OAH 8-3000-22409-1
Governor's Tracking No. AR 587

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Expedited Rules Relating to Local State-Aid Route Standards, Chapter 8820	**ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.389 AND MINN. R. 1400.2410**

This matter came before Administrative Law Judge Eric L. Lipman upon the application of the Minnesota Department of Transportation (Department) for a legal review under Minn. Stat. § 14.389 and Minn. R. 1400.2410.

On November 8 and 10, 2011, the Department filed documents with the Office of Administrative Hearings in support of approval of the above-entitled rules.

Based upon a review of those submissions, and the entire rulemaking record,

IT IS HEREBY DETERMINED THAT:

1. The typographical errors in the version of the rules published in the August 29, 2011 edition of the *State Register* did not deprive any person of a meaningful opportunity to participate in the rulemaking process. Those errors were harmless.

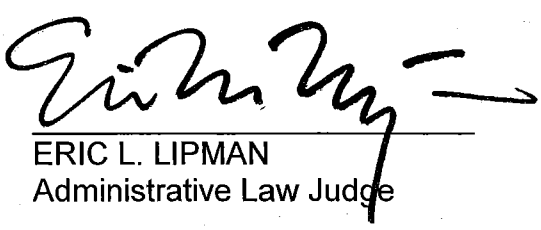
IT IS HEREBY ORDERED THAT:

1. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, Chapter 14, and Minnesota Rules, Chapter 1400.

2. The Department has the authority under Minn. Stat. §§ 162.02 and 162.09 to adopt the proposed rules using the expedited rulemaking process.

3. The adopted rules are **APPROVED**.

Dated: November 21, 2011



ERIC L. LIPMAN
Administrative Law Judge

MEMORANDUM

While the expedited rules are approved for legality, one portion of the rules is confusingly phrased, obscuring the Department's regulatory intentions. The Commissioner may wish to consider revising the rules, and his earlier order adopting those rules, so to make one additional clarification.

Proposed Minn. R. 8820.9920, subpart g, reads in part:

> Except within municipal corporate limits, ten-ton staged structural design must be able to carry ten-ton axle loads except during spring load-restriction periods, or year-round if needed for system continuity....

A better phrasing of the structural design limits, and the three exceptions, might be:

> Ten-ton staged structural design must be able to carry ten-ton axle loads except that this requirement does not apply within municipal corporate limits, during spring load-restriction periods or if the roadway is needed for system continuity....

Such a change is at the Commissioner's election, would be needed and reasonable and would not be substantially different than the rules as originally proposed.

E. L. L.