

Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Relating to Motorcycle Road Guard Certificate

AGENCY: Department of Public Safety

MINNESOTA RULES: Chapter 7422

The attached rules are approved for
publication in the State Register

A handwritten signature in blue ink, appearing to read "Ryan S. Inman", written over a horizontal line.

Ryan S. Inman
Assistant Revisor

1.1 **Department of Public Safety**

1.2 **Proposed Permanent Rules Relating to Motorcycle Road Guard Certificate**

1.3 **7422.0100 DEFINITIONS.**

1.4 Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part
1.5 have the meanings given them.

1.6 Subp. 2. **Applicant.** "Applicant" means a person who is applying for enrollment in
1.7 the motorcycle road guard certification course.

1.8 Subp. 3. **Commissioner.** "Commissioner" means the commissioner of public safety,
1.9 acting directly or through authorized officers or agents.

1.10 Subp. 4. **Disqualification or disqualify.** "Disqualification" or "disqualify" means
1.11 the commissioner's rescission of a person's motorcycle road guard certificate.

1.12 Subp. 5. **Daytime.** "Daytime" has the meaning given in Minnesota Statutes, section
1.13 169.011, subdivision 22.

1.14 Subp. 6. **Entity.** "Entity" has the meaning given in Minnesota Statutes, section
1.15 12.03, subdivision 4e.

1.16 Subp. 7. **Instructor applicant.** "Instructor applicant" means a person who is
1.17 applying for a motorcycle road guard instructor certificate.

1.18 Subp. 8. **Minnesota Motorcycle Safety Center.** "Minnesota Motorcycle Safety
1.19 Center" means the motorcycle safety education program under Minnesota Statutes, section
1.20 121A.36.

1.21 Subp. 9. **Motorcycle road guard.** "Motorcycle road guard" means a person who
1.22 holds a valid motorcycle road guard certificate.

2.1 Subp. 10. **Motorcycle road guard certification course.** "Motorcycle road guard
2.2 certification course" means a program authorized by the commissioner for the instruction
2.3 and certification of a motorcycle road guard.

2.4 Subp. 11. **Motorcycle road guard instructor.** "Motorcycle road guard instructor"
2.5 means a person who has met the requirements of a motorcycle road guard instructor
2.6 certificate.

2.7 Subp. 12. **Qualified prior impaired driving incident.** "Qualified prior impaired
2.8 driving incident" has the meaning given in Minnesota Statutes, section 169A.03,
2.9 subdivision 22.

2.10 Subp. 13. **Valid motorcycle road guard certificate.** "Valid motorcycle road guard
2.11 certificate" means a certificate that authorizes the person to whom it is issued to perform
2.12 the duties under part 7422.0200 and is:

2.13 A. **issued by the commissioner;**

2.14 B. **not expired; and**

2.15 C. **not disqualified.**

2.16 Subp. 14. **Wireless communications device.** "Wireless communications device" has
2.17 the meaning given in Minnesota Statutes, section 169.011, subdivision 94, and includes
2.18 cellular phones as defined in Minnesota Statutes, section 169.011, subdivision 15.

2.19 Subp. 15. **Motorcycle Road Guard Field Guide.** "Motorcycle Road Guard Field
2.20 Guide" is a reference document, approved by the Department of Public Safety for use by
2.21 motorcycle road guards.

2.22 Subp. 16. **ANSI/ISEA 107-2004 standard.** For the purposes of this chapter,
2.23 "ANSI/ISEA 107-2004 standard" means the standard for the design and performance of
2.24 high visibility safety apparel that is developed by the International Safety Equipment

3.1 Association and published by the American National Standards Institute, required under
3.2 part 7422.1100.

3.3 **7422.0200 MOTORCYCLE ROAD GUARD; AUTHORITY; RESTRICTIONS.**

3.4 Subpart 1. **Statutory authority.** A motorcycle road guard who is certified by the
3.5 commissioner is authorized under Minnesota Statutes, section 169.06, subdivision 4,
3.6 and successor requirements, to:

3.7 A. stop and hold vehicles in place until it is safe for vehicles to proceed;

3.8 B. act as a flagger escorting a motorcycle group ride;

3.9 C. direct operators of motorcycles within a motorcycle group ride or other
3.10 vehicle traffic, notwithstanding any contrary indication of a traffic-control device,
3.11 including stop signs or traffic-control signals;

3.12 D. obtain consent from the chief of police, or the chief's designee, of any city of
3.13 the first class through which the group is proceeding; and

3.14 E. notify each statutory or home rule charter city through which the motorcycle
3.15 group is proceeding.

3.16 Subp. 2. **Requirement to carry certificate.** In addition to the requirements in
3.17 subpart 1, a motorcycle road guard must carry a valid motorcycle road guard certificate at
3.18 all times and must produce proof of such certificate on demand of a peace officer.

3.19 Subp. 3. **Restrictions.** In order for a motorcycle road guard to escort a motorcycle
3.20 group ride, the motorcycle group ride must be an organized gathering of motorcyclists
3.21 of at least 20 motorcyclists that:

3.22 A. is sponsored by an entity that has liability insurance in force for all
3.23 participants and organizers of the motorcycle group ride;

4.1 B. follows a route in accordance with the notification provided under Minnesota
4.2 Statutes, section 169.06, subdivision 4;

4.3 C. is riding only in daytime hours; and

4.4 D. complies with the Minnesota Manual on Uniform Traffic-Control Devices,
4.5 authorized under Minnesota Statutes, section 169.06, subdivision 1.

4.6 Subp. 4. Requirement to produce proof of liability insurance.

4.7 A. A motorcycle road guard must:

4.8 (1) carry proof of liability insurance required under subpart 3; and

4.9 (2) produce proof of such insurance on demand of a peace officer.

4.10 B. A motorcycle road guard who fails to produce proof of insurance must,
4.11 within ten days of an officer's request under this subpart, produce the required proof of
4.12 insurance stating that the security had been provided for the motorcycle group ride at the
4.13 time of the demand to the commissioner.

4.14 C. The commissioner shall suspend the motorcycle road guard certificate of
4.15 a person who does not comply with item B until proof of insurance is received by the
4.16 commissioner.

4.17 Subp. 5. Appeal. A person whose motorcycle road guard certificate is suspended
4.18 under this part may appeal the commissioner's action under the contested case procedures
4.19 of Minnesota Statutes, chapter 14.

4.20 **7422.0300 MOTORCYCLE ROAD GUARD CERTIFICATE; QUALIFICATIONS.**

4.21 Subpart 1. Statutory requirements. An applicant for a motorcycle road guard
4.22 certificate must meet the requirements under Minnesota Statutes, section 171.60,
4.23 subdivision 2.

5.1 Subp. 2. Review of driving record. The commissioner shall review the driving
5.2 record of an applicant for a motorcycle road guard certificate upon initial application.

5.3 A. An applicant who does not have a Minnesota driver's license shall submit
5.4 to the commissioner a certified copy of the applicant's driving record from the United
5.5 States state where the applicant is licensed.

5.6 B. An applicant whose Minnesota driving record dates back less than five years
5.7 from the date of the application must submit a certified copy of the applicant's driving
5.8 record from the previous jurisdiction in which the applicant was licensed so that the
5.9 commissioner can review five years of an applicant's driving record.

5.10 C. The commissioner shall accept and review a driving record with fewer than
5.11 five years in the case where an applicant's age, at the time of an applicant's driver's license
5.12 issuance, results in a driving record that contains fewer than five years.

5.13 D. A certified copy of a driving record submitted under this part must be dated
5.14 no earlier than 30 days before the commissioner receives it.

5.15 Subp. 3. Prior driving convictions, violations, and incidents. No applicant for a
5.16 motorcycle road guard shall have:

5.17 A. more than two petty misdemeanor convictions for any moving violation
5.18 under Minnesota Statutes, chapter 169, or an equivalent violation from another state, for
5.19 24 months preceding the date of application;

5.20 B. any qualified prior impaired driving incident, or an equivalent violation from
5.21 another state, for five years preceding the date of application;

5.22 C. any conviction under Minnesota Statutes, section 169.13, or an equivalent
5.23 violation from another state, for five years preceding the date of application; and

5.24 D. any conviction under Minnesota Statutes, section 609.21, or an equivalent
5.25 violation from another state.

6.1 Subp. 4. **Hearing.** An applicant must be able to speak and hear well enough to
6.2 conduct a normal verbal conversation with another person at a distance of five feet, with
6.3 or without a hearing aid.

6.4 Subp. 5. **Vision.** An applicant must be able to meet the vision requirements to obtain
6.5 an unrestricted class D license, except that the restriction of corrective lenses enabling the
6.6 applicant to meet the vision requirement is an acceptable restriction.

6.7 Subp. 6. **Vehicle insurance coverage.** An applicant must maintain vehicle insurance
6.8 coverage pursuant to Minnesota Statutes, section 169.791.

6.9 Subp. 7. **Continuing requirements.**

6.10 A. Once certified, a motorcycle road guard must:

6.11 (1) remain in compliance with subparts 1 to 6;

6.12 (2) authorize the commissioner to annually review the motorcycle road
6.13 guard's driving record; and

6.14 (3) submit a certified copy of the motorcycle road guard's driving record
6.15 to the commissioner one year after the date of initial certification if the motorcycle road
6.16 guard is not a Minnesota resident.

6.17 B. Any physical or mental disability of a motorcycle road guard that interferes
6.18 with the safe operation of a motor vehicle under Minnesota Statutes, section 171.04 or
6.19 171.13, is governed under parts 7410.2100 to 7410.3000.

6.20 **7422.0400 MOTORCYCLE ROAD GUARD INSTRUCTOR; QUALIFICATIONS.**

6.21 In order to instruct the motorcycle road guard certification course, an instructor
6.22 applicant must be a current instructor authorized by the Minnesota Motorcycle Safety
6.23 Center program, and must meet qualifications under parts 7411.0620 and 7411.0630,
6.24 except that an instructor applicant is not subject to part 7411.0620, subpart 8, if the
6.25 instructor applicant had a criminal history check performed within ten years preceding

7.1 the date of application and the outcome of the check of the national criminal data
7.2 repository did not indicate a criminal record where the applicant was convicted of a gross
7.3 misdemeanor or felony.

7.4 **7422.0500 MOTORCYCLE ROAD GUARD CERTIFICATE ISSUANCE;**
7.5 **DISQUALIFICATION.**

7.6 **Subpart 1. Issuance.**

7.7 A. Upon successful completion of the motorcycle road guard course
7.8 and payment by an applicant of the program course fee under part 7422.0900, the
7.9 commissioner shall issue a motorcycle road guard certificate for a period of two years.
7.10 There is no automatic renewal for a motorcycle road guard certificate.

7.11 B. A person who was previously certified as a motorcycle road guard and whose
7.12 certification has expired must re-enroll as an applicant by meeting the qualifications under
7.13 part 7422.0300 and successfully completing the program curriculum in order to perform
7.14 the duties of a motorcycle road guard under part 7422.0200.

7.15 **Subp. 2. Disqualification.**

7.16 A. Once certified, failure of a person who holds a motorcycle road guard
7.17 certificate to meet any of the requirements under part 7422.0300 is cause for the
7.18 commissioner to disqualify the person's motorcycle road guard certificate.

7.19 B. The commissioner shall disqualify the motorcycle road guard certificate of
7.20 a person who fails to submit a current driving record as required under part 7422.0300,
7.21 subpart 7, within 13 months of initial certification.

7.22 Subp. 3. Appeal. A person whose motorcycle road guard certificate is disqualified
7.23 under this part may appeal the commissioner's disqualification under the contested case
7.24 procedures of Minnesota Statutes, chapter 14.

8.1 **7422.0600 ALCOHOL AND CONTROLLED SUBSTANCES USE PROHIBITION;**
8.2 **VIOLATION.**

8.3 **Subpart 1. Prohibition of alcohol consumption and controlled substances use.**

8.4 A person who holds a motorcycle road guard certificate shall not perform the duties of a
8.5 motorcycle road guard, either while operating a motor vehicle or while standing in, or in
8.6 proximity to, an intersection, under part 7422.0200:

8.7 A. while consuming alcoholic beverages or while using controlled substances; or

8.8 B. after having consumed alcoholic beverages or after having used controlled
8.9 substances.

8.10 **Subp. 2. Use of preliminary screening test.** When a peace officer has reason to
8.11 believe that a motorcycle road guard may be violating or has violated subpart 1, the officer
8.12 may require the driver to provide a sample of the motorcycle road guard's breath for a
8.13 preliminary screening using a device approved by the commissioner for this purpose.

8.14 **Subp. 3. Use of preliminary screening test result.** Upon a positive test administered
8.15 under subpart 2 of a motorcycle road guard, or a test refusal of a motorcycle road guard, a
8.16 peace officer shall:

8.17 A. confiscate the road guard's certificate; and

8.18 B. notify the commissioner.

8.19 **Subp. 4. Administrative disqualification.** When the commissioner is notified under
8.20 subpart 3 that a person who holds a motorcycle road guard certificate has violated this
8.21 part or that a person who holds a motorcycle road guard certificate has refused a test
8.22 under subpart 2, the commissioner shall:

8.23 A. disqualify the motorcycle road guard certificate; and

9.1 B. not issue a motorcycle road guard certificate to the person described in
9.2 this subpart for a period of ten years from the date of disqualification of the motorcycle
9.3 road guard certificate.

9.4 Subp. 5. Reason to believe. For purposes of this part, "reason to believe" means
9.5 from the manner in which a motorcycle road guard is driving, operating, controlling, or
9.6 acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor
9.7 vehicle, or grounds put forth in good faith which are not arbitrary, irrational, unreasonable,
9.8 or irrelevant and which make the proposition asserted more likely than not. Grounds upon
9.9 which reason to believe are based include:

9.10 A. facts or statements supplied by the motorcycle road guard;

9.11 B. driver's license record and accident records;

9.12 C. court documents and police records;

9.13 D. facts of which the peace officer has personal knowledge; and/or

9.14 E. a blood, breath, or urine test indicating the presence of alcohol or controlled
9.15 substances, or a test refusal.

9.16 Subp. 6. Appeal. A person whose motorcycle road guard certificate is disqualified
9.17 under this part may appeal the commissioner's disqualification under the contested case
9.18 procedures of Minnesota Statutes, chapter 14.

9.19 **7422.0700 COURSE INSTRUCTION; FREQUENCY.**

9.20 A. The commissioner shall offer the motorcycle road guard certification course
9.21 through the Minnesota Motorcycle Safety Center at least once per year.

9.22 B. The commissioner shall offer motorcycle road guard instructor training at
9.23 least once per year.

10.1 **7422.0800 DATA CLASSIFICATION; USE OF INFORMATION.**

10.2 Subpart 1. **Data classified.** Data on individuals provided to obtain a motorcycle road
10.3 guard certificate shall be treated as public data on individuals, except that the individual's
10.4 driving record is governed under Minnesota Statutes, section 171.12. For purposes of this
10.5 part, "public data on individuals" has the meaning given in Minnesota Statutes, section
10.6 13.02, subdivision 15.

10.7 Subp. 2. **Required list.** The commissioner shall maintain a list of all persons who
10.8 are certified as a motorcycle road guard on the department's Web site. The list must
10.9 contain only the following information:

10.10 A. full name;

10.11 B. motorcycle road guard certificate number; and

10.12 C. the expiration date of the motorcycle road guard certificate.

10.13 **7422.0900 COURSE FEE.**

10.14 The commissioner of public safety shall assess a fee to each applicant for a motorcycle
10.15 road guard certificate, as provided by Minnesota Statutes, section 171.60, subdivision 3.

10.16 **7422.1000 VEHICLE REQUIREMENTS; RESTRICTIONS.**

10.17 Subpart 1. **Required equipment.** A motorcycle or passenger vehicle that is used
10.18 by a motorcycle road guard in accordance with part 7422.0200 must be in safe operating
10.19 condition and must be equipped with a wireless communications device that can be used
10.20 to contact law enforcement in the event of a roadside emergency.

10.21 Subp. 2. **Restrictions.** A motorcycle or passenger vehicle that is used by a
10.22 motorcycle guard in accordance with part 7422.0200 must not:

10.23 A. use equipment or lighting for use exclusively by emergency vehicles;

- 11.1 B. carry equipment that reduces the visibility of the driver or otherwise restricts
11.2 the driver's ability to safely operate the vehicle; and
- 11.3 C. contain any passengers under the age of 18.

11.4 **7422.1100 ROAD GUARD FLAGGING EQUIPMENT; APPAREL**
11.5 **REQUIREMENTS.**

11.6 Subpart 1. **Flagging equipment.** A motorcycle road guard who is performing traffic
11.7 control in accordance with part 7422.0200 must use a collapsible STOP/SLOW paddle that:

- 11.8 A. has an octagonal shape;
- 11.9 B. is at least 18 inches wide with letters at least six inches high;
- 11.10 C. on the STOP face, has white letters and white border on a red background;
- 11.11 D. on the SLOW face, has black letters and a black border on an orange
11.12 background; and
- 11.13 E. is retro-reflective.

11.14 Subp. 2. **Required high-visibility safety apparel.** A motorcycle road guard must
11.15 wear the high-visibility safety apparel in items A to D when acting as a flagger and
11.16 performing traffic control in accordance with parts 7422.1000 and 7422.1100.

- 11.17 A. The flagger must wear a safety vest and safety pants during low visibility
11.18 situations, low light conditions, or inclement weather.
- 11.19 B. The apparel in item A must be orange-red, fluorescent yellow-green, or a
11.20 combination of the two as defined in the ANSI standard.
- 11.21 C. The retro-reflective material of the apparel in item A must be orange, yellow,
11.22 white, silver, yellow-green, or a fluorescent version of these colors and must be visible at a
11.23 minimum distance of 1,000 feet.

12.1 D. A shirt or jacket may be substituted for a vest provided that it meets the color
12.2 and visibility requirements of this subpart.

12.3 Subp. 3. **ANSI/ISEA 107-2004 requirement.** A motorcycle road guard who is
12.4 acting as a flagger and performing traffic control in accordance with part 7422.0200
12.5 must wear high-visibility safety apparel that meets the Performance Class 2 or 3
12.6 requirements of the ANSI/ISEA 107-2004 publication entitled "American National
12.7 Standard for High-Visibility Apparel and Headwear" and labeled as meeting the
12.8 ANSI/ISEA 107-2004 standard performance for Class 2 or 3 risk exposure. This
12.9 standard is not subject to frequent change. A copy of the standard is available at
12.10 the United States Department of Transportation, Federal Highway Administration,
12.11 1200 New Jersey Avenue SE, Washington, D.C., 20590, or on the Internet at
12.12 http://mutcd.fhwa.dot.gov/resources/interpretations/pdf/6_09_12.pdf.

12.13 **7422.1200 MOTORCYCLE ROAD GUARD CERTIFICATE PROGRAM;**
12.14 **CURRICULUM.**

12.15 Subpart 1. **Curriculum requirements.** The classroom curriculum presented and
12.16 delivered to each applicant enrolled in the program for motorcycle road guard certification
12.17 must include:

12.18 A. an opportunity for the applicant to analyze and assess several
12.19 decision-making models and factors influencing highway-use decisions;

12.20 B. instruction on the functions and use of required safety equipment, including
12.21 provisions under parts 7422.1000 and 7422.1100, subparts 1 and 2; and

12.22 C. theory of safety principles and guidelines in the motorcycle road guard field
12.23 guide and the practical application, including:

12.24 (1) opportunities for the applicant to identify and analyze intersection
12.25 types and road types;

- 13.1 (2) the principles and purpose of high-visibility safety apparel;
- 13.2 (3) principles and purpose of intersection control;
- 13.3 (4) best practices of group riding formations;
- 13.4 (5) information on how to prepare a motorcycle group ride route; and
- 13.5 (6) information on program consequences of alcohol use by a certified
- 13.6 motorcycle road guard while performing road guard duties.

13.7 Subp. 2. **Operator proficiency.** A motorcycle road guard must demonstrate:

13.8 A. proficiency in stopping traffic and intersection management; and

13.9 B. a thorough and full knowledge of all provisions of this part.

13.10 **7422.1300 PENALTY.**

13.11 As provided in Minnesota Statutes, section 171.60, a person who violates any

13.12 provisions or requirements of this chapter is guilty of a petty misdemeanor.