



Minnesota Department of Transportation

Office of Motor Carrier Services

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REVISOR OF STATUTES

Governor Jesse Ventura
130 State Capitol
75 Constitution Avenue
St. Paul, MN 55155

Chair
Senate Transportation Committee
323 State Capitol
75 Constitution Avenue
St. Paul, MN 55155

Representative Steve Sviggum, Chair
Legislative Coordinating Commission
463 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Representative Tom Workman
Chair, House Transportation
Policy Committee
537 State Office Building
100 Constitution Avenue
St. Paul, Mn 55155

Michelle Timmons
Revisor of Statutes
700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Senator Dean Johnson, Chair
Senate Transportation and Public
Safety Budget Division
124 State Capitol
75 Constitution Avenue
St. Paul, MN 55155

Representative Carol Molnau, Chair
House Transportation Finance Division
443 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Subject: Annual Report on Obsolete, Unnecessary or Duplicative Rules, as Required by
Minnesota Statutes, section 14.05, subdivision 5

Dear Governor Ventura, Senators and Representatives:

I am writing on behalf of the Minnesota Department of Transportation (Mn/DOT) in

unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary or duplicative. If none of an agency's rules are obsolete, unnecessary or duplicative, an agency's December 1 report must state that conclusion.

As Mn/DOT's Rules Coordinator, I am responsible for coordinating all department rulemaking projects, and for ensuring that all rulemaking statutory requirements are complied with. I am also the person responsible for identifying and initiating repeal of obsolete rules. I certify that all of Mn/DOT's administrative rules have been reviewed. A list of the department's rules is attached along with an explanation of the status of those rules that need to be revised; as well as the status of those that were identified as in need of revision last year but which have been amended and are no longer obsolete, unnecessary or duplicative. Except for the rules noted, the department's rules are not obsolete, unnecessary or duplicative and do not need to be repealed. I will continue to monitor the department's administrative rulemaking activities on an ongoing basis. As needs arise, we will do any necessary revisions to, or repeal of, our administrative rules.

If you need further assistance, please contact me at 651/688-1892.

Sincerely



Sergius Phillips
Mn/DOT Rules Coordinator

cc. Betsy Parker, Office of Intergovernmental Policy
Deb Ledvina, Assistant Director, Office of Motor Carrier Services
Wood Brigg, Director, Office of Motor Carrier Services

DEPARTMENT OF TRANSPORTATION OBSOLETE RULES REPORT

Office of Motor Carrier Rules

Many of the rule provisions in chapters 7800 and 8850 are obsolete due to the deregulation of the motor carrier of property industry in 1995. Before July 1, 1996, the Transportation Regulation Board (TRB) administered state statutes that restricted entry in the business, prescribed the routes or geographical areas that carriers may serve, and regulated the rates they may charge. The Minnesota Legislature did not fund the TRB for FY97 and the administration transferred the Board's functions to Mn/DOT. Except for the household goods carriers, permits are no longer issued for the carriers and many of the carrier classifications have been eliminated in favor of more generic classifications, such as motor carrier of property and motor carrier of passengers. Under Minn. Stat. chapter 221, certificates of registration are now required for other property and passenger carriers. (See attached summary regarding federal preemption of the motor carrier industry.)

Chapter 7800, Motor Carrier Operations

The following rule parts in Chapter 7800 are obsolete and need to be repealed:

7800.0100 Definitions, Subpart 1. Abbreviations. *With the exception of RRCC, regular route common carrier, these abbreviations no longer appear in chapter 7800 and can be repealed. The abbreviation for RRCC only appears in 7800.0400 and 7800.1500. Rule 7800.1500 is obsolete and can be repealed and the reference to RRCC in 7800.0400 is obsolete as well because the term RRCC has been repealed from Minn. Stat. 221.011, subd. 9. See c. 238, art. 2, s. 92.*

Subp. 3. Express carriage. *This term no longer appears in chapter 7800 or Minn. Stat. chapter 221.*

Subp. 5. Headquarters area. *This term no longer appears in chapter 7800 and was repealed from Minn. Stat. chapter 221 in 1983. See c. 371, s. 44.*

7800.0500 Application for Petroleum Carrier Permit.

7800.0700 Filing of Customer Lists with Application for Contract Carrier Permit.

All of the references in chapter 7800 to contract carriers are obsolete. The classification of contract carrier is no longer valid since the deregulation of the motor carriers of property by the federal government. Contract carriers are now registered as property carriers under Minn. Stat. §221.0251.

7800.1400 Petroleum Carriers. *Obsolete. See part 7800.0500.*

7800.1500 Abandonment of Route by Regular Route Common Carrier. *This provision is obsolete because the regular route common carrier classification was eliminated by the legislature in 1999. Two new classifications were established: (1) Motor carrier of passengers and (2) small vehicle passenger service. See Minn. Laws 1999, c. 238. Regular route common carriers were converted to the new classifications effective January 1, 2000. (See attached fact sheet regarding establishment of the new motor carrier passenger program.)*

7800.1600 Regular Route Common Carrier. *Obsolete. See part 7800.1500.*

7800.1700 Permit Contract Carriers. *Obsolete. See part 7800.0700.*

7800.3100 Livestock Bill of Lading. *Obsolete. Minn. Stat. chapter 221, no longer requires a livestock bill of lading. The classification of livestock carrier is no longer used as of the federal deregulation of 1995. The references to the livestock carrier classification in Minn. Stat. chapter 221 are obsolete and will be repealed in the future.*

7800.3900 Advertising. *This provision refers to the regular route classification which has been abolished. See part 7800.1500.*

7800.4810 Notice of Schedule Changes. *This provision pertains to the regular route classification which is obsolete. See part 7800.1500.*

It is anticipated that the obsolete rules listed above for chapter 7800 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rules in chapter 7800 will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

7805.0800 Motor Carrier's Choice of Class. *This provision is obsolete as motor carriers of property, except household goods movers, are no longer required to submit financial information with the OMCS.*

It is anticipated that the obsolete rule listed above for chapter 7805 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rule will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

Chapter 8840, Special Transportation Services

Chapter 8840 is in the process of being revised and updated. These rules establish operating standards for special transportation services to protect the health and safety of the elderly and disabled users of the service. It is anticipated that this rulemaking will be completed (and any obsolete, unnecessary or duplicative provisions amended or repealed) by the end of 2002.

Chapter 8850, Program Management Division

The following rule parts are obsolete or outdated and need to be repealed.

8850.6900, Subp. 4. *The definition of "Certificate" is obsolete since the since the definition of the same term was repealed from Minn. Stat. chapter 221.011, subd. 7, in 1999. See c. 238, art 2, s 92.*

8850.6900, Subp. 6. *The definition of "charter carrier" is obsolete since the deregulation of the motor carrier of property carriers in 1995. The definition of charter carrier still remains in Minn. Stat. §221.011, subd. 21, but that definition is no longer used and the term will also be repealed from chapter 221.*

8850.6900, Subp. 11. *The definition of lightweight vehicle is outdated and no longer valid. The definition of lightweight vehicle has been revised and the correct definition is in Minn. Stat. §221.011, subd. 42.*

8850.6900, Subp. 12. *The definition of "livestock carrier" is obsolete with the deregulation of the motor carrier of property carriers by the federal government in 1995.*

been updated to be consistent with federal regulations and are now contained in Minn. Stat. §§221.031, 221.0314, 221.025 and 221.605.

8850.9050, subparts 1 and 2: Subpart 1 is outdated and redundant. In 1990, the Hazardous Materials Transportation laws were amended to require the USDOT to regulate the transportation of hazardous materials in intrastate commerce (49 U.S.C. 5103 (b) (1)). In 1997 RSPA issued as a final rule HM-200, Hazardous Materials in Intrastate Commerce, which was effective on October 1, 1998.

HM-200 changed the language of 49 CFR 171.1 which made part 8850.9050, subp. 1, obsolete and outdated. Under subpart 1, the rule only applies the federal regulations to those vehicles needing marking and placarding. The federal regulations now apply to anyone in commerce regardless of placards.

Subpart 2 is outdated and the updated regulations are now incorporated in Minn. Stat. §221.0314, subd. 11 where all of 49 CFR, part 397 is adopted.

It is anticipated that the obsolete rules listed above for chapter 8850 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rules in chapter 8850 will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

Chapter 8910, Railroads, Right of First Refusal

This chapter should be repealed because Minn. Stat. §222.633, which authorizes these rules, was repealed. Minn. Laws 2001, Ch. 213, sec. 31

It is anticipated that the obsolete rules listed above for chapter 8910 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rules in chapter 8910 will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

Office of Aeronautics

8800.3500 governing Aircraft Charter Operations
8800.4000 governing Commuter Air Carriers
8800.3700 governing Air Ambulance Services

It is anticipated that the obsolete rules listed above for chapter 8800 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rules in chapter 8800 will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

Technical Support Rules

Chapter 8810, Trunk Highway System

The following provisions will be repealed because they are obsolete due to road design standards that have been updated to meet the use of today's vehicles, for example: larger farm equipment and the use of metric measurements. The following rules no longer reflect current requirements:

Driveway rule sections 8810.4200, 8810.4300, and 8810.4700- 5100
and
Driveway Dimension rule sections 8810.9920 and 8810.9921

It is anticipated that the obsolete rules listed above for chapter 8810 will be included in the rulemaking proceedings that are currently ongoing with chapter 8840, Special Transportation Services. The repeal of the obsolete rules in chapter 8810 will be included in all of the pertinent rulemaking documents that are published and reviewed by the public.

Status of rules identified in last year's obsolete rule report.

(1) Chapter 8835, Public Transit- Revisions to Chapter 8835 were adopted in July 2001.

FEDERAL PREEMPTION OF INTRASTATE MOTOR CARRIER REGULATION

In August 1994, Congress passed the Federal Aviation Administration Authorization Act (P.L. 103-305). Section 601 of this Act preempted some aspects of a state's ability to regulate intrastate motor carriers of property, other than household goods movers. The law, which took effect on January 1, 1995, does not affect passenger carriers.

WHAT DOES IT MEAN?

Specifically, states are prohibited from enacting or enforcing any law or rule related to *price, routes, or service* of intrastate motor carriers of property (other than household goods). "Price" means the specific rate(s) a carrier charges for its service. "Service" includes the geographical scope of a carrier's operation as well as the type(s) of commodities the carrier transports.

WHAT IS THE PURPOSE OF THIS LAW?

Congress enacted this bill in an effort to "level the playing field" among the many different types of motor carriers, to promote free market competition, and to remove any potential barriers to interstate commerce that may be caused by multiple and conflicting individual state operating requirements and restrictions.

WHO DOES THIS AFFECT?

Anyone that transports property for-hire within the state, except household goods movers (HHG).

WHAT DOESN'T THE PREEMPTION COVER?

The preemption *does not* apply to passenger carriers or household goods movers. The preemption also does not affect a state's right to enforce safety requirements or financial responsibility (insurance) requirements, or its ability to impose limitations based on size, weight, or the hazardous nature of cargo.

WHAT HAPPENS TO MY CURRENT PERMIT OR CERTIFICATE OF OPERATING AUTHORITY?

Intrastate carriers of property (other than HHG) that held a permit or certificate were issued a General Order from the Transportation Regulation Board (TRB) removing any restrictions on the permit. This unrestricted permit does not define the routes on which a carrier may operate or the type(s) of service(s) a carrier may provide. All carriers of property (other than HHG) are able to service *all* points in Minnesota, if they choose. A bill will be introduced in 1995...

AM I STILL BE REQUIRED TO PETITION FOR OPERATING AUTHORITY AFTER JANUARY 1, 1995?

Yes. Basically, the current system of applying for, and being granted, intrastate operating authority remains in place. The major change is that the TRB no longer considers whether there is a need for the service, the proposed commodities to be transported, or the geographic service area when determining whether to grant a permit. However, a person may not legally provide intrastate for-hire transportation services unless they have been granted a Class II permit from the TRB and complied with all registration and insurance filing requirements. Issuance is based on the fitness of the petitioner and satisfactory evidence of financial responsibility (insurance). Notices of petitions for operating authority are published in the TRB's Calendar for a period of 20 days and can be subject to protest by affected parties.

AM I REQUIRED TO DO ANYTHING AFTER JANUARY 1, 1995 TO MAINTAIN MY AUTHORITY?

Yes. An intrastate for-hire motor carrier of property (except HHG) is required to:

- maintain minimum levels of financial responsibility (insurance) and provide proof of coverage to Mn/DOT;
- meet, and maintain, all operating safety requirements.

WILL I BE KEPT INFORMED OF CHANGES?

Yes. Mn/DOT is committed to keeping you informed. If you have specific questions or comments you can always call us at 612/405-6060.

The following chart shows what areas are affected by the federal preemption. This chart applies only to intrastate for-hire carriers of property, other than HHG.

	Before Jan.1, 1995	After Jan.1, 1995
Need operating authority	✓	✓ but, no restrictions on rates, routes, or service
Register carrier's operations with Mn/DOT	✓	✓
Maintain insurance and file with Mn/DOT	✓	✓
Maintain, and file, tariffs (rates)	✓	NO
Purchase vehicle ID cab cards	✓	NO

Motor Carrier of Passengers

Effective January 1, 2000, new laws regarding intrastate motor carriers of passengers become effective. New requirements include: increased levels of insurance; annual carrier audits; vehicle identification cards; criminal background checks for drivers; and annual vehicle inspections.

What is new?

The 1999 Minnesota Legislature has eliminated the Regular Route and Charter passenger classifications. Two new classifications of for-hire passenger service are established:

1. Motor Carrier of Passengers
2. Small Vehicle Passenger Service

What is the difference between the two?

Motor Carrier of Passengers uses vehicles designed to transport eight or more passengers, including the driver.

Small Vehicle Passenger Services use vehicles designed to transport seven or fewer persons, including the driver.

Will the state regulate both types of carriers?

No. The state will only regulate Motor Carrier of Passengers. Small Vehicle Passenger Services will be regulated by cities, municipalities, and townships, if they elect to do so, by ordinance. The ordinances must provide for driver qualifications, insurance, vehicle safety, and periodic vehicle inspections. A city or township that has adopted an ordinance complying with this may enforce the registration requirement in Minn. Stat. 221.021.

What happens to my existing passenger authority?

Existing permits and certificates will be converted if the carrier has secured the proper level of insurance and doesn't have an unsatisfactory safety rating. Converted carriers will be required to purchase vehicle cab cards (\$75.00 each) and complete criminal background checks on drivers by January 1, 2000. Converted certificates will have an expiration date between January 1, 2001 and December 31, 2001. Mn/DOT's Office of Motor Carrier Services (OMCS) will notify and schedule carrier audits prior to the expiration date of their *conversion certificate*.

If I am a new carrier, what do I do?

- register your business with the Minnesota Department of Transportation by filing a federal motor carrier identification form (MCS -150)
- pay a registration fee of \$75.00 per vehicle
- meet the following minimum levels of financial responsibility:
 - \$5 million for any vehicle with a seating capacity of 16 passengers or more
 - \$1.5 million for any vehicle with a seating capacity of 15 passengers or less

Why is the federal MCS-150 required?

We are using the federal MCS-150 form to ensure that all carriers have a US DOT number. A US DOT number ensures we have one uniform identifier for carriers, whether they run intrastate or interstate commerce.

What type of vehicle inspections are required?

In addition to being inspected under Minnesota's annual Mandatory Inspection Program, a carrier's vehicles must also pass a safety inspection conducted by State personnel at the time of a carrier's audit. However, Mn/DOT has the option of accepting an inspection report completed by a roadside state vehicle inspector in lieu of re-inspecting the vehicle during time of audit, if that inspection was done within 12 months of the carrier's audit.

Will I have to file rates and tariffs?

No.

Do documents have to be carried in the vehicle?

In addition to other documents that may be required, a copy of the Motor Carrier of Passenger certificate and the vehicle identification card must be with the vehicle.

Does anything change for vehicles operated as limousines?

No. Limousines will continue to be regulated according to the limousine operator rules.

What can cause my registration to be suspended?

Mn/DOT will suspend the registration of a carrier that:

- receives an unsatisfactory safety rating*;
- fails to maintain insurance coverage;
- failure to obtain/renew cab cards; or
- failure to pay administrative penalty.

*A carrier can appeal an unsatisfactory rating. Within 30 days of receiving a written request of appeal from the carrier, a follow-up compliance audit will be conducted by Mn/DOT to determine if the safety rating should be changed or suspension rescinded.

Where do I keep business records?

Carriers must designate a physical location in Minnesota where business records would be available for examination.

What if I have questions?

Call our information line at (651) 405-6060 or Toll Free 1 (888) 472-3389. Our E-mail address is www.motorcarrier@dot.state.mn.us

Our homepage address is: www.dot.state.mn.us/trim/mcs