition, we found that accident involvement increased linearly with the severity of the field loss." Szlyk, J. P., Severing, K. and Fishman, G. A.: Peripheral Visual Field Loss and Driving Performance, AAA Foundation for Traffic Safety, Washington D. C., p. 35, 1991.

The addition of visual field screening will give the department the capability to better assess the applicant's sensory ability to safely operate a motor vehicle. Visual field screening has been used by several other states for a number of years. As of November 1992, approximately 30 other states were conducting visual field testing for driver's license applicant's. Survey of Licensing Procedures for Older, Physically and/or Mentally Impaired Drivers., Commonwealth of Massachusetts, Registry of Motor Vehicles, Department of Elder Affairs, Part II, November 1992. A secondary benefit of the visual screening, as pointed out in the Johnson and Keltner study, is to identify those individuals who are need of additional eye care. These individuals with peripheral visual field loss may be subject to a driving risk that they are completely unaware of.

Applicants for a driver's license will be tested using an Optec 1000 (Stereo Optical Company, Inc., Chicago, IL) vision screener. For the horizontal visual field test, applicants will have to identify with either the left or right eye whether a blinking light is observed. The vision machines contain target lights at 55 degrees, 70 degrees, and 85 degrees on the temporal side and 35 degrees on the nasal side. Individuals who do not pass the screening conducted by the department will be required to have a vision examination so that the exact extent of a person's visual field can be determined. Based on the vision screening and vision examinations, certain restrictions may be applied to a person's license or the license may be canceled or denied if warranted.

The proposed standard for visual field, as is set forth in item B, provides that an applicant must have a visual field of 105 degrees or greater in the horizontal diameter with either one usable eye or with both eyes in order to pass the visual field exam with no restrictions.

The proposed vision standards are necessary because, as confirmed by the above mentioned studies, there is a correlation between loss of visual field and increased accident rate in drivers. The visual field standards proposed by the department are reasonable because they are based on the recommendations of the American Academy of Ophthalmology, the department's advisory task force, and comments received from other ophthalmologists who commented on the proposed rule draft. In addition, the proposed vision standards are reasonable because they can be administered in an efficient manner through the use of the department's new vision screening equipment.

The proposed vision standards are as follows:

Greater than 105 degrees	full driving privileges.
Less than 105 degrees to and including 100 degrees	subject to mirror restriction, others if recommended.
Less than 100 degrees	not eligible for licensing; medical review board available.

The lowest allowable level of horizontal field was set at 100 degrees. One hundred degrees is the lowest acceptable level as recommended by the American Academy of Ophthalmology and the advisory task force members. The academy writes, “[i]ndividuals with... a visual field of less than 100 degrees in the horizontal diameter, should not drive a motor vehicle, except as determined on a case-by-case basis on appeal to the licensing authority.” Overall, there was no opposition to this requirement by the members of the task force or by other members of the public who reviewed the draft of the proposed rule. One hundred degrees is also used by other states that screen for horizontal field as the lowest acceptable level. The appeal process, for applicant’s whose driver’s license is canceled or denied because they do not meet the 100 degree standard, is further explained in this Statement under subpart 7, item C.

Another issue that was evaluated was at what level would an applicant with a horizontal visual field between 170 degrees and 100 degrees be subject to a vision examination and a mirror restriction before they would be eligible for a driver’s license. The Academy recommends that individuals with a visual field of less than 140 degrees in the horizontal diameter be judged on an individual basis, if they also met a specified list of criteria. However, given the limited resources available it is not administratively feasible to do an individual analysis of all driver license applicants with less than 140 degrees in the horizontal diameter.

The proposed horizontal visual field at which restrictions and a vision examination could be imposed is proposed at less than 105 degrees. In reviewing other states standards it was clear that there was no set degree at which restrictions or vision examinations were required. One factor that led to the determination as to where the restriction would be implemented is that the level of the 105 degree mark was a level at which the majority of applicant’s could most easily and efficiently be screened for by the department. Those applicants who could not see the target lights at 55 and 55 on the temporal side or 85 on the temporal side and 35 degrees on the nasal side would be subject to a vision examination and possible restrictions before being eligible for a driver’s license.

Another factor for proposing the level of less than 105 degrees for possible restrictions was that the restriction that would most likely be added was left and right rearview mirrors. Although mirrors on the passenger side of the car are not required by the federal government, with certain exceptions, most cars are manufactured with passenger side mirrors on the car as standard equipment. Therefore, it was not administratively efficient to add a restriction to a person’s driver’s license when an applicant would most likely already be using both the left and right rearview mirrors on their automobiles. However, there was a certain level, that of 105 degrees, at which the department felt that it should impose the restriction to be certain that the mirrors were installed on the cars the driver was operating.



Therefore, the proposal to have less than 105 degrees as the level at which restriction could be imposed was a balancing of what the machine was capable of measuring, the availability of left and right rearview mirrors on most automobiles, the expense of adding additional equipment if your car did not have a passenger side mirror, and the administrative feasibility of having a restriction placed on a person's driver's license.

The department over the next couple of years will analyze the impact of the proposed rules, if adopted. After studying the data over a period of time, the department will be able to tell, what impact, the rules have on those who apply for a driver's license in Minnesota. A determination will be made at that time as to whether the guidelines for restrictions need to be changed. Given the information available to us at this time the department knows that a visual field standard is necessary and has determined that the proposed standards are reasonable without imposing a substantial hardship on driver's license applicant's.

The department realizes that there are more sophisticated and advanced methods by which, not only the visual aspect of a driver can be examined, but also the cognitive aspects needed for handling the complexity of the driving task. For example, the method of measuring the person's "useful field of view" has proved to be a successful method to measure the driver's overall ability to operate a motor vehicle. The "useful field of view" "measures the spatial area within which an individual can be rapidly alerted to visual stimuli." This method takes into account the visual complexity of the driving task by incorporating the simultaneous use of central and peripheral vision and the execution of both primary and secondary visual tasks. Ball, Owsley, Sloane, Abstract, Visual Attention Problems as a Predictor of Vehicle Crashes in Older Drivers, Investigative Ophthalmology and Visual Science, October 1993, Vol. 34, No. 11 p. 3111. (1993).

However, such a sophisticated method of testing is only available on computers at a few research centers. Star Tribune, Monday, November 21, 1994, p. 1A, 9A. Until such time when the more sophisticated testing methods are economical and readily available for states general use, the department only has the option of using those machines that are currently available. The screening machines currently available will continue to alert people of potential vision problems and remove from the road those driver's whose visual field is too limited for safe driving.

Subpart 2 also provides that if the applicant needs corrective lenses to meet the visual acuity standards or if a licensed physician or an optometrist recommends that the applicant wear corrective lenses, the applicant must wear the corrective lenses while operating a motor vehicle. The requirements regarding the wearing of corrective lenses is a requirement that was previously found in subpart three which has subsequently been repealed.

What is new to the rules is that both physicians and optometrists may examine and make recommendation regarding a person's visual ability. Currently, optometrists have been allowed to conduct the vision examination and sign the vision examination certificates. Therefore, the department is putting into rules the current policy of the department. There has been no comments on this addition in the rules. Such an addition is reasonable given the adequate training of optometrists to conduct vision examinations and the use and availability of optometrists by the general public.

**Subpart 3. Repealed.** As previously explained the requirements of subpart 3 have been incorporated into the requirements of subpart 2. Therefore, subpart 3 has been repealed.

**Subpart 4. Vision examinations.**

**Item A.** In item A the portion of the rule that refers to the vision examination being conducted by a driver examiner has been deleted. Vision screenings are no longer required to be conducted only by driver examiners. Therefore, it is reasonable to eliminate that reference.

**Item B.** Item B is deleted. Item B required a person to have a vision examination if the person has cataracts. This provision is eliminated because the personnel screening for the vision examination are not qualified to make a medical determination as to whether a person has cataracts. If a person has cataracts it may well be that the person does not meet the vision requirements and will have to have a vision examination. If the vision screener is unable to determine the person's vision, the language of item C will apply. It may be that if a person has cataracts that person will not be able to pass the vision screening and will be referred for a vision examination because they are unable to pass the vision screening.

**Item C.** Item C also removes the reference to driver examiner as the one conducting the exam.

**Item D.** The amendments in item D are clarifying amendments and make no substantive change.

**Item F** Item F was added to the rule to state that if the person does not meet the visual acuity standard under subpart 2, the person will be required to have a vision examination. Item F restates the vision requirements from subpart 2 for ease of reference. It is reasonable to require a person to receive a vision examination if they do not meet the requirements of the visual acuity screening test. The person needs to be more adequately examined to determine whether they will be allowed to drive with restrictions or whether they will be denied the issuance of a license.

**Item G.** Item G sets the standard as to when a person will be required to have a vision examination for their visual field. If the applicant has a visual field of less than 105 degrees a vision examination will be required.

The department has considered the cost and burden that the vision examination may have on the public. In considering those burdens the department has not imposed specific methods by which the vision examination must be conducted. Therefore, the method of assessing visual field will be left up to the physician or optometrist. There are several options for testing the person's visual field. Some options are more expensive than others. An applicant's vision will not be required to be tested with the latest technologically advanced equipment. A less expensive test may be just as appropriate. The physician or the optometrist will have to evaluate each applicant on an individual basis. And in the same light, the driver's license applicant will know that they may have a choice in how their vision should be tested and can compare prices. However, if the physician or optometrist feels that the equipment that is available in his or her office does not provide accurate enough information, then the applicant should be referred to another health care facility that can provide more accurate results.

It is reasonable for the physician or optometrist to determine by which method the vision will be examined because they should know more about the specific medical condition of the patient. In addition, the physician or optometrist must certify the person's visual field on the vision examination certificate. Therefore, the physician or optometrist must conduct a vision examination so that the results of the examination can be certified as being true and accurate on the vision examination form.

Secondly, as a further way to reduce costs, if a person has recently had a vision examination in the last six months, the applicant may use that examination and have the vision examiner fill out the vision examination certificate based on that examination.

Subpart 4 also requires that an applicant's vision examination must have been conducted within six months of completion of the vision examination certificate. Six months is the time period that is currently used now by the department. Six months is a reasonable time period. The six month time period allows the person who may have recently had a vision examination to use that examination to meet this subpart. The person will not have to incur the additional expense of another vision examination. Going beyond six months is not reasonable because in some cases, the condition of a person's vision may be subject to rapid changes and the department does not want to miss such a deterioration of a person's vision.

**Subpart 5. Restricted license; vision requirements.** Subpart 5 was divided into two subparts, subpart 5 and subpart 5a. Subpart 5 states when a person may need vision restrictions in order to drive and subpart 5a states what those restrictions are. The division of subpart 5 into subpart 5 and 5a was a formatting change made by the Revisor of Statutes. Under the requirements of subpart 5, if a person does not meet the vision standards under subpart 2, they may be only eligible to drive with restrictions. Items A and B repeat the those vision standards from subpart 2.

**Subpart 5a. Restricted license; driving restrictions.** Subpart 5a contains the restrictions that may be imposed if the person does not pass the visual acuity or the visual field requirements. Items A through D pertain to the visual acuity restrictions. With the exception of item D, the visual acuity restrictions are not new. Part of item A has been deleted and the requirements placed in subparts 6 and 7 of the rule. The language from item A regarding referral to the driver evaluation unit appears in subpart 6. The language from item A regarding denial of a license when an applicant scores 20/100 or less corrected vision has been moved to subpart 7.

**Item D.** Item D is a new section which states that a person may be restricted to driving only during daylight hours. The daylight hours are to be determined by the commissioner after individual assessment of the specific applicants medical condition. The "daylight only" restriction, while new to the rules, is not new to the vision examination process itself. Restricting certain drivers to driving only during daylight hours is a recommendation that physicians and optometrists have been making to the department for a number of years. Because the restriction was being recommended quite frequently, the restriction was added to the vision examination form as a separate item in 1993.

It is reasonable to add the daylight only restriction to the rule because it is a restriction that physician's and optometrists have been recommending for a number of years. Furthermore, studies have shown that a person's vision may be reduced during nighttime driving. "Epidemiological data on traffic accidents consistently indicate a significantly higher rate, between 3.5 and 5 times greater on a mileage basis, for nighttime as compared with daytime driving." Leibowitz, Vision and Driving: Past

limitations and Future Possibilities, Alcohol, Drugs and Driving, Vol. 9, Numbers 3-4, p. 214, (1993). In addition, the "daylight only" restriction is a common restriction among the other states that screen the vision of driver license applicants. Survey of Licensing Procedures for Older, Physically and/or Mentally Impaired Drivers, Commonwealth of Massachusetts, Registry of Motor Vehicles, Department of Elder Affairs, Part II, November 1992.

**Item E.** Item E adds an equipment restriction for those applicant's that do not meet the visual field requirements in subpart 2. Item E provides that an applicant with a visual field of less than 105 degrees in the horizontal diameter with either one usable eye or with both eyes must be restricted to driving with left and right outside rearview mirrors or other restrictions as listed in items A to D, if the commissioner determines that the restriction is necessary for the safety of the applicant and the public.

The use of outside mirrors is necessary to help the person achieve the best possible visual field while operating a motor vehicle. The majority of the other states that conduct visual field testing also use the outside mirror restriction for those driver license applicants not meeting a certain level of horizontal vision. Survey of Licensing Procedures for Older, Physically and/or Mentally Impaired Drivers., Commonwealth of Massachusetts, Registry of Motor Vehicles, Department of Elder Affairs, Part II, November 1992.

While motor vehicle are not required to have passenger side outside mirrors, except in limited circumstances, the majority of cars have as standard equipment both left and right outside rearview mirrors. There are a limited number of car models that do not contain the right outside rearview mirrors as standard equipment. Therefore, for most people, this restriction should not place an additional financial burden on them, of having to add a mirror to their automobile.

**Subpart 6. Other situations.** Subpart 6 does not contain new provisions. As previously mentioned the information from subpart 5a, item A, regarding referral to the driver evaluation unit has been added to subpart 6.

**Subpart 7. License denial/cancellation.** The provisions in subpart 7 regarding cancellation for not meeting visual acuity requirements are not new but have been put into the new subpart 7 for purposes of having all information regarding denial and cancellation into one subpart. New provisions in subpart 7 relate to denial and cancellation for the proposed visual field standards.

The first sentence of subpart 7 restates the statutory cites that were deleted from subpart 5a, item A, pertaining to driver's license cancellation. The statutory cite of 171.32, "Action Upon Information Relating to Blindness," has been added so that individuals have a reference as to the commissioner's authority to cancel a license of a person based on information received regarding the determination that a person is legally blind under item B.

**Item A.** Item A provides that an applicant's license will be denied or canceled when the applicant has visual acuity of 20/100 or less corrected vision. This provision is not new and was taken from the deleted paragraph under subpart 5a, item A.

**Item B.** Item B provides that an applicant's license will be denied or canceled when the applicant is known to be receiving assistance for the blind. This provision is also not new and was moved from the deleted paragraph of subpart 5a, item A.

**Item C.** Item C provides that an applicant's license will be denied or canceled when the applicant has visual field of less than 100 degrees in the horizontal diameter with either one usable eye or with both eyes. The standard for cancellation when an applicant has a visual field of less than 100 degrees in the horizontal diameter is based on the recommendation of the Low Vision Committee of the American Academy of Ophthalmology standards for visual acuity and visual field for the issuance of noncommercial driver's licenses. Vision Requirements for Driving, Low Vision and Vision Rehabilitation, Vol. 7, No. 2, p. 197, June 1994.

As previously stated in the discussion in subpart 2, the Academy states, "[i]ndividuals with...a visual field of less than 100 degrees in the horizontal diameter, should not drive a motor vehicle, except as determined on a case-by-case basis on appeal to the licensing authority." Id. p. 200. The standard of not licensing an applicant whose visual field is less than 100 degrees is also followed by a number of other states that conduct visual field examinations.

Under Minnesota Rule, part 7410.3000, applicant's who disagree with the determination of the commissioner, may apply, in writing, for a variance from parts 7410.2100 to 7410.2900. The rule provides that a variance, other than from statutory standards, shall be granted to any person who establishes, under the individual circumstances in that persons' case, that the person can operate a motor vehicle safely, with reasonable and ordinary control, and without posing a danger inimical to public safety or welfare. The request for a variance is considered by a medical review board, who then makes a recommendation to the commissioner. The commissioner makes the final decision as to whether to follow the recommendation of the review board.

Therefore, those individuals whose driver's license is canceled or denied because they do not meet the vision standards may appeal to the department's medical review board. This appeal process ensures an individual assessment of the applicants case.

**Item D.** Item D provides that an applicant's driver's license will be denied or canceled when the commissioner receives a recommendation from a licensed physician or optometrist that the applicant's license should be canceled or denied. Under Minnesota Statutes, section 171.04, subdivision 1, clause (9) the department is authorized not to issue a driver's license to any person when, in the opinion of the commissioner, such person is afflicted with or suffering from such physical or mental disability or disease as will affect such person in a manner to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways.

A recommendation from physician that a person's license should be canceled or denied is an example of a situation that would fit under Minnesota Statutes, section 171.04. This is a policy that has been previously implemented by the department. The policy is now being written into rule for completeness of the cancellation and denial section.

**Item E.** Item E provides that an applicant's driver's license will be denied or canceled when the applicant fails to submit a required vision examination certificate. This requirement is reasonable because without the vision examination certificate the department cannot confirm what the person's visual acuity or visual field results are. If a person does not meet the department's vision standards a

vision examination is needed before the license can be issued or renewed. Without the vision examination, the person is not eligible for licensure.

**Conclusion**

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

12 September 1995  
Date

Michael S. Jordan  
Michael S. Jordan, Commissioner  
Department of Public Safety