Minnesota Department of Transportation

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

Chair
House Transportation Finance Division
443 State Office Building
100 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 B State Capitol
75 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 response to Minnesota Statutes, section 14.05, subdivision 5, which requires:

> Subd. 5. Review and repeal of rules. By December 1 of each year, an agency must submit to the governor, the legislative coordinating commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary or duplicative or other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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
Ward Briggs, Director, Office of Motor Carrier Services
Richard Elasky, Director, Office of Technical Support
Andy Halverson, Office of Technical Support
Timothy Quinn, Office of Technical Support
Ray Rought, Director of Office of Aeronautics
Larry Myking, Office of Aeronautics
Dan Dorgan, Office of Bridges and Structures

DEPARTMENT OF TRANSPORTATION
OBSOLETE RULES REPORT

Chapter 7800, Motor Carrier Operations

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 which are obsolete as well. Rule 7800.1500 is obsolete and can be repealed and the reference to RRCC in 7800.0400 is obsolete because the term RRCC has been repealed from Minn. Stat. 221.011, subd. 9. (See Minn. Laws, c. 238, art. 2, s. 92.)

7800.0100 Definitions, Subp. 3. Express carriage. This term no longer appears in chapter 7800 or Minn. Stat. chapter 221.

7800.0100 Definitions, Subp. 5. Headquarters area. This term no longer appears in chapter 7800 and was repealed from Minn. Stat. chapter 221 in 1983. (See Minn. Laws, 1983, c. 371, s. 44.)

7800.0500 Application for Petroleum Carrier Permit.

All of the references in chapter 7800 to petroleum carrier permits are obsolete with the deregulation of the motor carriers of property in 1995 by the federal government. Since the deregulation of motor carriers, the Office of Motor Carrier Services (OMCS) converted to a new system of authority registration. Instead of obtaining a permit through the transportation regulation board, an intrastate petroleum carrier now obtains property carrier authority by registering under Minn. Stat. §221.0251.

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.

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 in 1995. The references to the livestock carrier classification still contained in Minn. Stat. chapter 221 are also 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.

The Office proposes to repeal the obsolete rules in Chapter 7800 through legislation.

Chapter 7805. Tariffs; Accounting

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

The Office proposes to repeal the obsolete rules in Chapter 7800 through legislation.

Chapter 8840, Special Transportation Services

Chapter 8840 is in the process of being revised and updated. These rules establish the operating standards for special transportation services to protect the health and safety of the elderly and disabled users of the service. During this rulemaking process, rules may be identified as obsolete and those rules will be repealed during the rulemaking process. The Rulemaking will be completed in 2003.

Chapter 8850, Motor Carrier Safety

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

8850.6900, Definitions, Subp. 6. Charter carrier. 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 in future legislation.

8850.6900, Definitions, Subp. 11. Lightweight vehicle. 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, Definitions, Subp. 12. Livestock carrier. The definition of "livestock carrier" is obsolete with the deregulation of the motor carrier of property carriers by the federal government in 1995.

8850.6900, Definitions, Subp. 17. Petroleum carrier. The definition of "petroleum carrier" is obsolete with the deregulation of the motor carrier of property carriers by the federal government in 1995. The term petroleum carrier still remains defined in Minn. Stat. §221.011, subd. 10, but the term will also be repealed in chapter 221 in future legislation.

8850.7000; 8850.7025; 8850.7040; 8850.7100; 8850.7900; 8850.8200; 8850.8900; and 8850.9000. These parts are obsolete. The requirements listed in these provisions have 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, Hazardous materials; Driving and Parking; Federal Rules, 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 C.F.R. 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 C.F.R., part 397 is adopted.

The Office proposes to repeal the obsolete rules in Chapter 8850 through legislation.

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 rule in 8910 listed above will be repealed through legislation.

Rule Chapter 8800, Aeronautics

Minnesota Rules, parts 8800.0100, subparts 7 and 36; 8800.1200, subparts 3 and 6; 8800.1300; 8800.1800, subparts 2, 4, and 5; 8800.2100, subparts 3, 4, and 5; 8800.2800,

subpart 6; 8800.3200, subpart 14; 8800.3500; 8800.3700; 8800.4000; 8800.4200; and 8800.4400, subpart 1, are repealed will be addressed through formal rulemaking.

These rules are under the process of being repealed because they are no longer current with the Federal Aviation Rules (FAR's), are no longer necessary, were relocated to another part of the rules, or are in conflict with our authorization in MN Statutes to regulate the activity. The most substantive repeal is the repeal of 8800.3500 Aircraft Charter Operations, 8800.3700 Air Ambulance Service, and 8800.4000 Commuter Air Carriers. We are proposing that we no longer license activities in these three areas because Minn. Stat. Section 360.013, Subd. 11. This section exempts from the definition of a Commercial Operation that we may license "any operations of aircraft as common carriers certificated (certified) by the federal government or the services incidental thereto." Charter operations, air ambulance services and commuter air carriers are all certificated by the federal government as common carriers.

These obsolete rules will be repealed through the rulemaking process that we estimate will be completed in the latter part of 2003 or beginning of 2004.

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

Bridge Inspection and Inventory definitions in section 8810.9000 contain obsolete manual references that will be addressed through Rulemaking in 2003.

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) The obsolete rules contained in chapters 7800, 7805, 8850 and 8910 from last year's report and Driveway rule sections 8810.4200, 8810.4300, and 8810.4700- 5100 and Driveway Dimension rule sections 8810.9920 and 8810.9921 from chapter 8810 in last year's report are being resubmitted as part of a new legislative proposal. We are reinitiating legislation concerning these rules and proceeding with the rulemaking projects contained in this report.