

Minnesota Attorney General: Administrative Rules Proceedings

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ATTORNEY GENERAL

June 2, 1988

ELIZABETH PARKER
DOT - DATA, RESEARCH & ANALYSIS
Room 820 Transportation Building

MARTHA J. CASSERLY
Special Assistant Attorney General
A.G. Administration/Finance Division

6-6839

In the Matter of the Adopted Rule Relating to
Motor Carrier Safety

The above-referenced rule has been approved as to its legality by the Attorney General on June 2, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must establish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:bbl
Enclosures

cc: Maryanne Hruby
Duane Harves

RULE REVIEW CHECKLIST
RESUBMITTED RULE

File No. 1477

Docket No. 05.0009.0789

RESUBMISSION DATE 5/26/88
DATE DUE 6/9/88

ADOPTED W/O HEARING ✓
EMERGENCY RULE

APPROVED @ 6-2-88 mjc
DISAPPROVED
WITHDRAWM ✓

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

NO **Does the revision raise significant new legal issues?** -

6.9.88 Review date

✓ Rule as adopted (4 copies)

✓ Supplemental Findings of Fact, Conclusions & Order Adopting

___ ~~Board's Supplemental Resolution Adopting~~

___ ~~Notice of submission to Attorney General~~

___ ~~Affidavit of Mailing Notice to Attorney General~~

Barbara- Approval memo should go to Betsy Parker

MJC

Department of Transportation

Adopted Permanent Rules Relating to Motor Carrier Safety

Rules as Adopted

8850.6900 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise provided, the terms used in parts 8850.6900 to 8850.9050 and 8855.0300 to 8855.0850 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Minnesota Transportation Regulation Board.

Subp. 3. **Carrier.** "Carrier" includes motor carriers, private carriers, exempt carriers engaged in intrastate commerce, and for-hire and private carriers engaged in interstate commerce.

Subp. 4. **Certificate.** "Certificate" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 7.

Subp. 5. **Certificate of insurance.** "Certificate of insurance" means the document issued by an insurer that states that the insurer provides the coverage required by Minnesota Statutes, section 221.141.

Subp. 6. **Charter carrier.** "Charter carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 21.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 8. **Employ.** "Employ" means to require, to use, or to permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle.

Subp. 9. **Exempt carrier.** "Exempt carrier" means a carrier described in Minnesota Statutes, section 221.025.

Subp. 10. **Interstate carrier.** "Interstate carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 13.

Subp. 11. **Lightweight vehicle.** "Lightweight vehicle," for

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purposes of parts 8850.7025 to 8850.9050, means a vehicle with a manufacturer's gross vehicle weight rating of 12,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subp. 12. **Livestock carrier.** "Livestock carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 24.

Subp. 13. **Motor carrier.** "Motor carrier" means a carrier operating for hire under authority of Minnesota Statutes, chapter 221 and, for purposes of this chapter, does not include interstate carriers.

Subp. 14. **Owner.** "Owner" means a person to whom a certificate of title to equipment has been issued, or who has lawful possession of equipment.

Subp. 15. **Permit.** "Permit" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 8.

Subp. 16. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 6.

Subp. 17. **Petroleum carrier.** "Petroleum carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 10.

Subp. 18. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel-supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subp. 19. **Private carrier.** "Private carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 26.

Subp. 20. **Regular route common carrier.** "Regular route common carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 9.

Subp. 21. **Responsible official.** "Responsible official"

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means an officer or the owner of the applicant or carrier or a person to whom authority to sign applications, renewals, and other documents filed by the applicant or carrier has been delegated in writing by the owner or the board of directors.

Subp. 22. **Vehicle.** "Vehicle" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 3.

8850.7000 INTERSTATE TRANSPORTATION; SAFETY RULES.

Interstate carriers and private carriers providing interstate transportation service using vehicles licensed and registered for a gross weight of more than 12,000 pounds must comply with and are subject to parts 8850.8050, 8850.8300, 8850.8350, 8850.8400, 8850.8500, 8850.8550, and 8850.8950.

8850.7025 INTRASTATE TRANSPORTATION; SAFETY RULES; COMPLIANCE REQUIRED.

Intrastate motor carriers, and private carriers and exempt carriers providing intrastate transportation, must comply with parts 8850.7040 to 8850.9050 to the extent required by Minnesota Statutes, chapter 221. Every carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, equipping, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with those parts, and shall require that its agents, representatives, drivers, and employees comply.

8850.7040 INTRASTATE TRANSPORTATION; DRIVER QUALIFICATIONS.

A private carrier who is subject to driver qualification rules, and a motor carrier are responsible for hiring, supervising, training, assigning, and dispatching drivers. Private carriers who are subject to driver qualification rules, motor carriers, and their officers, agents, representatives, or employees shall not drive, or allow one of their vehicles to be driven unless the driver has the minimum qualifications required by parts 8850.7100 and 8850.7200. A carrier who is self-employed as a driver must comply with both the rules that

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apply to carriers and the rules that apply to drivers.

8850.7100 INTRASTATE DRIVER QUALIFICATIONS; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, subtitle B, chapter III, subchapter B, sections 391.5; 391.11, paragraphs (a) and (b)(2) to (b)(12); 391.15 to 391.45; 391.51, paragraphs (a) to (e) and (h); 391.61; 391.63; and 391.65; and appendices C ~~and~~, D, and E as revised through October 1, ~~1986~~ 1987, ~~and amendments to sections 391.11, paragraph (b), 391.21, paragraph (b), 391.27, and appendices B and E, found at Federal Register, volume 52, pages 20589 and 20590,~~ are incorporated by reference except for certain cross-references in Code of Federal Regulations, title 49, sections 391.11 to 391.65 listed in subpart 2.

Subp. 2. **Exceptions.** References to Code of Federal Regulations, title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, are not incorporated by reference by this part.

Subp. 3. **Age requirement.** Drivers of vehicles subject to Minnesota Statutes, section 221.033, must be at least 21 years of age, except as provided in that section. Drivers of vehicles engaged in intrastate transportation and subject to driver qualification rules under Minnesota Statutes, section 221.031, must be at least 18 years of age.

Subp. 4. **Location of driver qualification files.** A carrier subject to driver qualification requirements must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier subject to this part may retain driver qualification files at a regional or terminal office.

8850.7200 INTRASTATE DRIVER QUALIFICATIONS; WAIVER FOR PHYSICAL

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DEFECTS.

A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), as amended through October 1, ~~1986~~ 1987, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle if the commissioner grants a waiver to that person under parts 8850.7200 to 8850.7675. Parts 8850.7200 to 8850.7700 apply only to drivers providing intrastate transportation.

8850.7250 INTRASTATE TRANSPORTATION; WAIVER APPLICATION SUBMISSION.

Subpart 1. **Joint submission.** A letter of application for a waiver under part 8850.7200 may be submitted jointly by the driver applicant who seeks a waiver of the physical disqualification and by the carrier that will employ the driver applicant if the application is granted. The application must be submitted to the Office of Motor Carrier Safety and Compliance, Minnesota Department of Transportation.

Subp. 2. **By driver applicant.** A letter of application for a waiver may be submitted by a driver applicant alone. The driver applicant shall comply with the requirements of part 8850.7300, except item A, subitem (1). The driver applicant shall provide the information in part 8850.7300, item B, if the information is known to the driver.

8850.7300 WAIVER APPLICATION CONTENTS.

A letter of application for a waiver under part 8850.7200 must contain:

A. the name and address of the applicant, including:

(1) the name and complete address of the carrier coapplicant;

(2) the name and complete address of the driver applicant; and

(3) a description of the driver applicant's limb impairment for which a waiver is requested;

B. a description of the type of operation the driver

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will be employed to perform, including:

(1) the average period of time the driver will be driving and on duty, per day;

(2) the type of commodities or cargo to be transported; and

(3) whether the driver operation is conducted as a sleeper team, relay, owner operator, or otherwise;

C. the number of years the driver has operated the type of vehicle for which a waiver is requested and the total years of experience operating all types of motor vehicles;

D. a description of the vehicle that the driver applicant intends to drive, including:

(1) the truck or truck-tractor make, model, and year;

(2) the drive train, including:

(a) whether the transmission type is automatic or manual and, if manual, the number of forward speeds;

(b) auxiliary transmission, if any, and number of forward speeds; and

(c) rear axle designation, whether single speed, 2-speed, or 3-speed;

(3) the type of brake system;

(4) the steering, whether manual or power assisted;

(5) a description of type of trailers, such as van, flatbed, cargo tank, drop frame, lowboy, or pole;

(6) the number of semitrailers or full trailers to be towed at one time; and

(7) a description of any vehicle modification made for the driver applicant and a photograph of the modification;

E. a certification that the driver is otherwise qualified, as follows:

(1) certification by the coapplicant carrier that the driver applicant is otherwise qualified under part 8850.7100; and

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(2) in the case of a driver applicant, certification by the driver applicant that the applicant is otherwise qualified under part 8850.7100; and

F. the signature of the applicant as follows:

(1) the driver applicant's signature and date signed; and

(2) if the application has a coapplicant, the carrier official's signature, the official's title, and the date signed. The official who signs the application must be a responsible official of the carrier.

8850.7350 DOCUMENTS ACCOMPANYING WAIVER APPLICATION.

The letter of application for a waiver under part 8850.7200 must be accompanied by:

A. A copy of the results of the medical examination performed according to Code of Federal Regulations, title 49, section 391.43, as amended through October 1, ~~1986~~ 1987.

B. A copy of the medical certificate completed according to Code of Federal Regulations, title 49, section 391.43, paragraph (e), as amended through October 1, ~~1986~~ 1987.

C. A medical evaluation summary completed by either a board-qualified or board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(1) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, ~~1986~~ 1987, must include:

(a) an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; and

(b) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension,

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that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

(2) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, ~~1986~~ 1987, must include:

(a) how and why the impairment interferes with the driver's ability to perform normal tasks associated with operating a commercial motor vehicle;

(b) an assessment and medical opinion of whether the condition is likely to remain medically stable over the driver applicant's lifetime; and

(c) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

D. A description of the prosthetic or orthotic device worn by the driver applicant, if any.

E. A copy of the driver applicant's road test administered by the carrier coapplicant and the certificate issued under Code of Federal Regulations, title 49, section 391.31, paragraphs (b) to (g), as amended through October 1, ~~1986~~ 1987. A driver applicant is responsible for having a road test administered by a carrier or a person competent to administer the test and evaluate its results.

F. A copy of the driver applicant's application for employment completed according to Code of Federal Regulations, title 49, section 391.21, as revised through October 1, ~~1986, amended at Federal Register, volume 52, page 20589~~ 1987. A driver applicant is responsible for submitting a copy of the employment application for the last commercial driving position

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held by the applicant. If not previously employed as a commercial driver, the driver applicant must so state.

G. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state where the driver had a motor vehicle driver's license or permit.

8850.7400 AGREEMENT.

A carrier that employs a driver with a waiver under part 8850.7200 agrees to:

A. evaluate the driver granted a waiver for those nondriving, safety-related job tasks associated with the type of trailer to be used and any other nondriving, safety-related or job-related tasks unique to the operations of the employing carrier;

B. use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver; and

C. file documents and information with the commissioner within 30 days of the occurrence of the following events: a violation of a motor vehicle and motor carrier law or rule; an accident; an arrest; a license suspension, revocation, or withdrawal; and a conviction that involves the driver applicant. This item applies whether the driver's waiver is a unilateral one or has a coapplicant carrier.

8850.7450 DRIVER SUPPLIES COPY.

The driver shall give each employing carrier a copy of the waiver.

8850.7500 EVALUATION OF DRIVER'S ABILITY.

The commissioner may require a driver applying for a waiver under part 8850.7200 to demonstrate ability to safely operate the motor vehicle the applicant intends to drive. During the demonstration, the driver's ability to perform pretrip and posttrip inspections and driving performance must be evaluated. Nondriving, safety-related tasks or other nondriving tasks unique to the type of trailer or other carrier operation must

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not be evaluated during this demonstration.

8850.7550 EXTENT OF WAIVER.

The commissioner may deny the application for waiver under part 8850.7200 or may grant it totally or in part and may issue the waiver subject to terms, conditions, and limitations ~~deemed consistent with the public interest~~ that protect the traveling public. A waiver is valid for a period not longer than two years from the date of issue and may be renewed 30 days before the expiration date.

The commissioner shall grant or deny the waiver in writing within 30 days from the date that the required information has been submitted.

A denial of the waiver must state the reason for the denial.

8850.7600 WAIVER RENEWAL APPLICATION; REQUIRED INFORMATION.

The application to renew a waiver granted under part 8850.7200 must be submitted to the commissioner. It must contain:

A. the name and complete address of the carrier currently employing the applicant;

B. the name and complete address of the driver;

C. the effective date of the current waiver;

D. the expiration date of the current waiver;

E. the total miles driven under the current waiver;

F. the number of accidents incurred by the driver while driving under the current waiver, including the date of the accident, the number of fatalities, the number of injuries, and the estimated dollar amount of property damage;

G. the driver's signature and date signed;

H. the carrier coapplicant's signature and date signed;

I. notification of a change in the type of vehicle the driver will operate;

J. a copy of the driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;

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K. a current medical examination report; and

L. a medical evaluation summary according to part 8850.7350, item C, if an unstable medical condition exists.

Handicapped conditions classified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, ~~1986~~ 1987, are considered unstable. A board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon shall determine whether a condition described in Code of Federal Regulations, title 49, part 391.41, paragraph (b)(2), as amended through October 1, ~~1986~~ 1987, is medically stable.

8850.7650 ON GRANTING WAIVER.

On granting a waiver under part 8850.7200, the commissioner shall notify the driver applicant, and coapplicant carrier if applicable, by letter. The terms, conditions, and limitations of the waiver must be set forth. A carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver must be kept in the carrier's file for three years after the driver's employment is terminated. The driver applicant shall have the waiver or a legible copy of the waiver in possession while on duty.

8850.7675 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.

Subpart 1. **Applications.** Applications for determination of a driver's medical qualifications under standards in this part must conform to the requirements of this subpart.

A. The application must contain the name and address of the driver, motor carrier, and the physicians involved in the proceeding.

B. The applicant shall submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

C. The applicant shall submit a copy of an opinion and report, including the results of tests, of an impartial medical specialist in the field in which the medical conflict

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arose. The specialist must be one agreed to by the motor carrier and the driver.

D. If the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant shall submit a statement of agreement to submit the matter to an impartial medical specialist in the field, proof that the applicant has asked the driver to submit to the medical specialist, and the response, if any, of the driver to the request.

E. If the motor carrier refuses to agree on a medical specialist, the driver shall submit an opinion and test results of an impartial medical specialist, proof that the driver has asked the motor carrier to agree to submit the matter to the medical specialist, and the response, if any, of the motor carrier to the request.

F. The applicant shall include a statement explaining in detail why the decision of the medical specialist identified in item C is unacceptable.

G. The applicant shall submit proof that the medical specialist mentioned in item C was provided, before the specialist's determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

H. The applicant shall submit the medical history and statement of work provided to the medical specialist under item G.

I. The applicant shall submit the medical records and statements of the physicians who have given opinions on the driver's qualifications.

J. The applicant shall submit a description and a copy of the written and documentary evidence upon which the party making the application relies.

K. The application must be accompanied by the driver's statement of intent to drive in intrastate commerce or a statement that the carrier has used or intends to use the driver for such work.

L. The applicant shall submit three copies of the application and records.

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Subp. 2. **Information.** The commissioner may request further information from the applicant if the commissioner determines that a decision cannot be made on the evidence submitted.

Subp. 3. **Parties.** For the purposes of this part, a party includes the motor carrier and the driver, or anyone else submitting an application.

Subp. 4. **Action.** The commissioner shall make a determination after a hearing has been held under Minnesota Statutes, chapter 14. The decision of the commissioner may be appealed in the manner provided in chapter 14.

8850.7700 REVOCATION.

The commissioner may revoke a waiver only after the person to whom it was issued is given notice of the proposed revocation and has been allowed an opportunity for hearing under Minnesota Statutes, chapter 14.

8850.7750 FALSE INFORMATION.

Falsifying information in the letter of application, information in the renewal application, or information required by a medical evaluation, by either the applicant or carrier, is prohibited.

8850.7900 INTRASTATE TRANSPORTATION; MOTOR VEHICLE SAFETY; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 392.3 to 392.25; 392.30, paragraph (b); and 392.31 to 392.69, as revised through October 1, ~~1986, and amendments to section 392.5, found at Federal Register, volume 52, page 2720~~ 1987, are incorporated by reference.

8850.7950 USE OF LIVESTOCK VEHICLE FOR GENERAL CARRIAGE.

A carrier shall not transport general commodities in a motor vehicle used for the transportation of livestock unless the motor vehicle has been cleaned and washed. A livestock motor vehicle must not be used for the transportation of household goods and food for human consumption unless it has

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been cleaned, washed, and disinfected.

8850.8000 NO RECKLESS DRIVING.

A petroleum transport must not be driven recklessly, or so as to endanger life, limb, or property.

8850.8050 LOADING AND UNLOADING OF PETROLEUM TRANSPORT.

Subpart 1. **Loading.** During loading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but not in the vehicle cab or other enclosure.

Subp. 2. **Unloading.** During unloading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but must not be in an enclosure or in the cab of the vehicle. The fire extinguisher must be out of the vehicle's carrying device, must be ready for instant use, and must be 15 feet or more from the cargo tank.

8850.8100 VEHICLE IDENTIFICATION CARD APPLICATION.

An application for a vehicle identification card must have a statement signed by the motor carrier applicant that the vehicle to which the card is issued will be operated in compliance with the safety rules of the commissioner.

8850.8200 INTRASTATE TRANSPORTATION; EQUIPMENT; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 393.9 to 393.106, as revised through October 1, ~~1986, and amendments to those sections found at Federal Register, volume 52, pages 2803 and 2804~~ 1987, are incorporated by reference.

Subp. 2. **Exception; fire extinguisher on lightweight vehicle.** Notwithstanding subpart 1 and Code of Federal Regulations, title 49, section 393.95, first paragraph, every lightweight vehicle must carry a fire extinguisher that complies with the requirements of section 393.95.

8850.8250 EQUIPMENT NECESSARY FOR LIVESTOCK CARRIER.

Subpart 1. **Partitioning of vehicle.** When vehicles carry livestock, each kind of livestock must be partitioned. Calves

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and sheep may be carried in the same compartment; likewise, calves and cows. Large hogs must be partitioned from pigs. Bulls, horned cattle, or unruly cattle must be securely tied or partitioned from other cattle. When less than a full load is carried, partitions must be used so that the animals are comfortably carried without jostling and falling.

Subp. 2. **Equipment in vehicles.** Spare tires or other articles not used in the handling of livestock must not be carried in a compartment that also contains livestock. So far as practicable, racks and partitions must be free from projections that might injure the animals carried. Racks and partitions must not be carried outside of the truck except when securely fastened on the right side of the truck.

Subp. 3. **Upper decks and ramps.** Upper decks used to transport livestock must at all times be clear of the animals standing below. Cleated inclines or ramps must be provided for the loading or unloading of upper decks.

Subp. 4. **Floors.** Floors of vehicles carrying livestock must be cleated, bedded, or sanded sufficiently to prevent slipping. Bedding may consist of shavings, straw, sand, fine gravel, sawdust, or other practical material.

Subp. 5. **Weather conditions.** During the period from June 15 to September 15 of each year and at other times when necessary, livestock must be covered to protect them from the sun. During the period from November 1 to March 31 livestock carried must be covered and otherwise sheltered to protect them from inclement weather.

Subp. 6. **Number of animals in vehicle.** Livestock must not be loaded into a motor vehicle in such numbers as to cause injury or death to an animal.

8850.8300 INSPECTION OF MOTOR VEHICLES IN OPERATION.

The driver, vehicle, and equipment compliance checklist must be used to record results of motor vehicle inspections conducted by motor transportation representatives and hazardous material specialists of the Minnesota Department of

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Transportation.

8850.8350 DRIVER, VEHICLE, AND EQUIPMENT CHECKLIST.

Subpart 1. **Inspection information required.** Motor transportation representatives and hazardous material specialists shall complete a driver, vehicle, and equipment checklist for each vehicle inspected. The checklist must contain space for the following information:

A. the place of inspection;

B. the name of the carrier;

C. the street address, municipality, state, and zip code of the carrier;

D. the file number if the carrier is a motor carrier;

E. the date and time of inspection;

F. the commodity carried on the vehicle;

G. a description of the shipping documents carried by the driver and the date and number on the documents;

H. the name and address of the shipper and the consignee;

I. the name, address, birth date, and driver's license number of the driver;

J. the name and address of the vehicle lessor, if any;

K. the power unit number, year, license plate number, and unit number of the vehicle;

L. the weight class of the power unit;

M. the unit number and the license plate number of the towed unit, if any;

N. vehicle configuration; and

O. whether the inspection was a complete or partial safety inspection or was an inspection to determine compliance with economic regulation.

Subp. 2. **Checklist items; defect indication.** The checklist must be used to show whether a warning or a citation was issued for a defect or violation and whether a defect or violation resulted in the vehicle being declared out of service. The checklist must describe the violation of state or federal

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law or rule for which a warning or citation was issued.

Subp. 3. **Identification of citation or sticker.** The checklist must show the number of a citation or "out-of-service vehicle" sticker that was issued.

Subp. 4. **Checklist, carrier disposition.** The motor transportation representative or hazardous material specialist shall give a copy of the checklist to the driver of the vehicle. The driver shall sign the checklist to acknowledge receipt of a copy of it. The driver shall present the checklist to the carrier responsible for the operation of the vehicle on arrival at the carrier's next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the carrier within 24 hours, the driver shall immediately mail the checklist to the carrier. The carrier shall examine the checklist. The carrier must repair or correct the defects or violations noted on the checklist and a responsible official of the carrier must date and sign the checklist. The copy of the checklist given to the driver must be returned by the carrier to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance, within 15 days after the date of issuance. A person shall not sign the certification of repair unless the vehicle has been repaired as required.

Subp. 5. **Exception.** A carrier (1) to whom a checklist was issued, (2) who received a citation for a violation described on the checklist, and (3) who enters or intends to enter a plea of not guilty on the charge, is not required to repair the defects, certify the repairs, and return the checklist to the Minnesota Department of Transportation unless the court proceedings on the charge have been completed. However, if the vehicle has been declared and marked out of service, the carrier may operate the vehicle only under the conditions described in part 8850.8550.

Subp. 6. **Carrier may take vehicle out of service.** A carrier who receives a checklist that lists defects that must be repaired may temporarily place the vehicle out of service instead of repairing the defects. The carrier must notify the commissioner in writing within 15 days of the issuance of the

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checklist that it is placing the vehicle out of service. The carrier must repair the defects and sign and return the checklist to the commissioner before using the vehicle on the highway.

8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. **Inspector's authority.** Every person authorized by Minnesota Statutes, chapter 221 or by other law, to enforce chapter 221 and rules of the commissioner and board adopted under authority of chapter 221, may inspect vehicles subject to chapter 221.

Subp. 2. **Motor vehicles declared out of service.** An authorized person described in subpart 1 shall place out of service a motor vehicle that, because of its mechanical condition or loading, is likely to cause an accident or a breakdown. An "out-of-service vehicle" sticker must be used to mark vehicles that are placed out of service by a motor transportation representative or hazardous material specialist.

Subp. 3. **Other forms used.** An authorized person described in subpart 1 who is not employed by the Minnesota Department of Transportation may use citations, checklists, warning tickets, report forms, and "out-of-service vehicle" stickers prescribed by the agency or law enforcement organization employing that person.

8850.8500 "OUT-OF-SERVICE VEHICLE" STICKER.

Subpart 1. **Statement required.** The "out-of-service vehicle" sticker used by the Minnesota Department of Transportation must contain the following statement:

> "Out-of-service vehicle. This vehicle has been declared out of service by the Minnesota Department of Transportation. This vehicle must not be operated until repaired. This sticker may be removed only under the conditions stated on the out-of-service notice. The person responsible for unauthorized removal is liable to penalty under Minnesota Statutes, section 221.291. A person shall not remove this sticker or operate this vehicle until the repairs listed below are completed."

Subp. 2. **Space for description.** The "out-of-service vehicle" sticker must contain space for the motor transportation representative or hazardous material specialist to describe the

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mechanical condition requiring the vehicle to be declared out of service.

Subp. 3. **Information required.** The sticker must contain the following information:

A. the make of the power unit;

B. the model year of the power unit;

C. the unit number of the power unit;

D. the power unit license number;

E. the towed unit license number;

F. the make of the towed unit, if known;

G. the unit number of the trailer;

H. the signature of the driver of the vehicle in the space provided; and

I. the signature of the motor transportation representative or hazardous material specialist in the space provided.

Subp. 4. **Serial numbering.** The "out-of-service vehicle" stickers must be serially numbered.

8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. **Repair before use.** Except as provided in subpart 2, a carrier shall not require or permit a person to operate nor shall a person operate a motor vehicle declared and marked out of service until the repairs required by the out-of-service notice have been satisfactorily completed. In this subpart, "operate" includes towing the vehicle, except that vehicles marked out of service may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and the out-of-service vehicle must not be operated unless the combination meets the performance requirements of this chapter except for those conditions noted on the driver, vehicle, and equipment compliance checklist.

Subp. 2. **Exception.** A vehicle with an out-of-service defect may be moved under its own power to a place of repair only in the following circumstances:

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A. A vehicle transporting hazardous materials requiring the vehicle to be placarded may be escorted to a repair facility or safe parking place.

B. When the imminently hazardous condition is one that is automatically removed by the disconnection of the power unit from the towed unit, the unit that is not out of service may be operated.

C. If it is less hazardous to the public to operate the vehicle than to permit it to remain on the highway, the vehicle may be operated only to the nearest place where repairs can be made safely.

Subp. 3. **Prohibition.** A person shall not remove the "out-of-service vehicle" sticker from a motor vehicle before completion of the repairs required by the out-of-service notice.

8850.8800 INTRASTATE TRANSPORTATION; NOTIFICATION AND REPORTING OF ACCIDENTS.

Subpart 1. **When required.** A motor carrier shall report an accident that results in the death of a human being, bodily injury to a person who receives medical treatment away from the scene, or total damage to property totaling $4,400 or more based on actual costs or reliable estimates.

Subp. 2. **Boarding or alighting; unloading.** A motor carrier is not required to report an accident that involves only boarding and alighting from a stationary motor vehicle or loading or unloading cargo unless a report is required under Minnesota Statutes, section 221.034.

Subp. 3. **Accident report form; incorporations.** Accidents resulting in death, requiring medical attention away from the scene, or causing property damage totaling $4,400 or more, must be reported to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance. A written report of the accident must be filed at the Office of Motor Carrier Safety and Compliance within 30 days after the accident. The report must be filed on the form required by the United States Department of Transportation described in Code of Federal

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Regulations, title 49, section 394.9, paragraph (a), as revised through October 1, ~~1986~~ 1987, which is incorporated by reference. The form must be completed as required by Code of Federal Regulations, title 49, section 394.20, as revised through October 1, ~~1986~~ 1987, which is incorporated by reference.

Subp. 4. **Driving record review.** A motor carrier shall review the driving record of a driver involved in an accident.

8850.8850 SAFETY MEASURES IN AN ACCIDENT.

When a carrier vehicle is involved in an accident, the driver shall, if possible, use every available means to prevent people from gathering near the scene, to prevent smoking, to keep flame away, to safeguard against the aggravation of the hazard present, and to warn other users of the highway.

8850.8900 INTRASTATE TRANSPORTATION; HOURS OF DRIVER SERVICE; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 395.2; 395.3, paragraphs (a) to (c); 395.7; 395.8, paragraphs (a) to (k)(1), (k)(3), and (l)(1); and 395.10 to 395.12, as revised through October 1, ~~1986~~ 1987; and amendments to sections 395.2, 395.3, and 395.8 found at Federal Register, volume 52, pages 41721 and 41722, are incorporated by reference except for the cross-reference to paragraph (e) in section 395.3, paragraph (a). The cross-reference to paragraph (e) in section 395.3, paragraph (a), is not incorporated by reference.

Subp. 2. **Limited exemption for lightweight vehicles.** Notwithstanding subpart 1 and part 8850.7025, the requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), do not apply to lightweight vehicles.

8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by Minnesota Statutes, chapter 221, or by other law, to enforce chapter 221 and the rules of the

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commissioner and board adopted under authority of that chapter is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty-status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has

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been declared out of service shall not operate a motor vehicle until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

8850.9000 INTRASTATE TRANSPORTATION; INSPECTION, REPAIR, AND MAINTENANCE; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 396.3 to 396.7, 396.11, 396.13, and 396.15, as revised through October 1, ~~1986~~ 1987, are incorporated by reference.

8850.9050 HAZARDOUS MATERIALS; DRIVING AND PARKING; FEDERAL RULES.

Subpart 1. **Transporting hazardous materials.** A person who transports hazardous materials shall comply with this part and parts 8850.7000 to 8850.9000 when that person is transporting a hazardous material, hazardous waste, or hazardous substance that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in Minnesota Statutes, section 221.033.

Subp. 2. **Incorporation by reference.** Code of Federal Regulations, title 49, sections 397.5 to 397.19, as revised through October 1, ~~1986~~ 1987, are incorporated by reference.

Subp. 3. **Parking.** A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

8855.0300 DUPLICATES FURNISHED TO COMMISSIONER.

A motor carrier or interstate carrier shall furnish to the commissioner a duplicate of its public liability and cargo policies and endorsements when requested by the commissioner.

8855.0400 CERTIFICATE OF INSURANCE; BOND; FEDERAL FORMS.

An insurance company that provides insurance against public liability and property damage for a motor carrier operating

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under a permit or certificate or for an interstate carrier shall cover all motor vehicles used in the motor carrier's operations whether specifically described in the policy or not. The insurance company shall file with the commissioner either a certificate of insurance naming each motor carrier insured on form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference, or the forms prescribed in part 8855.0800.

In lieu of an insurance certificate, a bond may be filed on form G, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

8855.0410 FINANCIAL RESPONSIBILITY FOR REGULAR ROUTE COMMON CARRIERS OF PASSENGERS AND CHARTER CARRIERS.

A regular route common carrier of passengers or a charter carrier must obtain or cause to be obtained the following minimum amount of coverage against public liability:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for loss or damage to property of others, $50,000; and

C. limit for injury to or death of all persons injured or killed in any one accident:

(1) seating capacity of 12 passengers or less, $300,000;

(2) seating capacity of 13 to 20 passengers, $350,000;

(3) seating capacity of 21 to 32 passengers, $400,000; or

(4) seating capacity of 33 passengers or more, $450,000.

8855.0450 FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF

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PROPERTY.

Subpart 1. **Amount required.** Motor carriers of property operating under a certificate or permit issued by the board shall obtain or cause to be obtained coverage against public liability in the following amounts:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for bodily injury to or death of all persons in any one accident, $300,000; and

C. limit for loss or damage to property of others, other than cargo, $50,000.

Subp. 2. **Exception.** Motor carriers of property that transport hazardous waste, hazardous substances, or hazardous materials in the quantities described in Code of Federal Regulations, title 49, section 387.7, shall obtain or cause to be obtained minimum coverage against public liability as required in that section.

8855.0500 CARGO SECURITY.

Subpart 1. **Insurance or bond required.** Each petroleum carrier and each regular route common carrier of freight shall obtain or cause to be obtained cargo insurance or bond in the amount of $5,000 and shall have its insurer file a cargo certificate of insurance or bond with the commissioner.

Subp. 2. **Federal forms, incorporations by reference.** Each insurance company insuring cargo shall file a cargo certificate of insurance, form H, "Uniform Motor Cargo Certificate of Insurance," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, or a cargo bond on form J, described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which are both incorporated by reference.

8855.0600 NAMES ON INSURANCE CERTIFICATES AND BONDS.

Certificates of insurance and bonds must be issued in the full and correct name of the person, corporation, or partnership whose operations are being insured.

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8855.0700 CANCELLATION OF INSURANCE; FEDERAL FORMS.

A certificate of insurance or bond for public liability and a certificate of insurance or bond for cargo security may be canceled.

The insurer shall cancel certificates of insurance for public liability or cargo insurance by filing with the commissioner a form K, "Uniform Notice of Cancellation of Motor Carrier Insurance Policies," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

The insurer shall cancel surety bonds for public liability or cargo insurance by filing with the commissioner a form L, "Uniform Notice of Cancellation of Motor Carrier Surety Bonds," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

A cancellation notice takes effect 30 days from the day the notice is received by the commissioner.

8855.0800 AGGREGATION OF INSURANCE.

When insurance is provided by more than one insurer to aggregate coverage required under Minnesota Statutes, chapter 221, each insurer shall file form BMC 91X described in Code of Federal Regulations, title 49, section 1043.7, paragraph (a)(3), as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

8855.0850 INSURANCE AND BONDING COMPANIES MUST BE AUTHORIZED BY DEPARTMENT OF COMMERCE.

Insurance companies or bonding companies who file certificates of insurance or bonds with the commissioner must be authorized and registered with the Department of Commerce, to do business in the state of Minnesota.

REPEALER. Minnesota Rules, parts 7800.0100, subparts 2, 9, and 10; 7800.0300; 7800.1200; 7800.1300; 7800.1900; 7800.3500;

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7800.3700; 7800.3800; 7800.4000; 7800.4100; 7800.4200; 7800.4300; 7800.4400; 7800.4500; 7800.4600; 7800.4700; 7800.4800; 7800.4900; 7800.5000; 7800.5100; 7800.5200; 7800.5300; 7800.5400; 7800.5500; 7800.5600; 7800.5700; 7800.5800; 7800.5900; 7800.6000; 7800.6100; 7800.6200; 7800.6300; 7800.6400; 7800.6500; 7800.6600; 7800.6700; 7800.6800; 7800.6900; 7800.7000; 7800.7100; 7800.7200; 7800.7300; 7800.7400; 7800.7500; 7800.7600; 7800.7700; 7800.7800; 7800.7900; 7800.8000; 7800.8100; 7800.8200; 7805.1400; 7805.1500; 7805.1600; 7805.1700; 7805.1800; 7805.1900; 7805.2000; 7805.2100; 7805.2200; 7805.2300; 7805.2400; 7805.2500; 7805.2600; 7805.2700; 7805.2800; 7805.2900; 7805.3000; 7805.3100; 7805.3200; 7805.3300; 7805.3400; 7805.3500; and 7805.3600 are repealed.

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APPROVED AS TO FORM AND LEGALITY

June 2 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of the Rules of the State Department of Transportation Governing Motor Carrier Safety and Insurance	SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING

The above captioned rules and the documents required by Minnesota Rule 2010.0300 were submitted to the Attorney General for review on April 25, 1988. The rules were withdrawn from Attorney General review by Order on May 6, 1988, so that the Department might consider amending one of the rules.

Based on the evidence in the record before the agency, I make the following supplemental finding:

1. Part 8850.7550 should be amended to clarify the first sentence. The phrase "deemed consistent with the public interest" should be deleted, and the phrase "that protect the traveling public" should be inserted in its stead before the period.

The purpose of the modification is to remove a vague, indefinite reference to the public interest and to substitute language that more clearly expresses the reason why a waiver might be issued with limitations, terms, or conditions. The kind of terms or conditions that might be attached to a waiver could include requirements that certain prosthetic devices be used by the driver while driving, a requirement that medical tests be made and reported to the employer if a medical condition necessitating a waiver changed, or a limitation on the type of vehicle that the driver could operate. Terms or conditions would only be imposed in the waiver when necessary to prescribe driver conduct that helps to assure the safety of other persons on the roads.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Proposed Permanent Rules Relating to Motor Carrier Safety and Insurance as modified are adopted this 26th day of May, 1988, pursuant to authority vested in me by Minnesota Statutes, sections 221.031 and 221.141.

Douglas Differt

LEONARD W. LEVINE
Commissioner

for

Department of Transportation Withdrawn

Adopted Permanent Rules Relating to Motor Carrier Safety

Rules as Adopted

8850.6900 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise provided, the terms used in parts 8850.6900 to 8850.9050 and 8855.0300 to 8855.0850 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Minnesota Transportation Regulation Board.

Subp. 3. **Carrier.** "Carrier" includes motor carriers, private carriers, exempt carriers engaged in intrastate commerce, and for-hire and private carriers engaged in interstate commerce.

Subp. 4. **Certificate.** "Certificate" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 7.

Subp. 5. **Certificate of insurance.** "Certificate of insurance" means the document issued by an insurer that states that the insurer provides the coverage required by Minnesota Statutes, section 221.141.

Subp. 6. **Charter carrier.** "Charter carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 21.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 8. **Employ.** "Employ" means to require, to use, or to permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle.

Subp. 9. **Exempt carrier.** "Exempt carrier" means a carrier described in Minnesota Statutes, section 221.025.

Subp. 10. **Interstate carrier.** "Interstate carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 13.

Subp. 11. **Lightweight vehicle.** "Lightweight vehicle," for

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purposes of parts 8850.7025 to 8850.9050, means a vehicle with a manufacturer's gross vehicle weight rating of 12,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subp. 12. **Livestock carrier.** "Livestock carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 24.

Subp. 13. **Motor carrier.** "Motor carrier" means a carrier operating for hire under authority of Minnesota Statutes, chapter 221 and, for purposes of this chapter, does not include interstate carriers.

Subp. 14. **Owner.** "Owner" means a person to whom a certificate of title to equipment has been issued, or who has lawful possession of equipment.

Subp. 15. **Permit.** "Permit" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 8.

Subp. 16. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 6.

Subp. 17. **Petroleum carrier.** "Petroleum carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 10.

Subp. 18. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel-supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subp. 19. **Private carrier.** "Private carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 26.

Subp. 20. **Regular route common carrier.** "Regular route common carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 9.

Subp. 21. **Responsible official.** "Responsible official"

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means an officer or the owner of the applicant or carrier or a person to whom authority to sign applications, renewals, and other documents filed by the applicant or carrier has been delegated in writing by the owner or the board of directors.

Subp. 22. **Vehicle.** "Vehicle" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 3.

8850.7000 INTERSTATE TRANSPORTATION; SAFETY RULES.

Interstate carriers and private carriers providing interstate transportation service using vehicles licensed and registered for a gross weight of more than 12,000 pounds must comply with and are subject to parts 8850.8050, 8850.8300, 8850.8350, 8850.8400, 8850.8500, 8850.8550, and 8850.8950.

8850.7025 INTRASTATE TRANSPORTATION; SAFETY RULES; COMPLIANCE REQUIRED.

Intrastate motor carriers, and private carriers and exempt carriers providing intrastate transportation, must comply with parts 8850.7040 to 8850.9050 to the extent required by Minnesota Statutes, chapter 221. Every carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, equipping, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with those parts, and shall require that its agents, representatives, drivers, and employees comply.

8850.7040 INTRASTATE TRANSPORTATION; DRIVER QUALIFICATIONS.

A private carrier who is subject to driver qualification rules, and a motor carrier are responsible for hiring, supervising, training, assigning, and dispatching drivers. Private carriers who are subject to driver qualification rules, motor carriers, and their officers, agents, representatives, or employees shall not drive, or allow one of their vehicles to be driven unless the driver has the minimum qualifications required by parts 8850.7100 and 8850.7200. A carrier who is self-employed as a driver must comply with both the rules that

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apply to carriers and the rules that apply to drivers.

8850.7100 INTRASTATE DRIVER QUALIFICATIONS; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, subtitle B, chapter III, subchapter B, sections 391.5; 391.11, paragraphs (a) and (b)(2) to (b)(12); 391.15 to 391.45; 391.51, paragraphs (a) to (e) and (h); 391.61; 391.63; and 391.65; and appendices C ~~and~~, D, and E as revised through October 1, ~~1986~~ 1987, ~~and amendments to sections 391.11, paragraph (b), 391.21, paragraph (b), 391.27, and appendices B and E, found at Federal Register, volume 52, pages 20589 and 20590,~~ are incorporated by reference except for certain cross-references in Code of Federal Regulations, title 49, sections 391.11 to 391.65 listed in subpart 2.

Subp. 2. **Exceptions.** References to Code of Federal Regulations, title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, are not incorporated by reference by this part.

Subp. 3. **Age requirement.** Drivers of vehicles subject to Minnesota Statutes, section 221.033, must be at least 21 years of age, except as provided in that section. Drivers of vehicles engaged in intrastate transportation and subject to driver qualification rules under Minnesota Statutes, section 221.031, must be at least 18 years of age.

Subp. 4. **Location of driver qualification files.** A carrier subject to driver qualification requirements must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier subject to this part may retain driver qualification files at a regional or terminal office.

8850.7200 INTRASTATE DRIVER QUALIFICATIONS; WAIVER FOR PHYSICAL

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DEFECTS.

A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), as amended through October 1, ~~1986~~ 1987, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle if the commissioner grants a waiver to that person under parts 8850.7200 to 8850.7675. Parts 8850.7200 to 8850.7700 apply only to drivers providing intrastate transportation.

8850.7250 INTRASTATE TRANSPORTATION; WAIVER APPLICATION SUBMISSION.

Subpart 1. **Joint submission.** A letter of application for a waiver under part 8850.7200 may be submitted jointly by the driver applicant who seeks a waiver of the physical disqualification and by the carrier that will employ the driver applicant if the application is granted. The application must be submitted to the Office of Motor Carrier Safety and Compliance, Minnesota Department of Transportation.

Subp. 2. **By driver applicant.** A letter of application for a waiver may be submitted by a driver applicant alone. The driver applicant shall comply with the requirements of part 8850.7300, except item A, subitem (1). The driver applicant shall provide the information in part 8850.7300, item B, if the information is known to the driver.

8850.7300 WAIVER APPLICATION CONTENTS.

A letter of application for a waiver under part 8850.7200 must contain:

A. the name and address of the applicant, including:

(1) the name and complete address of the carrier coapplicant;

(2) the name and complete address of the driver applicant; and

(3) a description of the driver applicant's limb impairment for which a waiver is requested;

B. a description of the type of operation the driver

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will be employed to perform, including:

(1) the average period of time the driver will be driving and on duty, per day;

(2) the type of commodities or cargo to be transported; and

(3) whether the driver operation is conducted as a sleeper team, relay, owner operator, or otherwise;

C. the number of years the driver has operated the type of vehicle for which a waiver is requested and the total years of experience operating all types of motor vehicles;

D. a description of the vehicle that the driver applicant intends to drive, including:

(1) the truck or truck-tractor make, model, and year;

(2) the drive train, including:

(a) whether the transmission type is automatic or manual and, if manual, the number of forward speeds;

(b) auxiliary transmission, if any, and number of forward speeds; and

(c) rear axle designation, whether single speed, 2-speed, or 3-speed;

(3) the type of brake system;

(4) the steering, whether manual or power assisted;

(5) a description of type of trailers, such as van, flatbed, cargo tank, drop frame, lowboy, or pole;

(6) the number of semitrailers or full trailers to be towed at one time; and

(7) a description of any vehicle modification made for the driver applicant and a photograph of the modification;

E. a certification that the driver is otherwise qualified, as follows:

(1) certification by the coapplicant carrier that the driver applicant is otherwise qualified under part 8850.7100; and

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(2) in the case of a driver applicant, certification by the driver applicant that the applicant is otherwise qualified under part 8850.7100; and

F. the signature of the applicant as follows:

(1) the driver applicant's signature and date signed; and

(2) if the application has a coapplicant, the carrier official's signature, the official's title, and the date signed. The official who signs the application must be a responsible official of the carrier.

8850.7350 DOCUMENTS ACCOMPANYING WAIVER APPLICATION.

The letter of application for a waiver under part 8850.7200 must be accompanied by:

A. A copy of the results of the medical examination performed according to Code of Federal Regulations, title 49, section 391.43, as amended through October 1, ~~1986~~ 1987.

B. A copy of the medical certificate completed according to Code of Federal Regulations, title 49, section 391.43, paragraph (e), as amended through October 1, ~~1986~~ 1987.

C. A medical evaluation summary completed by either a board-qualified or board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(1) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, ~~1986~~ 1987, must include:

(a) an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; and

(b) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension,

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that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

(2) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, ~~1986~~ 1987, must include:

(a) how and why the impairment interferes with the driver's ability to perform normal tasks associated with operating a commercial motor vehicle;

(b) an assessment and medical opinion of whether the condition is likely to remain medically stable over the driver applicant's lifetime; and

(c) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

D. A description of the prosthetic or orthotic device worn by the driver applicant, if any.

E. A copy of the driver applicant's road test administered by the carrier coapplicant and the certificate issued under Code of Federal Regulations, title 49, section 391.31, paragraphs (b) to (g), as amended through October 1, ~~1986~~ 1987. A driver applicant is responsible for having a road test administered by a carrier or a person competent to administer the test and evaluate its results.

F. A copy of the driver applicant's application for employment completed according to Code of Federal Regulations, title 49, section 391.21, as revised through October 1, ~~1986, amended at Federal Register, volume 52, page 20589~~ 1987. A driver applicant is responsible for submitting a copy of the employment application for the last commercial driving position

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held by the applicant. If not previously employed as a commercial driver, the driver applicant must so state.

G. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state where the driver had a motor vehicle driver's license or permit.

8850.7400 AGREEMENT.

A carrier that employs a driver with a waiver under part 8850.7200 agrees to:

A. evaluate the driver granted a waiver for those nondriving, safety-related job tasks associated with the type of trailer to be used and any other nondriving, safety-related or job-related tasks unique to the operations of the employing carrier;

B. use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver; and

C. file documents and information with the commissioner within 30 days of the occurrence of the following events: a violation of a motor vehicle and motor carrier law or rule; an accident; an arrest; a license suspension, revocation, or withdrawal; and a conviction that involves the driver applicant. This item applies whether the driver's waiver is a unilateral one or has a coapplicant carrier.

8850.7450 DRIVER SUPPLIES COPY.

The driver shall give each employing carrier a copy of the waiver.

8850.7500 EVALUATION OF DRIVER'S ABILITY.

The commissioner may require a driver applying for a waiver under part 8850.7200 to demonstrate ability to safely operate the motor vehicle the applicant intends to drive. During the demonstration, the driver's ability to perform pretrip and posttrip inspections and driving performance must be evaluated. Nondriving, safety-related tasks or other nondriving tasks unique to the type of trailer or other carrier operation must

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not be evaluated during this demonstration.

8850.7550 EXTENT OF WAIVER.

The commissioner may deny the application for waiver under part 8850.7200 or may grant it totally or in part and may issue the waiver subject to terms, conditions, and limitations deemed consistent with the public interest. A waiver is valid for a period not longer than two years from the date of issue and may be renewed 30 days before the expiration date.

The commissioner shall grant or deny the waiver in writing within 30 days from the date that the required information has been submitted.

A denial of the waiver must state the reason for the denial.

8850.7600 WAIVER RENEWAL APPLICATION; REQUIRED INFORMATION.

The application to renew a waiver granted under part 8850.7200 must be submitted to the commissioner. It must contain:

A. the name and complete address of the carrier currently employing the applicant;

B. the name and complete address of the driver;

C. the effective date of the current waiver;

D. the expiration date of the current waiver;

E. the total miles driven under the current waiver;

F. the number of accidents incurred by the driver while driving under the current waiver, including the date of the accident, the number of fatalities, the number of injuries, and the estimated dollar amount of property damage;

G. the driver's signature and date signed;

H. the carrier coapplicant's signature and date signed;

I. notification of a change in the type of vehicle the driver will operate;

J. a copy of the driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;

K. a current medical examination report; and

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L. a medical evaluation summary according to part 8850.7350, item C, if an unstable medical condition exists. Handicapped conditions classified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, ~~1986~~ 1987, are considered unstable. A board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon shall determine whether a condition described in Code of Federal Regulations, title 49, part 391.41, paragraph (b)(2), as amended through October 1, ~~1986~~ 1987, is medically stable.

8850.7650 ON GRANTING WAIVER.

On granting a waiver under part 8850.7200, the commissioner shall notify the driver applicant, and coapplicant carrier if applicable, by letter. The terms, conditions, and limitations of the waiver must be set forth. A carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver must be kept in the carrier's file for three years after the driver's employment is terminated. The driver applicant shall have the waiver or a legible copy of the waiver in possession while on duty.

8850.7675 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.

Subpart 1. **Applications.** Applications for determination of a driver's medical qualifications under standards in this part must conform to the requirements of this subpart.

A. The application must contain the name and address of the driver, motor carrier, and the physicians involved in the proceeding.

B. The applicant shall submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

C. The applicant shall submit a copy of an opinion and report, including the results of tests, of an impartial medical specialist in the field in which the medical conflict arose. The specialist must be one agreed to by the motor

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carrier and the driver.

D. If the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant shall submit a statement of agreement to submit the matter to an impartial medical specialist in the field, proof that the applicant has asked the driver to submit to the medical specialist, and the response, if any, of the driver to the request.

E. If the motor carrier refuses to agree on a medical specialist, the driver shall submit an opinion and test results of an impartial medical specialist, proof that the driver has asked the motor carrier to agree to submit the matter to the medical specialist, and the response, if any, of the motor carrier to the request.

F. The applicant shall include a statement explaining in detail why the decision of the medical specialist identified in item C is unacceptable.

G. The applicant shall submit proof that the medical specialist mentioned in item C was provided, before the specialist's determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

H. The applicant shall submit the medical history and statement of work provided to the medical specialist under item G.

I. The applicant shall submit the medical records and statements of the physicians who have given opinions on the driver's qualifications.

J. The applicant shall submit a description and a copy of the written and documentary evidence upon which the party making the application relies.

K. The application must be accompanied by the driver's statement of intent to drive in intrastate commerce or a statement that the carrier has used or intends to use the driver for such work.

L. The applicant shall submit three copies of the application and records.

Subp. 2. **Information.** The commissioner may request

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further information from the applicant if the commissioner determines that a decision cannot be made on the evidence submitted.

Subp. 3. **Parties.** For the purposes of this part, a party includes the motor carrier and the driver, or anyone else submitting an application.

Subp. 4. **Action.** The commissioner shall make a determination after a hearing has been held under Minnesota Statutes, chapter 14. The decision of the commissioner may be appealed in the manner provided in chapter 14.

8850.7700 REVOCATION.

The commissioner may revoke a waiver only after the person to whom it was issued is given notice of the proposed revocation and has been allowed an opportunity for hearing under Minnesota Statutes, chapter 14.

8850.7750 FALSE INFORMATION.

Falsifying information in the letter of application, information in the renewal application, or information required by a medical evaluation, by either the applicant or carrier, is prohibited.

8850.7900 INTRASTATE TRANSPORTATION; MOTOR VEHICLE SAFETY; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 392.3 to 392.25; 392.30, paragraph (b); and 392.31 to 392.69, as revised through October 1, ~~1986, and amendments to section 392.5, found at Federal Register, volume 52, page 27201~~ 1987, are incorporated by reference.

8850.7950 USE OF LIVESTOCK VEHICLE FOR GENERAL CARRIAGE.

A carrier shall not transport general commodities in a motor vehicle used for the transportation of livestock unless the motor vehicle has been cleaned and washed. A livestock motor vehicle must not be used for the transportation of household goods and food for human consumption unless it has been cleaned, washed, and disinfected.

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8850.8000 NO RECKLESS DRIVING.

A petroleum transport must not be driven recklessly, or so as to endanger life, limb, or property.

8850.8050 LOADING AND UNLOADING OF PETROLEUM TRANSPORT.

Subpart 1. **Loading.** During loading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but not in the vehicle cab or other enclosure.

Subp. 2. **Unloading.** During unloading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but must not be in an enclosure or in the cab of the vehicle. The fire extinguisher must be out of the vehicle's carrying device, must be ready for instant use, and must be 15 feet or more from the cargo tank.

8850.8100 VEHICLE IDENTIFICATION CARD APPLICATION.

An application for a vehicle identification card must have a statement signed by the motor carrier applicant that the vehicle to which the card is issued will be operated in compliance with the safety rules of the commissioner.

8850.8200 INTRASTATE TRANSPORTATION; EQUIPMENT; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 393.9 to 393.106, as revised through October 1, ~~1986, and amendments to those sections found at Federal Register, volume 52, pages 2803 and 2804~~ 1987, are incorporated by reference.

Subp. 2. **Exception; fire extinguisher on lightweight vehicle.** Notwithstanding subpart 1 and Code of Federal Regulations, title 49, section 393.95, first paragraph, every lightweight vehicle must carry a fire extinguisher that complies with the requirements of section 393.95.

8850.8250 EQUIPMENT NECESSARY FOR LIVESTOCK CARRIER.

Subpart 1. **Partitioning of vehicle.** When vehicles carry livestock, each kind of livestock must be partitioned. Calves and sheep may be carried in the same compartment; likewise,

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calves and cows. Large hogs must be partitioned from pigs. Bulls, horned cattle, or unruly cattle must be securely tied or partitioned from other cattle. When less than a full load is carried, partitions must be used so that the animals are comfortably carried without jostling and falling.

Subp. 2. **Equipment in vehicles.** Spare tires or other articles not used in the handling of livestock must not be carried in a compartment that also contains livestock. So far as practicable, racks and partitions must be free from projections that might injure the animals carried. Racks and partitions must not be carried outside of the truck except when securely fastened on the right side of the truck.

Subp. 3. **Upper decks and ramps.** Upper decks used to transport livestock must at all times be clear of the animals standing below. Cleated inclines or ramps must be provided for the loading or unloading of upper decks.

Subp. 4. **Floors.** Floors of vehicles carrying livestock must be cleated, bedded, or sanded sufficiently to prevent slipping. Bedding may consist of shavings, straw, sand, fine gravel, sawdust, or other practical material.

Subp. 5. **Weather conditions.** During the period from June 15 to September 15 of each year and at other times when necessary, livestock must be covered to protect them from the sun. During the period from November 1 to March 31 livestock carried must be covered and otherwise sheltered to protect them from inclement weather.

Subp. 6. **Number of animals in vehicle.** Livestock must not be loaded into a motor vehicle in such numbers as to cause injury or death to an animal.

8850.8300 INSPECTION OF MOTOR VEHICLES IN OPERATION.

The driver, vehicle, and equipment compliance checklist must be used to record results of motor vehicle inspections conducted by motor transportation representatives and hazardous material specialists of the Minnesota Department of Transportation.

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8850.8350 DRIVER, VEHICLE, AND EQUIPMENT CHECKLIST.

Subpart 1. **Inspection information required.** Motor transportation representatives and hazardous material specialists shall complete a driver, vehicle, and equipment checklist for each vehicle inspected. The checklist must contain space for the following information:

A. the place of inspection;

B. the name of the carrier;

C. the street address, municipality, state, and zip code of the carrier;

D. the file number if the carrier is a motor carrier;

E. the date and time of inspection;

F. the commodity carried on the vehicle;

G. a description of the shipping documents carried by the driver and the date and number on the documents;

H. the name and address of the shipper and the consignee;

I. the name, address, birth date, and driver's license number of the driver;

J. the name and address of the vehicle lessor, if any;

K. the power unit number, year, license plate number, and unit number of the vehicle;

L. the weight class of the power unit;

M. the unit number and the license plate number of the towed unit, if any;

N. vehicle configuration; and

O. whether the inspection was a complete or partial safety inspection or was an inspection to determine compliance with economic regulation.

Subp. 2. **Checklist items; defect indication.** The checklist must be used to show whether a warning or a citation was issued for a defect or violation and whether a defect or violation resulted in the vehicle being declared out of service. The checklist must describe the violation of state or federal law or rule for which a warning or citation was issued.

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Subp. 3. **Identification of citation or sticker.** The checklist must show the number of a citation or "out-of-service vehicle" sticker that was issued.

Subp. 4. **Checklist, carrier disposition.** The motor transportation representative or hazardous material specialist shall give a copy of the checklist to the driver of the vehicle. The driver shall sign the checklist to acknowledge receipt of a copy of it. The driver shall present the checklist to the carrier responsible for the operation of the vehicle on arrival at the carrier's next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the carrier within 24 hours, the driver shall immediately mail the checklist to the carrier. The carrier shall examine the checklist. The carrier must repair or correct the defects or violations noted on the checklist and a responsible official of the carrier must date and sign the checklist. The copy of the checklist given to the driver must be returned by the carrier to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance, within 15 days after the date of issuance. A person shall not sign the certification of repair unless the vehicle has been repaired as required.

Subp. 5. **Exception.** A carrier (1) to whom a checklist was issued, (2) who received a citation for a violation described on the checklist, and (3) who enters or intends to enter a plea of not guilty on the charge, is not required to repair the defects, certify the repairs, and return the checklist to the Minnesota Department of Transportation unless the court proceedings on the charge have been completed. However, if the vehicle has been declared and marked out of service, the carrier may operate the vehicle only under the conditions described in part 8850.8550.

Subp. 6. **Carrier may take vehicle out of service.** A carrier who receives a checklist that lists defects that must be repaired may temporarily place the vehicle out of service instead of repairing the defects. The carrier must notify the commissioner in writing within 15 days of the issuance of the checklist that it is placing the vehicle out of service. The

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carrier must repair the defects and sign and return the checklist to the commissioner before using the vehicle on the highway.

8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. **Inspector's authority.** Every person authorized by Minnesota Statutes, chapter 221 or by other law, to enforce chapter 221 and rules of the commissioner and board adopted under authority of chapter 221, may inspect vehicles subject to chapter 221.

Subp. 2. **Motor vehicles declared out of service.** An authorized person described in subpart 1 shall place out of service a motor vehicle that, because of its mechanical condition or loading, is likely to cause an accident or a breakdown. An "out-of-service vehicle" sticker must be used to mark vehicles that are placed out of service by a motor transportation representative or hazardous material specialist.

Subp. 3. **Other forms used.** An authorized person described in subpart 1 who is not employed by the Minnesota Department of Transportation may use citations, checklists, warning tickets, report forms, and "out-of-service vehicle" stickers prescribed by the agency or law enforcement organization employing that person.

8850.8500 "OUT-OF-SERVICE VEHICLE" STICKER.

Subpart 1. **Statement required.** The "out-of-service vehicle" sticker used by the Minnesota Department of Transportation must contain the following statement:

> "Out-of-service vehicle. This vehicle has been declared out of service by the Minnesota Department of Transportation. This vehicle must not be operated until repaired. This sticker may be removed only under the conditions stated on the out-of-service notice. The person responsible for unauthorized removal is liable to penalty under Minnesota Statutes, section 221.291. A person shall not remove this sticker or operate this vehicle until the repairs listed below are completed."

Subp. 2. **Space for description.** The "out-of-service vehicle" sticker must contain space for the motor transportation representative or hazardous material specialist to describe the mechanical condition requiring the vehicle to be declared out of

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service.

Subp. 3. **Information required.** The sticker must contain the following information:

A. the make of the power unit;

B. the model year of the power unit;

C. the unit number of the power unit;

D. the power unit license number;

E. the towed unit license number;

F. the make of the towed unit, if known;

G. the unit number of the trailer;

H. the signature of the driver of the vehicle in the space provided; and

I. the signature of the motor transportation representative or hazardous material specialist in the space provided.

Subp. 4. **Serial numbering.** The "out-of-service vehicle" stickers must be serially numbered.

8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. **Repair before use.** Except as provided in subpart 2, a carrier shall not require or permit a person to operate nor shall a person operate a motor vehicle declared and marked out of service until the repairs required by the out-of-service notice have been satisfactorily completed. In this subpart, "operate" includes towing the vehicle, except that vehicles marked out of service may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and the out-of-service vehicle must not be operated unless the combination meets the performance requirements of this chapter except for those conditions noted on the driver, vehicle, and equipment compliance checklist.

Subp. 2. **Exception.** A vehicle with an out-of-service defect may be moved under its own power to a place of repair only in the following circumstances:

A. A vehicle transporting hazardous materials

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requiring the vehicle to be placarded may be escorted to a repair facility or safe parking place.

B. When the imminently hazardous condition is one that is automatically removed by the disconnection of the power unit from the towed unit, the unit that is not out of service may be operated.

C. If it is less hazardous to the public to operate the vehicle than to permit it to remain on the highway, the vehicle may be operated only to the nearest place where repairs can be made safely.

Subp. 3. **Prohibition.** A person shall not remove the "out-of-service vehicle" sticker from a motor vehicle before completion of the repairs required by the out-of-service notice.

8850.8800 INTRASTATE TRANSPORTATION; NOTIFICATION AND REPORTING OF ACCIDENTS.

Subpart 1. **When required.** A motor carrier shall report an accident that results in the death of a human being, bodily injury to a person who receives medical treatment away from the scene, or total damage to property totaling $4,400 or more based on actual costs or reliable estimates.

Subp. 2. **Boarding or alighting; unloading.** A motor carrier is not required to report an accident that involves only boarding and alighting from a stationary motor vehicle or loading or unloading cargo unless a report is required under Minnesota Statutes, section 221.034.

Subp. 3. **Accident report form; incorporations.** Accidents resulting in death, requiring medical attention away from the scene, or causing property damage totaling $4,400 or more, must be reported to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance. A written report of the accident must be filed at the Office of Motor Carrier Safety and Compliance within 30 days after the accident. The report must be filed on the form required by the United States Department of Transportation described in Code of Federal Regulations, title 49, section 394.9, paragraph (a), as revised

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through October 1, ~~1986~~ 1987, which is incorporated by reference. The form must be completed as required by Code of Federal Regulations, title 49, section 394.20, as revised through October 1, ~~1986~~ 1987, which is incorporated by reference.

Subp. 4. **Driving record review.** A motor carrier shall review the driving record of a driver involved in an accident.

8850.8850 SAFETY MEASURES IN AN ACCIDENT.

When a carrier vehicle is involved in an accident, the driver shall, if possible, use every available means to prevent people from gathering near the scene, to prevent smoking, to keep flame away, to safeguard against the aggravation of the hazard present, and to warn other users of the highway.

8850.8900 INTRASTATE TRANSPORTATION; HOURS OF DRIVER SERVICE; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 395.2; 395.3, paragraphs (a) to (c); 395.7; 395.8, paragraphs (a) to (k)(1), (k)(3), and (l)(1); and 395.10 to 395.12, as revised through October 1, ~~1986~~ 1987; and amendments to sections 395.2, 395.3, and 395.8 found at Federal Register, volume 52, pages 41721 and 41722, are incorporated by reference except for the cross-reference to paragraph (e) in section 395.3, paragraph (a). The cross-reference to paragraph (e) in section 395.3, paragraph (a), is not incorporated by reference.

Subp. 2. **Limited exemption for lightweight vehicles.** Notwithstanding subpart 1 and part 8850.7025, the requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), do not apply to lightweight vehicles.

8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by Minnesota Statutes, chapter 221, or by other law, to enforce chapter 221 and the rules of the commissioner and board adopted under authority of that chapter

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is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty-status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has been declared out of service shall not operate a motor vehicle

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until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

8850.9000 INTRASTATE TRANSPORTATION; INSPECTION, REPAIR, AND MAINTENANCE; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 396.3 to 396.7, 396.11, 396.13, and 396.15, as revised through October 1, ~~1986~~ 1987, are incorporated by reference.

8850.9050 HAZARDOUS MATERIALS; DRIVING AND PARKING; FEDERAL RULES.

Subpart 1. **Transporting hazardous materials.** A person who transports hazardous materials shall comply with this part and parts 8850.7000 to 8850.9000 when that person is transporting a hazardous material, hazardous waste, or hazardous substance that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in Minnesota Statutes, section 221.033.

Subp. 2. **Incorporation by reference.** Code of Federal Regulations, title 49, sections 397.5 to 397.19, as revised through October 1, ~~1986~~ 1987, are incorporated by reference.

Subp. 3. **Parking.** A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

8855.0300 DUPLICATES FURNISHED TO COMMISSIONER.

A motor carrier or interstate carrier shall furnish to the commissioner a duplicate of its public liability and cargo policies and endorsements when requested by the commissioner.

8855.0400 CERTIFICATE OF INSURANCE; BOND; FEDERAL FORMS.

An insurance company that provides insurance against public liability and property damage for a motor carrier operating under a permit or certificate or for an interstate carrier shall

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cover all motor vehicles used in the motor carrier's operations whether specifically described in the policy or not. The insurance company shall file with the commissioner either a certificate of insurance naming each motor carrier insured on form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference, or the forms prescribed in part 8855.0800.

In lieu of an insurance certificate, a bond may be filed on form G, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

8855.0410 FINANCIAL RESPONSIBILITY FOR REGULAR ROUTE COMMON CARRIERS OF PASSENGERS AND CHARTER CARRIERS.

A regular route common carrier of passengers or a charter carrier must obtain or cause to be obtained the following minimum amount of coverage against public liability:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for loss or damage to property of others, $50,000; and

C. limit for injury to or death of all persons injured or killed in any one accident:

(1) seating capacity of 12 passengers or less, $300,000;

(2) seating capacity of 13 to 20 passengers, $350,000;

(3) seating capacity of 21 to 32 passengers, $400,000; or

(4) seating capacity of 33 passengers or more, $450,000.

8855.0450 FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF PROPERTY.

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Subpart 1. **Amount required.** Motor carriers of property operating under a certificate or permit issued by the board shall obtain or cause to be obtained coverage against public liability in the following amounts:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for bodily injury to or death of all persons in any one accident, $300,000; and

C. limit for loss or damage to property of others, other than cargo, $50,000.

Subp. 2. **Exception.** Motor carriers of property that transport hazardous waste, hazardous substances, or hazardous materials in the quantities described in Code of Federal Regulations, title 49, section 387.7, shall obtain or cause to be obtained minimum coverage against public liability as required in that section.

8855.0500 CARGO SECURITY.

Subpart 1. **Insurance or bond required.** Each petroleum carrier and each regular route common carrier of freight shall obtain or cause to be obtained cargo insurance or bond in the amount of $5,000 and shall have its insurer file a cargo certificate of insurance or bond with the commissioner.

Subp. 2. **Federal forms, incorporations by reference.** Each insurance company insuring cargo shall file a cargo certificate of insurance, form H, "Uniform Motor Cargo Certificate of Insurance," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, or a cargo bond on form J, described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which are both incorporated by reference.

8855.0600 NAMES ON INSURANCE CERTIFICATES AND BONDS.

Certificates of insurance and bonds must be issued in the full and correct name of the person, corporation, or partnership whose operations are being insured.

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8855.0700 CANCELLATION OF INSURANCE; FEDERAL FORMS.

A certificate of insurance or bond for public liability and a certificate of insurance or bond for cargo security may be canceled.

The insurer shall cancel certificates of insurance for public liability or cargo insurance by filing with the commissioner a form K, "Uniform Notice of Cancellation of Motor Carrier Insurance Policies," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

The insurer shall cancel surety bonds for public liability or cargo insurance by filing with the commissioner a form L, "Uniform Notice of Cancellation of Motor Carrier Surety Bonds," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

A cancellation notice takes effect 30 days from the day the notice is received by the commissioner.

8855.0800 AGGREGATION OF INSURANCE.

When insurance is provided by more than one insurer to aggregate coverage required under Minnesota Statutes, chapter 221, each insurer shall file form BMC 91X described in Code of Federal Regulations, title 49, section 1043.7, paragraph (a)(3), as amended through October 1, ~~1986~~ 1987, which is incorporated by reference.

8855.0850 INSURANCE AND BONDING COMPANIES MUST BE AUTHORIZED BY DEPARTMENT OF COMMERCE.

Insurance companies or bonding companies who file certificates of insurance or bonds with the commissioner must be authorized and registered with the Department of Commerce, to do business in the state of Minnesota.

REPEALER. Minnesota Rules, parts 7800.0100, subparts 2, 9, and 10; 7800.0300; 7800.1200; 7800.1300; 7800.1900; 7800.3500; 7800.3700; 7800.3800; 7800.4000; 7800.4100; 7800.4200; 7800.4300;

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7800.4400; 7800.4500; 7800.4600; 7800.4700; 7800.4800; 7800.4900; 7800.5000; 7800.5100; 7800.5200; 7800.5300; 7800.5400; 7800.5500; 7800.5600; 7800.5700; 7800.5800; 7800.5900; 7800.6000; 7800.6100; 7800.6200; 7800.6300; 7800.6400; 7800.6500; 7800.6600; 7800.6700; 7800.6800; 7800.6900; 7800.7000; 7800.7100; 7800.7200; 7800.7300; 7800.7400; 7800.7500; 7800.7600; 7800.7700; 7800.7800; 7800.7900; 7800.8000; 7800.8100; 7800.8200; 7805.1400; 7805.1500; 7805.1600; 7805.1700; 7805.1800; 7805.1900; 7805.2000; 7805.2100; 7805.2200; 7805.2300; 7805.2400; 7805.2500; 7805.2600; 7805.2700; 7805.2800; 7805.2900; 7805.3000; 7805.3100; 7805.3200; 7805.3300; 7805.3400; 7805.3500; and 7805.3600 are repealed.

Approved
by Revisor _____

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE
MINNESOTA COMMISSIONER
OF TRANSPORTATION

In the Matter of Proposed
Rules Governing
Motor Carrier
Safety and Insurance

STATEMENT OF
NEED AND
REASONABLENESS

The Commissioner of Transportation, pursuant to Minnesota Statutes, section 221.031, subdivision 1, and section 221.141, presents facts establishing the need for and reasonableness of proposed rules relating to insurance and safety requirements for motor carriers.

I. STATUTORY AUTHORITY.

Minnesota Statutes, section 221.031, subdivision 1, states

> The commissioner shall prescribe rules for the operation of motor carriers, including their facilities, accounts, leasing of vehicles and drivers, service, safe operation of vehicles, equipment, parts and accessories, maximum hours of service of drivers, driver qualifications, accident reporting, identification of vehicles, installation of safety devices, inspection, repair, and maintenance, and proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules. The commissioner shall direct the repair and reconstruction or replacement of an inadequate or unsafe motor carrier vehicle or facility.

Subdivision 1 states that those rules apply to "motor carriers." The term "motor carrier" is defined in Minnesota Statutes, section 221.011, subdivision 15. It says "'motor carrier' means a carrier operating for hire under the authority of this chapter and subject to the rules and orders of the commissioner and the board." In subsequent subdivisions, that section provides that certain motor carrier safety rules apply to other kinds of carriers as well.

Subdivision 2 requires "private carriers" operating vehicles licensed and registered for a gross weight of more than 12,000 pounds to comply with rules "adopted under this section" (221.031) that apply to maximum hours of service of drivers, safe operation of vehicles, equipment, parts and accessories, leasing of vehicles or vehicles and drivers, and inspection, repair, and maintenance. "Private carrier" is defined in Minnesota Statutes, section 221.011, subdivision 25. A private carrier uses trucks to transport its own products, materials or equipment.

Subdivision 2a requires certain private agricultural carriers to comply with the commissioner's rules for safety of operations and equipment. Subdivision 3 requires exempt for hire carriers described in Minnesota Statutes, section 221.025, to comply with the rules of the commissioner for safety of operations and equipment.

Although Minnesota Statutes, section 221.031, subdivision 1, states that it applies to motor carriers, the Legislature, by adding subdivisions to that section, has required other kinds of carriers to comply with some of those rules. This is recognized in proposed rule part 8850.7025.

Minnesota Statutes, section 221.141, subdivision 1, authorizes the commissioner of transportation to prescribe the amount of liability and cargo insurance that motor carriers must have to operate in Minnesota. That section also allows the commissioner to specify the forms that must be used to file the information with the department. Predecessors of the Department of Transportation have adopted such rules. The current rules that prescribe insurance requirements for Minnesota motor carriers are contained in Minnesota Rules chapter 7805. These rules were formerly styled as PSC 44 A. to PSC 48. Minnesota Statutes, section 221.60 requires interstate carriers to comply with section 221.141.

II. BACKGROUND.

Motor carrier safety and insurance regulation have a long history in Minnesota. Motor carrier safety has not always been the responsibility of the Minnesota Department of Transportation (Mn/DOT).

When the Legislature first decided to regulate the truck transportation business, it gave the job to the Minnesota Railroad and Warehouse Commission (RRWC). Because it is an essential public service, transportation has been regulated as though it were a public utility. This regulation has consisted of regulation of the right to enter the for hire trucking business, regulation of rates and routes, and regulation of insurance and safety. In this rulemaking proceeding we are concerned only with safety and insurance regulation.

Motor carrier safety regulation began in Minnesota in 1925. Laws 1925, chapter 185, section 4, provided

> The [Railroad and Warehouse] Commission is hereby vested with power and authority and it is hereby made its duty to supervise and regulate every auto transportation company [regular route common carrier] in this state;... to regulate the facilities, accounts, service, and safety of operations of each such auto transportation company, and make rules and regulations for proper inspection of motor vehicles and to provide for the installation of safety devices thereon,...

In 1933, the Legislature, by the enactment of Laws 1933, chapter 170, authorized the Railroad and Warehouse Commission to regulate permit carriers (contract, common and interstate carriers). Laws 1933, chapter 170, section 2(b) states

> The Commission is further vested with power and authority and it is made its duty to supervise and regulate every contract carrier for the purpose of promoting safety on the highways and their conservation; to make rules and regulations respecting the lights and brakes used on the vehicles operated by such carriers and requiring the use of any and all safety devices that tend to make more safe the operation of such vehicles on the highway; to regulate the nature and character of the equipment to be used under a permit....

Section 16 of that law provided that

> It shall be the duty of the Commission and it is hereby so empowered to establish, regulate and fix the hours of service of truck drivers employed by carriers subject to this Act and Auto Transportation Companies subject to Laws 1925, chapter 185, and to that end may require from all of such carriers such reports and information as it may deem necessary to the enforcement of its orders respecting the same; provided, however, that the Railroad and Warehouse Commission shall fix the hours of service on a basis so that no truck driver shall operate a truck for more than twelve hours continuously.

On June 5, 1933, the Railroad and Warehouse Commission adopted General Order No. 1, Rules and Regulations Applicable to Irregular Route Common Carriers and Contract Carriers. Those rules required the following: that the name and address of the vehicle owner be shown on the outside of the cab, that no permit carrier could require or permit a driver to operate a truck more than 12 continuous hours, that no commodity such as explosives or inflammable liquids could be transported in such manner to endanger life or property, that all permit carriers would be required to keep full and complete records of operating expenses, revenues and miles operated, and that each operator would be required to carry as part of his equipment at all times, 3 usable flares approved by the Commissioner of Highways and 3 red flags approximately 24 x 24 inches to be placed on the highway in the event of an accident to warn oncoming traffic. In addition, the rules required that no vehicle could be operated in the dark unless it was equipped with two marker lights front and rear, in addition to the head and tail lighting. It required the procurement of liability and property damage insurance.

By Laws 1937, chapter 431, section 7, the Legislature further amended the Motor Carrier Act to make it illegal for a carrier to refuse to submit to an inspection.

In 1935, with passage of the Federal Motor Carrier Act of 1935, 49 U.S.C. section 304, the Congress authorized the Interstate Commerce Commission (ICC) to regulate entry, rates, routes, service and safety of the interstate, for hire trucking business. In 1938, the ICC adopted its first regulations to govern interstate driver qualifications, maximum hours of driving, and safe operation and equipping of vehicles. These were comprehensive safety regulations.

In 1940, the Minnesota Railroad and Warehouse Commission began limited movement toward uniformity with other states and the federal government by adopting by reference, the safety regulations of the Interstate Commerce Commission. Rule 21 of the Bus and Truck Division of the Railroad and Warehouse Commission states

> The Revised Motor Carrier Safety Regulations of the Interstate Commerce Commission, effective January 1, 1940, as hereafter amended and except where the same are contrary to or incompatible with the laws of this state, are hereby adopted as the Safety Regulations of this Commission for inter and intra state commerce;

Motor carrier economic and safety regulation were the responsibility of the Railroad and Warehouse Commission from 1925 to 1967. In 1967, the Legislature transferred the regulation of trucking to the Department of Public Service. The Public Service Department had two branches, the Public Service Commission (PSC) and the Administrative Division. The Rules and Orders of the RRWC were transferred to the PSC, which eventually amended them. The PSC motor carrier safety rules bore the prefix PSC. The rule originally adopted by the RRWC adopting by reference the federal motor carrier safety regulations of the ICC, became PSC 5. In 1976, the Legislature created the Minnesota Department of Transportation. In the course of consolidating various state regulatory programs, it transferred the Motor Bus and Truck Division (a part of the Administrative Division) of the Public Service Department to Mn/DOT. That Division had been responsible for the administrative functions and motor carrier safety regulation. The motor carrier safety rules remained in effect and authority to amend and enforce them was transferred to Mn/DOT (see Laws 1976, chapter 166, sections 13, 71 and 88) which has continued to enforce the old rules.

In 1980, the Public Service Commission was abolished and its functions were transferred to the Public Utilities Commission (PUC). Although the rules governing economic regulations fell under the jurisdiction of the PUC, they continued to be styled as PSC rules until the Revisor's Office changed the style of rules several years later. No attempt was made to split the rules between the PUC and Mn/DOT.

The nomenclature of rules has changed as the Office of the Revisor of Statutes has imposed a coherent structure on all agency rules and has renumbered them. The rules of the PSC, known as PSC 1 through PSC 7 (safety rules), and PSC 44 through PSC 48 (insurance rules), though not amended since 1977, are now known as Minnesota Rules, chapters 7800 and 7805.

In 1967, the Congress created the United States Department of Transportation, (USDOT) and transferred to it the safety regulations of the ICC and the duty to enforce them. Those regulations are very extensive, filling about 140 pages of the 1986 Code of Federal Regulations volume in which they are printed. Both the ICC and USDOT made and continue to make frequent changes to those regulations as trucks and transportation patterns change. Each year the entire Code of Federal Regulations is recodified to incorporate new rules and amendments for each of the federal agencies. The federal motor carrier safety regulations are recodified each year and the federal volume in which they are printed bears a revision date of October 1, of each year.

Each time that Minnesota has amended its motor carrier safety rules, it has readopted by reference the most recent revision of the federal motor carrier safety regulations. The current Minnesota motor carrier safety rules include Minnesota Rule 7800.4500, which adopted by reference the federal motor carrier safety rules, revised as of October 1, 1975.

Minnesota Rule 7800.4500 states,

> For uniformity in compliance in the interest of public safety, the safety rules of the Public Utilities Commission shall apply to all persons engaged in the business of transportation of persons or property for hire on the highways of Minnesota.
>
> All rules and safety regulations prescribed in Code of Federal Regulations, title 49, parts 390 to 397, as revised October 1, 1975, and adopted by the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, not in conflict with the laws of the state of Minnesota and/or rules of the commission, are hereby adopted as the safety rules of this commission.

Since the last time the rules were amended, there has been a significant change in the format of Minnesota agency rules and in the style of the language used in the rules. Because of the significant change in the format and style, and to make the amended rules more coherent in their organization, all existing motor carrier safety and insurance rules are being repealed. However, the substance, and in some cases, the text of those rules is being retained and renumbered. The majority of the

proposed rules are simply reorganized and renumbered. Where the substance or text of a proposed rule is the same as the old rule being repealed, no separate explanation of the need for, or reasonableness of the rule will be offered. If the proposed rule is new or is different from the old rule, each rule will be separately explained and justified.

III. NEED AND REASONABLENESS.

A. General.

The nation's motor carrier industry has entered a new era in the last decade. This new era is marked by rapidly increasing volumes of goods transported and heavy competition to carry these goods. Federal regulators have encouraged this change by easing motor carrier economic regulation and by urging the states to concentrate on safety regulation.

The roles of state and federal agencies in regulating the motor carrier industry have become highly integrated. One result of the integration is that changes in the federal safety program require states to update their regulations. This rulemaking procedure will recodify Minnesota's motor carrier rules to reflect changes in federal motor carrier regulations.

There are significantly more trucks in operation now than there were 10 years ago. These trucks are older and are driven for more annual miles. From 1975 to 1985, the number of vehicle miles traveled by trucks increased 77% from 282 million miles to 499 million miles.(1) Part of this increase resulted from a 12% increase in the average number of miles a truck travels per year.(2)

In fiscal year 1987, interstate carriers filed insurance and registered the operation of 386,000 vehicles in Minnesota. Minnesota intrastate for hire carriers purchased identification cab cards for 23,300 vehicles in fiscal year 1987.

Trucks have not only increased in number, they have become larger. Some trucks now span 110 feet and weigh over 100,000 pounds. At the same time, the size of the average automobile has decreased. As the size and number of motor carriers on our nation's highways increased, a corresponding increase in truck accidents occurred. The Office of Technology Assessment of the

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(1) Motor Vehicle Manufacturers Association of the United States, Inc., MVMA Motor Vehicle Facts and Figures '87 (Washington, D.C. 1987), p. 54.

(2) Ibid.

U.S. Congress has determined that total truck miles rose 11 percent between 1981 and 1985. Yet, over the same period, truck accidents rose 15 percent, from 2.34 accidents per million truck-miles in 1981 to 2.69 accidents per million truck-miles.(3) Concern over rising accident rates has prompted Congress to require changes in the federal motor carrier safety program and to establish grant programs to encourage the development of state safety programs.

Motor Transportation Representatives (MTRs) and Hazardous Materials Specialists of Mn/DOT are authorized to inspect vehicles and records under Minnesota Statutes, section 221.221. In calendar year 1986, they inspected over 6,000 vehicles and noted 17,183 violations of safety regulations, an average of 2.84 per vehicle. 1,168 vehicles had violations so serious that the vehicles were ordered to be taken out of service on the road until the violation was corrected. Ninety-nine of those vehicles were carrying hazardous materials.

B. Federal - State Relations.

Both the Department of Public Safety and the Department of Transportation (formerly State Highway Department) have signed cooperative agreements with the ICC and USDOT to cooperatively enforce the federal motor carrier safety and hazardous material transportation regulations and state motor carrier rules. The agreements provide for joint inspection, exchange of information, and assistance in investigations.

The increase in the size and number of trucks, the need for uniform regulations nationwide, the need to protect those who travel on the highways and the need to assure safe transportation of hazardous materials all make it necessary for Minnesota to readopt the federal regulations as amended and to bring the Minnesota rules up to date. Minnesota is required by the Motor Carrier Safety Act of 1984 (P.L. 98-554) to have regulations for interstate carriers that are not less stringent than the federal motor carrier safety regulations. That Act allows the Federal Highway Administration (FHWA), Bureau of Motor Carrier Safety, to preempt state regulations that are less stringent than the federal regulations, or that are more stringent and have no additional safety benefits associated with them. Therefore, the Department wishes to conform as closely as possible to the federal rules. Minnesota receives federal grants for truck safety enforcement under the Motor Carrier Safety Assistance Program, authorized by the 1982 Surface Transportation Assistance Act, sections 401 to 404 (49 USC §§ 2301-2304). As a condition of receiving the grant, the Departments of Public Safety and

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(3) "Legislative News," Traffic World, September 21, 1987, p. 54.

Transportation have agreed to adopt and enforce the federal motor carrier safety regulations. Many trucks are used in both interstate and intrastate transportation service. Those trucks must comply with both state and federal regulations. The more nearly alike that the Minnesota safety rules are to the federal regulations, the less the burden on carriers, especially small carriers that can't afford a large administrative staff to make sure that the carrier will comply with different sets of rules and recordkeeping requirements. In addition, Mn/DOT has been participating in the National Governors' Association project to reduce tax and regulatory burdens on interstate carriers. That effort requires the states to attempt to adopt laws and regulations that are as nearly uniform as possible in order to prevent state borders from being obstacles to commerce for motor carriers. Therefore, Mn/DOT has made every effort to adopt safety rules that are as uniform as possible with those of the federal government and the other states. Wisconsin, Iowa, North Dakota and South Dakota have all adopted the federal regulations or have adopted regulations that correspond to them.

Minnesota Rule 7800.4500, which is being repealed, contains a provision that says that the federal regulations that are not in conflict with state law or rules are adopted. Because the federal rules that are not in conflict were never spelled out or identified, it is sometimes difficult to determine whether a particular federal rule has been adopted in Minnesota. In addition, it is not clear whether "in conflict" refers to a federal rule that imposed a higher standard and additional requirement, or whether "in conflict" means that compliance with both the federal regulation and with any different Minnesota law or rule on the same subject would be impossible. The section by section adoption of the federal motor carrier safety rules in this rulemaking proceeding will provide certainty in the enforcement of the safety regulations.

It is reasonable for Minnesota to adopt federal safety regulations. It promotes uniformity in regulation. Most of the states in the country have now adopted the federal motor carrier safety regulations. It has been a primary goal of the Congress, the National Governors' Association and the Federal Highway Administration over the past three or four years to encourage or compel the states to adopt regulations that are uniform and consistent, so that carriers engaged in transportation that crosses state borders will not be subject to varying and conflicting regulations each time they cross a border.

The federal motor carrier safety program is set forth in Code of Federal Regulations, title 49, parts 391 to 397. Part 391 prescribes driver qualifications, which include driver testing and physical examinations. Part 392 is entitled "Driving of Motor Vehicles" and sets forth vehicle operating rules amounting to general rules of conduct. Part 393 lists the parts and

accessories a vehicle must have in operating condition before it can lawfully be driven. Notification and reporting requirements for accidents are set forth in part 394. Part 395 sets limits on the number of consecutive hours a driver may drive a vehicle and requires drivers to keep logbooks. Part 396 requires motor carriers to inspect, repair and maintain their vehicles, and part 397 governs the transportation of certain hazardous materials.

IV. COMPLIANCE WITH MINNESOTA ADMINISTRATIVE PROCEDURE ACT

On January 31, 1983, the Minnesota Department of Transportation (Mn/DOT) published a Notice of Intent to Solicit Outside Opinion in the State Register. That notice stated that it was the department's intention to amend the rules that governed motor carrier safety.

In response to that notice, the department received 4 letters from:

1. Associated Motor Carriers Tariff Bureau, Inc. (requesting non-alternating tariffs);

2. Dahlen Transport, Inc. (asking to be added to mailing list);

3. Northern States Power Co. (requesting that the department adopt the federal hazardous material transportation rules);

4. Geo. A. Hormel & Co. (adopt federal motor carrier rules).

On July 18, 1983, the Department of Transportation and the Minnesota Public Utilities Commission published a joint Notice of Intent to Solicit Outside Opinion in the State Register. The notice solicited opinion on the rules that had been proposed for amendment in the January 31 notice, and proposed additional rules governing applications for authority and tariffs for amendment. All the rules that were proposed to be amended had originally been adopted by the Railroad and Warehouse Commission or the Public Service Commission, predecessor agencies of both the PUC and Mn/DOT. It was unclear in some cases which of the agencies actually had authority to amend which rules. Therefore, a joint notice was published soliciting comments on all the rules that govern motor carrier economic regulation, tariffs, insurance and safety. The department received no comments in response to that notice. The Department of Transportation also mailed both notices to its official agency mailing list.

The July 18, 1983 notice was also published in the weekly calendar of the PUC in order to give notice to all affected persons. Mn/DOT began compiling a mailing list of persons who had responded to either notice or to the weekly calendar notice. To the list were added the names of trade associations that

represent businesses that use trucks and names of lobbyists and persons who had testified about trucking matters before the Legislature.

In August 1983, the Transportation Regulation Board (TRB) was appointed by the Governor and succeeded the PUC in its transportation economic regulatory functions. The laws and rules related to those functions and the authority to adopt rules were transferred to the new Transportation Regulation Board.

On January 17, 1986, the department mailed a notice to all the persons on its mailing list advising them that the department had draft rules available for review.

On February 10, 1986, the Department of Transportation and TRB published another Notice of Intent to Solicit Outside Opinion in the State Register. The Department and TRB solicited public comments on draft rules. The notice also stated that the draft was available for review and would be mailed free of charge. The notice directed interested persons to send comments to Mn/DOT.

Mn/DOT received 2 letters in response:

1. Luxton Transfer LTD., Owatonna (requesting 100 mile radius for multiple leases)

2. Dahlen Transport, Inc. (repeal permit petroleum carriers; would require statutory amendment)

On April 1, 1986, the department and TRB mailed a notice that public meetings would be held on the proposed motor carrier rules. The notice was mailed to all the persons on the mailing lists of both agencies. The meetings were held on April 24 to discuss economic regulation and safety, and on April 25 to discuss tariffs. About 40 people attended the April 24 meeting, and 12 people attended the April 25 meeting.

After the April meetings, 4 more letters were received:

1. Ag Processing, Inc., Sheldon, IA. (leasing, agricultural coops)

2. Indianhead Truck Line Inc. (petroleum carrier advertising)

3. Lakeville Motor Express (IRCC v. RRCC)

4. Robert S. Lee, Attorney (Oct. 23, definition of petroleum carrier)

On July 17, 1986, the department held an additional meeting to discuss regulation of regular route and irregular route common carrier transportation. Twelve people attended that meeting.

On August 12, 1986, Mn/DOT staff and the TRB members and staff met to discuss problems identified at the April and July meetings.

Because of the variety of subjects embraced, it has been decided to separate the rulemaking proceeding into several parts. The Department of Transportation will adopt the safety and insurance rules separately under authority of Minnesota Statutes, sections 221.031 and 221.141. Mn/DOT has clear statutory authority to do this, while the TRB has no jurisdiction over safety and insurance of motor carriers. Rules governing application procedures, leasing, tariffs, and operations of motor carriers will be adopted in a later proceeding.

The adoption of these rules will not require the expenditure of money by local public bodies (Minn. Stat. 14.11). The proposed rules will not have an effect on agricultural land (Minn. Stat. 14.11). The rules will not impose "costs mandated by the state" or require a local agency or school district to take action that incurs costs mandated by the state (Minn. Stat. 3.982). The rules impose no fees (Minn. Stat. 16A.128).

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING.

A majority of trucking businesses and businesses that use trucks are small businesses within the meaning of Minnesota Statutes, section 14.115, subdivision 1. The proposed rules are amendments to insurance and safety rules. They are basically the same rules that are now in effect, but they are being reorganized and renumbered. Some of the incorporated federal rules have been amended or added to maintain uniformity with the current federal motor carrier safety regulations.

Mn/DOT has considered the impact of these rules on small businesses in compliance with Minnesota Statutes, section 14.115, subdivision 2. The law requires that Mn/DOT consider the following;

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule;

(e) the exemption of small businesses from any or all requirements of the rule.

The Legislature has exempted certain kinds of businesses that use trucks from certain motor carrier safety rules. It has also specifically stated what rules must be complied with by for hire and private users of trucks. The exemptions and requirements are contained in Minnesota Statutes, section 221.031, subdivisions 1, 2, 2a, 3, and 6. Therefore, Mn/DOT's authority to exempt small businesses from reporting or compliance requirements is largely superseded by the statute that authorizes the adoption of safety rules. The statute makes motor carriers' (all regulated for hire) vehicles subject to all the safety requirements. However, it exempts for hire exempt carrier vehicles from compliance with driver qualification rules and driver hours of service rules. In addition, certain private carrier vehicles are exempt from the same rules.

The need to regulate truck safety depends more on the size and use of the truck than on the size of the business. However, some of the federal regulations that are adopted by reference contain exemptions for vehicles that weigh less than 10,000 pounds (lightweight vehicles). Such vehicles are exempt from the driver hours of service restrictions and driver logbook requirement. In addition, lightweight vehicles and motor carriers that operate only one truck are exempt from the daily maintenance record requirement. These exemptions are being readopted in Minnesota. Other reporting and compliance requirements, such as the maintenance of a driver file that contains a driver's application and record of experience and training, and the carrier vehicle maintenance records, are elemental parts of a carrier's safety program. The requirement that for hire carriers operating under permits or certificates from the TRB report accidents to the Commissioner, is a necessary part of the regulation of what, traditionally, has been a pervasively regulated industry.

Costs and Benefits To Small Businesses From Proposed Rule Amendments.

The repeal of certain Minnesota rules and the adoption of amended federal rules will make compliance easier and less expensive in certain cases. For example, the department proposes to repeal the current Minnesota rule that prohibits a person who has lost a finger from driving a commercial vehicle. The department will adopt the federal rule which is performance based, and which requires consideration of whether a driver's limb impairment will affect his ability to drive safely instead of flatly prohibiting driving with certain impairments. Four other minor changes are made to the driver qualification rules to conform them to the new federal regulations that govern licensing of commercial drivers. Those regulations are paperwork requirements, are not unduly burdensome and will be imposed by the state driver licensing agencies under federal driver licensing standards as well as under the motor carrier safety rules.

With respect to rules that govern operation of vehicles, the department proposes to repeal the current Minnesota rule that requires all vehicles to carry reflective triangles or other warning devices. The department will adopt the federal regulation that exempts lightweight vehicles from that requirement. This will eliminate a compliance requirement for businesses that use small vehicles. Many courier service businesses use only lightweight vehicles and so will be exempt from that requirement. The department will also repeal the Minnesota rule that prohibits fueling of buses while passengers are on board and will adopt the less restrictive federal rule that allows fueling as long as it is not done in a closed space.

Five current vehicle equipment rules are being repealed and replaced with less restrictive federal rules. Those rules repeal the requirement that buses carry first aid kits, repeal the requirement that trucks carry tire chains, allow the use of catalytic heaters, repeal the Minnesota rule requiring two outside rear vision mirrors and replace it with the federal regulation that requires only one if the driver has a view to the rear by means of an interior mirror, and repeal the current Minnesota rule that prohibits the use of recapped tires on the front wheels of trucks. Minnesota will adopt the federal rule that prohibits recapped tires only on the front wheels of buses.

The department is proposing to adopt an amended federal regulation that will impose an additional burden and cost on intrastate motor carriers. That regulation already applies to interstate carriers by operation of federal law. The department proposes to adopt that regulation for application to intrastate carriers. In 1986, the Congress passed the Commercial Motor Vehicle Safety Act of 1986 (P.L.99-570), which requires that all commercial vehicles manufactured after July 24, 1980 have brakes operating on all wheels. That law also required the Federal Highway Administration to adopt a regulation requiring that all commercial vehicles manufactured after July 24, 1980, and lacking operating front wheel brakes be retrofitted within one year of the date of enactment of P.L. 99-570. The FHWA did adopt the regulation and now requires that all commercial vehicles over 10,000 pounds that were manufactured after July 24, 1980, have operating brakes on all wheels by February 28, 1988. The Congress and the FHWA acted after research and braking demonstrations conducted by the FHWA and the National Highway Traffic Safety Administration of the USDOT showed that trucks that are equipped with properly operating brakes on all wheels have shorter stopping distances and are more easily controlled.

It is not clear from the definition of "commercial vehicle" enacted by the Congress and adopted by the FHWA whether intrastate vehicles are included. For purposes of the application of the driver licensing sections of the 1986 Commercial Motor Vehicle Safety Act, vehicles that do not leave a

state but that "are used in trade, traffic, and transportation" that affects interstate trade, traffic, and transportation are included. This issue is less clear with respect to the federal application of the new brake rule. Therefore, because the department wishes to be uniform with the FHWA, and because federal tests have shown that brakes operating on all wheels increase the safety of vehicles, it is proposing to adopt the federal regulation for application to vehicles in intrastate commerce in Minnesota. The regulation will require that vehicles over 10,000 pounds gross weight that were manufactured after July 24, 1980, have properly operating brakes on all wheels. The FHWA has estimated that the cost of complying with this requirement will be $300 to $1000 per vehicle. The cost of compliance will vary depending on the type and condition of the vehicle.

The rule that governs driver hours of service will be amended to enlarge the exemption from the requirement that drivers record their hours of service in a logbook. The current Minnesota rule exempts drivers who drive wholly within a 50 mile radius of their work reporting location. That rule will be repealed and replaced by the federal rule that allows a 100 mile exemption. Minnesota livestock truckers will also be affected by the repeal of the Minnesota rule. The current rule exempts livestock truckers from compliance with the logbook rule. The repeal of the current rule will make any livestock trucker who drives beyond the 100 mile radius subject to the requirement that he record his hours of service in a logbook. The effect of this rule is to treat Minnesota permit livestock carriers the same as other Minnesota permit carriers. Federal studies have shown that driver fatigue and inattention are associated with an increased accident rate. The requirement that drivers record their driving hours enables enforcement personnel to monitor the drivers' hours of driving and to enforce the rules limiting the number of hours that a driver may drive in a 24 hour period. Without the logbook it is difficult to enforce the hours of service rules. Because livestock truckers may be on the road many hours and drive vehicles over 12,000 pounds, they should be subject to the same safety rules as other truckers in the same situation. There is no cost associated with the imposition of this requirement other than the cost of purchasing a logbook. This is a negligible cost. The records then must be maintained at the trucker's place of business for six months. This is a very minimal requirement.

The department also proposes to adopt the amended federal rule that exempts retail store drivers from the hours of service limitations at Christmas time. The amended rule clarifies that drivers who deliver packages from catalog stores are also eligible for the exemption, and it adds a 100 air mile radius limitation to the exemption. The expansion of the exemption to include the local delivery of catalog store merchandise should benefit carriers by reducing record keeping.

The department is proposing to adopt several amended federal regulations that apply to the inspection, repair and maintenance of vehicles. Part 396 of the federal motor carrier safety regulations requires that motor carrier vehicles be systematically inspected, repaired and maintained by the carrier. Part 396 prescribes the procedures that a carrier must follow to make sure that vehicles are maintained. When the Minnesota motor carrier rules were last amended in 1977, the federal regulations that were in effect in October 1975 were adopted and are still in effect in Minnesota. A Minnesota rule exempted motor carriers that operate only one vehicle from the requirement that the driver complete a vehicle defect report at the end of each day. Another Minnesota rule restated that requirement without the exemption for carriers operating only one vehicle. The department intends to adopt all the federal regulations that apply to maintenance. These regulations provide exemptions from maintenance record keeping for carriers that operate vehicles that they control for less than 30 days (leased vehicles) and for lightweight vehicles. Lightweight vehicles and carriers that operate only one vehicle will also be exempt from the driver's daily vehicle inspection report. Because that exemption is in conflict with the Minnesota rule, it was not adopted in 1977. However, in order to be as uniform as possible with the federal regulations, the department is now proposing to repeal the Minnesota rule and replace it with the federal regulation. The exemptions will benefit those carriers by reducing the amount of paperwork that must be completed. The department is also adopting the amended federal regulation that specifies the content of the daily driver inspection report. This only very minimally increases the requirement. The old rule required reporting but did not specify the minimum content of the report.

The rules do not contain separate rules for small businesses, nor do they exempt businesses just because they are "small." Rather, they prescribe rules and exemptions based on the size and use of the vehicles, the need to adopt uniform regulations and the need for safe vehicles within the framework established by the Legislature.

Numerous other minor changes are proposed, but have only a very minimal effect on carriers, or are only changes in wording that contain no substantive change. Those changes are all described in the part by part statement of need.

VI. PART BY PART STATEMENT OF NEED AND REASONABLENESS.

A. PART 8850.6900 DEFINITIONS.

Subpart 2 states that "Board" means the Minnesota Transportation Regulation Board. This provides a shorthand reference for referring to that board and conforms to the definition in Minnesota Statutes, section 221.011, subdivision 2b.

Subpart 3. "Carrier" is defined to provide a shorthand reference for referring to every kind of carrier when the rule in question applies to all of the different kinds of carriers.

Subpart 4. "Certificate" refers to the certificate of public convenience and necessity that is granted to regular route common carriers and petroleum carriers under authority of Minnesota Statutes, chapter 221. It is defined to provide a shorthand form of reference to those particular carriers and conforms to the definition in Minnesota Statutes, section 221.011, subdivision 7.

Subpart 5. "Certificate of insurance" is defined according to its commonly understood meaning in the motor carrier and the insurance industries. A certificate of insurance is a document filed with a state agency by an insurance company. It is required by the laws of most of the states and the Interstate Commerce Commission. The document contains the assurance of an insurance company that it is providing liability coverage to a motor carrier as required by the law of the jurisdiction where the filing is made. This is a needed and reasonable definition because it conforms to current, customary usage in the industry. Minnesota Statutes, section 221.141, requires a motor carrier to secure and file a certificate of insurance in the form required by the commissioner.

Subpart 6. "Charter carrier" has the definition given to it in Minnesota Statutes, section 221.011, subdivision 21. A charter carrier is a passenger carrier that transports groups of persons for hire.

Subpart 7. "Commissioner" is defined to provide a shorthand reference to the Commissioner of the Minnesota Department of Transportation and conforms to the definition in Minnesota Statutes, section 221.011, subdivision 2a.

Subpart 8. "Employ" is defined to mean "to require or permit a person to drive a motor vehicle in furtherance of the carrier's business whether or not the carrier owns the vehicle." This is not a new definition and is the definition of "employ" contained in title 49, section 391.3 (c) of the federal motor carrier safety regulations. It was adopted by reference in Minnesota Rules, chapter 7800.4500 (formerly PSC 5) the last time that the state motor carrier rules were amended in 1977. It is being readopted separately in the definitions part of these rules. The other definitions in section 391.3 are not being adopted because they conflict with Minnesota Statutes, sections 221.011 and 221.031. The definition of "motor carrier" is different from the one in section 221.011, subdivision 15; the term "Director" applies to a federal employee and has no application in Minnesota. The definition of "farm vehicle driver" is different from farm driver exemptions contained in Minnesota Statutes, sections 221.025 and 221.031.

Subpart 9. "Exempt carrier" means a carrier described in Minnesota Statutes, section 221.025. This definition refers to carriers that are permitted to haul for hire in Minnesota without obtaining a permit or certificate from the Transportation Regulation Board. This definition is necessary because it refers to vehicles that are exempt from some safety rules as described in Minnesota Statutes, section 221.031, subdivision 3.

Subpart 10. "Interstate carrier" is defined using the definition in Minnesota Statutes, section 221.011, subdivision 13. It is consistent with the definition in the statute.

Subpart 11. "Lightweight vehicle" is defined using the basic definition provided by USDOT in title 49, section 390.17 of the federal motor carrier safety regulations. However USDOT specifies a 10,000 pound maximum weight for lightweight vehicles. Minnesota has a 12,000 pound maximum for lightweight vehicles because vehicles are classified for purposes of taxation and safety regulation according to the schedule provided by the Legislature in Minnesota Statutes, section 168.013, subdivision 1e. The weight classes do not divide at 10,000 pounds, but at 9,000 and 12,000 pounds. Because the exemptions in Minnesota Statutes, section 221.031, subdivisions 2, 3 and 6 were written to exempt lightweight vehicles up to 12,000 pounds, Mn/DOT is adopting a definition of "lightweight vehicle" that establishes a 12,000 maximum weight.

Subpart 12. "Livestock carrier" is defined as it is defined in Minnesota Statutes, section 221.011, subdivision 24 to provide consistency in the application of the rules.

Subpart 13. The term "motor carrier" when used in discussing various kinds of truck regulation is almost a legal term of art. "Motor carrier" has a specific definition in Minnesota Statutes, section 221.011, subdivision 15. For purposes of these rules, the term "motor carrier" will be used to refer only to carriers providing for hire intrastate transportation under authority of the Minnesota Transportation Regulation Board. In these rules it will not be used to refer to carriers engaged in interstate commerce. It is necessary to define the term so that it refers only to carriers engaged in intrastate commerce because, over the years, the various regulatory bodies that have had jurisdiction over truck safety in Minnesota have not adopted all of the federal regulations for application in Minnesota. There have been some exceptions made. In this readoption of motor carrier safety regulations, most of those exceptions are being retained, but only for carriers engaged in intrastate transportation. It is necessary to adopt a definition for these safety rules that includes only intrastate carriers, so that the meaning of the term will be clear when it is used in these rules.

Subpart 14. "Owner" is not a new definition. The current definition is found in Minnesota Rule, part 7800.0100, subpart 9. This definition is being renumbered.

Subpart 15. "Permit" is defined to conform to the definition contained in Minnesota Statutes, section 221.011, subdivision 8.

Subpart 16. "Person" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 6, so that it will conform to the use of that term in chapter 221.

Subpart 17. "Petroleum carrier" is defined to conform to the definition in Minnesota Statutes, section 221.011, subdivision 10.

Subpart 18. "Petroleum transport" is not a new definition. It is being renumbered. This definition is found in current Minnesota Rule part 7800.0100, subpart 10. However, the last phrase of the current definition "and is owned or operated by or for an authorized petroleum carrier" is being repealed. That phrase is no longer a necessary part of the definition. "Petroleum transport" is used in these proposed rules and in the current rules to describe vehicles that are subject to various safety requirements that are imposed on petroleum transport vehicles. Some petroleum transport vehicles are operated by persons who are not authorized for hire petroleum carriers, but who are private carriers (jobbers) of petroleum products. As a result of the adoption of the federal hazardous material transportation regulations (see Minnesota Statutes, section 221.033), all transporters of petroleum products, whether for hire or not are subject to the motor carrier safety rules. Therefore, the reference in the definition to "authorized petroleum carrier" is now inappropriate. Therefore, it is no longer necessary to restrict the application of the definition to persons who haul petroleum for hire.

Subpart 19. "Private carrier" is defined using the definition in Minnesota Statutes, section 221.011, subdivision 26, in order to be consistent with that definition and the use of the term in section 221.031.

Subpart 20. "Regular route common carrier" is defined using the definition in Minnesota Statutes, section 221.011, subdivision 9, to provide consistency.

Subpart 21. "Responsible official" is defined to mean an officer or owner of a carrier who has authority to sign documents. It is reasonable because it provides a shorthand reference for specifying what persons are authorized to sign documents that must be filed with the Department of Transportation or the Transportation Regulation Board. It is necesssary to provide that only a responsible official may sign various documents in order to promote the assumption of responsibility by the carrier for the acts of its employees and the conduct of its business.

Subpart 22. "Vehicle" is defined as it is defined in Minnesota Statutes, section 221.011, subdivision 3 in order to be consistent with the authorizing statute.

In each case where a word or term used in chapter 221 is also used in these rules, the definition in chapter 221 was carried into the rules (except for "motor carrier"). Mn/DOT is constrained in this rulemaking by the limitations and exceptions in Minnesota Statutes, section 221.031. It also is largely readopting current rules. Using the statutory definitions preserves the limitations and the regulatory scheme already provided in the current rules and in chapter 221.

B. SAFETY RULES.

PART 8850.7000 INTERSTATE TRANSPORTATION; SAFETY RULES.

This rule requires interstate carriers and private carriers providing interstate transportation with vehicles over 12,000 pounds to comply with specific Minnesota Rules that are not part of the federal motor carrier safety regulations being adopted by reference in Minnesota. Each of the Minnesota Rules listed in this subpart must also be obeyed by interstate carriers in order to promote safe transportation on the highways. Each of the rules listed in this subpart will be separately explained under its own rule number with respect to its application to all carriers. Both inter and intrastate carriers are subject to these rules under the current Minnesota Rules, chapter 7800.

PART 8850.7025 INTRASTATE TRANSPORTATION; SAFETY RULES; COMPLIANCE REQUIRED.

This part says that intrastate motor carriers, that is, for hire carriers, and private carriers and exempt carriers providing intrastate transportation must comply with parts 8850.7040 to 8850.9050 to the extent required by Minnesota Statutes, chapter 221. Parts 8850.7025 to 8850.9050 comprise all the Minnesota motor carrier safety regulations. Each Minnesota Rule part that is being amended other than by renumbering or modernizing of language will be separately explained as to need and reasonableness.

Minnesota Statutes, section 221.031, is divided into 6 subdivisions. Each of subdivisions 1, 2, 2a and 3 prescribes safety requirments for a different kind of carrier. The Legislature, in defining and imposing safety regulations on the different kinds of carriers, has required them to comply with different parts of the commissioner's motor carrier rules. In order to adopt a set of rules that is easy to use and that does not contain many repetitive sections, the department is proposing one set of rules providing a comprehensive set of requirements. The parts of the rules are described by titles that correspond to

the descriptions of the rules the carriers are now subject to under the various subdivisions of section 221.031. This method of adopting motor carrier rules is consistent with the rules that have been in effect in Minnesota for the past 48 years. The rules adopted by the various agencies that have had authority to regulate motor carrier safety have merely prescribed truck safety requirements and the Legislature has used the statute to prescribe which kinds of carriers are subject to which rules. This also reduces the need to amend the rules in the future should the Legislature decide to amend any of the subdivisions of section 221.031 in order to require certain categories of carriers to comply with more or fewer of the motor carrier safety rules.

This part also requires the carrier and all its managers and employees to comply with the applicable safety rules. This rule restates the requirement that "Every motor carrier shall compel compliance with the requirements of this chapter [Minnesota Rule chapter 7800] where it is applicable to its employees" in current rule 7800.0200. Similar requirements are contained in the federal motor carrier safety regulations in parts 390.30, 392.2, and 397.3. This rule is being adopted and modified for Minnesota carriers, in lieu of adopting by reference those three federal rules. This rule is necessary because the carrier acts through its employees. The employees and managers must comply with and enforce the rules in order to enable the carrier to comply.

8850.7040 INTRASTATE TRANSPORTATION; DRIVER QUALIFICATIONS.

This is not a new rule. Most of the language in this part is contained in current Minnesota Rule 7800.5400 and is currently enforced in Minnesota. The proposed rule refers to private carriers and to motor carriers separately, because in section 221.031, subdivisions 2 and 2a, the Legislature has specified that only certain private carriers are subject to driver qualification rules. The last sentence of the proposed rule provides "a carrier who is self employed as a driver must comply with both the rules that apply to carriers and the rules that apply to drivers." This is not a new requirement. It is now contained in two federal rules adopted under part 7800.4500: Code of Federal Regulations, title 49, part 390.32 and part 391.1(c). The rule requirement is being restated in a Minnesota Rule because the department is not adopting part 390 of the federal regulations. Many of the sections of part 390 conflict with provisions of Minnesota Statutes, chapter 221. Therefore, those sections of part 390 that were previously adopted because they were not in conflict with state law and that the department wishes to retain will be adopted in the form of a specific Minnesota Rule. Part 391.1 is not being adopted because it conflicts with the application of the rules prescribed in section 221.031.

PART 8850.7100 INTRASTATE DRIVER QUALIFICATIONS; FEDERAL RULES.

Subpart 1. Incorporation by reference. This subpart lists all the sections of Code of Federal Regulations, title 49, part 391, driver qualifications, that the department proposes to adopt by reference for application to intrastate carriers operating in Minnesota. Most of these federal regulations are now in effect in Minnesota as a result of their incorporation by reference in 1977 under current Minnesota Rule 7800.4500. The following sections listed in proposed rule 8850.7100, subpart 1, are now in effect, have not been amended by the Federal Highway Administration since they were adopted in 1977, and are not new rules: section 391.5; section 391.11, paragraphs (a) and (b)(2) to (b)(5) and (b)(8) to (b)(12), sections 391.23, 391.25, 391.31, 391.33, 391.35, 391.37, 391.41(a) and (b)(1) and (3)-(10) and (13), 391.45, 391.51(a)-(d) and (f) and (g), 391.61, and 391.63.

The following federal rules were adopted by reference in Minnesota in 1977 but have been amended by the FHWA since then: sections 391.11(b)(6) and (7), 391.15, 391.21, 391.27, 391.41(b)(12), 391.43, 391.51(e) and (h), 391.65, and subchapter B, Appendix C. Subchapter B, Appendices D and E have been added since 1977.

Section 391.41 (b)(2) and (11) could have been interpreted as being in conflict with current Minnesota Rule 7800.5400 E.(1)(c) and (3). The current rule in effect in Minnesota (7800.5400 E.) prohibits a person who has lost a finger from driving a commerical vehicle unless he obtains a waiver and transports only non-hazardous cargo. The federal rule that the state proposes to adopt will allow a person who has lost a finger to drive a commercial motor vehicle without obtaining a waiver if his ability to seize or grasp objects is not impaired. The state is repealing 7800.5400 E. (1)(c) and adopting the federal regulation in order to provide uniformity with the federal standards and because it has no evidence that the loss of a finger by itself poses a danger to the public.

It is unclear whether the hearing standards in current rule 7800.5400 E.(3) is consistent with the federal requirement. It will be repealed and replaced by the federal standard. The federal standard is now in use in Minnesota because carriers use the federal medical exam forms which prescribe the federal standard.

Section 391.11(b)(6) was reworded. A new cross reference that reflected the fact the FHWA had divided the driver qualification chapter into subchapters was added. The meaning or effect of the rules was not changed. Section 391.11(b)(7) was amended in 1987 to make the state driver license requirement conform to the requirements of the 1986 Commercial Motor Vehicle Safety Act. That section required a person to have a currently valid

operator's license or permit. The Commercial Motor Vehicle Safety Act prohibits drivers of commercial vehicles from having more than one license unless the driver is required by state law to have some sort of special license for a special class of vehicles. The motor carrier safety regulations must be amended to correspond to the driver license law because Congress requires it. The law prohibits a driver who has a license revoked in one state from going to another state and obtaining a license there without admitting that his driving privileges have been revoked by the other state. This amendment requires an employer to verify that the driver has only one license.

Section 391.15(c) was amended by adding that a disqualifying criminal offense is one that is committed while the driver is on duty. This means that a driver will not be disqualified for certain criminal offenses committed while he is not driving for a carrier. The reference to drugs has been changed. Formerly, only the terms "narcotic drug" and "amphetamine" were used to describe certain drugs. As a result of the recent effort to address the use of drugs and alcohol by drivers, the FHWA has adopted "schedules" promulgated by the Drug Enforcement Agency. Those are lists of controlled substances classified according to their properties. A driver may not operate a vehicle while under the influence of any of these drugs. The consumption of those drugs diminishes the ability of a driver to safely operate a motor vehicle. These prohibitions are similar to the prohibitions contained in Minnesota Statutes, section 152.02, defining controlled substances, and section 169.121, prohibiting the operation of a motor vehicle while under the influence of a controlled substance. Section 391.15(c)(3)(i) was amended by adding that if a driver was convicted of transporting or possessing (not using) unlawful substances, the period of disqualification from driving would only be 6 months instead of 1 year. The department proposes to adopt the amended section 391.15 in order to be consistent with the federal regulations.

Section 391.21 was amended by the FHWA to make it conform to the regulations that it adopted governing the employment applications of commercial drivers. The amendment requires that the driver applicant furnish the new employer a list of his employers' names and addresses and reasons for leaving employment for the preceding 10 years. The purpose of this requirement is to enable employers to screen drivers and determine their training, experience, and violations. This is required by the 1986 Commercial Motor Vehicle Safety Act.

Section 391.27 requires a driver to furnish to an employer each year a record of motor vehicle traffic violation convictions. The new regulations adopted by the FHWA governing the commercial driver license require the driver to furnish the information about violations in other states to the state that issued his

license and to his employer within 30 days of the conviction. If the driver furnishes the information under the part 383 commercial driver regulations, he is not required to furnish the information again under section 391.27. This eases the paperwork burden on the driver.

Section 391.41 (b)(12) has been amended to update the language describing prohibited drugs so that the references are to drugs identified in Schedule I, Appendix D. The explanation for this is the same as the explanation for section 391.15. The title of Appendix D has been amended to reflect the reference to Schedule I drugs. This makes the description of those drugs consistent with the terms used by the federal Drug Enforcement Agency.

Section 391.43 was amended to require that if the driver can drive only if a medical waiver is obtained, the medical examiner must note on the medical certificate that the driver is medically unqualified unless the certificate is accompanied by a waiver. This is only a minor change in the wording of the medical certificate and does not affect the exam or the granting of a waiver. It is adopted for consistency.

Section 391.51 was amended by the FHWA to allow the carrier to dispose of certain driver records 3 years after execution. This reduces the amount of paper that must be kept by carriers. It is being adopted to promote uniformity with the federal regulations. Section 391.51(e) was amended by rewording it. The new language cross references a section prescribing the driver qualification file contents for carriers who use drivers who are also employed by other carriers. There is no change in the requirements.

Section 391.65 (c) was added in 1976 to require that a carrier that certified a driver's qualifications must be responsible for the accuracy of the information and must recall an unexpired certification if it learns that the driver is no longer qualified. This section attempts to assure that information passed on to other carriers will be reliable. It is adopted to provide uniformity with the federal regulations. It also promotes safety by providing the carrier that has relied on the certification an opportunity to require the driver to become qualified if it learns that he is no longer qualified.

Appendix C was amended to correct the questions that were no longer valid as a result of the amendment of parts 390 to 399 between 1974 and 1983. The amended Appendix C is adopted to update the test questions that are required to be used under section 391.37 (that section has not been amended since it was adopted by reference in 1977). That section states that the test questions given to a driver applicant must be the ones prescribed by Appendix C.

Appendix E is added to provide a list of controlled substances in Schedules II to V. This list is consistent with the definition of controlled substances in Minnesota Statutes, section 152.02. It is adopted to provide uniformity with the federal regulations.

Subpart 2. Exceptions. This subpart lists those sections of part 391 that the state is not adopting. Most of those are sections that contain exemptions from driver qualification regulations that are different from the exceptions provided by the Legislature in Minnesota Statutes, section 221.031. Part 391.62 provides certain exemptions for persons who drive lightweight vehicles. Lightweight vehicles are defined in the federal regulations as vehicles under 10,000 pounds. Exemptions provided by the Legislature in section 221.031 are based on whether the carrier is a private carrier or intrastate exempt carrier, and a weight category of 12,000 pounds is established for lightweight vehicles. Therefore, section 391.62 is not being adopted. Part 391.67 provides certain exemptions from parts of the driver qualification regulations for drivers of articulated farm vehicles. In most cases, farm vehicles operating in intrastate commerce in Minnesota are exempt from all driver qualification regulations. Therefore, this part is not being adopted because it requires compliance with certain driver qualification requirements. Part 391.71 provides various exceptions for intrastate drivers transporting combustible liquids. It is not being adopted because it does not conform to Minnesota Statutes, section 221.033.

Subpart 3. Age requirement. This is not a new requirement and is contained in current law. This part specifies that drivers of vehicles subject to section 221.033 must be at least 21 years of age. This requirement is contained in the federal regulations adopted by reference under section 221.033. It is restated in this section in order to remind people that drivers who transport hazardous materials that require a placard must be 21, even though other intrastate drivers must be at least 18. This subpart also provides that drivers of vehicles engaged in intrastate transportation and subject to driver qualification rules must be at least 18 years of age. Vehicles weighing over 26,000 pounds require a Class A license issued under Minnesota Statutes, sections 171.02 and 171.06. Subdivision 2 of section 171.07 states "a Class A license shall not be issued to anyone under 18 years of age." Minnesota Statutes, section 171.322 prohibits anyone under 18 from being hired to transport passengers. Therefore, the Department of Transportation is adopting a rule that prohibits persons under 18 years of age from driving vehicles subject to motor carrier safety regulations. This is a reasonable prohibition because it is consistent with the driver licensing law and current practice in Minnesota. It does not affect the operation of farmers' vehicles.

Subpart 4. Location of driver qualification files. This requirement is contained in Code of Federal Regulations, title 49, part 391.51(f) and (g). This rule was adopted by reference in 1977 with the adoption of Minnesota Rule 7800.4500. The text of the federal rule allows a carrier to request permission from the Regional Director of the Motor Carrier Safety Office to keep records at a terminal or regional office. That is a federal official. As this rule applies only to intrastate carriers, the substance of the rule will be adopted, but it is reworded to require the intrastate carrier to seek permission from the commissioner.

PART 8850.7200 INTRASTATE DRIVER QUALIFICATIONS; WAIVER FOR PHYSICAL DEFECTS

Minnesota Rules, parts 8850.7200 to 8850.7675 address the granting of waivers to drivers who have certain specified physical disabilities. A waiver is granted to an interstate driver by the Regional Director of the Motor Carrier Safety Office. A waiver is granted to an intrastate driver by the commissioner, who is responsible for enforcing Minnesota safety regulations. A waiver allows a driver who fails to meet certain specified physical requirements to drive a commercial motor vehicle, despite the existence of the disqualifying condition. Under the federal regulations and under current Minnesota rules, it may be granted only for certain conditions and only upon the certification of a physician that the existence of the otherwise disqualifying condition will not impair the driver's ability to safely operate a motor vehicle. The current Minnesota Rule, part 7800.5500, is an extremely condensed version of the waiver rules contained in Code of Federal Regulations, title 49, part 391.49. The substance of that rule was adopted by reference under Minnesota Rule 7800.4500 in 1977. When Minnesota Rule 7800.5500 was not specific enough to deal with all situations, parts of the federal rule were used to supplement it. There is no conflict between any of the waiver provisions in the current Minnesota Rule and the waiver provisions in the federal regulations. Therefore, the entire text of the federal regulation is being inserted in the Minnesota Rules for ease of reference. All references in the federal regulation to federal offices and to the Regional Director of the federal Motor Carrier Safety Office have been changed to refer to the Department of Transportation, the Office of Motor Carrier Safety and Compliance, and to the commissioner. There is no substantive change being made in the adoption of the federal waiver provisions. They are being specifically adopted in order to make the waiver provisions easier to use in Minnesota.

PART 8850.7700 REVOCATION.

This rule provides that the commissioner may revoke a driver qualification health waiver only after the person is provided

with the due process required by Minnesota law. This requires an opportunity for hearing under Minnesota Statutes, chapter 14. This is a necessary provision because it complies with the requirements of Minnesota law and gives the driver an opportunity to object to the revocation or to offer evidence that supports continuing the waiver.

PART 8850.7750 FALSE INFORMATION.

This sentence prohibits falsifying information and is a reasonable requirement in order to assure that the department will receive information that it may rely upon from applicants.

PART 8850.7900 INTRASTATE TRANSPORTATION; MOTOR VEHICLE SAFETY; FEDERAL RULES.

This part lists the sections of the Code of Federal Regulations, title 49, part 392, that prescribes rules for the operation of vehicles. The sections listed are being adopted by reference in Minnesota. Most of part 392 is already included in the adoption of the federal motor carrier safety regulations by reference under current Minnesota Rule 7800.4500. The following sections of part 392 of the federal motor carrier safety regulations are currently in effect in Minnesota, have not been amended by the FHWA since their adoption by reference in 1977, and are being readopted under a new Minnesota Rule number: sections 392.3, 392.6, 392.7, 392.9, 392.9a, 392.9b, 392.11, 392.12, 392.13, 392.14, 392.15, 392.16, 392.20, 392.21, 392.24, 392.25, 392.30, paragraph b, 392.31, 392.32, 392.33, 392.40, 392.41, 392.42, 392.50, 392.51, 391.52, and 392.60 through 392.69.

Section 392.4 prohibits drivers from driving under the influence or while in possession of any Schedule 1 drugs, amphetamines, narcotics or any other substance that renders the driver incapable of safely operating a motor vehicle. These provisions do not apply to the possession or use of a substance administered to a driver by or under the instructions of a physician who has advised the driver that the substance will not affect the driver's ability to safely operate a motor vehicle. This section is being adopted in lieu of current Minnesota Rule 7800.5800, which states that a driver shall not drive while his ability or alertness is impaired through fatigue, illness or other causes. It is being adopted in the interest of uniformity and because it is more specific than the current Minnesota Rule and provides a more definite standard for judging the conduct of drivers.

Section 392.5 of the federal motor carrier safety regulations prohibits consumption of an intoxicating beverage within four hours before going on duty or operating a motor vehicle, consuming or being under the influence of an intoxicating beverage while on duty or in control of a motor vehicle, or possession of an intoxicating beverage. In addition, it

prohibits the motor carrier from permitting a driver to violate this regulation. This rule is different from the provisions currently contained in Minnesota Rules 7800.5700 and 7800.5800. Minnesota Rule 7800.5700 prohibits a driver from partaking of an alcoholic beverage during the eight hours preceding going on duty. The state is adopting the federal regulation that prohibits consuming an intoxicating beverage during the four hours immediately preceding going on duty or operating a motor vehicle in order to be consistent with federal regulations. The department has decided to adopt the federal regulation in the interest of national uniformity. The prohibition of operating a vehicle or going on duty while under the influence of any alcoholic beverage or liquor is consistent with both Minnesota law and the current federal regulation.

Section 392.5(c) was amended by the FHWA in 1987 to require that any driver found in violation of this rule be forbidden to drive a commercial vehicle for a period of 24 hours. This provision is required by the Commercial Motor Vehicle Safety Act of 1986 and applies to intrastate drivers as well as interstate drivers. That law and the federal regulation also require that a driver report such a violation to his employer and to the state that issued his license. These requirements will enable employers and state driver license agencies to detect unsafe drivers and to compile a record that may lead to the revocation of the driver's operating privilege. This promotes Congress' goal of removing substance - abusing drivers of commercial vehicles from the highways.

Section 392.8 was amended by the FHWA to remove the reference to first aid kits. This is consistent with the department's intention to repeal the requirement that buses carry first aid kits. This is discussed in greater detail in the section of the Statement of Need and Reasonableness that describes rules being repealed. The department will adopt section 392.8 to provide uniformity.

When Minnesota Rule 7800.4500 was adopted in 1977, it was not clear whether part of section 392.10 having to do with stopping at railroad grade crossings was in conflict with the state law in Minnesota Statutes, section 169.28. Section 392.10 requires vehicles in addition to those described in section 169.28 to stop at crossings. Subdivision 1 requires vehicles to stop not less than 10 feet from the nearest rail of the railroad. The federal regulation, section 392.10(a), requires a vehicle to stop not closer than 15 feet. There is no conflict. By complying with the stricter federal regulation, a carrier also complies with Minnesota Statutes, section 169.28. The department is adopting the federal regulation for those vehicles that are subject to Minnesota Statutes, chapter 221. In addition, Minnesota Statutes, section 169.28 provides that the commissioner may designate a crossing as an exempt crossing under certain

conditions. It requires that the commissioner direct the railroad to erect a sign bearing the word "exempt" at those crossings. This is consistent with the exemptions provided in section 392.10. The department is adopting the federal regulation because of its more comprehensive application to hazardous material carriers and to promote uniformity.

Section 392.18 was adopted by the FHWA in 1983. It allows slow moving vehicles to use hazard warning flashers to warn other drivers of their presence if permitted to do so by state or local regulation. Minnesota Statutes, section 169.64, subdivision 3, allows flashing lights on self propelled farm equipment and to warn of vehicular traffic hazards. The federal regulation is being adopted so that Minnesota carrier rules will be as uniform as possible with federal regulations.

Section 392.22 addresses the use of emergency signals and hazard warning flashers by stopped vehicles. This regulation does not conflict with state law, but it imposes additional requirements. It is somewhat more strict than Minnesota Statutes, section 169.59, subdivision 4, and section 169.75, subdivision 5. The federal regulation requires that hazard warning signals be activated when a vehicle is stopped along the road, but the state law only permits them and does not require them. State law requires the use of flags and reflectors to indicate the presence of a disabled vehicle when the vehicle is disabled on an interstate highway or on any other highway outside a business or residential district during the period when lighted lamps must be displayed. The federal regulation requires the display of devices to warn of disabled vehicles on <u>any</u> highway, except in business or residential districts during the daytime, regardless of whether or not the vehicle is located on an interstate highway. The department is proposing to adopt the stricter federal regulation because it is believed to provide better safety, both for the person who may be seated in, or standing near the disabled vehicle, and for vehicles approaching large vehicles disabled on the highway. It also promotes uniformity in the regulation of commercial motor vehicles.

The additional requirement is only a very slight burden. The federal regulation also exempts lightweight vehicles from the requirement of setting out warning devices. This reduces the burden on carriers that use small vehicles that may be more easily and safely parked along the shoulder of a road in an emergency.

PART 8850.7950 USE OF LIVESTOCK VEHICLE FOR GENERAL CARRIAGE.

This part provides that a carrier shall not transport general commodities in a livestock vehicle until the vehicle has been cleaned and disinfected. This is not a new rule; it is merely a renumbering and restatement of a rule currently enforced and contained in Minnesota Rule 7800.4100.

PART 8850.8000 NO RECKLESS DRIVING.

This part prohibits reckless driving of a petroleum transport. This is not a new rule; it is a renumbering and restatement of current Minnesota Rule 7800.6500.

PART 8850.8050 LOADING AND UNLOADING OF PETROLEUM TRANSPORT.

This rule renumbers and amends two current Minnesota Rules; 7800.4900, subpart 1, requiring that the fire extinguisher be out of the carrying device and be 15 feet or more from the unloading valves, and Minnesota Rule 7800.7100 requiring the driver to be in attendance at the cargo tank during loading and unloading and not be within any enclosure. The requirement in the proposed rule that the driver be within 25 feet of the cargo tank is a new requirement and is added to provide specificity to the requirement that the driver be "in attendance." The requirement that the driver be "in attendance" has been interpreted by the department and by persons subject to the rule as requiring the driver to be within 25 feet of the cargo tank during loading or unloading. It is consistent with part 177.834(i)(3) of the federal hazardous material transportation regulations adopted by reference in Minnesota Statutes, section 221.033.

8850.8100 VEHICLE IDENTIFICATION CARD APPLICATION.

This renumbers and rewords current Minnesota Rule 7800.5300.

PART 8850.8200 INTRASTATE TRANSPORTATION; EQUIPMENT; FEDERAL RULES.

Subpart 1. Incorportation by reference. This subpart incorporates by reference almost all of the rules in Code of Federal Regulations, title 49, part 393. It specifies the equipment required on a carrier vehicle providing transportation in Minnesota. Almost all of the sections of the federal regulation that are incorporated by reference in this subpart are currently in effect in Minnesota as a result of their prior incorporation by reference under Minnesota Rule 7800.4500.

The following sections of part 393 are now in effect in Minnesota as a result of their incorporation by reference under Minnesota Rule 7800.4500. These sections have not been amended by the FHWA since they were adopted in Minnesota in 1977: section 393.11, 393.12, 393.13, 393.15, 393.16, 393.18, 393.20, 393.22, 393.23, 393.26, 393.27, 393.28, 393.29, 393.30, 393.31, 393.32, 393.33, 393.40, 393.41, 393.43, 393.44, 393.47, 393.49, 393.50, 393.51, 393.52, 393.61, 393.62, 393.63, 393.65, 393.70, 393.71, 393.76, 393.78, 393.79, 393.81, 393.82, 393.83, 393.84, 393.86, 393.87, 393.88, 393.89, 393.90, 393.92, 393.93, 393.100, 393.104 and 393.106.

The 1975 revision of the following sections was adopted in Minnesota in 1977, but these sections have been amended by the FHWA since then. Most of the amendments are technical ones involving rewording without changing requirements, updating standards incorporated by reference in the federal standards, and changing addresses of organizations that publish incorporated standards. The requirements of the regulations remain the same. All these sections will be readopted in their amended form in order to maintain uniformity with the federal regulations. None of them conflict with state law or rules or impose additional burdens on carriers or drivers. They are sections 393.14 (adds a height range for side marker lamps); 393.17 (changes reference to mobile structure trailers to the definition of mobile structure trailers in the Federal Motor Vehicle Safety Standards); 393.19 (removes apparently incorrect cross-reference); 393.24 (changes the address of the Society of Automotive Engineers (SAE)); 393.25 (changes reference to "turn signals" to "hazard flashers" to reflect fact that hazard flashers are not prohibited); 393.45 (updates reference to SAE non-metallic brake tubing -removes restrictive reference to nylon brake tubing); 393.67 (changes "subparagraph" to "paragraph" and substitutes reference to subparagraph with reference to "the following"); 393.69 (changes address of the National Fire Protection Association); 393.102 (adds updated reference to National Association of Chain Manufacturers Specifications).

The following sections, with the exception of 393.9 (a new section) and 393.75(d) were adopted by reference in Minnesota in 1977 and have been amended by the FHWA since then. The amendments are substantive. Those sections are being readopted in Minnesota in order to maintain uniformity with the federal regulations. Most of the amendments reduce requirements or allow alternative requirements to be met.

Section 393.9 was added by the FHWA in 1982. It requires that lamps work. This corresponds to the requirement in Minnesota Statutes, section 169.47, subdivision 1 that vehicle lamps be in proper operating condition.

Section 393.42 was amended by the FHWA in 1987 after the Congress passed the 1986 Commercial Motor Vehicle Safety Act and directed the FHWA to require commercial motor vehicles manufactured after July 24, 1980, to have operating brakes on all wheels. This requirement is explained and justified in detail in the section of this Statement of Need and Reasonableness that addresses the effect of the rules on small businesses. The department proposes to adopt this regulation to maintain uniformity with the federal regulation.

Section 393.46 prescribes brake tubing requirements. It requires that connections installed on a vehicle on or after January 1, 1981, meet applicable requirements of Federal Motor

Vehicle Safety Standard 106. That standard applies to manufacturers of brake hoses and describes construction and testing requirements.

Section 393.48(b)(iii) is reworded, but there is no change in the requirement. Subsection (b)(2) imposes more specific standards for automatic devices for brake reduction. It is being adopted to maintain uniformity with the federal regulations.

Section 393.60 amends the regulation that prescribes standards for glass used in trucks and buses. The amendments to that section adopted new standards of the American Standard Safety Code for Safety Glazing Material for Motor Vehicles Operating on Land Highways, for vehicles manufactured after January 1, 1981. The amendments are being adopted to maintain uniformity with the federal regulations.

Section 393.75(d) was not adopted by reference in 1977 because it conflicted with a specific Minnesota Rule that prohibited the use of recapped tires on the front wheels of trucks. The federal regulation prohibits recapped tires only on the front wheels of buses. The department is proposing to adopt the federal regulation in order to maintain uniformity with the federal regulations. Over the years, the department has received many complaints from carriers who operate vehicles in both intrastate and interstate service and who object to meeting the stricter state standard. The state requirement imposes higher cost and prevents trucks that meet the federal standard from being used in Minnesota. Therefore, the department is repealing Minnesota Rule 8870.3700, subpart 5, and replacing it with the federal rule. This will ease the burden of compliance for carriers.

Section 393.75 was amended by the FHWA after 1975 to allow the use on front wheels of tires that do not have the tire load rating stamped on the tire if the vehicle is a single unit property carrying vehicle or is operated wholly within the ICC commercial zone. This creates an exception to the prohibition that was to have taken effect on April 1, 1976 under the federal rule.

Section 393.77 was amended by the FHWA to define "heater" to include catalytic heaters and to require that such heaters meet the requirements of the federal hazardous materials transportation regulations when flammable liquid or gas is transported. The hazardous material regulations are adopted in Minnesota as a result of their incorporation by reference in Minnesota Statutes, section 221.033.

Section 393.80 was amended by the FHWA to require rear vision mirrors to meet Federal Motor Vehicle Safety Standard 111. The amendment also allowed mirrors installed before 1981 to continue to be used. This section replaces a Minnesota rule that requires

2 outside rear view mirrors on trucks. The federal regulation that the department proposes to adopt is less strict and requires an outside rear view mirror only on the driver's side if the driver has a view to the rear by means of an interior mirror. This offers users of small lightweight vehicles two ways to comply with the rule.

Section 393.91 is being readopted. It was amended by the FHWA to repeal the requirement that carriers report to the FHWA the number of migrant workers who sat in temporary folding aisle seats in a bus operated by the carrier.

Section 393.94 amended the procedure by which a vehicle was tested for compliance with the federal noise standards. It allows parking the vehicle to allow the engine radiator fan to disengage before testing the vehicle. This amendment is being adopted to maintain uniformity with the federal regulations.

Section 393.95 was amended to repeal the requirement that vehicles carry tire chains. This amended regulation is being adopted to maintain uniformity with the federal regulations. The regulation does not prevent vehicles from carrying tire chains if the carrier chooses to do so.

Subpart 2. Exception; fire extinquisher on lightweight vehicle. This subpart provides that despite the exemption contained in the incorporated federal regulation, section 393.95, the state will require that all lightweight vehicles carry a fire extinguisher. This is not a new requirement and is found in current Minnesota Rule 7800.6000 A., which states that no motor vehicle carrier shall be driven unless it has at least one fire extinguisher properly filled, securely mounted, and available for immediate use.

PART 8500.8250 EQUIPMENT NECESSARY FOR LIVESTOCK CARRIER.

The requirements in this part are not new requirements. They are contained in current Minnesota Rule 7800.4000. The rule is renumbered. In some cases, long sentences have been divided into shorter sentences.

PART 8850.8300 INSPECTION OF MOTOR VEHICLES IN OPERATION.

This is a new rule that requires motor transportation representatives and hazardous material specialists, employees of the Department of Transportation, to use a form called a driver, vehicle and equipment checklist to record the results of motor vehicle inspections. Minnesota Statutes, section 221.221, authorizes these employees to inspect vehicles and records of carriers operating in Minnesota. This rule names the form they use to record inspections. The form and the inspection procedure are already in existence. This rule codifies current practice.

It provides that the same form will be used in every case, thus imparting uniformity to the procedure.

PART 8850.8350 DRIVER, VEHICLE, AND EQUIPMENT CHECKLIST.

Subpart 1. Inspection information required. This subpart lists the information on the checklist used to record a driver, vehicle, and equipment inspection. The items contained on the checklist are identifying information about the carrier, the driver, the commodity carried on the vehicle, and the items inspected and violations discovered. Most of this information must be collected as a condition of the state's participation in the federal Motor Carrier Safety Assistance Program of the Federal Highway Administration. The description of these items promotes uniformity and fairness in the inspection of carriers. It also enables the carrier to retain a record of the inspection in each case so that it will know in what respect the vehicle or driver did not conform to the requirements of the law. The use of this form makes it easier for the Department to regulate the condition of carriers and drivers by providing the Department with a record of each inspection, so that it may monitor the condition of carriers on the road in order to better protect the public.

Subpart 2. Checklist items; defect indication. This subpart requires that the checklist be used to show whether a warning or citation was issued and provides a means of creating a record for the carrier. Listing the law or rule violated also helps the carrier understand, locate and comply with the requirement that was violated.

Subpart 3. Identification of citation or sticker. This subpart requires that the checklist show the number of the citation or out-of-service vehicle sticker. This is a reasonable method of keeping track of inspections, citations and out-of-service stickers issued to vehicles that contain a defect likely to cause a breakdown or an accident. It makes record keeping easier for both the carrier, the department, and the court system that processes the citations.

Subpart 4. Checklist, carrier disposition. This subpart requires the Department of Transportation inspector to give a copy of the checklist to the driver of the vehicle. The driver must sign the checklist to acknowledge receipt of a copy. The driver is also required to give the checklist to the carrier who is responsible for the vehicle. The carrier is required to repair or correct the defects or violations noted on the checklist and to have a responsible official of the carrier sign the checklist and return it to the Department of Transportation within 15 days after the date of issuance. The procedure is necessary to enable the Department to determine that safety violations or defects have been corrected. There would be little

point in issuing citations or warnings under a motor carrier safety program if no attempt were made to determine whether or not the carrier has remedied the defect. This places no undue burden on the carrier, as the law requires the carrier to repair or correct the defect anyway; this procedure allows the Department to monitor the carrier's performance. This is a particularly important requirement in the case of vehicles that are leased to carriers that do not own them. Both state and federal regulations state that the carrier who provides the transportation and receives the payment for it, under whose authority the transportation is provided, is responsible for the operation of the vehicle. This assigns the responsibility for the condition of the vehicle to the carrier that receives the benefit of having provided the transportation.

Subpart 5. Exception. This subpart allows a carrier who has received a vehicle checklist and a citation for a violation to contest the citation and be excused from the requirement that he return the checklist until after the court has acted on his plea of not guilty. This is a reasonable provision because it would be unfair to require a carrier to return a statement saying that he had corrected a defect when he disputes his liability for the violation or the existence of the violation.

Subpart 6. Carrier may take vehicle out of service. This subpart allows the carrier who receives a checklist identifying a defect in his vehicle to remove the vehicle from service instead of repairing it. This is a reasonable requirement because it advances the department's goal of having safe vehicles on the road. That goal can be accomplished by the carrier in one of two ways: either by removing the vehicle from the road, or by repairing the defect before the vehicle goes back to the road. This subpart gives the carrier the option of choosing either method. However, it does require the carrier to repair the defect before returning the vehicle to the highway. This requirement is necessary to protect the public.

PART 8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. Inspector's authority. This subpart acknowledges the fact that Minnesota Statutes, chapter 221 and the rules adopted under it are enforced by many law enforcement personnel in addition to those who are described in section 221.221 and employed by the Commissioner of Transportation. Minnesota Statutes, section 299D.03 authorizes the State Patrol to enforce state law related to the use of trunk highways. Motor carrier safety laws and rules are part of those laws. In addition, section 299D.06 authorizes Law Compliance Representatives of the Department of Public Safety to inspect motor carrier vehicles. Police officers and sheriff department employees also enforce motor carrier safety rules.

Subpart 2. Motor vehicles declared out-of-service. This subpart requires a person authorized to conduct an inspection to place out-of-service a motor vehicle that is likely to cause an accident or breakdown. This is a restatement of a current rule, Minnesota Rule 7800.5200, which provides that any carrier's equipment found not to be in safe operating condition or not to comply with the laws or rules, shall be immediately placed out-of-service by the inspector. This subpart also requires that an out-of-service vehicle sticker be used to mark vehicles that are placed out-of-service. This is a reasonable means of identifying vehicles that have been declared out-of-service so that law enforcement officers who encounter the vehicle on the road, will be able to identify the vehicle and determine whether or not the defect or violation has been corrected.

Subpart 3. Other forms used. This subpart allows persons who are authorized by law other than that governing the inspectors of the Department of Transportation to use whatever forms, checklists or citations that person's agency or law enforcement organization wishes to use. The Department of Transportation does not have authority to prescribe forms used by other agencies and units of government.

The Federal Motor Carrier Safety Assistance Program in which the Departments of Public Safety and Transportation participate requires that the state have procedures for inspecting vehicles and taking unsafe vehicles out of service. Federal motor carrier safety regulation, Code of Federal Regulations, title 49, part 396 prescribes the federally approved method of inspecting and placing vehicles out of service. Because section 396.9 refers to federal agents and agencies, the Department has rewritten that section so that it may carry out the required procedure. Part 8850.8400 describes that procedure and provides that the inspections and enforcement will be conducted by Minnesota officers and agencies.

8850.8500 OUT-OF-SERVICE VEHICLE STICKER.

Subpart 1. Statement required. This part requires that the out-of-service vehicle sticker contain a statement that the vehicle has been declared out of service and may not be operated until it is repaired. The use of this sticker gives notice to the person operating the vehicle as to the conditions under which the vehicle may again be operated. A statement of this type is required by the regulations of the Federal Highway Administration under which the state receives Motor Carrier Safety Assistance Program funds. This sticker is now used in Minnesota. The sticker requirements follow federal regulations in Code of Federal Regulations, title 49, part 396, adopted by reference under Minnesota Rule 7800.4500 in 1977.

Subpart 2. Space for description. This subpart and subparts 3 and 4 describe the information that must be placed on the sticker used to mark an out-of-service vehicle. That information consists of a description of the vehicle in question, a description of the mechanical condition requiring the vehicle to be declared out-of-service and a serial number. This information is necessary in order to identify the defect so the carrier will understand what must be corrected, and to make sure that the sticker is attached to the correct vehicle. The out-of-service sticker on the vehicle identifies the vehicle and provides a record of the action taken by the enforcement officer.

PART 8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. Repair before use. This subpart prohibits a carrier from operating or permitting a person to operate an out-of-service vehicle until it has been repaired. It also contains several exceptions to that prohibition. It allows a vehicle to be moved in the following circumstances: if it is transporting placarded hazardous materials, it may be escorted to a repair facility or safe parking place; if the dangerous condition can be removed by separating the power unit from the trailer, the unit that is not out-of-service may be operated; and if it would be less hazardous to the public to operate the vehicle than to leave it on the highway, the vehicle may be moved only to the nearest place where repairs could be made. These exceptions incorporate exemptions contained in Code of Federal Regulations, title 49, part 396.7(b), adopted by reference in 1977 under Minnesota Rule 7800.4500. In addition, these provisions for out-of-service vehicles are required by the Motor Carrier Safety Assistance Program.

The provision allowing escorted movement of a vehicle transporting hazardous materials is taken from an FHWA policy manual on out-of-service vehicles dated March 29, 1985. The policy requires balancing the risk of escorting the out-of-service vehicle against the danger of leaving such a vehicle on the roadside until it can be repaired. It would often be unwise to attempt to unload or tow a vehicle carrying hazardous cargo and also unwise to leave it where it might be struck. Therefore, the officer must exercise judgement and choose what appears to be the safest course.

PART 8850.8800 INTRASTATE TRANSPORTATION; NOTIFICATION AND REPORTING OF ACCIDENTS

All of the provisions contained in this part are in current rules except for the dollar amount of damage that serves as the threshold in determining when accidents must be reported. With the exception of that dollar threshold, these requirements are now contained in Minnesota Rule 7800.3500.

The threshold dollar amount that requires the submission of an accident report has been raised so that carriers will not be required to make reports for small amounts of damage. The amount of $4400 was chosen because it is the amount contained in the federal motor carrier safety regulations of the Federal Highway Administration. It was chosen so that the state requirements and the federal requirements would be identical and would be easier for carriers to comply with. The exemptions from the requirement of filing a report, such as accidents involving only boarding or alighting from a stationary vehicle, or during loading or unloading of cargo are contained in Code of Federal Regulations, title 49, part 394 and are adopted here for purposes of consistency. There is no reason to require a report in those situations as the accident is not one that affects public safety on the highway. Adopting requirements that match federal requirements will enable carriers that engage in both inter and intrastate commerce to complete the federal form and send a photocopy of it to Mn/DOT.

PART 8850.8850 SAFETY MEASURES IN AN ACCIDENT.

This is not a new rule. This requirement is in effect now as Minnesota Rule 7800.5000. However the language has been somewhat modernized to make it easier to read. It is very similar to Code of Federal Regulations, title 49, part 392.40(b), which requires a driver to take precautions to prevent further accident at the scene.

PART 8850.8900 INTRASTATE TRANSPORTATION; HOURS OF DRIVER SERVICE; FEDERAL RULES.

Subpart 1. Incorporations by reference. This subpart lists those sections of Code of Federal Regulations, title 49, part 395, that will be incorporated by reference in the Minnesota Rules. Most of these sections of part 395 are already incorporated by reference in the current Minnesota Motor Carrier Rules under Minnesota Rule, part 7800.4500. The following sections were adopted by reference in 1977, have not been amended by the FHWA since then, and are being readopted: sections 395.7, 395.10, 395.11, and 395.12.

The following sections were adopted by reference in 1977, have been amended by the FHWA since then and are being readopted as amended. Section 395.2 was adopted by reference under Minnesota Rule 7800.4500. In addition, Minnesota Rule 7800.7300 adopted most of those definitions verbatim. Some of the definitions in section 395.2 have been reworded: "7 consecutive days", "8 consecutive days", "24 hour period", "driving time", "on duty time". The definition of "on duty" now includes any compensated work.

The FHWA changed this definition so that any work done by a driver, whether it is performed for a carrier or not will be counted as on duty time. This change had been sought by the National Transportation Safety Board (NTSB). The amendment reflects the concern of the NTSB and the FHWA that drivers that are employed in full-time or part-time jobs, other than with a motor carrier, also may become fatigued and their ability to safely operate a commercial motor vehicle may be seriously impaired after they have worked many hours at another job. The definition will now include all time that a driver works for all employers. The department agrees with the concern of the federal agencies and proposes to adopt the regulation as amended.

Section 395.3, paragraphs (a) through (c) are now incorporated by reference through Minnesota Rule, part 7800.4500. Subsections (d), (e), and (f) of section 395.3 are not being adopted because they pertain to situations that do not apply in Minnesota, for example, drivers transporting oil field equipment, drivers operating vehicles in Alaska, and drivers operating oil well servicing vehicles.

Section 395.3(a) was reworded but the rule is the same. Subsection (c) has been amended to both expand and restrict the Christmas retail delivery exemption. The FHWA in response to changing shopping habits of consumers has amended the rule to allow carriers that make local deliveries from retail stores and catalog stores between December 10 and 25, to be exempt from the rule that restricts the number of hours that drivers may drive and be on duty. The exemption has been narrowed by limiting the area in which such drivers may make such deliveries to a 100 mile radius from the driver's work reporting location. Most local deliveries are made in a radius of much less than 100 miles. This restriction limits the driver to an area that he is familiar with. It is adopted because it benefits carriers by reducing record keeping and it makes Minnesota exemptions uniform with those in the federal regulation.

Section 395.8 is incorporated by reference under Minnesota Rule 7800.4500 and most of its provisions were also explicitly adopted in current Minnesota Rule 7800.7700. Paragraph (k) (2) is not being adopted because it specifies that a carrier must request the permission of a federal official to keep its records somewhere other than at its principal place of business. This rule is not necessary for intrastate carriers in Minnesota.

Section 395.8 has been amended to delete from the driver's record of duty status (log) four items that the FHWA deemed to be duplicative of other records kept by the driver or carrier. Minnesota now requires carriers to use the driver log book forms prescribed by the FHWA to record their hours of service. Therefore, to reduce record keeping and to enable drivers to continue to use the federal forms, the department will adopt the

amended section 395.8. That section was also amended to clarify subsection (1)(ii) by inserting the word "consecutive" before the word hours. The effect of the rule is the same as it has always been interpreted to refer to consecutive hours.

The federal regulation in section 395.8 that is now being adopted is different from the federal regulation that was incorporated by reference in 1977. In 1977, that rule specified that a driver would be exempt from the record keeping requirements of section 395.8 if he operated within a 50 mile radius of his normal work reporting location, among other things. The Federal Highway Administration has extended this air mile radius to 100 miles, and the state is adopting the new federal provision because it benefits a carrier by allowing the driver to travel farther with fewer record keeping requirements. This is a reasonable amendment because it maintains consistency with the federal regulations and reduces the record keeping burden on businesses.

Section 395.10 is incorporated by reference under Minnesota Rule 7800.4500, and portions of the text of that rule were adopted explicitly in Minnesota Rule 7800.7900. The entire rule is being adopted, although the portion referring to service in Alaska obviously does not apply in Minnesota. The text of section 395.11 dealing with emergency conditions was explicitly adopted in Minnesota Rule 7800.8000. Section 395.12 was explicitly adopted in 7800.8100. Both of these sections continue requirements that are now in effect in Minnesota.

Subpart 2. Limited exemption for lightweight vehicles. This subpart retains and slightly amends an exemption that is contained in current Minnesota Rule 7800.7800. The exemption in section 395.3(c) that was adopted by reference in 1977, was removed from that section by the FHWA and inserted in section 395.1. The department is not adopting section 395.1. Therefore, subpart 2 is adopted in order to retain the exemption from hours of service restrictions and driver log book requirements for lightweight vehicles. The current rule exempts vehicles having two axles and weighing less than 10,000 pounds from the requirement of keeping a driver's log. The amended requirement will exempt vehicles having a registered gross weight of less than 12,001 pounds. The effect of this is that it increases the weight of vehicles that may be exempt from the record keeping requirement. In Minnesota, vehicles are classified according to weight for taxation and many other regulatory purposes. In order to make this requirement consistent with the vehicle registration statutes a weight category up to 12,000 pounds is being adopted for this exemption.

PART 8850.8950 DRIVERS DECLARED OUT-OF-SERVICE.

Subpart 1. Authority to declare drivers out-of-service. This is not a new rule. It restates current Minnesota Rule 7800.8200. It authorizes every law enforcement officer and person authorized under chapter 221 to declare that a driver may not drive any more if the officer finds that the driver has violated the out-of-service criteria. Both federal (section 395.3) and current state motor carrier rules (Minnesota Rules 7800.7400) prohibit drivers from driving after they have been on duty for 15 hours or after they have driven 10 hours. The rules are intended to prevent drivers from driving when they are tired and less attentive. A driver who is found driving in violation of those restrictions is declared out-of-service and may not drive again until he has been off duty for eight consecutive hours.

Subpart 2. Out-of-Service Criteria. This is not a new requirement. This subpart describes requirements that were adopted by reference under Minnesota Rule 7800.4500 in 1977. In addition, current Minnesota Rule 7800.7400 explicitly states the conditions under which a driver may no longer drive. This subpart prohibits a driver from driving more than 10 hours without being off duty for a period of eight hours. A driver who is required by the rule to maintain a log book must keep it current up to the day the log book is examined and for the previous seven days. This requirement is restated from current Minnesota Rule 7800.7700, subpart 2 and from Code of Federal Regulations, title 49, part 395.13(b) adopted by reference under Minnesota Rule 7800.4500.

Subpart 3. This is not a new rule. This rule incorporates a provision in the last sentence of current Minnesota Rule 7800.8200 and Code of Federal Regulations, title 49, part 395.13(c)(1) adopted by reference under Minnesota Rule 7800.4500.

Subpart 4. Form. This part requires a carrier to sign the driver, vehicle, equipment checklist that is given to it after being notified that one of its drivers has driven more hours than are permitted by law. It is reasonable to require a responsible official of the carrier to sign this document and return it so that the Department can be sure that someone who is in charge of the carrier company is reasonably likely to have been informed of the violation. This makes it more likely that the company will enforce the regulations and not allow or require drivers to exceed the maximum hours of service. This requirement is similar to one imposed on interstate carriers by the FHWA under Code of Federal Regulations, title 49, section 395.13(c)(2). The text of the federal regulation is not being adopted by reference because it refers to the Federal Highway Administration and to federal agents. The substance of that regulation however, is being adopted in proposed rule 8850.8950 with the appropriate reference

to a Minnesota agency. This is a reasonable regulation because it promotes consistency with federal regulations.

Subpart 5. Responsibilities of the driver. This subpart prohibits the driver who has been declared out-of-service from operating a vehicle until he may lawfully do so. This is an explicit adoption of a federal rule contained in section 395.13(d) that was adopted by reference under Minnesota Rule 7800.4500 in 1977.

PART 8850.9000 INTRASTATE TRANSPORTATION; INSPECTION, REPAIR AND MAINTENANCE; FEDERAL RULES.

This part adopts by reference most of the sections of Code of Federal Regulations, title 49, part 396. Most of these rules are already adopted by reference under current Minnesota Rule 7800.4500. Since part 395 was adopted in 1977, the FHWA has renumbered and reorganized that part, but the substance of most of the rules is the same. The following sections were adopted by reference in 1977, have not been amended by the FHWA (other than by renumbering), and are being readopted: section 396.5 (formerly 396.3), 396.7 (formerly 396.4), and 396.15 (formerly 396.8).

The following sections were adopted by reference in 1977, have been amended by the FHWA since then, and are being readopted as amended to maintain uniformity with the federal regulations. Section 396.3 (formerly 396.2) required every motor carrier to systematically inspect, repair and maintain its vehicles and to keep records for each vehicle. That section has been amended by the FHWA to exempt from the record keeping requirement vehicles controlled less than 30 days and lightweight vehicles. Vehicles controlled less than 30 days are usually leased vehicles and the carrier will have control of it for a very short time. Lightweight vehicles do not pose the kind of safety problems that larger vehicles do and are usually operated in intercity service and not cross-country. Minnesota will adopt both of those exemptions to reduce paperwork for carriers and to maintain uniformity with the federal regulations. Section 396.11 (formerly 396.7) is very similar to the rule that was in effect in 1977. It has been amended by the FHWA to specify the parts of the vehicle that must be listed on the inspection report prepared by the driver at the completion of the day's work. It retains the same exemptions for lightweight vehicles and carriers operating only one vehicle.

Section 396.13 was adopted by the FHWA in 1979. It requires that before a driver drives a vehicle he must review the last inspection report, be satisfied that the vehicle is in safe operating condition, and if the vehicle had a defect noted on the report, sign the report to certify that the defect was repaired. This rule imposes reasonable requirements on a driver. The

driver should want to know whether defects were reported by the last person who drove the vehicle and whether they were repaired. This assures the safety of the driver and other motorists. Motor carrier vehicles are driven many more miles than ordinary passenger cars and may be driven by many drivers. Having the driver check the inspection report before he takes the vehicle on the road makes it more likely that the vehicle will be safely maintained.

PART 8850.9050 HAZARDOUS MATERIALS; DRIVING AND PARKING; FEDERAL RULES.

Subpart 1. Transporting hazardous materials. This is not a new requirement. It states the current requirement that a person transporting hazardous materials that are required to be placarded must comply with the federal motor carrier safety regulations. This part was adopted under current Minnesota Rule 7800.4500. In addition, Minnesota Statutes, section 221.033, provides that no person may transport hazardous materials except in compliance with the Federal Hazardous Material Transportation Regulations. Code of Federal Regulations, title 49, part 177.804 requires a person transporting hazardous materials to comply with all of the federal motor carrier safety regulations.

Subpart 2. Incorporation by reference. The following sections of part 397 were adopted by reference in 1977, have not been amended by the FHWA since then, and are being readopted: sections 397.5, 397.11, 397.13, 397.15, and 397.17.

The following sections were adopted by reference in 1977, have been amended by the FHWA since then, and are being readopted as amended. Section 397.7 was very slightly reworded without changing any of its requirements. Section 397.9 was amended to exclude vehicles carrying radioactive materials from the prohibitions against traveling near populated areas or through tunnels. Radioactive materials are subject to specific and detailed routing regulations under the federal hazardous material transportation regulations and so are not subject to this rule. Section 397.19 was amended by adding the words "and be in compliance with" to paragraph (c). That section requires drivers of vehicles carrying Class A or B explosives to carry a copy of the federal motor carrier safety regulations, a written route plan, and the carrier's instructions for handling emergencies. The amendment states that the driver must comply with those documents. Those words were added to make the intention of that section clear. These sections contain only minor amendments, none of which add any new compliance requirements. They are being adopted to maintain uniformity with the federal regulations.

Subpart 3. Parking. This is a restatement of current Minnesota Rule 7800.6800. It prohibits a petroleum transport driver from parking in a public and congested place except when necessary to unload.

C. INSURANCE RULES.

Statutory authority for the adoption of insurance rules is found in Minnesota Statutes, section 221.141. Current insurance rules are found in Minnesota Rules, chapter 7805.

PART 8855.0300 DUPLICATES FURNISHED TO COMMISSIONER.

This rule readopts a rule contained in current Minnesota Rule 7805.1600, requiring insurance companies to furnish duplicates of policies upon request by the Commissioner.

PART 8855.0400 CERTIFICATE OF INSURANCE; BOND; FEDERAL FORMS.

This is not a new rule. This rule combines requirements now contained in current Minnesota Rules 7805.1400, 7805.2000, and 7805.2700. It requires an insurance company that insures motor carriers to provide insurance and to cover all vehicles used in the carrier's operation, whether described in the policy or not. It also prescribes the form on which this information must be provided to the Commissioner. This form is now required under each of the insurance rules contained in current Minnesota Rules 7805.1400, 7805.1700, 7805.2000, 7805.2600, 7805.2700 and 7805.3200. In the current Minnesota Rules, there is a separate rule prescribing this requirement for each different kind of Minnesota motor carrier. This rule consolidates all those requirements into one rule. It imposes no new requirements.

PART 8855.0410 FINANCIAL RESPONSIBILITY FOR REGULAR ROUTE COMMON CARRIERS OF PASSENGERS AND CHARTER CARRIERS.

This is not a new rule. It is a readoption of identical requirements contained in current Minnesota Rule 7805.1500.

PART 8855.0450 FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF PROPERTY.

Subpart 1. Amount Required. This is not a new rule. It is a readoption of identical requirements now contained in Minnesota Rule 7805.2100.

Subpart 2. Exception. This is a new rule based on new requirements in state and federal laws. It requires motor carriers that transport hazardous waste, hazardous substances or hazardous materials to comply with requirements imposed on them under federal law and regulations. These requirements are found in the Motor Carrier Act of 1980 (Public Law 96-296, section 30,

as amended by Public Law 97-424, section 406) and Code of Federal Regulations, title 49, section 387.7. The insurance limits required under that section apply to those carriers whether or not the state adopts the requirements. However, under the terms of the Federal Motor Carrier Safety Assistance Program grant, the state has agreed to comply with and adopt substantially all federal regulations relating to the transportation of hazardous materials and hazardous waste. Minnesota Statutes, section 221.035, subdivision 1(c) requires all transporters of hazardous waste to file with the commissioner proof of coverage that complies with the federal requirements.

PART 8855.0500 CARGO SECURITY.

Subparts 1 and 2 amend requirements currently imposed under Minnesota Rule 7805.2200 and 7805.2900. The amount of cargo insurance required for petroleum carriers has been raised from $1,000 or $2,000 to $5,000 to reflect an increase in the value of cargo since the Minnesota Rules were last amended in 1977. In addition, all regular route common carriers who transport passengers and freight will be required to secure the higher limit. Regular route carriers of freight operating vehicles with a rated capacity of more than one and a half tons are now required to file cargo insurance in the amount of $5,000 by part 7805.2200 B.

PART 8855.0600 NAMES ON INSURANCE CERTIFICATES AND BONDS.

This rule requires that certificates of insurance and bonds must be issued in the name of the person or the company whose operations are being insured. This is necessary to avoid confusion about who is being insured. Many companies use "doing business as" names or refer to themselves by shortened forms. As they are all in the transportation business, many businesses have similar names or dbas. It is possible to correctly identify some companies only by obtaining complete names.

PART 8855.0700 CANCELLATION OF INSURANCE: FEDERAL FORMS.

Minnesota Statutes, section 221.141 allows a motor carrier certificate of insurance to be cancelled. It allows the commissioner to prescribe the forms used by the insurer. This is not a new rule, but is a readoption of several current Minnesota Rules that prescribe the form of cancellation notices. Those requirements are found in Minnesota Rules 7805.1700, 7805.2400, 7805.2600 and 7805.3200. They are being consolidated for ease of reference. Minnesota Statutes, section 221.141 prescribes the 30 day period for cancellation notices.

PART 8855.0800 AGGREGATION.

When a motor needs to buy large amounts of liability coverage, for example, $1 million or $5 million to cover hazardous materials hauling, it often obtains coverage from more than one insurer. One company covers losses from zero up to some fixed amount and the second company covers only losses above that amount. When the Interstate Commerce Commission began to allow carriers under its jurisdiction to obtain coverage from more than one insurer, it developed a special filing form, so that the insurer could indicate the extent of its coverage. The department has been accepting these forms at the request of insurance companies, and now proposes to adopt a rule stating that the forms may be filed in Minnesota. In order to make sure that the carrier has obtained the amount of coverage required, the commissioner will aggregate the coverages shown on the forms filed by all of the carrier's insurers. This will codify the current practice. The forms that will be required are the standard forms prescribed by the ICC and used by insurers. The forms can be filed with the ICC and many other states. This makes filing easier for the companies who insure carriers that operate in many states.

VII. REPEALER.

The following rules are being repealed.

Part 7800.0100 Definitions, subpart 2, Exempt carrier. This definition is being repealed because the statutory reference contained in the definition has been repealed. This definition no longer conforms to the use of the term "exempt carrier" in Minnesota Statutes, sections 221.025, and 221.031, subdivision 3.

Part 7800.0100 Definitions, subpart 9, Owner. The substance of this definition is retained in proposed rule 8850.6900, subpart 14.

Part 7800.0100 Definitions, subpart 10, Petroleum transport. The substance of this definition is retained in proposed Rule 8850.6900, subpart 18.

Part 7800.0300 Minimum safety standard. This rule is being repealed because it is not necessary. There is nothing in the law that prohibits a carrier from requiring its business to meet a higher standard of safety than that required by law or rule.

Part 7800.1200 Compliance period. This rule is being repealed because it has been superseded by a conflicting provision in Minnesota Statutes, section 221.122.

Part 7800.1300 Permit and certificate identification. This rule is being repealed because it has been superseded by the

requirement for carrier identification cards contained in Minnesota Statutes, section 221.131. That provision, with respect to identification of carrier vehicles, has been superseded by Minnesota Statutes, section 221.031, subdivision 6.

Part 7800.1900 Violation by petroleum carriers. This rule is being repealed because it is unnecessary. This rule has not once been used by the Commissioner of Transportation in the ten years since the functions of the transportation division of the Public Service Department were transferred to the Commissioner of Transportation.

Part 7800.3500 Report of a carrier accident. This rule is being repealed, but the substance of the rule is retained in proposed rule 8850.8800. The monetary amounts listed in the rule have been amended to conform to the current federal motor carrier safety regulations from which this rule is adapted.

Part 7800.3700 Equipment required on all vehicles. This rule is being repealed, but most of its requirements have been retained in the proposed rules being adopted under part 8850.8200. The requirement in subpart 1, minimum requirements for safety, is retained under proposed rule 8850.9000 and federal motor carrier safety regulations adopted by reference under that part. Subpart 2, lights, subpart 3, brake hose, subpart 4, exhaust system, and subpart 6, outside rear view mirror are being repealed, but the substance of those rules, in much greater detail is found in proposed rule 8850.8200, which incorporates by reference the equipment provisions of Code of Federal Regulations, title 49, part 393. Subpart 5, prohibiting recapped tires on the front wheels of any permit vehicle or petroleum transport is being repealed because the department is unable to justify retention of the rule. The rule is not consistent with the tire rule enforced by the Federal Highway Administration, Bureau of Motor Carrier Safety. The prohibition of operating a vehicle with a tire that has fabric exposed is retained in the federal rules adopted by reference under part 8850.8200.

Part 7800.3800 Recording device on regular route common carrier and petroleum carrier. This rule is being repealed because it is unnecessary. It is similar to rule 7800.1900, which is being repealed.

Part 7800.4000 Equipment necessary for livestock carriers. This rule is being repealed, but the substance of the rule is retained in proposed rule 8850.8250.

Part 7800.4100 Use of livestock carrier for general carriage. This rule is being repealed but the substance of the rule is retained in proposed rule 8850.7950.

Part 7800.4200 Petroleum carriers. This rule is being repealed because most of the requirements in the rule are obsolete. This rule has been replaced by the federal hazardous material transportation regulations, adopted by reference in Minnesota Statutes, section 221.033. Those regulations govern the construction and maintenance of cargo tanks, the mechanical components of the vehicles, the emergency shutoff valves, and the marking and placarding of vehicles transporting flammable products.

Part 7800.4300 Compliance with bumper requirement. This rule is being repealed because it duplicates a section of Minnesota Statutes and its presence in this set of rules is unnecessary.

Part 7800.4400 Driver report of defects in vehicle. The substance of this rule is retained in an incorporation by reference of part 396.11, adopted under proposed rule 8850.9000.

Part 7800.4500 Safety regulations. This rule is being repealed because it is obsolete. The first paragraph states that the safety rules apply to persons engaged in the business of transportation for hire, but that statement has been superseded by various subdivisions of Minnesota Statutes, section 221.031 that prescribe which of the commissioner's rules apply to which kinds of carriers. The incorporation by reference of the federal motor carrier safety regulations, as revised October 1, 1975, is obsolete. The federal regulations adopted by reference in part 7800.4500 will be readopted, section by section, as revised October 1, 1986, under proposed Minnesota Rule, chapter 8850. The third paragraph, adopting by reference the federal hazardous materials transportation regulations has been superseded by a statutory incorporation by reference contained in Minnesota Statutes, section 221.033.

Part 7800.4600 Fire extinguishers. This rule is being repealed, but the requirements of this rule with respect to fire extinguishers are retained in section 395.95 adopted by reference under proposed Rule 8850.8200, subparts 1 and 2. The rule being repealed does not provide an exemption from the fire extinguisher requirement for lightweight vehicles. The requirement that lightweight vehicles carry a fire extinguisher is retained in the proposed rule.

Part 7800.4700 Due caution when driving past fire. This rule is being repealed because it is unnecessary. The substance of the rule is retained in a federal regulation adopted by reference under proposed rule 8850.9050.

Part 7800.4800 Safety requirements for passenger-carrying vehicles. This rule is being repealed, but the various subparts are retained in the new proposed rules. Subpart 1, fueling, is retained in federal regulation sections 392.51 and 392.52,

incorporated by reference under proposed rule 8850.7900. The prohibition contained in subpart 2 is contained in the federal hazardous material transportation regulations adopted by reference under Minnesota Statutes, section 221.033. The provisions with respect to emergency exits in subpart 3 are contained in the federal regulations in section 393.62 and 393.92, adopted by reference under proposed rule 8850.8200. Some of the provisions dealing with boarding and discharge of passengers are adopted by reference and are found in part 393 of the federal motor carrier safety regulations. Other provisions are unnecessary because buses are not constructed so that passengers may be discharged from the left hand side. Subpart 5 requiring heat on the vehicles is also unnecessary because all vehicles are now constructed with heaters. Other rule sections require parts and accessories to be in operating condition. Subpart 6 is being repealed because the rule is not retained in any current federal regulation. The requirement that buses carry a first aid kit was repealed by the federal government in 1982. It is no longer deemed necessary to carry a first aid kit on a for hire bus. Other rules retain the first aid kit requirement for school buses and for vehicles that transport elderly and handicapped persons.

Part 7800.4900 Petroleum transports. Subpart 1 is being amended and retained in proposed rule 8850.8050. Subparts 2 through 9 have been superseded by the adoption of the Federal Hazardous Material Transportation Regulations that are incorporated by reference in Minnesota Statutes, section 221.033.

Part 7800.5000 Safety measures in the event of an accident. This rule is retained in proposed rule 8850.8850.

Part 7800.5100 All vehicles to be in proper working condition. The substance of this rule is retained in federal motor carrier safety regulations contained in section 396.3 and 396.7 and adopted by reference under proposed rule 8850.9000.

Part 7800.5200 Equipment found defective. This rule is retained in proposed rule 8850.8400.

Part 7800.5300 Certification of vehicles meeting the safety standards. This rule is retained in proposed rule 8850.8100.

Part 7800.5400 Qualifications. Most of the provisions of this rule having to do with driver qualifications are retained in proposed rule 8850.7100. See the discussion of proposed rule 8850.7100 in this statement.

Part 7800.5500 Waiver of physical requirements. This rule is being repealed, but the substance of it is retained in proposed rules 8850.7200 through 8850.7675.

Part 7800.5600 Certificate of physical fitness. The substance of this rule is retained in parts 391.41 and 391.45 adopted by reference under proposed rule 8850.7100.

Parts 7800.5700 and 7800.5800 Drinking alcohol, driver's ability impaired. Most of the provisions of these rules are contained in part 392 of the Federal Motor Carrier Safety Regulations adopted by reference under proposed rule 8850.7900. See also the discussion of proposed rule 8850.7900 in this statement.

Part 7800.5900 No passengers unless authorized by a carrier. This rule is retained in section 392.60 adopted by reference under proposed rule 8850.7900.

Part 7800.6000 Emergency equipment. The substance of this rule is retained in section 395.95 adopted by reference under proposed rule 8850.8200.

Parts 7800.6100 and 7800.6200 Driver to report defects and driver to check equipment. The provisions of these rules are retained in sections 396.11 and 396.13 adopted by reference under proposed Rule 8850.9000.

Part 7800.6300 Driver to ascertain course is clear. This rule is to be repealed because it is unnecessary. The requirement contained in this rule is also contained in Minnesota Statutes, chapter 169.

Part 7800.6400 No smoking by driver of petroleum transports. This rule is being repealed because it has been superseded by provisions at the federal hazardous material transportation regulations adopted by reference under Minnesota Statutes, section 221.033.

Part 7800.6500 No reckless driving. The substance of this rule is retained in proposed rule 8850.8000.

Part 7800.6600 Drivers of petroleum transports to avoid congested areas. This rule is being repealed because it is unnecessary and unenforceable. Petroleum transports are driven anywhere there are gas stations so that they may supply the gas stations with petroleum. It is unreasonable to prohibit them from transporting gasoline in congested areas. Other provisions of this rule that restrict them from tunnels, viaducts and dangerous crossings have been superseded by orders or traffic regulations of the Commissioner of Transportation adopted under authority of Minnesota Statutes, section 169.305.

Part 7800.6700 Drivers of petroleum transports to comply with state law. This rule is being repealed because it is unnecessary. Minnesota Statutes, section 221.031, requires all carriers to comply with laws and rules that apply to it.

Part 7800.6800 Parking of petroleum transports in congested areas. This rule is being repealed for the reasons stated under the explanation for the repeal of rule 7800.6600.

Part 7800.6900 Driver to set hand brake. This rule is being repealed because it is duplicative of sections 393.41 and 392.20 adopted by reference under rule 8850.8200 and Minnesota Statutes, section 169.36, which requires the driver to set the brakes before leaving the vehicle.

Part 7800.7000 Engine of petroleum transport shut off while loading and unloading. This paragraph is superseded by the provisions of the federal hazardous material transportation regulations adopted by reference under Minnesota Statutes, section 221.033.

Part 7800.7100 Loading. This rule has been retained as proposed rule 8850.8050.

Part 7800.7200 Compliance with, and knowledge of regulations required. The provisions of this rule are retained in proposed rules 8850.7000 and 8850.7025 and the provisions of Minnesota Statutes, section 221.031.

Parts 7800.7300 Definitions, and 7300.7400 Maximum driving and on duty time. The provisions of these rules are being retained in the sections of part 395, adopted by reference under proposed rule 8850.8900.

Part 7800.7500 Sleeper berth occupation. The substance of this rule is retained in section 392.69 adopted by reference under proposed rule 8850.7900.

Parts 7800.7600, 7800.7700, 7800.7800, 7800.7900, 7800.8000, 7800.8100, all have to do with a driver's hours of service and the driver's daily log. The provisions of all these rules are retained in federal motor carrier safety regulations in part 395, incorporated by reference under proposed rule 8850.8900. See the discussion of recent federal amendments in the discussion of part 8850.8900 in this Statement.

Part 7800.8200 Drivers declared out-of-service. The substance of this rule is retained in proposed rule 8850.8950.

Insurance rules contained in Minnesota Rules, parts 7805.1400 through 7805.3600 are repealed. The substance of each of these rules is being retained in the insurance rules being adopted under proposed rules 8855.0300 through 8855.0850. The provisions of the old rules are being consolidated in the new rules.

Parts 7805.3300, 7805.3400, 7805.3500 Self insurance. These rules are being repealed. Under Minnesota Statutes, chapter 65B.43, only the Insurance Division of the Commerce Department is authorized to allow vehicles to be self-insured. These rules are obsolete.

Part 7805.3600 Insurance and bonding companies must be authorized by Department of Commerce. The substance of this rule is being retained in proposed rule 8855.0850.

Date February 12, 1988

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of the Rules of the State Department of Transportation Governing Motor Carrier Safety and Insurance

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT A PUBLIC HEARING

Notice of the commissioner's intent to adopt the above-entitled rules was published in the State Register on March 7, 1988, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22 on March 4, 1988. In addition, discretionary notice was provided to persons who had attended meetings and legislative hearings about motor carrier safety or who had given their names to representatives of the department during the course of the rulemaking proceeding. The statement of need and reasonableness was prepared and was 2 available to the public before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register.

All persons 4 were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. No written comments were received by the agency. No requests for notice of submission to the Attorney General were received by the agency.

One person telephoned and requested that several modifications be made to the rules. The department has considered that request and proposes those and other modifications to the rules. 5

Based on that request and on the evidence in the record before the agency, I find the following:

The rules as proposed should be modified in the following manner: 6

1. Part 8850.6900, Subpart 8, the definition of "employ" should be modified by adding a comma after the word "require", by then adding the words "to use," and by inserting the word "to" before the word "permit". The definition of "employ" would then read: "Employ" means to require, to use, or to permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle."

This does not change the meaning or substance of the definition. The department believes that the modification is unnecessary, but is willing to make the modification because other persons feel that the definition is clearer with the addition of the words "to

use". This definition is adapted from the definition in the federal motor carrier safety regulations for driver qualifications. Most of those regulations are incorporated by reference in these state rules. The word "employ" is used in the federal regulations and in the state rules to describe a relationship between carriers and drivers that requires carriers to assume responsibility for the compliance of drivers with motor carrier safety rules. Many carriers "use" (hire temporarily, not as regular employees) independent contractors to perform driving duties. Those independent contractors are not employees of the carrier with respect to the laws governing worker's compensation and certain requirements of the Internal Revenue Service. Being independent contractors, they have a different legal status with respect to tax and certain insurance laws than "employees" of the carrier. Some persons fear that the definition of "employ" as proposed does not make it clear that "employ" is a term of art in these rules and does not signify the traditional employer-employee relationship. The word "employ" is defined to include "permitting or requiring a person to drive in furtherance of the carrier's business." Therefore, the department agrees to add the words "to use" (meaning to use a person to drive in furtherance of the carrier's business) in order to allay fears that the Department of Labor and Industry and the Internal Revenue Service might construe the definition of "employ" to require a carrier to assume other legal obligations of employers in addition to the duty to be responsible for the safe operation of the carrier business. This is not a substantial change within the meaning of Minnesota Rule 2010.1000 D. The change is merely a clarification. It does not affect persons who could not have been expected to comment and it does not introduce new subject matter.

2. These rules incorporate by reference many federal motor carrier safety and Interstate Commerce Commission regulations. The federal regulations are amended frequently by the federal agencies, and are recodified and republished every year as of October 1, in Title 49 of the Code of Federal Regulations (CFR). The annual October 1 recodification includes all amendments that were adopted by the federal agencies and became effective after the recodification on the preceding October 1.

When the final draft of these proposed permanent rules was prepared for publication, the new annual volumes of the Code of Federal Regulations referred to in these rules had been prepared by the U.S. Government Printing Office, but they were not available for purchase. Therefore, whenever a federal regulation was incorporated by reference in a proposed Minnesota Rule, the reference was to last year's codification, which had a revision date of October 1, 1986. Where the department proposed to adopt federal amendments that were made after October 1, 1986, the amended federal regulations as published in the Federal Register were adopted and the Federal Register was cited. Regulations that were amended and took effect between October 1, 1986 and October 1, 1987 are now contained in Title 49 of the Code of

Federal Regulations, revised as of October 1, 1987. Those volumes are now available to the public. With the exception of the Federal Register amendments described in part 8850.8900, subpart 1, all the federal amendments cited to the Federal Register have been incorporated into the October 1, 1987 revision of Title 49 of the Code of Federal Regulations. The other sections of the Code of Federal Regulations that were incorporated into the Minnesota rules and cited to the CFR with a revision date of October 1, 1986, were not amended between October 1, 1986 and October 1, 1987 and have been recodified by the federal agencies without amendment as of October 1, 1987.

Therefore, in order to avoid requiring persons to examine both the CFR and the Federal Register, the department wishes to amend all the incorporations by reference of the CFR as of October 1, 1986, to read "as amended through October 1, 1987." In all cases the regulation in the 1987 revision is identical to the regulation in the 1986 revision or the amended or new regulation that was cited to the Federal Register has been codified in the 1987 CFR. This does not change the text of the rule or regulation; it merely changes the citation to one that is more easily found by the public. This modification is found in the following parts: 8850.7100, 8850.7200; 8850.7350; 8850.7600; 8850.7900; 8850.8200; 8850.8800; 8850.8900; 8850.9000; 8850.9050; 8855.0400; 8855.0500; 8855.0700; 8855.0800.

3. Rule 8850.7100, subpart 3, is modified by adding the words "except as provided in that section" at the end of the first sentence. The sentence would read "Drivers of vehicles subject to Minnesota Statutes, section 221.033, must be at least 21 years of age except as provided in that section." The addition of that phrase acknowledges the statutory exemption from driver qualification requirements (including age) for farmers in certain cases described in the statute. It does not change the meaning or effect of the rule or the statute.

4. Rule 8855.0410 is modified by amending the first sentence to read: "A regular route common carrier of passengers or a charter carrier must obtain or cause to be obtained the following minimum amount of coverage against public liability:"

5. Rule 8855.0450, subpart 1, is modified by amending the first sentence to read: "Motor carriers of property operating under a certificate or permit issued by the board shall obtain or cause to be obtained coverage against public liability in the following amounts:"

6. Rule 8855.0450, subpart 2, is modified by amending the sentence to read: "Motor carriers of property that transport hazardous waste, hazardous substances, or hazardous materials in the quantities described in Code of Federal Regulations, title 49, section 387.7, shall obtain or cause to be obtained minimum coverage against public liability as required in that section."

7. Rule 8855.0500, subpart 1, is modified by amending the sentence to read: "Each petroleum carrier and each regular route common carrier of freight shall obtain or cause to be obtained cargo insurance or bond in the amount of $5,000 and shall have its insurer file a cargo certificate of insurance or bond with the commissioner."

Each of those modifications is related to the change in the definition of "employ". The modifications are needed to make it clear that an independent contractor who leases himself and his truck to a motor carrier may obtain the insurance or bond for the motor carrier in the name of the motor carrier. This is the current practice, but it is not codified. These are not substantial changes from the proposed rule within the meaning of Minnesota Rule 2010.1000 D. The requirement that a motor carrier have insurance covering its operations is unchanged. The addition of the phrase "or cause to be obtained" would allow a carrier to make an agreement with an independent contractor under which the independent contractor would agree to purchase the insurance in the name of the carrier. This is desired by independent contractor truckers who desire to maintain their independent status as "non-employees." The Minnesota Department of Labor and Industry has adopted Minnesota Rule 5224.0290. It states, in subpart 2, that in the trucking industry, an owner-operator of a truck is an independent contractor, not an employee, if that individual, among other things, "bears the principal burden of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road." (emphasis added) This does not change the requirement that a carrier must have insurance and that insurance must be filed in the carrier's name. These changes merely allow the carrier and the independent contractor to make an agreement as to who will purchase and pay for the insurance. The changes do not impose the insurance requirement on anyone but the carrier; they allow another person to obtain it for the carrier if the parties agree. This is important to independent contractors who work for motor carriers because they wish to preserve their independent status. Obtaining insurance to cover their provision of transportation service while under contract to a motor carrier is part of the evidence of their independent status.

The modifications are not substantial changes. The modifications were requested in a meeting with a person who represents the persons affected by the rule. The changes do not introduce new subject matter or make a change that was not raised by the proposed rule in such a way as to invite reaction. These changes were raised by the original proposed rule and they provide an option for the carrier and the independent contractor.

The above-captioned rules are needed and reasonable. 8

NOW, THEREFORE, IT IS ORDERED that the rules identified as Proposed Permanent Rules Relating to Motor Carrier Safety and Insurance as modified are adopted this 22nd day of April, 1988, pursuant to authority vested in me by Minnesota Statutes, sections 221.031 and 221.141.



LEONARD W. LEVINE
Commissioner

The Minnesota Department of Human Services requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing.

Written statements should be addressed to:

Alice Weck
Rules Unit
Department of Human Services
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received over the telephone at 612/297-1461 between the hours of 9:00 a.m. and 4:00 p.m. on working days.

All statements of information and comment will be accepted until further notice. Any written material received by the Department of Human Services shall become part of the hearing record.

Department of Transportation; and Transportation Regulation Board

Outside Opinion Sought Concerning Proposed Rules Governing Operations of Motor Carriers and Motor Carrier Tariff, Accounting and Insurance Rules

Notice of Intent to Solicit Outside Opinion—Draft of Rules Available

Notice is hereby given that the Minnesota Department of Transportation and the Transportation Regulation Board are seeking information or opinions from sources outside of the Department and Board in preparing to amend rules governing the operation of motor carriers including their facilities, accounts, service, safety devices, insurance, recordkeeping, form and manner of filing rates and tariffs and the transportation of hazardous materials by any person.

The adoption and amendment of these rules is authorized by Minnesota Statutes §§ 221.031, subd. 1, 221.141 and 221.161, subds. 1 and 2 which require the Department to adopt the rules described above and by the following sections which authorize the Board to adopt rules: section 221.031, subd. 1, related to rates or tariffs or the granting, limiting or modifying of certificates of convenience and necessity and permits; sections 221.061 and 221.121 related to petitions for certificates; 221.151, subd. 1 and 221.296, subd. 8 related to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier or local cartage carrier; sections 221.041 and 221.161, related to rates, charges and practices; and sections 221.051 and 221.251. The rules now in effect were originally adopted by the Railroad and Warehouse Commission, and the Minnesota Public Service Commission between 1947 and 1977. Those rules are now published in Minnesota Rules, Chapters 7800 and 7805.

The Minnesota Department of Transportation and Transportation Regulation Board have a preliminary draft of proposed amended motor carrier rules available for public review. The draft is about 130 pages long, is accompanied by a table of contents and will be mailed to you free of charge at your request. The draft contains many definitions, and sections on applications for, and transfer of, all types of permits and certificates authorized in Minn. Stat. Chapter 221. It also addresses leasing of vehicles and drivers to motor carriers and private carriers, tariff requirements for motor carriers, and safety regulations including driver qualifications, maximum hours of service, and equipment requirements applicable to all carriers.

On July 18, 1983, the Minnesota Department of Transportation and the Public Utilities Commission, the predecessor of the Transportation Regulation Board, published a joint Notice of Intent to Solicit Public Opinion in the *State Register*. The Notice requested that any interested person offer suggestions to the Department and Commission regarding amendment of rules governing the operation of motor carriers including their facilities, accounts, service, safety, equipment, insurance, record keeping, form and manner of filing rates and tariffs, and the transportation of hazardous material. Please note that Minnesota Statutes, § 221.031 also makes certain safety rules applicable to some private and exempt carriers.

The largest section of the draft, 60 pages, prescribes specific rules for filing tariffs. The rules are based on the ICC tariff rules but have been modified to reflect different local circumstances.

The safety rules specifically adopt, section number by section number, most of the Federal Motor Carrier Safety Regulations, Code of Federal Regulations, title 49, parts 390-397.

This is not a notice of proposed adoption of rules. This is an opportunity for you to review the proposed rules in advance of that notice and to comment on them. After the Department and Board publish the rules and the notice of proposed adoption in the *State Register* this summer, it will become difficult to make changes in the draft. Therefore, if you are interested in these rules, please call or write and request a copy of the rules.

For a free copy of the proposed rules and further information, please call:

1. Gordon Boldt, Director
   Office of Motor Carrier Safety and Compliance
   416 Transportation Building
   St. Paul, Minnesota 55155
   (612) 296-0331

   or

2. Connie Geisenhoff
   Office of Motor Carrier Safety and Compliance
   416 Transportation Building
   St. Paul, Minnesota 55155
   (612) 296-7109

   or

3. Betsy Parker
   Room 815 Transportation Building
   Minnesota Department of Transportation
   St. Paul, Minnesota 55155
   (612) 297-2913

The Minnesota Department of Transportation and the Transportation Regulation Board request information and comments from interested or affected persons or groups. Comments may be made orally over the telephone, or in person, or in writing. Written statements should be addressed to:

Betsy Parker
Room 815 Transportation Building
Minnesota Department of Transportation
St. Paul, Minnesota 55155
(612) 297-2913

Oral statements will be received during regular business hours over the telephone at (612) 297-2913 or (612) 296-0331 and in person at the above address.

All statements of information and comment shall be accepted until March 17, 1986. Any written material received by the Department of Transportation and Transportation Regulation Board shall become part of the record in the event that the rules are promulgated.

Comments and statements will be considered by both the Department and the Board.

If you are not on our official agency mailing list, you may also wish to ask that your name and address be added to the Department or Board mailing list so that you will receive notice of future hearings on this subject.

February 2, 1986

Roger A. Laufenburger
Chairman
Transportation Regulation Board

February 3, 1986

Richard P. Braun
Commissioner
Department of Transportation

CABLE COMMUNICATIONS BOARD has 1 vacancy open for a public member. The board establishes rules and standards for cable communications in the state; approves service territories; provides consultant services; and represents the state before the federal communication commission. Members are appointed by the Governor and confirmed by the Senate. Members must file with EPB and may not be employed by or have financial interest in any cable communications company or subsidiaries. No more than 4 members may be of the same political party. Monthly meetings are held. Members receive $35 per diem plus expenses. For specific information contact the Cable Communications Board, 500 Rice Street, St. Paul 55101; (612) 296-2545.

APPRENTICESHIP ADVISORY COUNCIL has 1 vacancy open for an employee member. The council proposes occupational classifications and minimum standards for apprenticeship programs and agreements; and advises the Commissioner of Labor and Industry. Members are appointed by the Commissioner. Quarterly meetings are held. Members receive $35 per diem plus expenses. For specific information contact the Apprenticeship Advisory Council, 561 Space Center Bldg., 444 Lafayette Road, St. Paul 55101; (612) 296-2371.

Department of Transportation

Proposed Amendment of Rules Governing Operations of Motor Carriers and Motor Carrier Tariff, Accounting and Insurance Rules

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Transportation is seeking information or opinions from sources outside of the department in preparing to amend rules governing the operation of motor carriers including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, safety devices, insurance, recordkeeping, form and manner of filing rates and tariffs and the transportation of hazardous materials by any person. The adoption or amendment of these rules is authorized by Minnesota Statutes §§ 221.031, subd. 1; 221.151, subds. 1 and 2; 221.296, subd. 2; which require the department to adopt the rules described above. The rules now in effect were originally adopted by the Public Service Commission and are cited as PSC 1 through 7 and PSC 40 through 48.

The Minnesota Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Betsy Parker
Motor Carrier Safety and Compliance Office
Minnesota Department of Transportation
404 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-7108 and in person at the above address.

All statements of information and comment shall be accepted until March 31, 1983. Any written material received by the Department of Transportation shall become part of the record in the event that rules are amended or adopted.

Dated this 20th day of January 1983.

Richard P. Braun
Commissioner of Transportation

77-124:	Kuritza Slough	20, 21, 28, 29	130(Hartford)	33
77-125:	Gadzukes Slough	28, 29	130(Hartford)	33
77-158:	North Twin Lake	25	127(Kandota)	34
77-175:	Shady Grove Marsh	35	129(Reynolds)	34
77-198:	Unnamed	12	129(Leslie)	35
77-205:	Powers Lake	22, 23, 26, 27	130(Burleene)	35
*77-221:	Unnamed	21, 28	127(Grey Eagle)	32
77-264:	Unnamed	25	127(Kandota)	34
77-290:	Watership Downs	15	131(Turtle Creek)	32
77-292:	Unnamed	1	131(Turtle Creek)	32
77-293:	Unnamed	1	131(Turtle Creek)	32
77-303:	Unnamed	1, 2	129(Long Prairie)	33
77-304:	Unnamed	14, 23	131(Ward)	33
77-306:	Unnamed	1, 2	131 Ward)	33
77-318:	Unnamed	2, 11	128(Little Sauk)	34
77-325:	Unnamed	9, 16	128(Gordon)	35
77-337:	Unnamed	18; 13	127(Grey Eagle; Birchdale)	32; 33

* late petition.

Within 60 days following completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which shall be considered the decision of an agency in a contested case for purposes of judicial review pursuant to Minn. Stat. §§ 14.63 to 14.69 (1982).

Any activity that would change the course, current or cross-section of public waters or wetlands requires a permit from the Commissioner of Natural Resources. Minn. Stat. § 105.42, subd. 1 (1980). Designation as public waters or wetlands does not transfer ownership of the bed or shore, does not grant the public any greater right of access to those waters than was available prior to designation and does not prevent a landowner from utilizing the bed of those waters for pasture or cropland during periods of drought. Minn. Stat. § 105.391, subds. 10 and 12 (1980).

All petitioners may be represented by counsel or anyone else of their choosing and shall be given an opportunity to be heard orally, to present and cross-examine witnesses and to submit written data, statements or arguments. Petitioners should bring all evidence bearing on these matters including maps, records or other documents.

Failure to attend may result in the challenged waters being designated public waters or wetlands and may prejudice your rights in this and subsequent proceedings.

Questions concerning this Notice and Order may be directed to any member of the hearings unit or to:

David B. Milles
DNR—Division of Waters
Third Floor, Space Center Building
444 Lafayette Road
St. Paul, MN 55101
Telephone: 612/296-0516.

July 8, 1983

Joseph N. Alexander, Commissioner
Department of Natural Resources

Department of Transportation and Public Utilities Commission

Proposed Amendment of Rules Governing Operations of Motor Carriers and Motor Carrier Tariff, Accounting and Insurance Rules

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Minnesota Department of Transportation and the Minnesota Public Utilities Commission are seeking information or opinions from sources outside of the department and commission in preparing to amend rules governing the operation of motor carriers including their facilities, accounts, service, safety devices, insurance, recordkeeping, form and

manner of filing rates and tariffs and the transportation of hazardous materials by any person. The adoption of amendment of these rules is authorized by Minnesota Statutes §§ 221.031, subd. 1; 221.161, subds. 1 and 2; 221.296, subd. 2; which require the department to adopt the rules described above and by the following sections which authorize the Commission to adopt rules: section 221.031, subd. 1, related to rates or tariffs or the granting, limiting or modifying of certificates of convenience and necessity and permits; section 221.061 related to petitions of certificates; 221.151, subd. 1 and 221.296, subd. 8 related to the sale, assignment, pledge, or other transfer of a stock interest in a corporation holding authority to operate as a permit carrier or local cartage carrier; sections 221.041, and 221.161, related to rates, charges and practices; section 221.296, subd. 2 related to rates, tariffs, or the granting, limiting, or modifying of permits or certificates of convenience and necessity and sections 221.051, and 221.251. The rules now in effect were originally adopted by the Minnesota Public Service Commission and are cited as PSC 1 through 7 and PSC 40 through 48.

A Notice of Intent to Solicit Outside Opinion in this matter was published at 7 *State Register*, page 1131, on January 31, 1983 by the Department of Transportation. This notice is being published to initiate a joint rulemaking proceeding by the Minnesota Department of Transportation and the Minnesota Public Utilities Commission. Joint rulemaking will facilitate amendment of the PSC rules which were originally adopted and enforced by one agency, but which now may be enforced by both the department and the commission. In order to fully comply with the requirement that agencies amend only those rules which they have been granted authority to amend, this joint proceeding is begun. The current rules embody the duties and functions of both the department and commission in one set of rules. The duties and functions of the agencies and the obligations of motor carriers cannot be separated, defined, amended or repealed in a comprehensive fashion without the participation of both agencies.

When the Transportation Regulation Board is appointed and established, the functions of the Public Utilities Commission will be transferred to and continued by that board.

Laws 1983, chapter 371, section 43 provides:

> Duties, functions, and powers granted to the transportation regulation board under Laws 1980, Chapter 534, as amended by Laws 1981, Chapter 357, Section 108, and this act are assumed by and remain with the public utilities commission until the board is established and appointed by the governor under Laws 1980, Chapter 534, Section 1.

Therefore, the Minnesota Department of Transportation and the Minnesota Public Utilities Commission request information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Betsy Parker
Motor Carrier Safety and Compliance Office
Minnesota Department of Transportation
404 Transportation Building
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at 612/296-7108 and in person at the above address. All comments and statements will be considered by both the department and the commission.

All statements of information and comment will be accepted until August 30, 1983. Any written material received by the Department of Transportation and the Public Utilities Commission will become part of the record in the event that rules are amended or adopted.

Dated this 11th day of July, 1983.

Richard P. Braun
Commissioner of Transportation
Randall D. Young
Executive Secretary,
Public Utilities Commission

Olmsted County Court

Notice of Change of Law Library Fee

Pursuant to Minn. Stat. § 140.422, the law library fee was changed from $5.00 to $10.00 in all cases except Conciliation Court cases, where it remains at $5.00.

This change is effective in Olmsted County as of July 1, 1983.

RECEIVED
MAR 7 1988
ADMINISTRATIVE
HEARINGS

Department of Transportation

Proposed Permanent Rules Relating to Motor Carrier Safety

Rules as Proposed (all new material)

8850.6900 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise provided, the terms used in parts 8850.6900 to 8850.9050 and 8855.0300 to 8855.0850 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Minnesota Transportation Regulation Board.

Subp. 3. **Carrier.** "Carrier" includes motor carriers, private carriers, exempt carriers engaged in intrastate commerce, and for-hire and private carriers engaged in interstate commerce.

Subp. 4. **Certificate.** "Certificate" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 7.

Subp. 5. **Certificate of insurance.** "Certificate of insurance" means the document issued by an insurer that states that the insurer provides the coverage required by Minnesota Statutes, section 221.141.

Subp. 6. **Charter carrier.** "Charter carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 21.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 8. **Employ.** "Employ" means to require or permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle.

Subp. 9. **Exempt carrier.** "Exempt carrier" means a carrier described in Minnesota Statutes, section 221.025.

Subp. 10. **Interstate carrier.** "Interstate carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 13.

Subp. 11. **Lightweight vehicle.** "Lightweight vehicle," for

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purposes of parts 8850.7025 to 8850.9050, means a vehicle with a manufacturer's gross vehicle weight rating of 12,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subp. 12. **Livestock carrier.** "Livestock carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 24.

Subp. 13. **Motor carrier.** "Motor carrier" means a carrier operating for hire under authority of Minnesota Statutes, chapter 221 and, for purposes of this chapter, does not include interstate carriers.

Subp. 14. **Owner.** "Owner" means a person to whom a certificate of title to equipment has been issued, or who has lawful possession of equipment.

Subp. 15. **Permit.** "Permit" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 8.

Subp. 16. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 6.

Subp. 17. **Petroleum carrier.** "Petroleum carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 10.

Subp. 18. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel-supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subp. 19. **Private carrier.** "Private carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 26.

Subp. 20. **Regular route common carrier.** "Regular route common carrier" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 9.

Subp. 21. **Responsible official.** "Responsible official"

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means an officer or the owner of the applicant or carrier or a person to whom authority to sign applications, renewals, and other documents filed by the applicant or carrier has been delegated in writing by the owner or the board of directors.

Subp. 22. **Vehicle.** "Vehicle" has the meaning given it in Minnesota Statutes, section 221.011, subdivision 3.

8850.7000 INTERSTATE TRANSPORTATION; SAFETY RULES.

Interstate carriers and private carriers providing interstate transportation service using vehicles licensed and registered for a gross weight of more than 12,000 pounds must comply with and are subject to parts 8850.8050, 8850.8300, 8850.8350, 8850.8400, 8850.8500, 8850.8550, and 8850.8950.

8850.7025 INTRASTATE TRANSPORTATION; SAFETY RULES; COMPLIANCE REQUIRED.

Intrastate motor carriers, and private carriers and exempt carriers providing intrastate transportation, must comply with parts 8850.7040 to 8850.9050 to the extent required by Minnesota Statutes, chapter 221. Every carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, equipping, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with those parts, and shall require that its agents, representatives, drivers, and employees comply.

8850.7040 INTRASTATE TRANSPORTATION; DRIVER QUALIFICATIONS.

A private carrier who is subject to driver qualification rules, and a motor carrier are responsible for hiring, supervising, training, assigning, and dispatching drivers. Private carriers who are subject to driver qualification rules, motor carriers, and their officers, agents, representatives, or employees shall not drive, or allow one of their vehicles to be driven unless the driver has the minimum qualifications required by parts 8850.7100 and 8850.7200. A carrier who is self-employed as a driver must comply with both the rules that

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apply to carriers and the rules that apply to drivers.

8850.7100 INTRASTATE DRIVER QUALIFICATIONS; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, subtitle B, chapter III, subchapter B, sections 391.5; 391.11, paragraphs (a) and (b)(2) to (b)(12); 391.15 to 391.45; 391.51, paragraphs (a) to (e) and (h); 391.61; 391.63; and 391.65; and appendices C and D, as revised through October 1, 1986, and amendments to sections 391.11, paragraph (b); 391.21, paragraph (b); 391.27; and appendices D and E, found at Federal Register, volume 52, pages 20589 and 20590, are incorporated by reference except for certain cross-references in Code of Federal Regulations, title 49, sections 391.11 to 391.65 listed in subpart 2.

Subp. 2. **Exceptions.** References to Code of Federal Regulations, title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, are not incorporated by reference by this part.

Subp. 3. **Age requirement.** Drivers of vehicles subject to Minnesota Statutes, section 221.033, must be at least 21 years of age. Drivers of vehicles engaged in intrastate transportation and subject to driver qualification rules under Minnesota Statutes, section 221.031, must be at least 18 years of age.

Subp. 4. **Location of driver qualification files.** A carrier subject to driver qualification requirements must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier subject to this part may retain driver qualification files at a regional or terminal office.

8850.7200 INTRASTATE DRIVER QUALIFICATIONS; WAIVER FOR PHYSICAL

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DEFECTS.

A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), as amended through October 1, 1986, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle if the commissioner grants a waiver to that person under parts 8850.7200 to 8850.7675. Parts 8850.7200 to 8850.7700 apply only to drivers providing intrastate transportation.

8850.7250 INTRASTATE TRANSPORTATION; WAIVER APPLICATION SUBMISSION.

Subpart 1. **Joint submission.** A letter of application for a waiver under part 8850.7200 may be submitted jointly by the driver applicant who seeks a waiver of the physical disqualification and by the carrier that will employ the driver applicant if the application is granted. The application must be submitted to the Office of Motor Carrier Safety and Compliance, Minnesota Department of Transportation.

Subp. 2. **By driver applicant.** A letter of application for a waiver may be submitted by a driver applicant alone. The driver applicant shall comply with the requirements of part 8850.7300, except item A, subitem (1). The driver applicant shall provide the information in part 8850.7300, item B, if the information is known to the driver.

8850.7300 WAIVER APPLICATION CONTENTS.

A letter of application for a waiver under part 8850.7200 must contain:

A. the name and address of the applicant, including:

(1) the name and complete address of the carrier coapplicant;

(2) the name and complete address of the driver applicant; and

(3) a description of the driver applicant's limb impairment for which a waiver is requested;

B. a description of the type of operation the driver will be employed to perform, including:

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(1) the average period of time the driver will be driving and on duty, per day;

(2) the type of commodities or cargo to be transported; and

(3) whether the driver operation is conducted as a sleeper team, relay, owner operator, or otherwise;

C. the number of years the driver has operated the type of vehicle for which a waiver is requested and the total years of experience operating all types of motor vehicles;

D. a description of the vehicle that the driver applicant intends to drive, including:

(1) the truck or truck-tractor make, model, and year;

(2) the drive train, including:

(a) whether the transmission type is automatic or manual and, if manual, the number of forward speeds;

(b) auxiliary transmission, if any, and number of forward speeds; and

(c) rear axle designation, whether single speed, 2-speed, or 3-speed;

(3) the type of brake system;

(4) the steering, whether manual or power assisted;

(5) a description of type of trailers, such as van, flatbed, cargo tank, drop frame, lowboy, or pole;

(6) the number of semitrailers or full trailers to be towed at one time; and

(7) a description of any vehicle modification made for the driver applicant and a photograph of the modification;

E. a certification that the driver is otherwise qualified, as follows:

(1) certification by the coapplicant carrier that the driver applicant is otherwise qualified under part 8850.7100; and

(2) in the case of a driver applicant,

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certification by the driver applicant that the applicant is otherwise qualified under part 8850.7100; and

F. the signature of the applicant as follows:

(1) the driver applicant's signature and date signed; and

(2) if the application has a coapplicant, the carrier official's signature, the official's title, and the date signed. The official who signs the application must be a responsible official of the carrier.

8850.7350 DOCUMENTS ACCOMPANYING WAIVER APPLICATION.

The letter of application for a waiver under part 8850.7200 must be accompanied by:

A. A copy of the results of the medical examination performed according to Code of Federal Regulations, title 49, section 391.43, as amended through October 1, 1986.

B. A copy of the medical certificate completed according to Code of Federal Regulations, title 49, section 391.43, paragraph (e), as amended through October 1, 1986.

C. A medical evaluation summary completed by either a board-qualified or board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(1) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1986, must include:

(a) an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; and

(b) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each

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upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

(2) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, 1986, must include:

(a) how and why the impairment interferes with the driver's ability to perform normal tasks associated with operating a commercial motor vehicle;

(b) an assessment and medical opinion of whether the condition is likely to remain medically stable over the driver applicant's lifetime; and

(c) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

D. A description of the prosthetic or orthotic device worn by the driver applicant, if any.

E. A copy of the driver applicant's road test administered by the carrier coapplicant and the certificate issued under Code of Federal Regulations, title 49, section 391.31, paragraphs (b) to (g), as amended through October 1, 1986. A driver applicant is responsible for having a road test administered by a carrier or a person competent to administer the test and evaluate its results.

F. A copy of the driver applicant's application for employment completed according to Code of Federal Regulations, title 49, section 391.21, as revised through October 1, 1986, amended at Federal Register, volume 52, page 20589. A driver applicant is responsible for submitting a copy of the employment application for the last commercial driving position held by the applicant. If not previously employed as a commercial driver,

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the driver applicant must so state.

G. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state where the driver had a motor vehicle driver's license or permit.

8850.7400 AGREEMENT.

A carrier that employs a driver with a waiver under part 8850.7200 agrees to:

A. evaluate the driver granted a waiver for those nondriving, safety-related job tasks associated with the type of trailer to be used and any other nondriving, safety-related or job-related tasks unique to the operations of the employing carrier;

B. use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver; and

C. file documents and information with the commissioner within 30 days of the occurrence of the following events: a violation of a motor vehicle and motor carrier law or rule; an accident; an arrest; a license suspension, revocation, or withdrawal; and a conviction that involves the driver applicant. This item applies whether the driver's waiver is a unilateral one or has a coapplicant carrier.

8850.7450 DRIVER SUPPLIES COPY.

The driver shall give each employing carrier a copy of the waiver.

8850.7500 EVALUATION OF DRIVER'S ABILITY.

The commissioner may require a driver applying for a waiver under part 8850.7200 to demonstrate ability to safely operate the motor vehicle the applicant intends to drive. During the demonstration, the driver's ability to perform pretrip and posttrip inspections and driving performance must be evaluated. Nondriving, safety-related tasks or other nondriving tasks unique to the type of trailer or other carrier operation must not be evaluated during this demonstration.

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8850.7550 EXTENT OF WAIVER.

The commissioner may deny the application for waiver under part 8850.7200 or may grant it totally or in part and may issue the waiver subject to terms, conditions, and limitations deemed consistent with the public interest. A waiver is valid for a period not longer than two years from the date of issue and may be renewed 30 days before the expiration date.

The commissioner shall grant or deny the waiver in writing within 30 days from the date that the required information has been submitted.

A denial of the waiver must state the reason for the denial.

8850.7600 WAIVER RENEWAL APPLICATION; REQUIRED INFORMATION.

The application to renew a waiver granted under part 8850.7200 must be submitted to the commissioner. It must contain:

A. the name and complete address of the carrier currently employing the applicant;

B. the name and complete address of the driver;

C. the effective date of the current waiver;

D. the expiration date of the current waiver;

E. the total miles driven under the current waiver;

F. the number of accidents incurred by the driver while driving under the current waiver, including the date of the accident, the number of fatalities, the number of injuries, and the estimated dollar amount of property damage;

G. the driver's signature and date signed;

H. the carrier coapplicant's signature and date signed;

I. notification of a change in the type of vehicle the driver will operate;

J. a copy of the driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;

K. a current medical examination report; and

L. a medical evaluation summary according to part

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8850.7350, item C, if an unstable medical condition exists. Handicapped conditions classified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1986, are considered unstable. A board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon shall determine whether a condition described in Code of Federal Regulations, title 49, part 391.41, paragraph (b)(2), as amended through October 1, 1986, is medically stable.

8850.7650 ON GRANTING WAIVER.

On granting a waiver under part 8850.7200, the commissioner shall notify the driver applicant, and coapplicant carrier if applicable, by letter. The terms, conditions, and limitations of the waiver must be set forth. A carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver must be kept in the carrier's file for three years after the driver's employment is terminated. The driver applicant shall have the waiver or a legible copy of the waiver in possession while on duty.

8850.7675 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.

Subpart 1. **Applications.** Applications for determination of a driver's medical qualifications under standards in this part must conform to the requirements of this subpart.

A. The application must contain the name and address of the driver, motor carrier, and the physicians involved in the proceeding.

B. The applicant shall submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

C. The applicant shall submit a copy of an opinion and report, including the results of tests, of an impartial medical specialist in the field in which the medical conflict arose. The specialist must be one agreed to by the motor carrier and the driver.

D. If the driver refuses to agree on a specialist and

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the applicant is the motor carrier, the applicant shall submit a statement of agreement to submit the matter to an impartial medical specialist in the field, proof that the applicant has asked the driver to submit to the medical specialist, and the response, if any, of the driver to the request.

E. If the motor carrier refuses to agree on a medical specialist, the driver shall submit an opinion and test results of an impartial medical specialist, proof that the driver has asked the motor carrier to agree to submit the matter to the medical specialist, and the response, if any, of the motor carrier to the request.

F. The applicant shall include a statement explaining in detail why the decision of the medical specialist identified in item C is unacceptable.

G. The applicant shall submit proof that the medical specialist mentioned in item C was provided, before the specialist's determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

H. The applicant shall submit the medical history and statement of work provided to the medical specialist under item G.

I. The applicant shall submit the medical records and statements of the physicians who have given opinions on the driver's qualifications.

J. The applicant shall submit a description and a copy of the written and documentary evidence upon which the party making the application relies.

K. The application must be accompanied by the driver's statement of intent to drive in intrastate commerce or a statement that the carrier has used or intends to use the driver for such work.

L. The applicant shall submit three copies of the application and records.

Subp. 2. **Information.** The commissioner may request further information from the applicant if the commissioner determines that a decision cannot be made on the evidence

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submitted.

Subp. 3. **Parties.** For the purposes of this part, a party includes the motor carrier and the driver, or anyone else submitting an application.

Subp. 4. **Action.** The commissioner shall make a determination after a hearing has been held under Minnesota Statutes, chapter 14. The decision of the commissioner may be appealed in the manner provided in chapter 14.

8850.7700 REVOCATION.

The commissioner may revoke a waiver only after the person to whom it was issued is given notice of the proposed revocation and has been allowed an opportunity for hearing under Minnesota Statutes, chapter 14.

8850.7750 FALSE INFORMATION.

Falsifying information in the letter of application, information in the renewal application, or information required by a medical evaluation, by either the applicant or carrier, is prohibited.

8850.7900 INTRASTATE TRANSPORTATION; MOTOR VEHICLE SAFETY; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 392.3 to 392.25; 392.30, paragraph (b); and 392.31 to 392.69, as revised through October 1, 1986; and amendments to section 392.5, found at Federal Register, volume 52, page 27201, are incorporated by reference.

8850.7950 USE OF LIVESTOCK VEHICLE FOR GENERAL CARRIAGE.

A carrier shall not transport general commodities in a motor vehicle used for the transportation of livestock unless the motor vehicle has been cleaned and washed. A livestock motor vehicle must not be used for the transportation of household goods and food for human consumption unless it has been cleaned, washed, and disinfected.

8850.8000 NO RECKLESS DRIVING.

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A petroleum transport must not be driven recklessly, or so as to endanger life, limb, or property.

8850.8050 LOADING AND UNLOADING OF PETROLEUM TRANSPORT.

Subpart 1. **Loading.** During loading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but not in the vehicle cab or other enclosure.

Subp. 2. **Unloading.** During unloading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but must not be in an enclosure or in the cab of the vehicle. The fire extinguisher must be out of the vehicle's carrying device, must be ready for instant use, and must be 15 feet or more from the cargo tank.

8850.8100 VEHICLE IDENTIFICATION CARD APPLICATION.

An application for a vehicle identification card must have a statement signed by the motor carrier applicant that the vehicle to which the card is issued will be operated in compliance with the safety rules of the commissioner.

8850.8200 INTRASTATE TRANSPORTATION; EQUIPMENT; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 393.9 to 393.106, as revised through October 1, 1986, and amendments to those sections found at Federal Register, volume 52, pages 2803 and 2804 are incorporated by reference.

Subp. 2. **Exception; fire extinguisher on lightweight vehicle.** Notwithstanding subpart 1 and Code of Federal Regulations, title 49, section 393.95, first paragraph, every lightweight vehicle must carry a fire extinguisher that complies with the requirements of section 393.95.

8850.8250 EQUIPMENT NECESSARY FOR LIVESTOCK CARRIER.

Subpart 1. **Partitioning of vehicle.** When vehicles carry livestock, each kind of livestock must be partitioned. Calves and sheep may be carried in the same compartment; likewise, calves and cows. Large hogs must be partitioned from pigs. Bulls, horned cattle, or unruly cattle must be securely tied or

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partitioned from other cattle. When less than a full load is carried, partitions must be used so that the animals are comfortably carried without jostling and falling.

Subp. 2. **Equipment in vehicles.** Spare tires or other articles not used in the handling of livestock must not be carried in a compartment that also contains livestock. So far as practicable, racks and partitions must be free from projections that might injure the animals carried. Racks and partitions must not be carried outside of the truck except when securely fastened on the right side of the truck.

Subp. 3. **Upper decks and ramps.** Upper decks used to transport livestock must at all times be clear of the animals standing below. Cleated inclines or ramps must be provided for the loading or unloading of upper decks.

Subp. 4. **Floors.** Floors of vehicles carrying livestock must be cleated, bedded, or sanded sufficiently to prevent slipping. Bedding may consist of shavings, straw, sand, fine gravel, sawdust, or other practical material.

Subp. 5. **Weather conditions.** During the period from June 15 to September 15 of each year and at other times when necessary, livestock must be covered to protect them from the sun. During the period from November 1 to March 31 livestock carried must be covered and otherwise sheltered to protect them from inclement weather.

Subp. 6. **Number of animals in vehicle.** Livestock must not be loaded into a motor vehicle in such numbers as to cause injury or death to an animal.

8850.8300 INSPECTION OF MOTOR VEHICLES IN OPERATION.

The driver, vehicle, and equipment compliance checklist must be used to record results of motor vehicle inspections conducted by motor transportation representatives and hazardous material specialists of the Minnesota Department of Transportation.

8850.8350 DRIVER, VEHICLE, AND EQUIPMENT CHECKLIST.

Subpart 1. **Inspection information required.** Motor

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transportation representatives and hazardous material specialists shall complete a driver, vehicle, and equipment checklist for each vehicle inspected. The checklist must contain space for the following information:

A. the place of inspection;

B. the name of the carrier;

C. the street address, municipality, state, and zip code of the carrier;

D. the file number if the carrier is a motor carrier;

E. the date and time of inspection;

F. the commodity carried on the vehicle;

G. a description of the shipping documents carried by the driver and the date and number on the documents;

H. the name and address of the shipper and the consignee;

I. the name, address, birth date, and driver's license number of the driver;

J. the name and address of the vehicle lessor, if any;

K. the power unit number, year, license plate number, and unit number of the vehicle;

L. the weight class of the power unit;

M. the unit number and the license plate number of the towed unit, if any;

N. vehicle configuration; and

O. whether the inspection was a complete or partial safety inspection or was an inspection to determine compliance with economic regulation.

Subp. 2. **Checklist items; defect indication.** The checklist must be used to show whether a warning or a citation was issued for a defect or violation and whether a defect or violation resulted in the vehicle being declared out of service. The checklist must describe the violation of state or federal law or rule for which a warning or citation was issued.

Subp. 3. **Identification of citation or sticker.** The checklist must show the number of a citation or "out-of-service vehicle" sticker that was issued.

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Subp. 4. **Checklist, carrier disposition.** The motor transportation representative or hazardous material specialist shall give a copy of the checklist to the driver of the vehicle. The driver shall sign the checklist to acknowledge receipt of a copy of it. The driver shall present the checklist to the carrier responsible for the operation of the vehicle on arrival at the carrier's next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the carrier within 24 hours, the driver shall immediately mail the checklist to the carrier. The carrier shall examine the checklist. The carrier must repair or correct the defects or violations noted on the checklist and a responsible official of the carrier must date and sign the checklist. The copy of the checklist given to the driver must be returned by the carrier to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance, within 15 days after the date of issuance. A person shall not sign the certification of repair unless the vehicle has been repaired as required.

Subp. 5. **Exception.** A carrier (1) to whom a checklist was issued, (2) who received a citation for a violation described on the checklist, and (3) who enters or intends to enter a plea of not guilty on the charge, is not required to repair the defects, certify the repairs, and return the checklist to the Minnesota Department of Transportation unless the court proceedings on the charge have been completed. However, if the vehicle has been declared and marked out of service, the carrier may operate the vehicle only under the conditions described in part 8850.8550.

Subp. 6. **Carrier may take vehicle out of service.** A carrier who receives a checklist that lists defects that must be repaired may temporarily place the vehicle out of service instead of repairing the defects. The carrier must notify the commissioner in writing within 15 days of the issuance of the checklist that it is placing the vehicle out of service. The carrier must repair the defects and sign and return the checklist to the commissioner before using the vehicle on the highway.

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8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. **Inspector's authority.** Every person authorized by Minnesota Statutes, chapter 221 or by other law, to enforce chapter 221 and rules of the commissioner and board adopted under authority of chapter 221, may inspect vehicles subject to chapter 221.

Subp. 2. **Motor vehicles declared out of service.** An authorized person described in subpart 1 shall place out of service a motor vehicle that, because of its mechanical condition or loading, is likely to cause an accident or a breakdown. An "out-of-service vehicle" sticker must be used to mark vehicles that are placed out of service by a motor transportation representative or hazardous material specialist.

Subp. 3. **Other forms used.** An authorized person described in subpart 1 who is not employed by the Minnesota Department of Transportation may use citations, checklists, warning tickets, report forms, and "out-of-service vehicle" stickers prescribed by the agency or law enforcement organization employing that person.

8850.8500 "OUT-OF-SERVICE VEHICLE" STICKER.

Subpart 1. **Statement required.** The "out-of-service vehicle" sticker used by the Minnesota Department of Transportation must contain the following statement:

> "Out-of-service vehicle. This vehicle has been declared out of service by the Minnesota Department of Transportation. This vehicle must not be operated until repaired. This sticker may be removed only under the conditions stated on the out-of-service notice. The person responsible for unauthorized removal is liable to penalty under Minnesota Statutes, section 221.291. A person shall not remove this sticker or operate this vehicle until the repairs listed below are completed."

Subp. 2. **Space for description.** The "out-of-service vehicle" sticker must contain space for the motor transportation representative or hazardous material specialist to describe the mechanical condition requiring the vehicle to be declared out of service.

Subp. 3. **Information required.** The sticker must contain the following information:

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A. the make of the power unit;

B. the model year of the power unit;

C. the unit number of the power unit;

D. the power unit license number;

E. the towed unit license number;

F. the make of the towed unit, if known;

G. the unit number of the trailer;

H. the signature of the driver of the vehicle in the space provided; and

I. the signature of the motor transportation representative or hazardous material specialist in the space provided.

Subp. 4. **Serial numbering.** The "out-of-service vehicle" stickers must be serially numbered.

8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. **Repair before use.** Except as provided in subpart 2, a carrier shall not require or permit a person to operate nor shall a person operate a motor vehicle declared and marked out of service until the repairs required by the out-of-service notice have been satisfactorily completed. In this subpart, "operate" includes towing the vehicle, except that vehicles marked out of service may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and the out-of-service vehicle must not be operated unless the combination meets the performance requirements of this chapter except for those conditions noted on the driver, vehicle, and equipment compliance checklist.

Subp. 2. **Exception.** A vehicle with an out-of-service defect may be moved under its own power to a place of repair only in the following circumstances:

A. A vehicle transporting hazardous materials requiring the vehicle to be placarded may be escorted to a repair facility or safe parking place.

B. When the imminently hazardous condition is one

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that is automatically removed by the disconnection of the power unit from the towed unit, the unit that is not out of service may be operated.

C. If it is less hazardous to the public to operate the vehicle than to permit it to remain on the highway, the vehicle may be operated only to the nearest place where repairs can be made safely.

Subp. 3. **Prohibition.** A person shall not remove the "out-of-service vehicle" sticker from a motor vehicle before completion of the repairs required by the out-of-service notice.

8850.8800 INTRASTATE TRANSPORTATION; NOTIFICATION AND REPORTING OF ACCIDENTS.

Subpart 1. **When required.** A motor carrier shall report an accident that results in the death of a human being, bodily injury to a person who receives medical treatment away from the scene, or total damage to property totaling $4,400 or more based on actual costs or reliable estimates.

Subp. 2. **Boarding or alighting; unloading.** A motor carrier is not required to report an accident that involves only boarding and alighting from a stationary motor vehicle or loading or unloading cargo unless a report is required under Minnesota Statutes, section 221.034.

Subp. 3. **Accident report form; incorporations.** Accidents resulting in death, requiring medical attention away from the scene, or causing property damage totaling $4,400 or more, must be reported to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance. A written report of the accident must be filed at the Office of Motor Carrier Safety and Compliance within 30 days after the accident. The report must be filed on the form required by the United States Department of Transportation described in Code of Federal Regulations, title 49, section 394.9, paragraph (a), as revised through October 1, 1986, which is incorporated by reference. The form must be completed as required by Code of Federal Regulations, title 49, section 394.20, as revised through

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October 1, 1986, which is incorporated by reference.

Subp. 4. **Driving record review.** A motor carrier shall review the driving record of a driver involved in an accident.

8850.8850 SAFETY MEASURES IN AN ACCIDENT.

When a carrier vehicle is involved in an accident, the driver shall, if possible, use every available means to prevent people from gathering near the scene, to prevent smoking, to keep flame away, to safeguard against the aggravation of the hazard present, and to warn other users of the highway.

8850.8900 INTRASTATE TRANSPORTATION; HOURS OF DRIVER SERVICE; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 395.2; 395.3, paragraphs (a) to (c); 395.7; 395.8, paragraphs (a) to (k)(1), (k)(3), and (l)(1); and 395.10 to 395.12, as revised through October 1, 1986; and amendments to sections 395.2, 395.3, and 395.8 found at Federal Register, volume 52, pages 41721 and 41722, are incorporated by reference except for the cross-reference to paragraph (e) in section 395.3, paragraph (a). The cross-reference to paragraph (e) in section 395.3, paragraph (a), is not incorporated by reference.

Subp. 2. **Limited exemption for lightweight vehicles.** Notwithstanding subpart 1 and part 8850.7025, the requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), do not apply to lightweight vehicles.

8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by Minnesota Statutes, chapter 221, or by other law, to enforce chapter 221 and the rules of the commissioner and board adopted under authority of that chapter is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the

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out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty-status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has been declared out of service shall not operate a motor vehicle until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor

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vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

8850.9000 INTRASTATE TRANSPORTATION; INSPECTION, REPAIR, AND MAINTENANCE; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 396.3 to 396.7, 396.11, 396.13, and 396.15, as revised through October 1, 1986, are incorporated by reference.

8850.9050 HAZARDOUS MATERIALS; DRIVING AND PARKING; FEDERAL RULES.

Subpart 1. **Transporting hazardous materials.** A person who transports hazardous materials shall comply with this part and parts 8850.7000 to 8850.9000 when that person is transporting a hazardous material, hazardous waste, or hazardous substance that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in Minnesota Statutes, section 221.033.

Subp. 2. **Incorporation by reference.** Code of Federal Regulations, title 49, sections 397.5 to 397.19, as revised through October 1, 1986, are incorporated by reference.

Subp. 3. **Parking.** A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

8855.0300 DUPLICATES FURNISHED TO COMMISSIONER.

A motor carrier or interstate carrier shall furnish to the commissioner a duplicate of its public liability and cargo policies and endorsements when requested by the commissioner.

8855.0400 CERTIFICATE OF INSURANCE; BOND; FEDERAL FORMS.

An insurance company that provides insurance against public liability and property damage for a motor carrier operating under a permit or certificate or for an interstate carrier shall cover all motor vehicles used in the motor carrier's operations whether specifically described in the policy or not. The insurance company shall file with the commissioner either a

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certificate of insurance naming each motor carrier insured on form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference, or the forms prescribed in part 8855.0800.

In lieu of an insurance certificate, a bond may be filed on form G, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

8855.0410 FINANCIAL RESPONSIBILITY FOR REGULAR ROUTE COMMON CARRIERS OF PASSENGERS AND CHARTER CARRIERS.

A regular route common carrier of passengers or a charter carrier must obtain the following minimum amount of coverage against public liability:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for loss or damage to property of others, $50,000; and

C. limit for injury to or death of all persons injured or killed in any one accident:

(1) seating capacity of 12 passengers or less, $300,000;

(2) seating capacity of 13 to 20 passengers, $350,000;

(3) seating capacity of 21 to 32 passengers, $400,000; or

(4) seating capacity of 33 passengers or more, $450,000.

8855.0450 FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF PROPERTY.

Subpart 1. **Amount required.** Motor carriers of property operating under a certificate or permit issued by the board shall obtain coverage against public liability in the following

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amounts:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for bodily injury to or death of all persons in any one accident, $300,000; and

C. limit for loss or damage to property of others, other than cargo, $50,000.

Subp. 2. **Exception.** Motor carriers of property that transport hazardous waste, hazardous substances, or hazardous materials in the quantities described in Code of Federal Regulations, title 49, section 387.7, shall obtain minimum coverage against public liability as required in that section.

8855.0500 CARGO SECURITY.

Subpart 1. **Insurance or bond required.** Each petroleum carrier and each regular route common carrier of freight shall obtain cargo insurance or bond in the amount of $5,000 and shall have its insurer file a cargo certificate of insurance or bond with the commissioner.

Subp. 2. **Federal forms, incorporations by reference.** Each insurance company insuring cargo shall file a cargo certificate of insurance, form H, "Uniform Motor Cargo Certificate of Insurance," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, or a cargo bond on form J, described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which are both incorporated by reference.

8855.0600 NAMES ON INSURANCE CERTIFICATES AND BONDS.

Certificates of insurance and bonds must be issued in the full and correct name of the person, corporation, or partnership whose operations are being insured.

8855.0700 CANCELLATION OF INSURANCE; FEDERAL FORMS.

A certificate of insurance or bond for public liability and a certificate of insurance or bond for cargo security may be canceled.

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The insurer shall cancel certificates of insurance for public liability or cargo insurance by filing with the commissioner a form K, "Uniform Notice of Cancellation of Motor Carrier Insurance Policies," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

The insurer shall cancel surety bonds for public liability or cargo insurance by filing with the commissioner a form L, "Uniform Notice of Cancellation of Motor Carrier Surety Bonds," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

A cancellation notice takes effect 30 days from the day the notice is received by the commissioner.

8855.0800 AGGREGATION OF INSURANCE.

When insurance is provided by more than one insurer to aggregate coverage required under Minnesota Statutes, chapter 221, each insurer shall file form BMC 91X described in Code of Federal Regulations, title 49, section 1043.7, paragraph (a)(3), as amended through October 1, 1986, which is incorporated by reference.

8855.0850 INSURANCE AND BONDING COMPANIES MUST BE AUTHORIZED BY DEPARTMENT OF COMMERCE.

Insurance companies or bonding companies who file certificates of insurance or bonds with the commissioner must be authorized and registered with the Department of Commerce, to do business in the state of Minnesota.

REPEALER. Minnesota Rules, parts 7800.0100, subparts 2, 9, and 10; 7800.0300; 7800.1200; 7800.1300; 7800.1900; 7800.3500; 7800.3700; 7800.3800; 7800.4000; 7800.4100; 7800.4200; 7800.4300; 7800.4400; 7800.4500; 7800.4600; 7800.4700; 7800.4800; 7800.4900; 7800.5000; 7800.5100; 7800.5200; 7800.5300; 7800.5400; 7800.5500; 7800.5600; 7800.5700; 7800.5800; 7800.5900; 7800.6000; 7800.6100; 7800.6200; 7800.6300; 7800.6400; 7800.6500; 7800.6600; 7800.6700;

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7800.6800; 7800.6900; 7800.7000; 7800.7100; 7800.7200; 7800.7300; 7800.7400; 7800.7500; 7800.7600; 7800.7700; 7800.7800; 7800.7900; 7800.8000; 7800.8100; 7800.8200; 7805.1400; 7805.1500; 7805.1600; 7805.1700; 7805.1800; 7805.1900; 7805.2000; 7805.2100; 7805.2200; 7805.2300; 7805.2400; 7805.2500; 7805.2600; 7805.2700; 7805.2800; 7805.2900; 7805.3000; 7805.3100; 7805.3200; 7805.3300; 7805.3400; 7805.3500; and 7805.3600 are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Motor Carrier Safety

AGENCY: Department of Transportation

MINNESOTA RULES: Chapters 7800; 7805; 8850; and 8855

The attached rules are approved for publication in the State Register

Ron Ray

Ron Ray
Assistant Revisor

RULE REVIEW CHECKLIST

File No. 1477

Docket No. 05.0009.0780 ~~0811~~

DATE RECEIVED 4/26/88

ADOPTED W/O HEARING X

REVIEW DATE 5/5/88

EMERGENCY RULE _____

DUE DATE 5/10/88

REVISOR APPROVED _____

APPROVED _____

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. STATE _____

WITHDRAWN 5-6-88

RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)

2/10/86 Date published in State Register

yes Comments

____ ~~Petition for Adoption of a Rule (if applicable)~~

____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

221.031 + 221.14 Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

N/A Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

3/4/88 Date (30)/25 days before adoption

✓ Notice attached cancel

_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

3/7/88 Date (30)/25 days before adoption

____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of FAct, Conclusions & Order Adopting

4/22/88 Date

____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

John Galus Name of SAAG representing agency

____ ~~Notice of Submission to Attorney General (if applicable)~~

____ ~~Affidavit of Mailing Notice to Attorney General (if applicable)~~

88 ZC

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Governing Motor Carrier Safety and Insurance

ORDER WITHDRAWING RULES

On April 26, 1988, the Minnesota Department of Transportation submitted permanent rules governing motor carrier safety and insurance to the Attorney General for review as to legality under Minnesota Statutes, section 14.26 and Minnesota Rule 2010.0300. Pursuant to Minnesota Rule 2010.1100, I now order those rules to be withdrawn from review by the Attorney General this 5-6-88 day of May, 1988.

LEONARD W. LEVINE
Commissioner

DEPARTMENT OF TRANSPORTATION
STATE OF MINNESOTA

In the Matter of the
Proposed Adoption
of Rules Governing Motor
Carrier Safety and
Insurance

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING.

Notice is hereby given that the State Department of Transportation intends to adopt the above entitled rule without a public hearing following the procedures for adopting rules without a public hearing set forth in Minnesota Statutes, Sections 14.22 to 14.28. The specific statutory authority to adopt the rules is Minnesota Statutes, Section 221.031 and Section 221.141.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, Sections 14.131 to 14.20. PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30 DAY COMMENT PERIOD, A HEARING WILL BE HELD ON THURSDAY, APRIL 21, 1988, AT 9:00 A.M., IN THE TRB HEARING ROOM, 2ND FLOOR, MINNESOTA ADMINISTRATIVE TRUCK CENTER, LIVESTOCK EXCHANGE BUILDING, 100 STOCKYARDS ROAD, SOUTH ST. PAUL, MINNESOTA, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES, PUBLISHED IN THIS ISSUE OF THE STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE MINNESOTA DEPARTMENT OF TRANSPORTATION. TO VERIFY WHETHER OR NOT A HEARING WILL BE HELD, YOU MUST CALL THE DEPARTMENT OF TRANSPORTATION BETWEEN APRIL 18 AND APRIL 20, 1988, AT 612-297-2913 OR 612-296-7109.

Comments or written requests for a public hearing must be submitted to:

Elizabeth M. Parker
Minnesota Department of Transportation
Room 815 Transportation Building
St. Paul, Minnesota 55155.
(612) 297-2913.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 6, 1988.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from Elizabeth M. Parker at the address noted above.

A copy of the proposed rule may be viewed at the Department of Transportation, Motor Carrier Safety and Compliance Office, Minnesota Administrative Truck Center, Livestock Exchange Building, 100 Stockyards Road, South St. Paul, Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Elizabeth M. Parker upon request.

The adoption of these rules will not require the expenditure of money by local public bodies within the meaning of Minnesota Statutes, Section 14.11. The proposed rules will not have an effect on agricultural land. The rules will not impose "costs mandated by the state," or require a local agency or school district to take action that incurs costs mandated by the state within the meaning of Minnesota Statutes, Section 3.982. The rules impose no fees.

The Department has considered the impact of these rules on small businesses in compliance with Minnesota Statutes, Section 14.115, Subdivision 2. A majority of the trucking businesses and other businesses that use trucks are small businesses within the meaning of that statute. The proposed rules are amendments to current insurance and safety rules. They are basically the same rules that are now in effect in Minnesota Rules Chapters 7800 and 7805. All the rules have been renumbered. Some rules have been rewritten to modernize the language. Some rules have been amended to maintain uniformity with the Federal Motor Carrier Safety Regulations, a major goal since 1940 when the federal regulations were first adopted by reference in Minnesota. Some of the federal rules are amended by the Federal Highway Administration every year, and the entire set of Federal Motor

Carrier Safety Regulations is recodified as of October 1, each year. The state motor carrier safety rules were last amended in 1977. Therefore, Minnesota must readopt the most current federal regulations in order to maintain uniformity with the federal regulations. Some rules will be repealed because they are obsolete and not consistent with federal regulations.

The Department wishes to conform as closely as possible to the federal regulations. Many trucks are used in both interstate and intrastate transportation service. Those trucks must comply with both state and federal regulations. The more nearly alike that the Minnesota safety rules are to the federal regulations, the less the burden on carriers, especially small carriers that can't afford a large staff to make sure that the carrier will comply with different sets of rules and record keeping requirements. Mn/DOT has made every effort to readopt safety rules that are as nearly uniform as possible with those of the federal government and the other states, in order to minimize the burden on small carriers that may operate trucks across borders.

The Legislature has exempted certain businesses that use trucks from certain motor carrier safety rules. It has also specifically stated what rules must be complied with by the various kinds of users of trucks, i.e., motor carriers, private carriers and exempt carriers. The exemptions and requirements are contained in Minnesota Statutes, Section 221.031, Subdivisions 1, 2, 2a, 3, and 6. Section 221.031, subdivision 1, makes motor carriers (regulated for-hire carriers) subject to all the safety requirements. However, Subdivisions 2, 2a, and 3 exempt the operation of certain private carrier and for-hire exempt carrier trucks from compliance with driver qualification rules and driver hours of service rules.

The need to regulate truck safety depends more on the size and the use of the truck than on the size of the business. Many of the federal rule sections proposed to be readopted contain exemptions for vehicles that weigh less than 10,000 pounds. These exemptions will be adopted in Minnesota, but the weight threshold will be increased to 12,000 pounds to correspond with Minnesota vehicle registration laws.

The repeal of certain Minnesota rules and the adoption of amended federal rules will make compliance easier and less expensive in certain cases. For example, the department proposes to repeal the current Minnesota rule that prohibits a person who has lost a finger from driving a commercial vehicle. The department will adopt the federal rule which is performance based, and which requires consideration of whether a driver's limb impairment will affect his ability to drive safely instead of flatly prohibiting driving with certain impairments. Four other minor changes are made to the driver qualification rules to conform them to the new federal regulations that govern licensing of commercial drivers. Those regulations are paperwork requirements, are not unduly burdensome and will be imposed by the state driver licensing agencies under federal driver licensing standards as well as under the motor carrier safety rules.

With respect to rules that govern operation of vehicles, the department proposes to repeal the current Minnesota rule that requires all vehicles to carry reflective triangles or other warning devices. The department will adopt the federal regulation that exempts lightweight vehicles from that requirement. This will eliminate a compliance requirement for businesses that use small vehicles. Many courier service businesses use only lightweight vehicles and so will be exempt from that requirement. The department will also repeal the Minnesota rule that prohibits fueling of buses while passengers are on board and will adopt the less restrictive federal rule that allows fueling as long as it is not done in a closed space.

Five current vehicle equipment rules are being repealed and replaced with less restrictive federal rules. Those rules repeal the requirement that buses carry first aid kits, repeal the requirement that trucks carry tire chains, allow the use of catalytic heaters, repeal the Minnesota rule requiring two outside rear vision mirrors and replace it with the federal regulation that requires only one if the driver has a view to the rear by means of an interior mirror, and repeal the current Minnesota rule that prohibits the use of recapped tires on the front wheels of trucks. Minnesota will adopt the federal rule that prohibits recapped tires only on the front wheels of buses.

The department is proposing to adopt an amended federal regulation that will impose an additional burden and cost on intrastate motor carriers. That regulation already applies to interstate carriers by operation of federal law. The department proposes to adopt that regulation for application to intrastate carriers. In 1986, the Congress passed the Commercial Motor Vehicle Safety Act of 1986 (P.L.99-570), which requires that all commercial vehicles manufactured after July 24, 1980 have brakes operating on all wheels. That law also required the Federal Highway Administration to adopt a regulation requiring that all commercial vehicles manufactured after July 24, 1980, and lacking operating front wheel brakes be retrofitted within one year of the date of enactment of P.L. 99-570. The FHWA did adopt the regulation and now requires that all commercial vehicles over 10,000 pounds that were manufactured after July 24, 1980, have operating brakes on all wheels by February 28, 1988. The Congress and the FHWA acted after research and braking demonstrations conducted by the FHWA and the National Highway Traffic Safety Administration of the USDOT showed that trucks that are equipped with properly operating brakes on all wheels have shorter stopping distances and are more easily controlled.

It is not clear from the definition of "commercial vehicle" enacted by the Congress and adopted by the FHWA whether intrastate vehicles are included. For purposes of the application of the driver licensing sections of the 1986 Commercial Motor Vehicle Safety Act, vehicles that do not leave a state but that "are used in trade, traffic, and transportation" that affects interstate trade, traffic, and transportation are

included. This issue is less clear with respect to the federal application of the new brake rule. Therefore, because the department wishes to be uniform with the FHWA, and because federal tests have shown that brakes operating on all wheels increase the safety of vehicles, it is proposing to adopt the federal regulation for application to vehicles in intrastate commerce in Minnesota. The regulation will require that vehicles over 10,000 pounds gross weight that were manufactured after July 24, 1980, have properly operating brakes on all wheels. The FHWA has estimated that the cost of complying with this requirement will be $300 to $1000 per vehicle. The cost of compliance will vary depending on the type and condition of the vehicle.

The rule that governs driver hours of service will be amended to enlarge the exemption from the requirement that drivers record their hours of service in a logbook. The current Minnesota rule exempts drivers who drive wholly within a 50 mile radius of their work reporting location. That rule will be repealed and replaced by the federal rule that allows a 100 mile exemption. Minnesota livestock truckers will also be affected by the repeal of the Minnesota rule. The current rule exempts livestock truckers from compliance with the logbook rule. The repeal of the current rule will make any livestock trucker who drives beyond the 100 mile radius subject to the requirement that he record his hours of service in a logbook. The effect of this rule is to treat Minnesota permit livestock carriers the same as other Minnesota permit carriers. Federal studies have shown that driver fatigue and inattention are associated with an increased accident rate. The requirement that drivers record their driving hours enables enforcement personnel to monitor the drivers' hours of driving and to enforce the rules limiting the number of hours that a driver may drive in a 24 hour period. Without the logbook it is difficult to enforce the hours of service rules. Because livestock truckers may be on the road many hours and drive vehicles over 12,000 pounds, they should be subject to the same safety rules as other truckers in the same situation. There is no cost associated with the imposition of this requirement other than the cost of purchasing a logbook. This is a negligible cost. The records then must be maintained at the trucker's place of business for six months. This is a very minimal requirement.

The department also proposes to adopt the amended federal rule that exempts retail store drivers from the hours of service limitations at Christmas time. The amended rule clarifies that drivers who deliver packages from catalog stores are also eligible for the exemption, and it adds a 100 air mile radius limitation to the exemption. The expansion of the exemption to include the local delivery of catalog store merchandise should benefit carriers by reducing record keeping.

The department is proposing to adopt several amended federal regulations that apply to the inspection, repair and maintenance of vehicles. Part 396 of the federal motor carrier safety

regulations requires that motor carrier vehicles be systematically inspected, repaired and maintained by the carrier. Part 396 prescribes the procedures that a carrier must follow to make sure that vehicles are maintained. When the Minnesota motor carrier rules were last amended in 1977, the federal regulations that were in effect in October 1975 were adopted and are still in effect in Minnesota. A Minnesota rule exempted motor carriers that operate only one vehicle from the requirement that the driver complete a vehicle defect report at the end of each day. Another Minnesota rule restated that requirement without the exemption for carriers operating only one vehicle. The department intends to adopt all the federal regulations that apply to maintenance. These regulations provide exemptions from maintenance record keeping for carriers that operate vehicles that they control for less than 30 days (leased vehicles) and for lightweight vehicles. Lightweight vehicles and carriers that operate only one vehicle will also be exempt from the driver's daily vehicle inspection report. Because that exemption is in conflict with the Minnesota rule, it was not adopted in 1977. However, in order to be as uniform as possible with the federal regulations, the department is now proposing to repeal the Minnesota rule and replace it with the federal regulation. The exemptions will benefit those carriers by reducing the amount of paperwork that must be completed. The department is also adopting the amended federal regulation that specifies the content of the daily driver inspection report. This only very minimally increases the requirement. The old rule required reporting but did not specify the minimum content of the report.

Therefore, the rules do not contain separate rules for small businesses, nor do they exempt businesses just because they are "small". Rather, they prescribe rules based on the need for safe vehicles and safe provision of transportation within the framework established by the Legislature. This subject is discussed in greater detail in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Elizabeth M. Parker at the address indicated above.

LEONARD W. LEVINE
Commissioner
Minnesota Department of Transportation

2/22/88
Dated:

DEPARTMENT OF TRANSPORTATION
STATE OF MINNESOTA

In the Matter of the Proposed
Adoption of Rules Governing Motor
Carrier Safety and Insurance

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING.

Notice is hereby given that a public hearing on the above entitled matter will be held in the TRB Hearing Room, 2nd Floor, Administrative Truck Center, Livestock Exchange Building, 100 Stockyards Road, South St. Paul, MN., on Thursday, April 21, 1988, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate. Notice of the hearing will be given to all persons who have registered with the Minnesota Department of Transportation in order to receive rulemaking notices. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING, PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF TRANSPORTATION.

TO VERIFY WHETHER OR NOT A HEARING WILL BE HELD, YOU MUST CALL the Minnesota Department of Transportation between April 18 and April 20, 1988 at 612-297-2913 or 612-296-7109.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7611, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested person have three business days to respond in writing to any new information

submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The purpose of this rulemaking proceeding is to amend the Minnesota motor carrier safety and insurance rules. Minnesota Statutes, Section 221.031, Subdivision 1, authorizes the commissioner of transportation to adopt and amend rules governing the safe operation of motor carriers. Subdivisions 2, 2a, and 3 of Section 221.031 provide that some of those rules also apply to private carriers and exempt carriers. Minnesota Statutes, Section 221.141 authorizes the commissioner of transportation to prescribe insurance requirements for motor carriers.

The current Minnesota motor carrier safety and insurance rules are found in Minnesota Rules 7800.3500, 7800.3700 to 7800.8200, and 7805.1400 to 7805.3600. Current Minnesota Rule 7800.4500 adopts the Federal Motor Carrier Safety Regulations in effect on October 1, 1975. The state rules have not been amended since 1977. Since the last time the rules were amended, there has been a significant change in the format of Minnesota agency rules and in the style of the language used in the rules. Because of the changes in format and style, and to make the organization of the amended rules more coherent, all existing motor carrier safety and insurance rules are being repealed. However, the substance, and in some cases, the text of those rules is being retained and renumbered. The majority of the proposed rules are simply reorganized and renumbered. Some rules are being amended to maintain uniformity with the Federal Motor Carrier Safety Regulations, a major goal since 1940 when the federal regulations were first adopted by reference in Minnesota. Some of the federal rules are amended by the Federal Highway Administration every year, and the entire set of Federal Motor Carrier Safety Regulations is recodified as of October 1, each year. Therefore, Minnesota must readopt the most current federal regulations in order to maintain uniformity with the federal regulations.

The federal motor carrier safety program is set forth in Code of Federal Regulations, Title 49, Parts 391 to 397. Part 391 prescribes driver qualifications, which include driver testing and physical examinations. Part 392 is entitled "Driving of Motor Vehicles" and sets forth vehicle operating rules amounting to general rules of conduct. Part 393 lists the parts and accessories a vehicle must have in operating condition before it can lawfully be driven. The state now uses the federal accident report form prescribed in part 394 and will continue to do so.

Part 395 sets limits on the number of consecutive hours a driver may drive a vehicle and requires drivers to keep logbooks. Part 396 requires motor carriers to inspect, repair and maintain their vehicles, and Part 397 governs the transportation of certain hazardous materials.

Minnesota Statutes, Section 221.141, directs the commissioner of transportation to prescribe insurance requirements for motor carriers. Minnesota Statutes, Section 221.60 requires interstate carriers to comply with Section 221.141. This rulemaking proceeding consolidates and readopts the insurance requirements and limits now in effect for most motor carriers. The Department is also adopting the federal insurance limits for motor carriers that transport hazardous waste, materials, and substances. Those requirements now apply to those carriers as a result of the passage of the Motor Carrier Act of 1980, section 30, as amended (see United States Code, Title 49, Section 10927) and regulations adopted by the U.S. Department of Transportation in Code of Federal Regulations, Title 49, Part 387. Mn/DOT is adopting those limits to be consistent with federal regulations. Mn/DOT enforces US/DOT safety and insurance requirements under the Motor Carrier Safety Assistance Program, through which federal funding is received by the state for truck safety enforcement. Mn/DOT is also adopting rules to allow the use of certain federal insurance certificate forms. That will make filing of forms easier for insurance companies.

A copy of the proposed rules is included with this notice. One free copy of the rules may also be obtained from Elizabeth M. Parker, 815 Transportation Building, St. Paul, MN 55155, (612) 297-2913.

The Department has considered the impact of these rules on small businesses in compliance with Minnesota Statutes, Section 14.115, Subdivision 2. A majority of the trucking businesses and other businesses that use trucks are small businesses within the meaning of that statute. The proposed rules will have very little effect on small businesses beyond the effect the current rules now have. The proposed rules are amendments to current insurance and safety rules. They are basically the same rules that are now in effect, with the addition of recent amendments to the federal motor carrier safety rules. No new or different small businesses are regulated or affected. This subject is discussed in greater detail in the Notice of Intent to Adopt Rules Without a Public Hearing that is published with this Notice in this State Register, and in the Statement of Need and Reasonableness.

The adoption of these rules will not require the expenditure of money by local public bodies within the meaning of Minnesota Statutes, Section 14.11. The proposed rules will not have an effect on agricultural land. The rules will not impose "costs mandated by the state," or require a local agency or school district to take action that incurs costs mandated by the state within the meaning of Minnesota Statutes, Section 3.982. The rules impose no fees.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on the which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings. Copies may be obtained from the Office of Administrative Hearings for the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, Subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert St., St. Paul, Minnesota 55105-2520, telephone 612-296-5148.



LEONARD W. LEVINE
Commissioner
Minnesota Department of Transportation

2-22-88
Dated:

RECEIVED
MAR 24 1988
ADMINISTRATIVE
HEARINGS

In the Matter of the Proposed)
Adoption of the Rule of the)
Minnesota Department of Trans-)
portation Governing Motor Car-)
rier Safety and Insurance.)

AFFIDAVIT OF MAILING: 1.) ADDITIONAL DISCRETIONARY NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING, 2.) NOTICE OF HEARING, AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Kenneth H. Bjork, being sworn says:

I hereby certify that the Minnesota Department of Transportation has made additional discretionary notice of proposed rulemaking to the attached list of persons and associations pursuant to Minnesota Statutes, section 14.14, subdivision 1a.

That on the 4th day of March, 1988, at the City of Saint Paul, County of Ramsey, State of Minnesota, I mailed both the attached Notice of Intent to Adopt a Rule Without a Public Hearing, and, the Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

AFFIANT:

Kenneth H. Bjork
Manager, Administrative Procedures & Documentation

Subscribed and sworn to before me
this 4 day of March, 19 88.

Dorothy M. Tri
Notary Public

Ramsey County, Minnesota.

My Commission Expires: July 8, 1993.

DOROTHY M. TRI
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JULY 8, 1993

Mr. Abraham
Murphy Trucking Company
New Ulm, Minnesota 56073

John Ainley
Executive Director
Minnesota Agrigrowth Council
Suite 213
8030 Cedar Avenue
Bloomington, Minnesota 55420

~~Russ Allen~~
~~Minnesota Timber Producers~~
~~208 Phoenix Bldg., 33 W. Superior~~
~~Duluth, Minnesota 55802~~

Dave Anderson
Peterson, Bell & Converse
1800 American National Bank Bldg.
St. Paul, Minnesota 55101

Jon L. Ashby
General Manager
Fleetline Transp. Services Inc.
1140 S. Century Blvd.
Cincinnati, Ohio 45246

Michael L. Averill
Manager
Commercial Casualty Division
Insurance Services Offices, Inc.
160 Water Street
New York, New York 10038

Shelley Aune
Perkins Motor Transport
PO Box 218
Savage, Minnesota 55378

R. Charles Back
Director, Government Relations
Ryder Truck Rental Inc.
3600 NW 82nd Avenue
P.O. Box 520816
Miami, Florida 33152

R. Bruce Barker
Industry Relations Manager
Boise Cascade Timber &
Wood Products Group
Midwest Woodlands - PO Box 1713
International Falls, Minnesota 56649

Greg Barrett, General Manager
Minnesota Permit Truckers Assoc.
1745 University Avenue
St. Paul, Minnesota 55104

Max Bay
MPTA
Box 47
Northrup, Minnesota 56075

Joe Beaton
3109 Hennepin Avenue South
Minneapolis, Minnesota 55408

G. Duane Bell
Regional Operations Manager
St. Regis - Wheeler Division
Box 26499
St. Louis Park, Minnesota 55426

Thomas Bell
Arsenal Sand & Gravel
PO Box 12707
New Brighton, Minneosta 55112

Joel Bennett
St. Paul Union Stock Yards
Box 478
South St. Paul, Minnesota 55075

Merle Berbeland
P.O. Box 548
Willmar, Minnesota 56201

Vern Bisson
WCIT
Route 5, Box 199A
Alexandria, Minnesota 56308

~~Steve Bodony~~
~~Hanson Silo Co.~~
~~P.O. Box 37~~
~~Lake Lillian, Minnesota 56253~~

Gary Botzick
Executive Director
Aggregate & Ready Mix Assoc. of MN
114 Metro Square Bldg.
7th & Robert Sts.
St. Paul, Minnesota 55101

Horton Brooks
Weighmaster
Minneapolis Grain Exchange Building
Minneapolis, Minnesota 55415

~~Paul Brutlag~~
~~Brutlag Farms, Inc.~~
~~R.R. 1~~
~~Wendell, Minnesota 56590~~

~~Darrel D. Bunge~~
~~Executive Director~~
~~Minnesota Petroleum Council~~
~~300 Northern Federal Buildin~~g
~~St. Paul, Minnesota 55102~~

Richard B. Bury, P.E.
Midwest Asphalt Corporation
6401 Industrial Drive, Box 338
Hopkins, Minnesota 55343

Charles T. Canning
Minnesota Legislative Liaison
Red River Valley Sugarbeet
Growers Assn.
Hendrum, Minnesota 56550

Cy Carpenter
Minnesota Farmers Union
1717 University Avenue
St. Paul, Minnesota 55104

Tom Cashman
Northwest Agri Dealers Assn.
PO Box 698
Mankato, Minnesota 56001

Jack Cedergren
PO Box 510
Cloquet, Minnesota 55720

Don Chapdelaine
Farmer's Union
1180 North Concord
South St. Paul, Minnesota 55075

Don Christiansen
Fleet Superintendent
NSP
1518 Chestnut Avenue No.
Minneapolis, Minnesota 55402

Circuit Chemistry Corp.
Attn: David Brickely
5129 Industrial Street
Maple Plain, Minnesota 55359

Bob Clarke
Six Transfer
2256 Myrtle
St. Paul, Minnesota 55114

Consultran, Inc.
Gaylord S. Strand
400 Marquette Avenue, Suite 540
Minneapolis, Minnesota 55401

Container Services
95 W. Ivy
St. Paul, Minnesota 55117

Jake Crandall, Attorney
The Minnesota State Auto Assoc.
7 Travelers Trail
Burnsville, Minnesota 55337

Willis Cronquist
United Transportation Union
832 Lumber Exchange Building
10 So. 5th Street
Minneapolis, Minnesota 55402

Dick Cullinan
Teamster
3001 University Avenue SE
Minneapolis, Minnesota 55414

Marvin Daggett
Daggett Truck Line
Frazee, Minnesota 56544

Jim Deike
Deike Trux
P.O. Box 727
Mankato, Minnesota 56002

~~Jim Dennn~~
~~Minnesota Motor Transport Assoc.~~
~~1821 University Avenue~~
~~St. Paul, Mn. 55104~~

Bob Dittrich
Midwest Commodities
PO 755
New Ulm, Mn. 56073

Bob Dittrich Trucking
P.O. Box 816
New Ulm, Minnesota 56073

Virg Egerman
Egerman Roofing Supply Co.
1020 Summit Avenue South
Sauk Rapids, Minnesota 56379

Mr. Russell A. Eideman
Vice President
Corporate Trans
Harvest State Cooperative
Box 64594
St. Paul, Minnesota 55164

Arnie Entzel
312 Central Avenue SE, #438
Minneapolis, Minnesota 55414

Joseph A. Eschenbacher
Vice President-Traffic
Dahlen Transport, Inc.
1680 4th Avenue
Newport, Minnesota 55055

Brian Ettesvold
Executive Director
Minnesota Service Station Assoc.
2700 Rice Street
Little Canada, Minnesota 55117

Dick Fitzsimmons
Red River Valley Sugar Beet
Growers Assn.
West Acres Office Park
Fargo, North Dakota 58102

Susan M. Flint
Mn. Household Goods Carrier's
Bureau, Inc.
2001 London Road
Duluth, Minnesota 55812

~~Gordon Forbes~~
~~Attorney~~
~~The Minnesota Transfer Railway Co.~~
~~2071 University~~
~~St. Paul, Minnesota 55104~~

~~Frank Frison~~
~~NECA~~
~~300 So. Robert St.~~
~~St. Paul, Minnesota~~ 55107

Dan Frentress
P.O. Box 26328
Minneapolis, Minnesota 55426

Jack Frost Inc.
Attn: Jay Gunderson
Feed & Grain Division
Rt. 3
Sauk Rapids, Minnesota 55379

Furth-Meile Ins.
Attn: Paul
Nine North Minnesota Street
New Ulm, Minnesota 56073

Jim Gencauski
12338 Pennsylvania Avenue So.
Savage, Minnesota 55378

Leonard D. Gidlow
Vice President - Traffic
Barber Transportation Co.
Deadwood Avenue, PO Drawer 1970
Rapid City, South Dakota 57701

Ed Grady, Manager
Information Division
Minnesota Farm Bureau Federation
1976 Wooddale Drive, PO Box 43370
St. Paul, Minnesota 55164

Leonard Green
MPTA
Box 184
Kensington, Mn. 56343

M. N. Gregorson
ERAD
Northern States Power Co.
414 Nicollet Mall
Minneapolis, Minnesota 55401

Ed Gregory
G&H Sanitation
12448 Penn Avenue South
Savage, Minnesota 55378

Bill Grey
Minnegasco
501 West 61st Street
Minneapolis, Minnesota 55419

Nancy Grosskrueger
Dispatch Coordinator
Quickie Transport
1700 New Brighton Blvd.
P.O. Box 18300
Minneapolis, Minnesota 55418

~~Earl Hacking~~
~~1700 New~~ Brighton ~~Blv~~d.
~~Minne~~apolis, Minnesota 55413

Wes Hallman
Mn. Permit Truckers Assn.
1745 University Avenue
St. Paul, Mn. 55104

Ron Hanson
CENEX
PO Box 43089
St. Paul, Mn. 55164

George Hartley
MN. Independent Truckers Assn.
3113 E. 68th Street
Inver Grove Heights, MN 55075

Merle Hedlund
Executive Director
Mn. Wheat Growers Assn.
PO Box 602
Red Lake Falls, Mn. 56750

Ann Henson
Mobil Oil Corp.
Central Traffic Region
5151 Belt Line Road
Suite 600
Dallas, Texas 75240

Chub Hensley
Route 1
Osakis, Mn. 56360

Laurel Hersey
Minnetonka City
Attorney Office
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345

Jerry Hess
Murphy Motor Freight Lines
2323 Terminal Road
St. Paul, Minnesota 55113

~~Charles Hoffman~~
~~Pickands - Mather & Co.~~
~~Suite 811~~
~~300 West Superior Street~~
~~Duluth~~, Minnesota 55802

Jean Hoffman
A.G. Processing
P.O. Box B
Dawson, Minnesota 56232

~~Greg Holte~~
~~Red River~~ Valley Sugarbeet
~~Growers Assn.~~
~~336 5th Ave. E.~~
~~Halstad~~, Minnesota 56550

George A. Hormel & Co.
J.C. Wilkins
Manager - Auto-Truck Fleet
PO Box 800
Austin, Minnesota 55912

Vern Ingvalson
Minnesota Farm Bureau
PO 43370
St. Paul, Mn. 55164

Duane Johnson
Teamsters Union
3001 University Avenue S.E.
Minneapolis, Mn. 55414

Emery Johnson
ITA
3239 Halafax Avenue No.
Robbinsdale, Mn. 55422

Ray Jones
10735 Berglund Ave.
Chisago City, Minnesota 55013

Gene Kashmark
Clinton, Minnesota 56255

Ralph Keyes
Aggregate & Ready Mix
1631 Brooks Avenue W
St. Paul, Mn. 55113

Mike Kinyon
Kinyon Concrete Products
Rte. 1 Box 62
Red Wing, Minnesota 55066

Don Kirksey
Vice President, Energy
Land O'Lakes, Inc.
800 - 53rd Avenue N.E.
P.O. Box 1395
Minneapolis, Minnesota 55440-1395

Ken Klippen
Minnesota Turkey Growers Assn.
786 Transfer Road
St. Paul, Mn. 55114

~~Robert S. Krogman~~
~~Assistant to Executive Director~~
~~Northwest Petroleum Association~~
~~2345 Rice Street, Suite 173~~
~~St. Paul, Minnesota 55113~~

Leo C. Kurtz, Manager
Transportation Pricing
The Pillsbury Company
3830 Pillsbury Center
200 South Sixth Street
Minneapolis, Minnesota 55402

Clarence LaBorde
Local 346
2802 West 1st Street
Duluth, Minnesota 55806

Karen Lampert
Minnegasco
700 W. Linden Ave.
Minneapolis, Minnesota 55403

Wes Lane
Teamsters
3001 University S.E.
Suite 510
Minneapolis, Minnesota 55414

Lt. Jack Larson
Minnesota State Patrol
2005 No. Lilac Drive
Golden Valley, Minnesota 55422

Bob Lee
Mackall, Crounse & Moore
1600 TCF Tower
Minneapolis, Minnesota 55402

Jim Loaney
Hancock Concrete Products
Hancock, Mn. 56244

~~Mrs. John T. Lynch~~
~~4323 Longfellow Avenue~~
~~Minneapolis, Minnesota 55407~~

Luxton Transfer
Route 4
Owatonna, Minnesota 55060

Mike Maranell
Ag. Proc. Inc.
Box 220
Sheldon, Iowa 51201

Kriss Matson
Sales Coordinator
Determan
Welding & Tank Service, Inc.
1241 - 72nd Ave. N.E.
Minneapolis, Minnesota 55432

George Mattson
Box 3127
Mankato, Mn. 56001

Mark McAffee
Legislative & Programs Coordinator
Minnesota Farmers Union
1717 University Ave.
St. Paul, Mn. 55104

Jane McCall
Perkins Motor Transport
P.O. Box 218
Savage, Minnesota 55378

Bob McCormick
3815 Nicols Road
Brad Ragan, Inc.
Eagan, Minnesota 55122

McDonough Truck Line Inc.
3105 Industrial Drive
Faribault, Minnesota 55021

~~Andrew McIntosh~~
~~Wildfang, Rude, et.al.~~
~~270 Grain Exchange~~
~~Minneapolis, Minnesota 55415~~

Ray J. McMahon
IBEW State Council
2461 Bison Drive
St. Paul, Minnesota 55119

Andre Menard
ARM Services, Inc.
1630 Vermillion Street
Hastings, Minnesota 55033

Middlewest Motor Freight
Bureau, Agent
G.D. Michalson
215 Volker Boulevard
P.O. Box 647
Kansas City, Montana 64141

Jay Morrell
Aggregate & Ready Mix
Box 477
Monticello, Mn. 55362

Daniel H. Mundt
Mundt & Associates
715 West Superior Street
Duluth, Minnesota 55802-1594

Steve Myllenbeck
100 Exchange Building
South St. Paul, Minnesota 55075

Andrew T. Nelson
Grain Terminal Assn.
Box 43594
St. Paul, Mn. 55164

Wayne Norman
Mn. Independent Truckers Assn.
1281 W. Orleans Street
Stillwater, Minnesota 55082

Merriam Nunez
Director of Marketing
Road Machinery & Supplies Co.
4901 West 80th Street
Minneapolis, Minnesota 55437

Mandy Olson
MITA
12589 Hanson Blvd.
Anoka, Mn. 55433

Greg Oxley
United Power Association
Elk River, Minnesota 55330

Manford Oyem
Barton Contracting Co.
10633 89th Avenue No.
Osseo, Mn. 55369

Denise Piel
Leonard, Street and Deinard
100 South 5th Street
Suite 1500
Minneapolis, Minnesota 55402

Roger Powers
Western Coop Transport
Route 3, Box 41A
Montevideo, Minnesota 56265

John Quam
114 W. Holmes
Detroit Lakes, Mn. 56501

Al Renier
Portland Cement Assn.
6600 France Avenue So.
Minneapolis, Mn. 55435

Renville Coop. Transport
Orrin Vroupr
Box 434
Renville, Minnesota 56284

~~Gary D. Rippentrop~~
E~~xecutive~~ Vice President
~~Minnesota Automobile Dealers Assn.~~
~~277~~ University Avenue
~~St.~~ Paul, Minnesota 55103

Road Machinery & Supplies
9150 Pillsbury Ave. So.
Bloomington, Minnesota 55420

~~Abe Rosenthal~~
~~Mn. Transport Services Assn.~~
~~1821 University Avenue~~
~~St. Paul, Mn. 55104~~

Samuel Rubenstein
Freight Transp. Consultants, Inc.
6960 Madison Ave. W.
Golden Valley, Minnesota 55427

Robert P. Sack
P.O. Box 6010
West St. Paul, Minnesota 55118

Craig Sallstrom
Executive Director
Minnesota Plant Food
& Chemicals Association
1821 University Avenue, Room 253
St. Paul, Minnesota 55104

Sadi Schaeffer
Mn. Asphalt Pavement Assn.
555 Wabasha
St. Paul, Mn. 55102

Ed Schentzel
NSP
414 Nicollet Avenue
Minneapolis, Minnesota 55401

Jerry Seifert
MIK Coop Trucking Assoc.
Route 6, Box 176
Princeton, Minnesota 55371

Matt Seppi
Seppi Bros. Concrete
P.O. Box 1006
Virginia, Minnesota 55792

~~Ron Siegmund~~
~~V.P. of Member Services~~
~~Mn. State Automobile Assn.-AAA~~
~~7 Travelers Trail~~
~~Burnsville, Minnesota 55337~~

Ed Slettom
Mn. Association of Cooperatives
380 Hanover Building
St. Paul, Minnesota 55101

Herb Sorvik
Land O'Lakes, Inc.
PO Box 116
Minneapolis, Mn. 55440

Bob Spencer
MPTA
212 Lincoln St.
Lake Crystal, Mn. 56055

Keith Springer
Agr. Transp. Cooperative Assn.
Dawson Mills
Dawson, Mn. 56232

Pete Stallcop
NW Terminal Elevator Assn.
Grain Exchange Bldg.
Minneapolis, Mn. 55415

Steve Strand
GTA
1667 N. Snelling
St. Paul, Mn. 55165

Nancy L. Strobel
Financial Systems Manager
1100 Shelard Tower
Minneapolis, Minnesota 55426

Dave Suek
Johnson West & Company
1400 Pioneer Building
St. Paul, Minnesota 55101

Michael A. Thill
Midwest Traffic Consultants
P.O. Box 676
Winona, Minnesota 55987

~~Russell~~ C. Thompson
~~Director of Distribution~~
CENEX
~~P.O.~~ Box 43089
~~St.~~ Paul, Minnesota ~~55164~~

Kenneth Tolonen
Minneapolis Grain Exchange
130 Grain Exchange Bldg.
Minneapolis, Mn. 55415

~~Richard Van Krevelen, PE~~ shd be Dan Frentress
Executive Director
Concrete Paving Association of Mn.
~~2102 Roe Crest Court~~ 3621 85th Ave. No. Suite 100
~~North Mankato,~~ Minnesota ~~56001~~
Brooklyn Park, 55443

Louis Weyer
Blackowske Truck Line, Inc.
Route 1, Box 233
Fairmont, Mn. 56031

Ivan White
Farmland Industries
P.O. Box 3329
Des Moines, Iowa 50316

Edward W. Wicklund
Executive Editor
Chapin Publishing Company
7216 Boone Avenue North
Brooklyn Park, Minnesota 55428

Floyd Wild
MPTA
Route 4, Box 96
Marshall, Mn. 56258

J. C. Wilkins
Manager
Auto/Truck Fleet
Geo. A. Hormel and Co.
P.O. Box 800
Austin, Minnesota 55912

L. A. Wilsey, Jr.
President
Indianhead Truck Line, Inc.
Box 64355
St. Paul, Minnesota 55164

Gordy Wyatt
Ready Mix Cement
8502 Central Avenue NE
Minneapolis, Mn. 55434

Jim Zeglin
General Manager
Detterman Welding and Tank Service
1241 72nd Avenue N.E.
Minneapolis, Minnesota 55432

Bob Zelenka
Mn. Farmer's Elevator
852 Grain Exchange Bldg.
Minneapolis, Mn. 55415

In the Matter of the Proposed)
Adoption of the Rule of the)
Minnesota Department of Trans-)
portation Governing Motor Car-)
rier Safety and Insurance.)

AFFIDAVIT OF MAILING THE 1.) NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING, 2.) NOTICE OF HEARING, AND CERTIFICATE OF MAILING LIST

RECEIVED
MAR 24 1988
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Kenneth H. Bjork, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, Sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Department of Transportation rulemaking mailing list is accurate, complete, and current as of this March, 1988.

That on the 4th day of March, 1988, at the City of Saint Paul, County of Ramsey, State of Minnesota, I mailed both the attached Notice of Intent to Adopt a Rule Without a Public Hearing, and, the Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

AFFIANT:

Kenneth H. Bjork
Manager, Administrative Procedures & Documentation

Subscribed and sworn to before me
this 4 day of March, 19 88.

Dorothy M Tri
Notary Public

Ramsey County, Minnesota.

My Commission Expires: July 8, 1993

DOROTHY M. TRI
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JULY 8, 1993

DEPARTMENT OF TRANSPORTATION
OFFICE OF SYSTEMS AND SUPPORT SERVICES
DLNAME SEQUENCE
****
(031)

NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
ADOLFSON RAYMOND A 131 TRANSPORTATION BLDG (0078) ST PAUL MN 55155	OFC MATLS RES & STNDS 031-1	MINN DEPT TRANSPORTATION	131 TRANSPORTATION BLDG	12306
ANDERSON LOUIS C N TR HWY 52 PO BOX 6177 (0012) ROCHESTER MN 55903	6A AREA MAINT ENG 031-1	MINN DEPT TRANSPORTATION	N TR HWY 52 PO BOX 6177	02026
BALDWIN JEROME C 404 TRANSPORTATION BLDG (0017) ST PAUL MN 55155	OFC EMPLOYEE & ORG DEVEL 031-1	MINN DEPT TRANSPORTATION	404 TRANSPORTATION BLDG	12306
BATES MARVIN G 1301 MAIN ST PO BOX 617 (0057) CROOKSTON MN 56716	2B AREA MAINT ENG 031-1	MINN DEPT TRANSPORTATION	1301 MAIN ST PO BOX 617	12306
BERGMAN PAUL M G20 TRANSPORTATION BLDG (0781) ST PAUL MN 55155	OFC CONTRACT ADMIN-MAINT 031-1	MINN DEPT TRANSPORTATION	G20 TRANSPORTATION BLDG	02026
BJORK KENNETH H 308 TRANSPORTATION BLDG (0022) ST PAUL MN 55155	OFC SYST/SUPPORT SVCS 031-1	MINN DEPT TRANSPORTATION	308 TRANSPORTATION BLDG	02036
BLOMGREN JOANNE A 604 TRANSPORTATION BLDG (0408) ST PAUL MN 55155	OFC TECHNICAL SUPPORT 031-1	MINN DEPT TRANSPORTATION	604 TRANSPORTATION BLDG	12306
BOLDT GORDON W 100 STOCKYARDS ROAD (0025) SO ST PAUL MN 55075	OFC MOT CARR SAF & COMPL 031-1	MINN DEPT TRANSPORTATION	100 STOCKYARDS ROAD	02036
BORSON RICHARD D 408 TRANSPORTATION BLDG (0148) ST PAUL MN 55155	OFC OF COMMISSIONER 031-2	MINN DEPT TRANSPORTATION	408 TRANSPORTATION BLDG	12306
BROWER LINDA 2505 TRANSP RD PO BOX 768 (0461) WILLMAR MN 56201	8A COMM DISTRIB 031-1	MINN DEPT TRANSPORTATION	2505 TRANSP RD PO BOX 768	02036
CAMPBELL BARBARA N TR HWY 52 PO BOX 6177 (0455)	6A COMM DISTR CLERK III	MINN DEPT TRANSPORTATION	N TR HWY 52 PO BOX 6177	0224

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
OFFICE OF SYSTEMS AND SUPPORT SERVICES
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
CARON DELORIS W TR HWY 14 PO BOX 307 (0456) OWATONNA MN 55060	6B COMM DISTRIB	MINN DEPT TRANSPORTATION	W TR HWY 14 PO BOX 307	0203
	031-1			
CHADA GLORIA A 411 TRANSPORTATION BLDG (0426) ST PAUL MN 55155	OFC OF COMMISSIONER	MINN DEPT TRANSPORTATION	411 TRANSPORTATION BLDG	0224
	031-1			
CLARKE EDWIN O 308 TRANSPORTATION BLDG (0210) ST PAUL MN 55155	OFC SYST/SUPPORT SVCS	MINN DEPT TRANSPORTATION	308 TRANSPORTATION BLDG	0203
	031-1			
COHOON EDWIN H 408 TRANSPORTATION BLDG (0040) ST PAUL MN 55155	FINANCE MGMT SYST DIVN	MINN DEPT TRANSPORTATION	408 TRANSPORTATION BLDG	0203
	031-1			
CRAWFORD WILLIAM M 2055 N LILAC DRIVE (0042) GOLDEN VALLEY MN 55422	5 DISTRICT ENG	MINN DEPT TRANSPORTATION	2055 N LILAC DRIVE	0203
	031-1			
DIETHELM PAUL J B9 TRANSPORTATION BLDG (0046) ST PAUL MN 55155	OFC MATLS RES & STNDS	MINN DEPT TRANSPORTATION	B9 TRANSPORTATION BLDG	0203
	031-1			
DIFFERT DOUGLAS H 408 TRANSPORTATION BLDG (0002) ST PAUL MN 55155	OFC OF COMMISSIONER	MINN DEPT TRANSPORTATION	408 TRANSPORTATION BLDG	1230
	031-1			
DINNEEN RICHARD J 511B TRANSPORTATION BLDG (0048) ST PAUL MN 55155	OFC R/W & SURVEYS	MINN DEPT TRANSPORTATION	511B TRANSPORTATION BLDG	1230
	031-1			
DUPRE STAN S G29B TRANSPORTATION BLDG (0411) ST PAUL MN 55155	OFC MATLS RES & STNDS	MINN DEPT TRANSPORTATION	G29B TRANSPORTATION BLDG	0216
	031-1			
DURBAHN ROGER W 316 TRANSPORTATION BLDG (0049) ST PAUL MN 55155	OFC HUMAN RESOURCE SVCS	MINN DEPT TRANSPORTATION	316 TRANSPORTATION BLDG	1231
	031-1			
DURGIN DARRYL E 413 TRANSPORTATION BLDG (0047) ST PAUL MN 55155	OFC OF COMMISSIONER	MINN DEPT TRANSPORTATION	413 TRANSPORTATION BLDG	0203
	031-1			

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DEPARTMENT OF TRANSPORTATION
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
EKERN DAVID S HOOVER ROAD (0080) VIRGINIA MN 55792	1B AREA MAINT ENG 031-1	MINN DEPT TRANSPORTATION	HOOVER ROAD	1230
ELLETSON JAMES K 1000 W TR HWY 10 BOX 666 (0191) DETROIT LAKES MN 56501	4A AREA MAINT ENG 031-1	MINN DEPT TRANSPORTATION	1000 W TR HWY 10 BOX 666	1230
ENFIELD DAVID S CO RD 26 PO BOX 427 (0460) WINDOM MN 56101	7B OFC MANAGER 031-1	MINN DEPT TRANSPORTATION	S CO RD 26 PO BOX 427	0223
FAY GORDON M 420 TRANSPORTATION BLDG (0062) ST PAUL MN 55155	OFC STATE AID 031-1	MINN DEPT TRANSPORTATION	420 TRANSPORTATION BLDG	1230
FLEMMING DONALD J 610D TRANSPORTATION BLDG (0020) ST PAUL MN 55155	OFC BRIDGES & STRUCTURES 031-1	MINN DEPT TRANSPORTATION	610D TRANSPORTATION BLDG	1230
FOOTE LAWRENCE E 704 TRANSPORTATION BLDG (0052) ST PAUL MN 55155	OFC TECHNICAL SUPPORT 031-1	MINN DEPT TRANSPORTATION	704 TRANSPORTATION BLDG	0203
GARGARO SAMUEL F 455 RICE STREET (0069) ST PAUL MN 55103	OFC ELEC COMMUNICATIONS 031-1	MINN DEPT TRANSPORTATION	455 RICE STREET	0203
GERDES DELBERT 716 TRANSPORTATION BLDG (1210) ST PAUL MN 55155	OFC COMM DIR HWY PROGRAMS 031-1	MINN DEPT TRANSPORTATION	716 TRANSPORTATION BLDG	0201
GIPP RONALD W 1959 SLOAN PLACE (0071) MAPLEWOOD MN 55117	OFC OF COMM AUDIT 031-1	MINN DEPT TRANSPORTATION	1959 SLOAN PLACE	0203
GRUBBS MARY 813 TRANSPORTATION BLDG (0423) ST PAUL MN 55155	OFC TRANS DATA/RES & ANAL 031-6	MINN DEPT TRANSPORTATION	813 TRANSPORTATION BLDG	0203
GURTIN SANDRA D 301 LAUREL ST PO BOX 978 (0447) BRAINERD MN 56401	3A COMM DISTRIBUTOR 031-3	MINN DEPT TRANSPORTATION	301 LAUREL ST PO BOX 978	0203

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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
HALVORSON RANDALL K 815 TRANSPORTATION BLDG (0164) ST PAUL MN 55155	OFC TRANSIT 031-1	MINN DEPT TRANSPORTATION	815 TRANSPORTATION BLDG	1230
HANSON DOROTHY A 610 TRANSPORTATION BLDG (0402) ST PAUL MN 55155	OFC BRIDGES & STRUCTURES 031-6	MINN DEPT TRANSPORTATION	610 TRANSPORTATION BLDG	0223
HANSON GRETCHEN E 316 TRANSPORTATION BLDG (0413) ST PAUL MN 55155	OFC HUMAN RESOURCE SVCS 031-1	MINN DEPT TRANSPORTATION	316 TRANSPORTATION BLDG	0216
HAUKEBO DUANE A 417 TRANSPORTATION BLDG (0081) ST PAUL MN 55155	OFC AIRPORT DEVEL/ASSIST 031-1	MINN DEPT TRANSPORTATION	417 TRANSPORTATION BLDG	0203
HENSLIN GLADYS 607 TRANSPORTATION BLDG (0404) ST PAUL MN 55155	OFC TECHNICAL SUPPORT 031-1	MINN DEPT TRANSPORTATION	607 TRANSPORTATION BLDG	0120
HILL ROGER M 612 TRANSPORTATION BLDG (0100) ST PAUL MN 55155	OFC OF COMMISSIONER 031-1	MINN DEPT TRANSPORTATION	612 TRANSPORTATION BLDG	0203
HIMMELMAN BLAINE F 610A TRANSPORTATION BLDG (0088) ST PAUL MN 55155	OFC MATLS RES & STNDS 031-1	MINN DEPT TRANSPORTATION	610A TRANSPORTATION BLDG	0203
HODGINS DAVID M 813 TRANSPORTATION BLDG (0229) ST PAUL MN 55155	PRO MANAGEMENT DIV 031-1	MINN DEPT TRANSPORTATION	813 TRANSPORTATION BLDG	0203
HOFFMAN RONALD G 1000 W TR HWY 10 BOX 666 (0204) DETROIT LAKES MN 56501	4A DIST ENG 031-1	MINN DEPT TRANSPORTATION	1000 W TR HWY 10 BOX 666	1231
HOLLAND JERRY B 3485 HADLEY AVE N (0095) OAKDALE MN 55109	9 BUSINESS MANAGER 031-1	MINN DEPT TRANSPORTATION	3485 HADLEY AVE N	0223
HUGHES PATRICK C 2505 TRANSP RD PO BOX 768 (0129) WILLMAR MN 56201	8A DIST ENG 031-1	MINN DEPT TRANSPORTATION	2505 TRANSP RD PO BOX 768	1230

NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
HYLTON MARGARET M 615 TRANSPORTATION BLDG (0407) ST PAUL MN 55155	OFC MATLS RES & STNDS	MINN DEPT TRANSPORTATION	615 TRANSPORTATION BLDG	0203
	031-1			
JASZEWSKI FRANK J W HWY 61 (2012) WINONA MN 55987	6 RESIDENT ENG	MINN DEPT TRANSPORTATION	W HWY 61	0203
	031-1			
KEINZ RICHARD B 408 TRANSPORTATION BLDG (0004) ST PAUL MN 55155	FINANCE & ADMIN DIVN	MINN DEPT TRANSPORTATION	408 TRANSPORTATION BLDG	0203
	031-1			
KIEFFER GEORGE L 308 TRANSPORTATION BLDG (0112) ST PAUL MN 55155	OFC SYST/SUPPORT SVCS	MINN DEPT TRANSPORTATION	308 TRANSPORTATION BLDG	0203
	031-1			
KORTH LEO A 413 TRANSPORTATION BLDG (0117) ST PAUL MN 55155	TECHNICAL SERVICES DIVN	MINN DEPT TRANSPORTATION	413 TRANSPORTATION BLDG	1230
	031-1			
KREUTZER GERALD N 301 LAUREL ST PO BOX 978 (0194) BRAINERD MN 56401	3A MAINT ENG	MINN DEPT TRANSPORTATION	301 LAUREL ST PO BOX 978	0203
	031-1			
LARSON BRUCE A 1123 MESABA AVENUE (0043) DULUTH MN 55811	1A MAINT ENG	MINN DEPT TRANSPORTATION	1123 MESABA AVENUE	0203
	031-1			
LARSON LORI G20 TRANSPORTATION BLDG (0403) ST PAUL MN 55155	OFC CONTRACT ADMIN-MAINT	MINN DEPT TRANSPORTATION	G20 TRANSPORTATION BLDG	0203
	031-3			
LEUZINGER DIANE 408 TRANSPORTATION BLDG (0428) ST PAUL MN 55155	OFC OF COMMISSIONER	MINN DEPT TRANSPORTATION	408 TRANSPORTATION BLDG	0203
	031-1			
LINZIE MERRITT H 807 TRANSPORTATION BLDG (0126) ST PAUL MN 55155	OFC HIGHWAY PROGRAMS	MINN DEPT TRANSPORTATION	807 TRANSPORTATION BLDG	1230
	031-1			
MARSHALL FRANCIS C 419 TRANSPORTATION BLDG (0008) ST PAUL MN 55155	OFC OF COMMISSIONER	MINN DEPT TRANSPORTATION	419 TRANSPORTATION BLDG	0203
	031-1			

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
OFFICE OF SYSTEMS AND SUPPORT SERVICES
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
MAY JAMES W 2505 TRANSP RD PO BOX 768 (4622) WILLMAR MN 56201	8A 031-1	MINN DEPT TRANSPORTATION	2505 TRANSP RD PO BOX 768	02228
MCDOUGALL CAROL 1000 W TR HWY 10 BOX 666 (0450) DETROIT LAKES MN 56501	4A COMM DISTR 031-1	MINN DEPT TRANSPORTATION	1000 W TR HWY 10 BOX 666	12318
MCLAUGHLIN LAVERNE E 2055 N LILAC DRIVE (0453) GOLDEN VALLEY MN 55422	5 COMM DISTR 031-1	MINN DEPT TRANSPORTATION	2055 N LILAC DRIVE	01208
MCNAMARA LAWRENCE F 413 TRANSPORTATION BLDG (0005) ST PAUL MN 55155	OPERATIONS DIVN 031-1	MINN DEPT TRANSPORTATION	413 TRANSPORTATION BLDG	12308
MCRAE KERMIT K 3485 HADLEY AVENUE N (0137) OAKDALE MN 55109	9 DISTRICT ENG 031-1	MINN DEPT TRANSPORTATION	3485 HADLEY AVENUE N	12308
MELBY ERNEST R B20 TRANSPORTATION BLDG (0222) ST PAUL MN 55155	OFC SYST/SUPPORT SVCS 031-1	MINN DEPT TRANSPORTATION	B20 TRANSPORTATION BLDG	02038
MILLER JERRY L 610 HWY 9 S PO BOX 410 (0227) MORRIS MN 56267	4B MAINT ENG 031-1	MINN DEPT TRANSPORTATION	610 HWY 9 S PO BOX 410	12308
MONTGOMERY JOYCE W 420 TRANSPORTATION BLDG (0417) ST PAUL MN 55155	OFC STATE AID 031-1	MINN DEPT TRANSPORTATION	420 TRANSPORTATION BLDG	02228
MUELLER WILLIAM G 716 TRANSPORTATION BLDG (0110) ST PAUL MN 55155	OFC TECHNICAL SUPPORT 031-1	MINN DEPT TRANSPORTATION	716 TRANSPORTATION BLDG	02038
MURPHY WAYNE F G20 TRANSPORTATION BLDG (0223) ST PAUL MN 55155	OFC CONTRACT ADMIN/MAINT 031-1	MINN DEPT TRANSPORTATION	G20 TRANSPORTATION BLDG	02038
NAUGHTON CHRISTINE A PO BOX 490 (0444) BEMIDJI MN 56601	2A COMM DISTR 031-1	MINN DEPT TRANSPORTATION	PO BOX 490	02098

STATE OF MINNESOTA
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OFFICE OF SYSTEMS AND SUPPORT SERVICES
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
NIELAND FRANK 100 STOCKYARD ROAD (2804) SOUTH ST PAUL MN 55075	OFC MOT CARR SAF & COMPL 031-1	MINN DEPT TRANSPORTATION	100 STOCKYARD ROAD	02038
NYGAARD MIKE M PO BOX 490 (0147) BEMIDJI MN 56601	2A MAINT ENG 031-1	MINN DEPT TRANSPORTATION	PO BOX 490	02038
OFSTEAD EUGENE E 413 TRANSPORTATION BLDG (0006) ST PAUL MN 55155	TECHNICAL SERVICES DIVN 031-2	MINN DEPT TRANSPORTATION	413 TRANSPORTATION BLDG	02038
PARKER ELIZABETH 815 TRANSPORTATION BLDG (8815) ST PAUL MN 55155	PROGRAM MANAGEMENT DIVN 031-1	MINN DEPT TRANSPORTATION	815 TRANSPORTATION BLDG	12318
PECORE ROBERT P 501 S VICTORY DR BOX 4039 (0144) MANKATO MN 56001	7A DISTRICT ENG 031-1	MINN DEPT TRANSPORTATION	501 S VICTORY DR BOX 4039	02038
PETREE ROSE B B9 TRANSPORTATION BLDG (0415) ST PAUL MN 55155	OFC MATLS RES & STNDS 031-1	MINN DEPT TRANSPORTATION	B9 TRANSPORTATION BLDG	02038
PLETAN RODNEY A G20 TRANSPORTATION BLDG (0035) ST PAUL MN 55155	OFC CONT/MAINT MAINT ENG 031-1	MINN DEPT TRANSPORTATION	G20 TRANSPORTATION BLDG	02111
PURVIS SANDRA G 711 TRANSPORTATION BLDG (0418) ST PAUL MN 55155	OFC R/W & SURVEYS 031-1	MINN DEPT TRANSPORTATION	711 TRANSPORTATION BLDG	02244
RAISANEN DON 301 LAUREL ST PO BOX 978 (0059) BRAINERD MN 56401	3A DIST ENGINEER 031-1	MINN DEPT TRANSPORTATION	301 LAUREL ST PO BOX 978	12304
ROHRBACH GERRY J 716 TRANSPORTATION BLDG (0109) ST PAUL MN 55155	OFC TECHNICAL SUPPORT 031-1	MINN DEPT TRANSPORTATION	716 TRANSPORTATION BLDG	02038
ROUGHT RAYMOND J 417 TRANSPORTATION BLDG (0003) ST PAUL MN 55155	AERONAUTICS DIVN 031-1	MINN DEPT TRANSPORTATION	417 TRANSPORTATION BLDG	12304

STATE OF MINNESOTA
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OFFICE OF SYSTEMS AND SUPPORT SERVICES
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
RUTZEN DALE L 501 S VICTORY DR BOX 4039 (0458) MANKATO MN 56001	7A 031-1	MINN DEPT TRANSPORTATION	501 S VICTORY DR BOX 4039	0209
SANDAHL JOHN E 1123 MESABA AVENUE (0153) DULUTH MN 55811	1A DISTRICT ENGINEER 031-1	MINN DEPT TRANSPORTATION	1123 MESABA AVENUE	1230
SCHENKELBERG ALLAN J 807 TRANSPORTATION BLDG (0193) ST PAUL MN 55155	OFC HIGHWAY PROGRAMS 031-1	MINN DEPT TRANSPORTATION	807 TRANSPORTATION BLDG	0203
SECOR JANET E 511 TRANSPORTATION BLDG (0416) ST PAUL MN 55155	OFC R/W & SURVEYS 031-1	MINN DEPT TRANSPORTATION	511 TRANSPORTATION BLDG	0216
SELNESS CECIL 810 TRANSPORTATION BLDG (0166) ST PAUL MN 55155	OFC RAILROADS & WATERWAYS 031-1	MINN DEPT TRANSPORTATION	810 TRANSPORTATION BLDG	0205
SHAW DALE N W TR HWY 14 PO BOX 307 (0121) OWATONNA MN 55060	6B MAINT ENG 031-1	MINN DEPT TRANSPORTATION	W TR HWY 14 PO BOX 307	0203
SHELDRUP MARLYN E 501 S VICTORY DR BOX 4039 (0024) MANKATO MN 56001	7A MAINT ENG 031-1	MINN DEPT TRANSPORTATION	501 S VICTORY DR BOX 4039	0203
SMILONICH DAVID G N TR HWY 52 PO BOX 6177 (0113) ROCHESTER MN 55903	6A DISTRICT ENGINEER 031-1	MINN DEPT TRANSPORTATION	N TR HWY 52 PO BOX 6177	1230
SOBOLEWSKI MICHAEL 308 TRANSPORTATION BLDG (0007) ST PAUL MN 55155	OFC OF COMMISSIONER 031-1	MINN DEPT TRANSPORTATION	308 TRANSPORTATION BLDG	0216
SODER ALAN D 100 STOCKYARDS ROAD (0240) SO ST PAUL MN 55075	OFC MOT CARR SAF & COMPL 031-1	MINN DEPT TRANSPORTATION	100 STOCKYARDS ROAD	0203
SOTEBEER ANDREW L S CO RD 26 PO BOX 427 (0171) WINDOM MN 56101	7B MAINT ENG 031-1	MINN DEPT TRANSPORTATION	S CO RD 26 PO BOX 427	1230

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
OFFICE OF SYSTEMS AND SUPPORT SERVICES
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NAME AND ADDRESS	TITLE OR OFFICE	ORGANIZATION	LOCATION	DATE
STEHR RICHARD A 820 TRANSPORTATION BLDG (0174) ST PAUL MN 55155	OFC TRANS DATA/RES & ANAL	MINN DEPT TRANSPORTATION	820 TRANSPORTATION BLDG	12306 031-1
SULLIVAN RICHARD H 612E TRANSPORTATION BLDG (0178) ST PAUL MN 55155	OFC MATLS RES & STNDS	MINN DEPT TRANSPORTATION	612E TRANSPORTATION BLDG	02036 031-1
SWANSON ROBERT G 810 TRANSPORTATION BLDG (0181) ST PAUL MN 55155	OFC RAILROADS & WATERWAYS	MINN DEPT TRANSPORTATION	810 TRANSPORTATION BLDG	02036 031-1
SWANSON RICHARD R 461 RICE STREET (0180) ST PAUL MN 55103	OFC FINANCIAL MANAGEMENT	MINN DEPT TRANSPORTATION	461 RICE STREET	02036 031-1
TESSMAN GERALD F 316 TRANSPORTATION BLDG (0185) ST PAUL MN 55155	OFC EMPLOYEE & ORG DEVEL	MINN DEPT TRANSPORTATION	316 TRANSPORTATION BLDG	02036 031-1
TROOIEN DAVID G 3725 12TH ST N PO BOX 370 (0203) ST CLOUD MN 56302	3B MAINT ENG	MINN DEPT TRANSPORTATION	3725 12TH ST N PO BOX 370	12306 031-1
TSCHETTER CONNIE 610 HWY 9 S PO BOX 410 (0452) MORRIS MN 56267	4B COMM DISTR	MINN DEPT TRANSPORTATION	610 HWY 9 S PO BOX 410	02246 031-2
VOELKER KAREN 313 TRANSPORTATION BLDG (0420) ST PAUL MN 55155	OFC TRAFFIC ENGINEERING	MINN DEPT TRANSPORTATION	313 TRANSPORTATION BLDG	02036 031-1
WARWICK TINA 3725 12TH ST N PO BOX 370 (0449) ST CLOUD MN 56302	3B COMM DISTR	MINN DEPT TRANSPORTATION	3725 12TH ST N PO BOX 370	12306 031-1
WOFFORD KENNETH O ST PAUL DOWNTOWN AIRPORT (0197) ST PAUL MN 55107	OFC AERONAUTICS OPERATION	MINN DEPT TRANSPORTATION	ST PAUL DOWNTOWN AIRPORT	02036 031-1
WOLFE ROBERT E PO BOX 490 (0198) BEMIDJI MN 56601	2A DISTRICT ENGINEER	MINN DEPT TRANSPORTATION	PO BOX 490	12316 031-1

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WORKS ROBERT M 815 TRANSPORTATION BLDG (0201) ST PAUL MN 55155	OFC TRANSIT	MINN DEPT TRANSPORTATION	815 TRANSPORTATION BLDG	0203
	031-1			
YOERG WILLIAM N 413 TRANSPORTATION BLDG (0037) ST PAUL MN 55155	OPERATIONS DIVN	MINN DEPT TRANSPORTATION	413 TRANSPORTATION BLDG	0203
	031-1			
DAWSON JEAN L B12 CAPITOL BLDG (1055) ST PAUL MN 55155	PRESS	MINN GOVERNMENT REPORT	B12 CAPITOL BLDG	0203
	031-1			
DEWITT ZONA 645 STATE OFFICE BLDG (0140) ST PAUL MN 55155		MINN STATE LEGISLATURE	645 STATE OFFICE BLDG	0203
	031-1			
FOSLIEN CHARLES E METRO SQUARE BLDG 490 (0120) ST PAUL MN 55101	FEDERAL HWY ADMIN	US DEPT TRANSPORTATION	METRO SQUARE BLDG 490	1230
	031-1			
HRUBY MARYANNE V 55 STATE OFFICE BLDG (1028) ST PAUL MN 55101	EXEC DIR LCRAR	MINN STATE LEGISLATURE	55 STATE OFFICE BLDG	1230
	031-1			
LARSON NANCY J 520 LAFAYETTE ROAD (8855) ST PAUL MN 55155	HAZARDOUS WASTE DIVISION	POLLUTION CONTROL AGENCY	520 LAFAYETTE ROAD	1231
	031-1			
MCINERNEY JR DANIEL J 717 S E DELAWARE ST (9352) MINNEAPOLIS MN 55440	ASSISTANT COMMISSIONER	MINN DEPT HEALTH	717 S E DELAWARE ST	1231
	031-1			
MILLER WILLIAM C METRO SQUARE BLDG 490 (1776) ST PAUL MN 55101	FEDERAL HWY ADMIN	US DEPT TRANSPORTATION	METRO SQUARE BLDG 490	1230
	031-1			
MOOSBRUGGER LLOYD J 515 TRANSPORTATION BLDG (0281) ST PAUL MN 55155	OFC ATTORNEY GENERAL	OFC ATTORNEY GENERAL	515 TRANSPORTATION BLDG	0205
	031-1			
MORAN JOHN E 100 STOCKYARDS ROAD (9264) SO ST PAUL MN 55075	TRANSPORTATION SPECIALIST	MINN TRANSP REG BOARD	100 STOCKYARDS ROAD	1230
	031-2			

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MUETING DONALD J 515 TRANSPORTATION BLDG (0280) ST PAUL MN 55155	ASST ATTORNEY GENERAL	OFC ATTORNEY GENERAL	515 TRANSPORTATION BLDG	12306
	031-1			
RAY RON 700 STATE OFFICE BLDG (0283) ST PAUL MN 55155	ASSISTANT REVISOR	MINN STATE LEGISLATURE	700 STATE OFFICE BLDG	12306
	031-1			
SMITH RICHARD B4 CAPITOL BLDG (4472) ST PAUL MN 55155	CAPTAIN-CAPITOL SECURITY	MINN DEPT PUBLIC SAFETY	B4 CAPITOL BLDG	12318
	031-1			
SPANKS CURTIS J 520 LAFAYETTE ROAD (1187) ST PAUL MN 55155	CHIEF DIVISION WATER QUAL	POLLUTION CONTROL AGENCY	520 LAFAYETTE ROAD	12318
	031-1			
SPITZER SUSANNE P 520 LAFAYETTE ROAD 6XX (1076) ST PAUL MN 55155	AIR QUALITY DIVISION	POLLUTION CONTROL AGENCY	520 LAFAYETTE ROAD 6XX	12306
	031-1			
(VACANT) 420 12TH AVENUE E (9424) ALEXANDRIA MN 56308	ADMINISTRATOR	KNUTE NELSON MEM HOME	420 12TH AVENUE E	12306
	031-1			
(VACANT) 1821 UNIVERSITY AVE 2845 (9419) ST PAUL MN 55104	TRANSIT TASK FORCE	UNITED HANDICAPPED FEDN	1821 UNIVERSITY AVE 2845	1231
	031-1			
AHERN MICHAEL J 1200 PILLSBURY CENTER (1022) MINNEAPOLIS MN 55402		MOSS & BARNETT PA	1200 PILLSBURY CENTER	1231
	031-1			
ALDERS JIM 414 NICOLLET MALL (1069) MINNEAPOLIS MN 55401	ADM ROUTING & SITING	NORTHERN STATES POWER CO	414 NICOLLET MALL	1231
	031-1			
ALLEN M RUSSELL 208 PHOENIX BUILDING (9210) DULUTH MN 55802	EXECUTIVE VICE PRESIDENT	MINN TIMBER PRODUCERS	208 PHOENIX BUILDING	1230
	031-1			
ANDERSON HERB K 418 - 8TH ST S (1147) VIRGINIA MN 55792			418 - 8TH ST S	1230
	031-1			

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ANDERSON C GARY 414 NICOLLET MALL (4468) MINNEAPOLIS MN 55401	ERAD 031-1	NORTHERN STATES POWER CO	414 NICOLLET MALL	12306
ARCHER JOAN M 222 E LITTLE CANADA ROAD (1185) ST PAUL MN 55117	EXECUTIVE VICE PRESIDENT 031-1	MINN MFGD HOUSING ASSN	222 E LITTLE CANADA ROAD	02038
ASMUS DONALD J 14600 MINNETONKA BLVD (5142) MINNETONKA MN 55345	CITY ENGINEER 5 031-1	CITY OF MINNETONKA	14600 MINNETONKA BLVD	12306
BAIR ANNETTE 2524 BROADWAY PO BOX 265 (1026) SLAYTON MN 56172	PHYSICAL DEVELOPEMENT PL 031-1	SW REGL DEVEL COMM	2524 BROADWAY PO BOX 265	12309
BARTEL SEVINS D 600 N CENTRAL TOWER (1163) ST PAUL MN 55101	MGR-GOVERNMENT RELATIONS 031-1	ST PAUL CHAMBER COMMERCE	600 N CENTRAL TOWER	12311
BERNHARDSON MARK E PO BOX 66 (1200) CRYSTAL BAY MN 55323	CITY ADMINISTRATOR 031-1	CITY OF ORONO	PO BOX 66	12306
BESAW DAN 411 MAIN STREET #215 (1171) ST PAUL MN 55102	 031-1	MOTOR VEHICLE MFGS ASSN	411 MAIN STREET #215	12311
BLAKE JAY W PO BOX E (1081) THIEF RIVER FALLS MN 567010136	 031-1	NORTHWESTERN RDC	PO BOX E	12311
BLOCK EMANUEL J 70 ORME CT. (1138) ST. PAUL MN 55116	 031-1		70 ORME CT.	12304
BODONY STEVE PO BOX 37 (4466) LAKE LILLIAN MN 56253	 031-1	HANSON SILO CO	PO BOX 37	12304
BOWMAN DENNIS 2115 S CASCADE (1128) FERGUS FALLS MN 56537	MANAGER TRANSPORTATION 031-1	OTTER TAIL POWER CO	2115 S CASCADE	12311

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BOYD RICHARD R 1347 W BROADWAY (9431) WINONA MN 55987	ADMINSTRATOR		SAINT ANNE HOSPICE CENTER	1347 W BROADWAY	12318
	031-1				
BROEKER JOHN M 8500 NORMANDALE LAKE BLVD (1101) MINNEAPOLIS MN 55437	ATTORNEY		BROEKER GEER FLETCHER ECT	8500 NORMANDALE LAKE BLVD	12318
	031-1				
BRUTLAG PAUL ROUTE 1 / PO BOX 2 (3041) WENDELL MN 56590	AIRPORT OWNER/OPERATOR		MINN SUGAR BEET GROWERS	ROUTE 1 / PO BOX 2	12308
	031-1				
BUNGE DARREL D 350 ST PETER ST STE 1025 (1049) ST PAUL MN 55102			MINN PETROLEUM COUNCIL	350 ST PETER ST STE 1025	12308
	031-1				
COLBERT THOMAS 3830 PILOT KNOB ROAD (1075) EAGAN MN 55123	DIRECTOR PUBLIC WORKS		CITY OF EAGAN	3830 PILOT KNOB ROAD	12318
	031-1				
CRIST LAWRENCE J 317 E 5TH STREET #11 (1190) DES MOINES IA 50309	STATE LEGISLATIVE DIR		UNITED TRANSPORTATION UN	317 E 5TH STREET #11	12308
	031-1				
DENN JAMES N 1821 UNIVERSITY AVE 134N (1178) ST PAUL MN 55104	PRESIDENT		MINN TRUCKING ASSN	1821 UNIVERSITY AVE 134N	12318
	031-1				
DETERS DUANE RR 1 (1029) CALEDONIA MN 55921			RED BARON FLYERS INC	RR 1	02028
	031-1				
DOLENTZ JOHN L 400 2ND STREET S (5162) ST CLOUD MN 56301	CITY ENGINEER	3	CITY OF ST CLOUD	400 2ND STREET S	12308
	031-1				
DONAHUE DANIEL J 4401 XLYON AVENUE N (1018) NEW HOPE MN 55428	CITY MANAGER		CITY OF NEW HOPE	4401 XLYON AVENUE N	12308
	031-1				
DOYLE THOMAS 444 CEDAR ST RM 900 (9326) ST PAUL MN 55101	ATTORNEY		FELHABER/LARSON/FENLON VO	444 CEDAR ST RM 900	12308
	031-1				

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EELKEMA ROBERT 2221 UNIVERSITY AVE RM400 (9329) MPLS MN 55414	LEGAL COUNSEL 031-1	MINN MEDICAL ASSOCIATION	2221 UNIVERSITY AVE RM400	1230
FONTAINE LEYTEN 611 IOWA AVENUE (1134) STAPLES MN 56479	EXECUTIVE DIRECTOR 031-1	RDC REGION 5	611 IOWA AVENUE	1230
FORBES GORDON 475 CLEVELAND AVE N #325 (1056) ST PAUL MN 55104	EXECUTIVE VICE PRESIDENT 031-1	M T PROPERTIES INC	475 CLEVELAND AVE N #325	1231
FREDIN CONRAD M 515 PROVIDENCE BLDG (1008) DULUTH MN 55802	ATTORNEY AT LAW 031-1		515 PROVIDENCE BLDG	1230
FRIESEN MILLER A PO BOX 1188 (9432) VIRGINIA MN 55792	 031-1	RANGE MENTAL HEALTH CTR	PO BOX 1188	1231
FRISON FRANK 200 S ROBERT STREET (1120) ST PAUL MN 55107	 031-1	N F C A ROOM 305	200 S ROBERT STREET	1231
GARRETT VIOLA M PO BOX 87 (1072) PINE RIVER MN 56474	CITY CLERK TREASURER 031-1	CITY OF PINE RIVER	PO BOX 87	1230
GATLIN STEVEN D 4700 MILLER AVENUE (5174) WHITE BEAR LAKE MN 55110	CITY ENGINEER 9 031-1	CITY OF WHITE BEAR LAKE	4700 MILLER AVENUE	1230
GEORGE DARLENE 4141 DOUGLAS DRIVE N (1168) CRYSTAL MN 55422	CITY CLERK 031-1	CITY OF CRYSTAL	4141 DOUGLAS DRIVE N	1231
GERBER ALLEN 480 CEDAR ST 380 (0436) ST PAUL MN 55101	EXECUTIVE DIRECTOR 031-1	MINN ASSN OF COOPERATIVES	480 CEDAR ST 380	1231
GILLIG DEBORA J 6000 DOUGLAS DRIVE N (1045) MINNEAPOLIS MN 55429	 031-1	CRYSTAL SHAMROCK INC	6000 DOUGLAS DRIVE N	1230

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GLENN	NANCY	N	OFFICE MANAGER		MINN SOCIAL SERVICE ASSN	614 PORTLAND AVE	12318
614 PORTLAND AVE		(1139)					
ST. PAUL	MN 55104		031-1				
GRABER	SHERMAN		OWNER		WORTHINGTON AVIATION	AIRPORT ROAD	12308
AIRPORT ROAD		(1157)					
WORTHINGTON	MN 56187		031-1				
GRINDEN	JOHN	C	EXECUTIVE DIRECTOR		DULUTH AIRPORT AUTHORITY	DULUTH INTL AIRPORT	12308
DULUTH INTL AIRPORT		(1184)					
DULUTH	MN 55811		031-1				
GUSTAFSON	ROGER	M	HIGHWAY ENGINEER	5	COUNTY OF CARVER	600 E 4TH STREET PO BOX 6	12308
600 E 4TH STREET PO BOX 6		(5010)					
CHASKA	MN 55318		031-1				
HACKING	EARL					700 N MEADOW LANE	12318
700 N MEADOW LANE		(4470)					
MINNEAPOLIS	MN 55422		031-1				
HAGEN	PAUL	N	ADMINISTRATOR		CHRISTIAN CONCERN INC	PO BOX 3383-217 E WALNUT	12308
PO BOX 3383-217 E WALNUT		(9422)					
MANKATO	MN 56001		031-1				
HALLMAN	WES	A	PRESIDENT-TARIFF BUREAU		ASSOCIATED MOTOR CARRIERS	302 CHESTER STREET	12318
302 CHESTER STREET		(1042)					
S PAUL	MN 551071203		031-1				
HAMMARGREN	DAVID		ATTORNEY		RICHARD KNUTSON INC	201 TRAILERS TRAIL	12318
201 TRAILERS TRAIL		(1460)					
BURNSVILLE	MN 55337		031-1				
HARRY	RICHARD					1000 LAKESHORE DRIVE	12308
1000 LAKESHORE DRIVE		(1186)					
MOOSE LAKE	MN 55767		031-1				
HOFFMAN	FRANCIS	J	CITY ENGINEER	5	CITY OF EDINA	4801 W 50TH STREET	12308
4801 W 50TH STREET		(5120)					
EDINA	MN 55424		031-1				
HOFFMAN	CHARLES	B			PICKANDS MATHER & COMPANY	200 W SUPERIOR ST 811	12308
200 W SUPERIOR ST 811		(1181)					
DULUTH	MN 55802		031-1				

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HOLEY	GEORGE				1509 SW 6TH ST	1230
1509 SW 6TH ST	(1107)					
FARIBAULT	MN 55021	031-1				
HOLTE	GREG			RED RIV VAL SUGAR BEET GR	336 5TH AVENUE E	1230
336 5TH AVENUE E	(4476)					
HALSTAD	MN 56550	031-1				
HONCHELL	CHARLES V	CITY ENGINEER	9	CITY OF ROSEVILLE	2660 CIVIC CENTER DRIVE	1230
2660 CIVIC CENTER DRIVE	(5160)					
ROSEVILLE	MN 55113	031-1				
JACK	JAMES T	CHAIRPERSON		MANKATO STATE UNIVERSITY	PO BOX 36	1230
PO BOX 36	(1150)					
MANKATO	MN 56001	031-1				
JENSEN	GAYNOLD	REGISTERED DIETITIAN			111 W 107TH STREET	1231
111 W 107TH STREET	(1159)					
MINNEAPOLIS	MN 55420	031-1				
JILK	STEPHAN	CLERK ADMINISTRATOR		CITY OF ROSEMOUNT	2875 145TH ST W	1230
2875 145TH ST W	(1007)					
ROSEMOUNT	MN 55068	031-1				
JOHANSEN	JIM	PRESIDENT		JOHANSEN BUS SVC INC	11911 CAVELL AVENUE N	1230
11911 CAVELL AVENUE N	(1161)					
CHAMPLIN	MN 55316	031-1				
JOHNSON	JOHN A				RR 2 - PO BOX 79	1230
RR 2 - PO BOX 79	(1009)					
SACRED HEART	MN 56285	031-1				
JOHNSON	JAMES H	DIR MARKETING & SALES		DAHLEN TRANSPORT INC	1680 4TH AVENUE	1231
1680 4TH AVENUE	(4436)					
NEWPORT	MN 55055	031-1				
JOHNSON	ROBERT D	VICE PRESIDENT		INSURANCE FEDERATION MINN	1310 PIONEER BUILDING	1230
1310 PIONEER BUILDING	(1065)					
ST PAUL	MN 55101	031-1				
JOHNSON	GENE P	ATTORNEY AT LAW		JOHNSON & OGREN LTD	PO BOX 2471	1231
PO BOX 2471	(1093)					
FARGO	ND 58108	031-1				

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JOHNSON GORDON H 2414 PARK AVENUE (1010) MINNEAPOLIS MN 55404	031-1	LUTHERAN SOCIAL SERVICE	2414 PARK AVENUE	12308
KARR JEFFREY 800 EAST 28TH STREET (9420) MINNEAPOLIS MN 55407	MANAGER-TRANSPORTATION 031-1	ABBOTT-NWESTERN HOSPITAL	800 EAST 28TH STREET	12318
KEEFE STEVE METRO SQUARE BLDG STE 300 (9075) ST PAUL MN 55101	CHAIRMAN 031-1	METROPOLITAN COUNCIL	METRO SQUARE BLDG STE 300	12308
KING KATHY 1622 PARK AVENUE (2328) MINNEAPOLIS MN 55404	GREATER THAN 50 031-1	WILLOWS	1622 PARK AVENUE	12318
KLEIN ALLAN 310 FOURTH AVE S #500 (1013) MINNEAPOLIS MN 55415	031-1	MINN OFC ADMIN HEARINGS	310 FOURTH AVE S #500	12318
KLEINSCHMIDT JAMES 100 SIBLEY STREET (5130) HASTINGS MN 55033	CITY ENGINEER 9 031-1	CITY OF HASTINGS	100 SIBLEY STREET	12308
KNAPP JOHN A 444 CEDAR STREET (1878) ST PAUL MN 55101	1800 MERITOR TOWER 031-1	WINTHROP & WEINSTINE	444 CEDAR STREET	12308
KROGMAN ROBERT S 2345 RICE STREET STE 173 (1208) ST PAUL MN 55113	031-1	N W PETROLEUM ASSOCIATION	2345 RICE STREET STE 173	12308
KRUPA DENNIS 203 COOPER AVENUE N (1016) ST CLOUD MN 56301	SUPVR LICENSE DEPT 031-1	ANDERSON TRUCKING SERVICE	203 COOPER AVENUE N	12308
LOFTHUS MARK W PO BOX 78 (1074) MARSHALL MN 56258	031-1	COUNTRYSIDE COUNCIL	PO BOX 78	12308
LYNCH FRANCES 4323 LONGFELLOW AVENUE (9417) MINNEAPOLIS MN 55407	031-1	504 ADVISORY COMMITTEE	4323 LONGFELLOW AVENUE	1230

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MADKINS CAROL A 1231 25TH STREET NW (1135) WASHINGTON DC 20037	LIBRARY 031-1	BUREAU NATL AFFAIRS INC	1231 25TH STREET NW	1230
MALINEN WILLIAM J 1281 HAMMOND ROAD (1140) WHITE BEAR MN 55110	CLERK TREASURER 031-1	TOWNSHIP OF WHITE BEAR	1281 HAMMOND ROAD	1231
MCINTOSH ANDREW 1012 GRAIN EXCHANGE BLDG (5098) MINNEAPOLIS MN 55415	 031-1		1012 GRAIN EXCHANGE BLDG	1231
MEHMEL P V P O BOX 787 (1092) WILLMAR MN 56201	EXECUTIVE DIRECTOR 031-1	W CENTRAL COMM SVCS CTR	P O BOX 787	1231
MEISSNER CARL F 7516 80TH STREET S (1085) COTTAGE GROVE MN 55016	CITY ADMINISTRATOR 031-1	CITY OF COTTAGE GROVE	7516 80TH STREET S	1230
MERRILL THOMAS E 2615 1ST AVE NW BOX 163 (1119) FARIBAULT MN 55021	PRESIDENT 031-1	FARIBAULT TRANSPORTATION	2615 1ST AVE NW BOX 163	1230
MOORE J K 430 FIRST AVE N (1012) MINNEAPOLIS MN 55401	STE 790 KNICKERNICK BLDG 031-1	ERNEST K LEHMANN & ASSOC	430 FIRST AVE N	1231
MORGAN ROBERT S A-1800 GOVERNMENT CENTER (1117) MINNEAPOLIS MN 554870180	ENGR PLANNING & PRGMNG 031-1	MINNEAPOLIS PUBLIC WORKS	A-1800 GOVERNMENT CENTER	1231
MUELLER MARY 14200 CEDAR AVE (1041) APPLE VALLEY MN 55124	CITY CLERK 031-1	CITY OF APPLE VALLEY	14200 CEDAR AVE	1231
MUELLER MICHAEL T PO BOX 281 (9433) SO ST PAUL MN 55075	VICE PRESIDENT 031-1	H T S INC	PO BOX 281	1231
NOLTING DONALD 2504 AGA DRIVE PO BOX 963 (5190) ALEXANDRIA MN 56308	WIDSETH SMITH NOLTING ASS 031-1	CITY OF MORRIS	2504 AGA DRIVE PO BOX 963	0114

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NORD TERENCE RR 1 BOX 3 (1098) PEMBINA ND 58271	PRESIDENT 031-1	NORD AVIATION INC	RR 1 BOX 3	12318
O BRIEN TERRY 215 E EXCELSIOR AVE (1053) HOPKINS MN 55343	DIRECTOR OF TRANSIT 031-1	RED OWL STORES INC	215 E EXCELSIOR AVE	12318
OLOFSON ARTHUR W 927 SOO LINE BLDG (1036) MINNEAPOLIS MN 554021259	EXEC VICE PRESIDENT 031-1	MPLS ASSOC BLDG OWNER/MGR	927 SOO LINE BLDG	12318
OLSON N G 5100 EDEN AVENUE (1054) MINNEAPOLIS MN 55436	 031-1	THUNDERBIRD AIRCRAFT CO	5100 EDEN AVENUE	12308
PAYNE ALVIN B ROUTE 1 - PO BOX 40 (1113) DEGRAFF MN 56233	 031-1		ROUTE 1 - PO BOX 40	12308
PELLISH JOE 3530 N LEXINGTON AVENUE (1064) ST PAUL MN 55126	DIR REGULATORY SERV DEPT 031-1	H B FULLER CO	3530 N LEXINGTON AVENUE	12318
PERKINS ROBERT 13601 PIONEER TRAIL (1170) EDEN PRAIRIE MN 55344	PRESIDENT 031-1	G & R AVIATION INC	13601 PIONEER TRAIL	1231
RADZIEJ DAVID 111 E KELLOGG BLVD (1179) ST. PAUL MN 55101	AGC HIGHWAY DIVN ADMIN 031-1	AGC MINNESOTA	111 E KELLOGG BLVD	1231
RAIBER KENNETH W HEADLEY HALL (1088) ST CLOUD MN 56301	AVIATION RESOURCE CENTER 031-1	ST CLOUD STATE UNIVERSITY	HEADLEY HALL	1230
RANDELL PATSY A HONEYWELL PLAZA (1073) MINNEAPOLIS MN 55408	MGR STAT LEGISLATIVE AFF 031-1	HONEYWELL INC	HONEYWELL PLAZA	1231
RIPPENTROP GARY D 277 UNIVERSITY AVENUE (9222) ST PAUL MN 55103	EXECUTIVE VICE PRESIDENT 031-1	MINN AUTO DEALERS ASSOC	277 UNIVERSITY AVENUE	1230

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RODEWALD JEROME C ECOLAB CENTER (1111) ST PAUL MN 55102	MGR COMPLIANCE & DEVEL 031-1	ECOLAB INC	ECOLAB CENTER	1231
ROMBERG CHRIS COURT HOUSE (4119) NEW ULM MN 56073	VETERANS SERVICE OFFICER 031-1	COUNTY OF BROWN	COURT HOUSE	1231
ROSENTHAL ABE 1821 UNIVERSITY AVE 310N (1038) ST PAUL MN 55104	PRESIDENT 031-1	MINN TRANSPORT SERVICES	1821 UNIVERSITY AVE 310N	1231
ROSS ALFRED 6356 WARE ROAD (1033) LINO LAKES MN 55014	 031-1		6356 WARE ROAD	1230
RUBENSTEIN SAMUEL 6960 MADISON AVENUE W (4471) GOLDEN VALLEY MN 55427	 031-1		6960 MADISON AVENUE W	1230
RUDRUD RONALD L 2215 W OLD SHAKOPEE ROAD (1017) BLOOMINGTON MN 55431	CITY ENGINEER 031-1	CITY OF BLOOMINGTON	2215 W OLD SHAKOPEE ROAD	1231
SALLSTROM CRAIG 1821 UNIVERSITY AVE #253S (3999) ST PAUL MN 55104	 031-1	MN PLANT FOOD & CHEM ASSN	1821 UNIVERSITY AVE #253S	1231
SANFORD S M 7000 PORTLAND AVE (1082) RICHFIELD MN 55423	 031-1		7000 PORTLAND AVE	123(
SCANLAN JOYCE 15 S FIFTH STREET 715 (9425) MINNEAPOLIS MN 55402	PRESIDENT 031-1	NATL FED OF BLIND MINN	15 S FIFTH STREET 715	123(
SCHMIT MICHAEL C 333 W 6TH ST PO BOX 755 (1100) WILLMAR MN 56201	CITY CLERK TREASURER 031-1	CITY OF WILLMAR	333 W 6TH ST PO BOX 755	123(
SCHMITT WILLIAM L 221 E CLARK STREET (1152) ALBERT LEA MN 56007	 031-1	CITY OF ALBERT LEA	221 E CLARK STREET	123(

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SCHULTZ RAY 2015 1ST AVE N (5103) ANOKA MN 55303		DIRECTOR PUBLIC WORKS		CITY OF ANOKA	2015 1ST AVE N	12318
031-1						
SCHWENINGER RONALD J 503 LAUREL ST (5108) BRAINERD MN 56401		CITY ENGINEER	3	CITY OF BRAINERD	503 LAUREL ST	12308
031-1						
SHOL LUCKY PO BOX 432 (1104) FERGUS FALLS MN 56537		PRESIDENT		W CENTRAL AIRWAYS INC	PO BOX 432	12308
031-1						
SIEGMUND RON 7 TRAVELERS TRAIL (1205) BURNSVILLE MN 55337		VICE-PRES PUBLIC RELATION		MINN STATE AUTO ASSOC	7 TRAVELERS TRAIL	12318
031-1						
SIGGERUD CHARLES A 1313 E HWY 13 (5179) BURNSVILLE MN 55337		DIRECTOR PUBLIC WORKS	9	CITY OF BURNSVILLE	1313 E HWY 13	12306
031-1						
SPARTZ GREGORY G PO BOX 1128 (9428) WILLMAR MN 56201		CHIEF EXECUTIVE OFFICER		WILLMAR STATE HOSPITAL	PO BOX 1128	12318
031-1						
SPURRIER H R 6301 SHINGLE CREEK PKWY (5109) BROOKLYN CENTER MN 55430		CITY ENGINEER	5	CITY OF BROOKLYN CENTER	6301 SHINGLE CREEK PKWY	12308
031-1						
STROM KURT E 208 METRO SQUARE BLDG (1115) ST PAUL MN 55101				COUNCIL FOR HANDICAPPED	208 METRO SQUARE BLDG	12308
031-1						
SWENSON ROBERET 6201 34TH AVENUE S (1078) MINNEAPOLIS MN 55450		MESABA AIRLINES		MESABA AVIATION INC	6201 34TH AVENUE S	12318
031-1						
THAYER SCOTT D PO BOX 800 (4467) AUSTIN MN 55912		CORPORATE ATTORNEY		GEO A HORMEL & COMPANY	PO BOX 800	12318
031-1						
THOMPSON RUSSELL C PO BOX 64089 (4474) ST PAUL MN 551640089		DIRECTOR TRANSPORTATION		CENEX LAND O LAKES AG	PO BOX 64089	12318
031-1						

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
OFFICE OF SYSTEMS AND SUPPORT SERVICES
DLNAME SEQUENCE
****
(031)

NAME AND ADDRESS	TITLE OR OFFICE		ORGANIZATION	LOCATION	DATE
TOSCU PAUL 525 PARK ST #101 (1050) ST PAUL MN 55103	MINNESOTA DIVISION 031-1		IZAAK WALTON LEAGUE OF AM	525 PARK ST #101	0209
VAN DE NORTH J B 2200 FIRST NATL BANK BLDG (9019) ST PAUL MN 55151			BRIGGS & MORGAN PA 031-1	2200 FIRST NATL BANK BLDG	1230
WAAGE DANIEL L ROUTE 1 BOX H (9436) WATKINS MN 55389	ADMINISTRATOR 031-1		HILLTOP CARE CENTER	ROUTE 1 BOX H	1231
WARREN GARY 690 COULTER DR PO BOX 147 (5194) CHANHASSEN MN 55317	CITY ENGINEER 031-1	5	CITY OF CHANHASSEN	690 COULTER DR PO BOX 147	1230
WIEGERT ROBERT C 9150 CENTRAL AVENUE NE (5106) BLAINE MN 55434	CITY ENGINEER 031-1	5	CITY OF BLAINE	9150 CENTRAL AVENUE NE	1230
WISNIEWSKI DONALD C 11660 MYERON RD N (5082) STILLWATER MN 550829573	HIGHWAY ENGINEER 031-1	9	COUNTY OF WASHINGTON	11660 MYERON RD N	1230
YOST JOHN RT 8 PO BOX 348 (1003) INTL FALLS MN 56649	VICE PRESIDENT 031-1		BOHMAN AIRWAYS	RT 8 PO BOX 348	1230
DEMBOUSKI DIANE M 461 RICE STREET (0235) ST PAUL MN 55103	OFC FINANCIAL MANAGEMENT 031-1		MINN DEPT TRANSPORTATION	461 RICE STREET	0301

C. a description of the annual evaluation procedures to be used to demonstrate attainment of the goals and objectives; and

D. an identification of the Board of Teaching rule from which the institution seeks exemption.

Subp. 8c. **Five-year review of experimental teacher licensure programs.** The Board of Teaching shall approve, disapprove, or modify continuation of the experimental program approved under subparts 8a and 8b within five years.

Subp. 9. to 11. [Unchanged.]

RECEIVED
MAR 24 1988
ADMINISTRATIVE
HEARINGS

Department of Transportation

Proposed Permanent Rules Relating to Motor Carrier Safety

Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing if Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Transportation intends to adopt the above entitled rule without a public hearing following the procedures for adopting rules without a public hearing set forth in *Minnesota Statutes*, Sections 14.22 to 14.28. The specific statutory authority to adopt the rules is *Minnesota Statutes*, Section 221.031 and Section 221.141.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, Sections 14.131 to 14.20. PLEASE NOTE THAT IF 25 OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30 DAY COMMENT PERIOD, A HEARING WILL BE HELD ON THURSDAY, APRIL 21, 1988, AT 9:00 A.M., IN THE TRB HEARING ROOM, 2ND FLOOR, MINNESOTA ADMINISTRATIVE TRUCK CENTER, LIVESTOCK EXCHANGE BUILDING, 100 STOCKYARDS ROAD, SOUTH ST. PAUL, MINNESOTA, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES, PUBLISHED IN THIS ISSUE OF THE *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE MINNESOTA DEPARTMENT OF TRANSPORTATION. TO VERIFY WHETHER OR NOT A HEARING WILL BE HELD, YOU MUST CALL THE DEPARTMENT OF TRANSPORTATION BETWEEN APRIL 18 AND APRIL 20, 1988, AT 612-297-2913 OR 612-296-7109.

Comments or written requests for a public hearing must be submitted to:

Elizabeth M. Parker
Minnesota Department of Transportation
Room 815 Transportation Building
St. Paul, Minnesota 55155
(612) 297-2913

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 6, 1988.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from Elizabeth M. Parker at the address noted above.

A copy of the proposed rule may be viewed at the Department of Transportation, Motor Carrier Safety and Compliance Office, Minnesota Administrative Truck Center, Livestock Exchange Building, 100 Stockyards Road, South St. Paul, Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Elizabeth M. Parker upon request.

The adoption of these rules will not require the expenditure of money by local public bodies within the meaning of *Minnesota Statutes*, Section 14.11. The proposed rules will not have an effect on agricultural land. The rules will not impose "costs mandated by the state," or require a local agency or school district to take action that incurs costs mandated by the state within the meaning of *Minnesota Statutes*, Section 3.982. The rules impose no fees.

The Department has considered the impact of these rules on small businesses in compliance with *Minnesota Statutes*, Section 14.115, Subdivision 2. A majority of the trucking businesses and other businesses that use trucks are small businesses within the meaning of that statute. The proposed rules are amendments to current insurance and safety rules. They are basically the same rules that are now in effect in *Minnesota Rules* Chapters 7800 and 7805. All the rules have been renumbered. Some rules have been rewritten to modernize the language. Some rules have been amended to maintain uniformity with the Federal Motor Carrier Safety Regulations, a major goal since 1940 when the federal regulations were first adopted by reference in Minnesota. Some of the federal rules are amended by the Federal Highway Administration every year, and the entire set of Federal Motor Carrier Safety Regulations is recodified as of October 1, each year. The state motor carrier safety rules were last amended in 1977. Therefore, Minnesota must readopt the most current federal regulations in order to maintain uniformity with the federal regulations. Some rules will be repealed because they are obsolete and not consistent with federal regulations.

The Department wishes to conform as closely as possible to the federal regulations. Many trucks are used in both interstate and intrastate transportation service. Those trucks must comply with both state and federal regulations. The more nearly alike that the Minnesota safety rules are to the federal regulations, the less the burden on carriers, ~~especially small carriers~~ that can't afford a large staff to make sure that the carrier will comply with different sets of rules and record keeping requirements. Mn/DOT has made every effort to readopt safety rules that are as nearly uniform as possible with those of the federal government and the other states, in order to minimize the burden on small carriers that may operate trucks across borders.

The Legislature has exempted certain businesses that use trucks from certain motor carrier safety rules. It has also specifically stated what rules must be complied with by the various kinds of users of trucks, i.e., motor carriers, private carriers and exempt carriers. The exemptions and requirements are contained in *Minnesota Statutes*, Section 221.031, Subdivisions 1, 2, 2a, 3, and 6. Section 221.031, subdivision 1, makes motor carriers (regulated for-hire carriers) subject to all the safety requirements. However, Subdivisions 2, 2a, and 3 exempt the operation of certain private carrier and for-hire exempt carrier trucks from compliance with driver qualification rules and driver hours of service rules.

The need to regulate truck safety depends more on the size and the use of the truck than on the size of the business. Many of the federal rule sections proposed to be readopted contain exemptions for vehicles that weigh less than 10,000 pounds. These exemptions will be adopted in Minnesota, but the weight threshold will be increased to 12,000 pounds to correspond with Minnesota vehicle registration laws.

The repeal of certain Minnesota rules and the adoption of amended federal rules will make compliance easier and less expensive in certain cases. For example, the department proposes to repeal the current Minnesota rule that prohibits a person who has lost a finger from driving a commercial vehicle. The department will adopt the federal rule which is performance based, and which requires consideration of whether a driver's limb impairment will affect his ability to drive safely instead of flatly prohibiting driving with certain impairments. Four other minor changes are made to the driver qualification rules to conform them to the new federal regulations that govern licensing of commercial drivers. Those regulations are paperwork requirements, are not unduly burdensome and will be imposed by the state driver licensing agencies under federal driver licensing standards as well as under the motor carrier safety rules.

With respect to rules that govern operation of vehicles, the department proposes to repeal the current Minnesota rule that requires all vehicles to carry reflective triangles or other warning devices. The department will adopt the federal regulation that exempts lightweight vehicles from that requirement. This will eliminate a compliance requirement for businesses that use small vehicles. Many courier service businesses use only lightweight vehicles and so will be exempt from that requirement. The department will also repeal the Minnesota rule that prohibits fueling of buses while passengers are on board and will adopt the less restrictive federal rule that allows fueling as long as it is not done in a closed space.

Five current vehicle equipment rules are being repealed and replaced with less restrictive federal rules. Those rules repeal the requirement that buses carry first aid kits, repeal the requirement that trucks carry tire chains, allow the use of catalytic heaters, repeal the Minnesota rule requiring two outside rear vision mirrors and replace it with the federal regulation that requires only one if the driver has a view to the rear by means of an interior mirror, and repeal the current Minnesota rule that prohibits the use of recapped tires on the front wheels of trucks. Minnesota will adopt the federal rule that prohibits recapped tires only on the front wheels of buses.

The department is proposing to adopt an amended federal regulation that will impose an additional burden and cost on intrastate motor carriers. That regulation already applies to interstate carriers by operation of federal law. The department proposes to adopt

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that regulation for application to intrastate carriers. In 1986, the Congress passed the Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570), which requires that all commercial vehicles manufactured after July 24, 1980 have brakes operating on all wheels. That law also required the Federal Highway Administration to adopt a regulation requiring that all commercial vehicles manufactured after July 24, 1980, and lacking operating front wheel brakes be retrofitted within one year of the date of enactment of P.L. 99-570. The FHWA did adopt the regulation and now requires that all commercial vehicles over 10,000 pounds that were manufactured after July 24, 1980, have operating brakes on all wheels by February 28, 1988. The Congress and the FHWA acted after research and braking demonstrations conducted by the FHWA and the National Highway Traffic Safety Administration of the USDOT showed that trucks that are equipped with properly operating brakes on all wheels have shorter stopping distances and are more easily controlled.

It is not clear from the definition of "commercial vehicle" enacted by the Congress and adopted by the FHWA whether intrastate vehicles are included. For purposes of the application of the driver licensing sections of the 1986 Commercial Motor Vehicle Safety Act, vehicles that do not leave a state but that "are used in trade, traffic, and transportation" that affects interstate trade, traffic, and transportation are included. This issue is less clear with respect to the federal application of the new brake rule. Therefore, because the department wishes to be uniform with the FHWA, and because federal tests have shown that brakes operating on all wheels increase the safety of vehicles, it is proposing to adopt the federal regulation for application to vehicles in intrastate commerce in Minnesota. The regulation will require that vehicles over 10,000 pounds gross weight that were manufactured after July 24, 1980, have properly operating brakes on all wheels. The FHWA has estimated that the cost of complying with this requirement will be $300 to $1000 per vehicle. The cost of compliance will vary depending on the type and condition of the vehicle.

The rule that governs driver hours of service will be amended to enlarge the exemption from the requirement that drivers record their hours of service in a logbook. The current Minnesota rule exempts drivers who drive wholly within a 50 mile radius of their work reporting location. That rule will be repealed and replaced by the federal rule that allows a 100 mile exemption. Minnesota livestock truckers will also be affected by the repeal of the Minnesota rule. The current rule exempts livestock truckers from compliance with the logbook rule. The repeal of the current rule will make any livestock trucker who drives beyond the 100 mile radius subject to the requirement that he record his hours of service in a logbook. The effect of this rule is to treat Minnesota permit livestock carriers the same as other Minnesota permit carriers. Federal studies have shown that driver fatigue and inattention are associated with an increased accident rate. The requirement that drivers record their driving hours enables enforcement personnel to monitor the drivers' hours of driving and to enforce the rules limiting the number of hours that a driver may drive in a 24 hour period. Without the logbook it is difficult to enforce the hours of service rules. Because livestock truckers may be on the road many hours and drive vehicles over 12,000 pounds, they should be subject to the same safety rules as other truckers in the same situation. There is no cost associated with the imposition of this requirement other than the cost of purchasing a logbook. This is a negligible cost. The records then must be maintained at the trucker's place of business for six months. This is a very minimal requirement.

The department also proposes to adopt the amended federal rule that exempts retail store drivers from the hours of service limitations at Christmas time. The amended rule clarifies that drivers who deliver packages from catalog stores are also eligible for the exemption, and it adds a 100 air mile radius limitation to the exemption. The expansion of the exemption to include the local delivery of catalog store merchandise should benefit carriers by reducing record keeping.

The department is proposing to adopt several amended federal regulations that apply to the inspection, repair and maintenance of vehicles. Part 396 of the federal motor carrier safety regulations requires that motor carrier vehicles be systematically inspected, repaired and maintained by the carrier. Part 396 prescribes the procedures that a carrier must follow to make sure that vehicles are maintained. When the Minnesota motor carrier rules were last amended in 1977, the federal regulations that were in effect in October 1975 were adopted and are still in effect in Minnesota. A Minnesota rule exempted motor carriers that operate only one vehicle from the requirement that the driver complete a vehicle defect report at the end of each day. Another Minnesota rule restated that requirement without the exemption for carriers operating only one vehicle. The department intends to adopt all the federal regulations that apply to maintenance. These regulations provide exemptions from maintenance record keeping for carriers that operate vehicles that they control for less than 30 days (leased vehicles) and for lightweight vehicles. Lightweight vehicles and carriers that operate only one vehicle will also be exempt from the driver's daily vehicle inspection report. Because that exemption is in conflict with the Minnesota rule, it was not adopted in 1977. However, in order to be as uniform as possible with the federal regulations, the department is now proposing to repeal the Minnesota rule and replace it with the federal regulation. The exemptions will benefit those carriers by reducing the amount of paperwork that must be completed. The department is also adopting the amended federal regulation that specifies the content of the daily driver inspection report. This only very minimally increases the requirement. The old rule required reporting but did not specify the minimum content of the report.

Therefore, the rules do not contain separate rules for small businesses, nor do they exempt businesses just because they are "small". Rather, they prescribe rules based on the need for safe vehicles and safe provision of transportation within the framework established by the Legislature. This subject is discussed in greater detail in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that the form relates to legality. Any person may request notification

of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Elizabeth M. Parker at the address indicated above.

Dated: 22 February 1988

Leonard W. Levine
Commissioner
Minnesota Department of Transportation

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that a public hearing on the above entitled matter will be held in the TRB Hearing Room, 2nd Floor, Administrative Truck Center, Livestock Exchange Building, 100 Stockyards Road, South St. Paul, MN, on Thursday, April 21, 1988, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate. Notice of the hearing will be given to all persons who have registered with the Minnesota Department of Transportation in order to receive rulemaking notices. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN 25 PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING, PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF TRANSPORTATION.

TO VERIFY WHETHER OR NOT A HEARING WILL BE HELD, YOU MUST CALL the Minnesota Department of Transportation between April 18 and April 20, 1988 at 612-297-2913 or 612-296-7109.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Phyllis Reha, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7611, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The purpose of this rulemaking proceeding is to amend the Minnesota motor carrier safety and insurance rules. *Minnesota Statutes*, Section 221.031, Subdivision 1, authorizes the commissioner of transportation to adopt and amend rules governing the safe operation of motor carriers. Subdivisions 2, 2a, and 3 of Section 221.031 provide that some of those rules also apply to private carriers and exempt carriers. *Minnesota Statutes*, Section 221.141 authorizes the commissioner of transportation to prescribe insurance requirements for motor carriers.

The current Minnesota motor carrier safety and insurance rules are found in *Minnesota Rules* 7800.3500, 7800.3700 to 7800.8200, and 7805.1400 to 7805.3600. Current *Minnesota Rule* 7800.4500 adopts the Federal Motor Carrier Safety Regulations in effect on October 1, 1975. The state rules have not been amended since 1977. Since the last time the rules were amended, there has been a significant change in the format of Minnesota agency rules and in the style of the language used in the rules. Because of the changes in format and style, and to make the organization of the amended rules more coherent, all existing motor carrier safety and insurance rules are being repealed. However, the substance, and in some cases, the text of those rules is being retained and renumbered. The majority of the proposed rules are simply reorganized and renumbered. Some rules are being amended to maintain uniformity with the Federal Motor Carrier Safety Regulations, a major goal since 1940 when the federal regulations were first adopted by reference

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in Minnesota. Some of the federal rules are amended by the Federal Highway Administration every year, and the entire set of Federal Motor Carrier Safety Regulations is recodified as of October 1, each year. Therefore, Minnesota must readopt the most current federal regulations in order to maintain uniformity with the federal regulations.

The federal motor carrier safety program is set forth in *Code of Federal Regulations*, Title 49, Parts 391 to 397. Part 391 prescribes driver qualifications, which include driver testing and physical examinations. Part 392 is entitled "Driving of Motor Vehicles" and sets forth vehicle operating rules amounting to general rules of conduct. Part 393 lists the parts and accessories a vehicle must have in operating condition before it can lawfully be driven. The state now uses the federal accident report form prescribed in part 394 and will continue to do so. Part 395 sets limits on the number of consecutive hours a driver may drive a vehicle and requires drivers to keep logbooks. Part 396 requires motor carriers to inspect, repair and maintain their vehicles, and Part 397 governs the transportation of certain hazardous materials.

Minnesota Statutes, Section 221.141, directs the commissioner of transportation to prescribe insurance requirements for motor carriers. *Minnesota Statutes*, Section 221.60 requires interstate carriers to comply with Section 221.141. This rulemaking proceeding consolidates and readopts the insurance requirements and limits now in effect for most motor carriers. The Department is also adopting the federal insurance limits for motor carriers that transport hazardous waste, materials, and substances. Those requirements now apply to those carriers as a result of the passage of the Motor Carrier Act of 1980, section 30, as amended (see *United States Code*, Title 49, Section 10927) and regulations adopted by the U.S. Department of Transportation in *Code of Federal Regulations*, Title 49, Part 387. Mn/DOT is adopting those limits to be consistent with federal regulations. Mn/DOT enforces US/DOT safety and insurance requirements under the Motor Carrier Safety Assistance Program, through which federal funding is received by the state for truck safety enforcement. Mn/DOT is also adopting rules to allow the use of certain federal insurance certificate forms. That will make filing of forms easier for insurance companies.

A copy of the proposed rules is included with this notice. One free copy of the rules may also be obtained from Elizabeth M. Parker, 815 Transportation Building, St. Paul, MN 55155, (612) 297-2913.

The Department has considered the impact of these rules on small businesses in compliance with *Minnesota Statutes*, Section 14.115, Subdivision 2. A majority of the trucking businesses and other businesses that use trucks are small businesses within the meaning of that statute. The proposed rules will have very little effect on small businesses beyond the effect the current rules now have. The proposed rules are amendments to current insurance and safety rules. They are basically the same rules that are now in effect, with the addition of recent amendments to the federal motor carrier safety rules. No new or different small businesses are regulated or affected. This subject is discussed in greater detail in the Notice of Intent to Adopt Rules Without a Public Hearing that is published with this Notice in this *State Register*, and in the Statement of Need and Reasonableness.

The adoption of these rules will not require the expenditure of money by local public bodies within the meaning of *Minnesota Statutes*, Section 14.11. The proposed rules will not have an effect on agricultural land. The rules will not impose "costs mandated by the state," or require a local agency or school district to take action that incurs costs mandated by the state within the meaning of *Minnesota Statutes*, Section 3.982. The rules impose no fees.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified, you may indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings. Copies may be obtained from the Office of Administrative Hearings for the cost of reproduction.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Seciton 10A.01, Subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than $250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert St., St. Paul, Minnesota 55105-2520, telephone 612-296-5148.

Dated: 22 February 1988

Leonard W. Levine
Commissioner
Minnesota Department of Transportation

Rules as Proposed (all new material)

8850.6900 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise provided, the terms used in parts 8850.6900 to 8850.9050 and 8855.0300 to 8855.0850 have the meanings given them in this part.

Subp. 2. **Board.** "Board" means the Minnesota Transportation Regulation Board.

Subp. 3. **Carrier.** "Carrier" includes motor carriers, private carriers, exempt carriers engaged in intrastate commerce, and for-hire and private carriers engaged in interstate commerce.

Subp. 4. **Certificate.** "Certificate" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 7.

Subp. 5. **Certificate of insurance.** "Certificate of insurance" means the document issued by an insurer that states that the insurer provides the coverage required by Minnesota Statutes, section 221.141.

Subp. 6. **Charter carrier.** "Charter carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 21.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 8. **Employ.** "Employ" means to require or permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle.

Subp. 9. **Exempt carrier.** "Exempt carrier" means a carrier described in *Minnesota Statutes*, section 221.025.

Subp. 10. **Interstate carrier.** "Interstate carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 13.

Subp. 11. **Lightweight vehicle.** "Lightweight vehicle," for purposes of parts 8850.7025 to 8850.9050, means a vehicle with a manufacturer's gross vehicle weight rating of 12,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subp. 12. **Livestock carrier.** "Livestock carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 24.

Subp. 13. **Motor carrier.** "Motor carrier" means a carrier operating for hire under authority of *Minnesota Statutes*, chapter 221 and, for purposes of this chapter, does not include interstate carriers.

Subp. 14. **Owner.** "Owner" means a person to whom a certificate of title to equipment has been issued, or who has lawful possession of equipment.

Subp. 15. **Permit.** "Permit" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 8.

Subp. 16. **Person.** "Person" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 6.

Subp. 17. **Petroleum carrier.** "Petroleum carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 10.

Subp. 18. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel-supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subp. 19. **Private carrier.** "Private carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 26.

Subp. 20. **Regular route common carrier.** "Regular route common carrier" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 9.

Subp. 21. **Responsible official.** "Responsible official" means an officer or the owner of the applicant or carrier or a person to

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whom authority to sign applications, renewals, and other documents filed by the applicant or carrier has been delegated in writing by the owner or the board of directors.

Subp. 22. **Vehicle.** "Vehicle" has the meaning given it in *Minnesota Statutes*, section 221.011, subdivision 3.

8850.7000 INTERSTATE TRANSPORTATION; SAFETY RULES.

Interstate carriers and private carriers providing interstate transportation service using vehicles licensed and registered for a gross weight of more than 12,000 pounds must comply with and are subject to parts 8850.8050, 8850.8300, 8850.8350, 8850.8400, 8850.8500, 8850.8550, and 8850.8950.

8850.7025 INTRASTATE TRANSPORTATION; SAFETY RULES; COMPLIANCE REQUIRED.

Intrastate motor carriers, and private carriers and exempt carriers providing intrastate transportation, must comply with parts 8850.7040 to 8850.9050 to the extent required by *Minnesota Statutes*, chapter 221. Every carrier, its officers, agents, representatives, and employees responsible for the management, maintenance, equipping, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers, shall be instructed in and comply with those parts, and shall require that its agents, representatives, drivers, and employees comply.

8850.7040 INTRASTATE TRANSPORTATION; DRIVER QUALIFICATIONS.

A private carrier who is subject to driver qualification rules, and a motor carrier are responsible for hiring, supervising, training, assigning, and dispatching drivers. Private carriers who are subject to driver qualification rules, motor carriers, and their officers, agents, representatives, or employees shall not drive, or allow one of their vehicles to be driven unless the driver has the minimum qualifications required by parts 8850.7100 and 8850.7200. A carrier who is self-employed as a driver must comply with both the rules that apply to carriers and the rules that apply to drivers.

8850.7100 INTRASTATE DRIVER QUALIFICATIONS; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, subtitle B, chapter III, subchapter B, sections 391.5; 391.11, paragraphs (a) and (b)(2) to (b)(12); 391.15 to 391.45; 391.51, paragraphs (a) to (e) and (h); 391.61; 391.63; and 391.65; and appendices C and D, as revised through October 1, 1986, and amendments to sections 391.11, paragraph (b); 391.21, paragraph (b); 391.27; and appendices D and E, found at *Federal Register*, volume 52, pages 20589 and 20590, are incorporated by reference except for certain cross-references in Code of *Federal Regulations*, title 49, sections 391.11 to 391.65 listed in subpart 2.

Subp. 2. **Exceptions.** References to Code of Federal Regulations, title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, are not incorporated by reference by this part.

Subp. 3. **Age requirement.** Drivers of vehicles subject to *Minnesota Statutes*, section 221.033, must be at least 21 years of age. Drivers of vehicles engaged in intrastate transportation and subject to driver qualification rules under Minnesota Statutes, section 221.031, must be at least 18 years of age.

Subp. 4. **Location of driver qualification files.** A carrier subject to driver qualification requirements must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier subject to this part may retain driver qualification files at a regional or terminal office.

8850.7200 INTRASTATE DRIVER QUALIFICATIONS; WAIVER FOR PHYSICAL DEFECTS.

A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), as amended through October 1, 1986, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle if the commissioner grants a waiver to that person under parts 8850.7200 to 8850.7675. Parts 8850.7200 to 8850.7700 apply only to drivers providing intrastate transportation.

8850.7250 INTRASTATE TRANSPORTATION; WAIVER APPLICATION SUBMISSION.

Subpart 1. **Joint submission.** A letter of application for a waiver under part 8850.7200 may be submitted jointly by the driver applicant who seeks a waiver of the physical disqualification and by the carrier that will employ the driver applicant if the application is granted. The application must be submitted to the Office of Motor Carrier Safety and Compliance, Minnesota Department of Transportation.

Subp. 2. **By driver applicant.** A letter of application for a waiver may be submitted by a driver applicant alone. The driver applicant shall comply with the requirements of part 8850.7300, except item A, subitem (1). The driver applicant shall provide the information in part 8850.7300, item B, if the information is known to the driver.

8850.7300 WAIVER APPLICATION CONTENTS.

A letter of application for a waiver under part 8850.7200 must contain:

A. the name and address of the applicant, including:

(1) the name and complete address of the carrier coapplicant;

(2) the name and complete address of the driver applicant; and

(3) a description of the driver applicant's limb impairment for which a waiver is requested;

B. a description of the type of operation the driver will be employed to perform, including:

(1) the average period of time the driver will be driving and on duty, per day;

(2) the type of commodities or cargo to be transported; and

(3) whether the driver operation is conducted as a sleeper team, relay, owner operator, or otherwise;

C. the number of years the driver has operated the type of vehicle for which a waiver is requested and the total years of experience operating all types of motor vehicles;

D. a description of the vehicle that the driver applicant intends to drive, including:

(1) the truck or truck-tractor make, model, and year;

(2) the drive train, including:

(a) whether the transmission type is automatic or manual and, if manual, the number of forward speeds;

(b) auxiliary transmission, if any, and number of forward speeds; and

(c) rear axle designation, whether single speed, 2-speed, or 3-speed;

(3) the type of brake system;

(4) the steering, whether manual or power assisted;

(5) a description of type of trailers, such as van, flatbed, cargo tank, drop frame, lowboy, or pole;

(6) the number of semitrailers or full trailers to be towed at one time; and

(7) a description of any vehicle modification made for the driver applicant and a photograph of the modification;

E. a certification that the driver is otherwise qualified, as follows:

(1) certification by the coapplicant carrier that the driver applicant is otherwise qualified under part 8850.7100; and

(2) in the case of a driver applicant, certification by the driver applicant that the applicant is otherwise qualified under part 8850.7100; and

F. the signature of the applicant as follows:

(1) the driver applicant's signature and date signed; and

(2) if the application has a coapplicant, the carrier official's signature, the official's title, and the date signed. The official who signs the application must be a responsible official of the carrier.

8850.7350 DOCUMENTS ACCOMPANYING WAIVER APPLICATION.

The letter of application for a waiver under part 8850.7200 must be accompanied by:

A. A copy of the results of the medical examination performed according to Code of Federal Regulations, title 49, section 391.43, as amended through October 1, 1986.

B. A copy of the medical certificate completed according to Code of Federal Regulations, title 49, section 391.43, paragraph (e), as amended through October 1, 1986.

C. A medical evaluation summary completed by either a board-qualified or board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon

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with a description of the job tasks the driver applicant will be required to perform.

(1) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1986, must include:

(a) an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; and

(b) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

(2) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, 1986, must include:

(a) how and why the impairment interferes with the driver's ability to perform normal tasks associated with operating a commercial motor vehicle;

(b) an assessment and medical opinion of whether the condition is likely to remain medically stable over the driver applicant's lifetime; and

(c) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

D. A description of the prosthetic or orthotic device worn by the driver applicant, if any.

E. A copy of the driver applicant's road test administered by the carrier coapplicant and the certificate issued under Code of Federal Regulations, title 49, section 391.31, paragraphs (b) to (g), as amended through October 1, 1986. A driver applicant is responsible for having a road test administered by a carrier or a person competent to administer the test and evaluate its results.

F. A copy of the driver applicant's application for employment completed according to Code of Federal Regulations, title 49, section 391.21, as revised through October 1, 1986, amended at *Federal Register*, volume 52, page 20589. A driver applicant is responsible for submitting a copy of the employment application for the last commercial driving position held by the applicant. If not previously employed as a commercial driver, the driver applicant must so state.

G. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state where the driver had a motor vehicle driver's license or permit.

8850.7400 AGREEMENT.

A carrier that employs a driver with a waiver under part 8850.7200 agrees to:

A. evaluate the driver granted a waiver for those nondriving, safety-related job tasks associated with the type of trailer to be used and any other nondriving, safety-related or job-related tasks unique to the operations of the employing carrier;

B. use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver; and

C. file documents and information with the commissioner within 30 days of the occurrence of the following events: a violation of a motor vehicle and motor carrier law or rule; an accident; an arrest; a license suspension, revocation, or withdrawal; and a conviction that involves the driver applicant. This item applies whether the driver's waiver is a unilateral one or has a coapplicant carrier.

8850.7450 DRIVER SUPPLIES COPY.

The driver shall give each employing carrier a copy of the waiver.

8850.7500 EVALUATION OF DRIVER'S ABILITY.

The commissioner may require a driver applying for a waiver under part 8850.7200 to demonstrate ability to safely operate the motor vehicle the applicant intends to drive. During the demonstration, the driver's ability to perform pretrip and posttrip inspections and driving performance must be evaluated. Nondriving, safety-related tasks or other nondriving tasks unique to the type of trailer or other carrier operation must not be evaluated during this demonstration.

8850.7550 EXTENT OF WAIVER.

The commissioner may deny the application for waiver under part 8850.7200 or may grant it totally or in part and may issue the

waiver subject to terms, conditions, and limitations deemed consistent with the public interest. A waiver is valid for a period not longer than two years from the date of issue and may be renewed 30 days before the expiration date.

The commissioner shall grant or deny the waiver in writing within 30 days from the date that the required information has been submitted.

A denial of the waiver must state the reason for the denial.

8850.7600 WAIVER RENEWAL APPLICATION; REQUIRED INFORMATION.

The application to renew a waiver granted under part 8850.7200 must be submitted to the commissioner. It must contain:

A. the name and complete address of the carrier currently employing the applicant;

B. the name and complete address of the driver;

C. the effective date of the current waiver;

D. the expiration date of the current waiver;

E. the total miles driven under the current waiver;

F. the number of accidents incurred by the driver while driving under the current waiver, including the date of the accident, the number of fatalities, the number of injuries, and the estimated dollar amount of property damage;

G. the driver's signature and date signed;

H. the carrier coapplicant's signature and date signed;

I. notification of a change in the type of vehicle the driver will operate;

J. a copy of the driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;

K. a current medical examination report; and

L. a medical evaluation summary according to part 8850.7350, item C, if an unstable medical condition exists. Handicapped conditions classified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1986, are considered unstable. A board-certified physiatrist (doctor of physical medicine) or orthopedic surgeon shall determine whether a condition described in Code of Federal Regulations, title 49, part 391.41, paragraph (b)(2), as amended through October 1, 1986, is medically stable.

8850.7650 ON GRANTING WAIVER.

On granting a waiver under part 8850.7200, the commissioner shall notify the driver applicant, and coapplicant carrier if applicable, by letter. The terms, conditions, and limitations of the waiver must be set forth. A carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver must be kept in the carrier's file for three years after the driver's employment is terminated. The driver applicant shall have the waiver or a legible copy of the waiver in possession while on duty.

8850.7675 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.

Subpart 1. **Applications.** Applications for determination of a driver's medical qualifications under standards in this part must conform to the requirements of this subpart.

A. The application must contain the name and address of the driver, motor carrier, and the physicians involved in the proceeding.

B. The applicant shall submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

C. The applicant shall submit a copy of an opinion and report, including the results of tests, of an impartial medical specialist in the field in which the medical conflict arose. The specialist must be one agreed to by the motor carrier and the driver.

D. If the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant shall submit a statement of agreement to submit the matter to an impartial medical specialist in the field, proof that the applicant has asked the driver to submit to the medical specialist, and the response, if any, of the driver to the request.

E. If the motor carrier refuses to agree on a medical specialist, the driver shall submit an opinion and test results of an

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impartial medical specialist, proof that the driver has asked the motor carrier to agree to submit the matter to the medical specialist, and the response, if any, of the motor carrier to the request.

F. The applicant shall include a statement explaining in detail why the decision of the medical specialist identified in item C is unacceptable.

G. The applicant shall submit proof that the medical specialist mentioned in item C was provided, before the specialist's determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

H. The applicant shall submit the medical history and statement of work provided to the medical specialist under item G.

I. The applicant shall submit the medical records and statements of the physicians who have given opinions on the driver's qualifications.

J. The applicant shall submit a description and a copy of the written and documentary evidence upon which the party making the application relies.

K. The application must be accompanied by the driver's statement of intent to drive in intrastate commerce or a statement that the carrier has used or intends to use the driver for such work.

L. The applicant shall submit three copies of the application and records.

Subp. 2. **Information.** The commissioner may request further information from the applicant if the commissioner determines that a decision cannot be made on the evidence submitted.

Subp. 3. **Parties.** For the purposes of this part, a party includes the motor carrier and the driver, or anyone else submitting an application.

Subp. 4. **Action.** The commissioner shall make a determination after a hearing has been held under *Minnesota Statutes*, chapter 14. The decision of the commissioner may be appealed in the manner provided in chapter 14.

8850.7700 REVOCATION.

The commissioner may revoke a waiver only after the person to whom it was issued is given notice of the proposed revocation and has been allowed an opportunity for hearing under *Minnesota Statutes*, chapter 14.

8850.7750 FALSE INFORMATION.

Falsifying information in the letter of application, information in the renewal application, or information required by a medical evaluation, by either the applicant or carrier, is prohibited.

8850.7900 INTRASTATE TRANSPORTATION; MOTOR VEHICLE SAFETY; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 392.3 to 392.25; 392.30, paragraph (b); and 392.31 to 392.69, as revised through October 1, 1986; and amendments to section 392.5, found at *Federal Register*, volume 52, page 27201, are incorporated by reference.

8850.7950 USE OF LIVESTOCK VEHICLE FOR GENERAL CARRIAGE.

A carrier shall not transport general commodities in a motor vehicle used for the transportation of livestock unless the motor vehicle has been cleaned and washed. A livestock motor vehicle must not be used for the transportation of household goods and food for human consumption unless it has been cleaned, washed, and disinfected.

8850.8000 NO RECKLESS DRIVING.

A petroleum transport must not be driven recklessly, or so as to endanger life, limb, or property.

8850.8050 LOADING AND UNLOADING OF PETROLEUM TRANSPORT.

Subpart 1. **Loading.** During loading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but not in the vehicle cab or other enclosure.

Subp. 2. **Unloading.** During unloading of a petroleum transport, the driver must be within 25 feet of the cargo tank, but must not be in an enclosure or in the cab of the vehicle. The fire extinguisher must be out of the vehicle's carrying device, must be ready for instant use, and must be 15 feet or more from the cargo tank.

8850.8100 VEHICLE IDENTIFICATION CARD APPLICATION.

An application for a vehicle identification card must have a statement signed by the motor carrier applicant that the vehicle to which the card is issued will be operated in compliance with the safety rules of the commissioner.

8850.8200 INTRASTATE TRANSPORTATION; EQUIPMENT; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 393.9 to 393.106, as revised through

October 1, 1986, and amendments to those sections found at *Federal Register*, volume 52, pages 2803 and 2804 are incorporated by reference.

Subp. 2. **Exception; fire extinguisher on lightweight vehicle.** Notwithstanding subpart 1 and Code of Federal Regulations, title 49, section 393.95, first paragraph, every lightweight vehicle must carry a fire extinguisher that complies with the requirements of section 393.95.

8850.8250 EQUIPMENT NECESSARY FOR LIVESTOCK CARRIER.

Subpart 1. **Partitioning of vehicle.** When vehicles carry livestock, each kind of livestock must be partitioned. Calves and sheep may be carried in the same compartment; likewise, calves and cows. Large hogs must be partitioned from pigs. Bulls, horned cattle, or unruly cattle must be securely tied or partitioned from other cattle. When less than a full load is carried, partitions must be used so that the animals are comfortably carried without jostling and falling.

Subp. 2. **Equipment in vehicles.** Spare tires or other articles not used in the handling of livestock must not be carried in a compartment that also contains livestock. So far as practicable, racks and partitions must be free from projections that might injure the animals carried. Racks and partitions must not be carried outside of the truck except when securely fastened on the right side of the truck.

Subp. 3. **Upper decks and ramps.** Upper decks used to transport livestock must at all times be clear of the animals standing below. Cleated inclines or ramps must be provided for the loading or unloading of upper decks.

Subp. 4. **Floors.** Floors of vehicles carrying livestock must be cleated, bedded, or sanded sufficiently to prevent slipping. Bedding may consist of shavings, straw, sand, fine gravel, sawdust, or other practical material.

Subp. 5. **Weather conditions.** During the period from June 15 to September 15 of each year and at other times when necessary, livestock must be covered to protect them from the sun. During the period from November 1 to March 31 livestock carried must be covered and otherwise sheltered to protect them from inclement weather.

Subp. 6. **Number of animals in vehicle.** Livestock must not be loaded into a motor vehicle in such numbers as to cause injury or death to an animal.

8850.8300 INSPECTION OF MOTOR VEHICLES IN OPERATION.

The driver, vehicle, and equipment compliance checklist must be used to record results of motor vehicle inspections conducted by motor transportation representatives and hazardous material specialists of the Minnesota Department of Transportation.

8850.8350 DRIVER, VEHICLE, AND EQUIPMENT CHECKLIST.

Subpart 1. **Inspection information required.** Motor transportation representatives and hazardous material specialists shall complete a driver, vehicle, and equipment checklist for each vehicle inspected. The checklist must contain space for the following information:

A. the place of inspection;

B. the name of the carrier;

C. the street address, municipality, state, and zip code of the carrier;

D. the file number if the carrier is a motor carrier;

E. the date and time of inspection;

F. the commodity carried on the vehicle;

G. a description of the shipping documents carried by the driver and the date and number on the documents;

H. the name and address of the shipper and the consignee;

I. the name, address, birth date, and driver's license number of the driver;

J. the name and address of the vehicle lessor, if any;

K. the power unit number, year, license plate number, and unit number of the vehicle;

L. the weight class of the power unit;

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M. the unit number and the license plate number of the towed unit, if any;

N. vehicle configuration; and

O. whether the inspection was a complete or partial safety inspection or was an inspection to determine compliance with economic regulation.

Subp. 2. **Checklist items; defect indication.** The checklist must be used to show whether a warning or a citation was issued for a defect or violation and whether a defect or violation resulted in the vehicle being declared out of service. The checklist must describe the violation of state or federal law or rule for which a warning or citation was issued.

Subp. 3. **Identification of citation or sticker.** The checklist must show the number of a citation or "out-of-service vehicle" sticker that was issued.

Subp. 4. **Checklist, carrier disposition.** The motor transportation representative or hazardous material specialist shall give a copy of the checklist to the driver of the vehicle. The driver shall sign the checklist to acknowledge receipt of a copy of it. The driver shall present the checklist to the carrier responsible for the operation of the vehicle on arrival at the carrier's next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the carrier within 24 hours, the driver shall immediately mail the checklist to the carrier. The carrier shall examine the checklist. The carrier must repair or correct the defects or violations noted on the checklist and a responsible official of the carrier must date and sign the checklist. The copy of the checklist given to the driver must be returned by the carrier to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance, within 15 days after the date of issuance. A person shall not sign the certification of repair unless the vehicle has been repaired as required.

Subp. 5. **Exception.** A carrier (1) to whom a checklist was issued, (2) who received a citation for a violation described on the checklist, and (3) who enters or intends to enter a plea of not guilty on the charge, is not required to repair the defects, certify the repairs, and return the checklist to the Minnesota Department of Transportation unless the court proceedings on the charge have been completed. However, if the vehicle has been declared and marked out of service, the carrier may operate the vehicle only under the conditions described in part 8850.8550.

Subp. 6. **Carrier may take vehicle out of service.** A carrier who receives a checklist that lists defects that must be repaired may temporarily place the vehicle out of service instead of repairing the defects. The carrier must notify the commissioner in writing within 15 days of the issuance of the checklist that it is placing the vehicle out of service. The carrier must repair the defects and sign and return the checklist to the commissioner before using the vehicle on the highway.

8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. **Inspector's authority.** Every person authorized by *Minnesota Statutes*, chapter 221 or by other law, to enforce chapter 221 and rules of the commissioner and board adopted under authority of chapter 221, may inspect vehicles subject to chapter 221.

Subp. 2. **Motor vehicles declared out of service.** An authorized person described in subpart 1 shall place out of service a motor vehicle that, because of its mechanical condition or loading, is likely to cause an accident or a breakdown. An "out-of-service vehicle" sticker must be used to mark vehicles that are placed out of service by a motor transportation representative or hazardous material specialist.

Subp. 3. **Other forms used.** An authorized person described in subpart 1 who is not employed by the Minnesota Department of Transportation may use citations, checklists, warning tickets, report forms, and "out-of-service vehicle" stickers prescribed by the agency or law enforcement organization employing that person.

8850.8500 "OUT-OF-SERVICE VEHICLE" STICKER.

Subpart 1. **Statement required.** The "out-of-service vehicle" sticker used by the Minnesota Department of Transportation must contain the following statement:

"Out-of-service vehicle. This vehicle has been declared out of service by the Minnesota Department of Transportation. This vehicle must not be operated until repaired. This sticker may be removed only under the conditions stated on the out-of-service notice. The person responsible for unauthorized removal is liable to penalty under *Minnesota Statutes*, section 221.291. A person shall not remove this sticker or operate this vehicle until the repairs listed below are completed."

Subp. 2. **Space for description.** The "out-of-service vehicle" sticker must contain space for the motor transportation representative or hazardous material specialist to describe the mechanical condition requiring the vehicle to be declared out of service.

Subp. 3. **Information required.** The sticker must contain the following information:

A. the make of the power unit;

B. the model year of the power unit;

C. the unit number of the power unit;

D. the power unit license number;

E. the towed unit license number;

F. the make of the towed unit, if known;

G. the unit number of the trailer;

H. the signature of the driver of the vehicle in the space provided; and

I. the signature of the motor transportation representative or hazardous material specialist in the space provided.

Subp. 4. **Serial numbering.** The "out-of-service vehicle" stickers must be serially numbered.

8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. **Repair before use.** Except as provided in subpart 2, a carrier shall not require or permit a person to operate nor shall a person operate a motor vehicle declared and marked out of service until the repairs required by the out-of-service notice have been satisfactorily completed. In this subpart, "operate" includes towing the vehicle, except that vehicles marked out of service may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and the out-of-service vehicle must not be operated unless the combination meets the performance requirements of this chapter except for those conditions noted on the driver, vehicle, and equipment compliance checklist.

Subp. 2. **Exception.** A vehicle with an out-of-service defect may be moved under its own power to a place of repair only in the following circumstances:

A. A vehicle transporting hazardous materials requiring the vehicle to be placarded may be escorted to a repair facility or safe parking place.

B. When the imminently hazardous condition is one that is automatically removed by the disconnection of the power unit from the towed unit, the unit that is not out of service may be operated.

C. If it is less hazardous to the public to operate the vehicle than to permit it to remain on the highway, the vehicle may be operated only to the nearest place where repairs can be made safely.

Subp. 3. **Prohibition.** A person shall not remove the "out-of-service vehicle" sticker from a motor vehicle before completion of the repairs required by the out-of-service notice.

8850.8800 INTRASTATE TRANSPORTATION; NOTIFICATION AND REPORTING OF ACCIDENTS.

Subpart 1. **When required.** A motor carrier shall report an accident that results in the death of a human being, bodily injury to a person who receives medical treatment away from the scene, or total damage to property totaling $4,400 or more based on actual costs or reliable estimates.

Subp. 2. **Boarding or alighting; unloading.** A motor carrier is not required to report an accident that involves only boarding and alighting from a stationary motor vehicle or loading or unloading cargo unless a report is required under *Minnesota Statutes*, section 221.034.

Subp. 3. **Accident report form; incorporations.** Accidents resulting in death, requiring medical attention away from the scene, or causing property damage totaling $4,400 or more, must be reported to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance. A written report of the accident must be filed at the Office of Motor Carrier Safety and Compliance within 30 days after the accident. The report must be filed on the form required by the United States Department of Transportation described in Code of Federal Regulations, title 49, section 394.9, paragraph (a), as revised through October 1, 1986, which is incorporated by reference. The form must be completed as required by Code of Federal Regulations, title 49, section 394.20, as revised through October 1, 1986, which is incorporated by reference.

Subp. 4. **Driving record review.** A motor carrier shall review the driving record of a driver involved in an accident.

8850.8850 SAFETY MEASURES IN AN ACCIDENT.

When a carrier vehicle is involved in an accident, the driver shall, if possible, use every available means to prevent people from gathering near the scene, to prevent smoking, to keep flame away, to safeguard against the aggravation of the hazard present, and to warn other users of the highway.

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8850.8900 INTRASTATE TRANSPORTATION; HOURS OF DRIVER SERVICE; FEDERAL RULES.

Subpart 1. **Incorporations by reference.** Code of Federal Regulations, title 49, sections 395.2; 395.3, paragraphs (a) to (c); 395.7; 395.8, paragraphs (a) to (k)(1), (k)(3), and (l)(1); and 395.10 to 395.12, as revised through October 1, 1986; and amendments to sections 395.2, 395.3, and 395.8 found at *Federal Register*, volume 52, pages 41721 and 41722, are incorporated by reference except for the cross-reference to paragraph (c) in section 395.3, paragraph (a). The cross-reference to paragraph (c) in section 395.3, paragraph (a), is not incorporated by reference.

Subp. 2. **Limited exemption for lightweight vehicles.** Notwithstanding subpart 1 and part 8850.7025, the requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), do not apply to lightweight vehicles.

8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by *Minnesota Statutes*, chapter 221, or by other law, to enforce chapter 221 and the rules of the commissioner and board adopted under authority of that chapter is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty-status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Safety and Compliance within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has been declared out of service shall not operate a motor vehicle until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

8850.9000 INTRASTATE TRANSPORTATION; INSPECTION, REPAIR, AND MAINTENANCE; FEDERAL RULES.

Code of Federal Regulations, title 49, sections 396.3 to 396.7, 396.11, 396.13, and 396.15, as revised through October 1, 1986, are incorporated by reference.

8850.9050 HAZARDOUS MATERIALS; DRIVING AND PARKING; FEDERAL RULES.

Subpart 1. **Transporting hazardous materials.** A person who transports hazardous materials shall comply with this part and parts 8850.7000 to 8850.9000 when that person is transporting a hazardous material, hazardous waste, or hazardous substance that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in *Minnesota Statutes*, section 221.033.

Subp. 2. **Incorporation by reference.** Code of Federal Regulations, title 49, sections 397.5 to 397.19, as revised through October 1, 1986, are incorporated by reference.

Subp. 3. **Parking.** A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

8855.0300 DUPLICATES FURNISHED TO COMMISSIONER.

A motor carrier or interstate carrier shall furnish to the commissioner a duplicate of its public liability and cargo policies and endorsements when requested by the commissioner.

8855.0400 CERTIFICATE OF INSURANCE; BOND; FEDERAL FORMS.

An insurance company that provides insurance against public liability and property damage for a motor carrier operating under a permit or certificate or for an interstate carrier shall cover all motor vehicles used in the motor carrier's operations whether specifically described in the policy or not. The insurance company shall file with the commissioner either a certificate of insurance naming each motor carrier insured on form E, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference, or the forms prescribed in part 8855.0800.

In lieu of an insurance certificate, a bond may be filed on form G, "Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond," as described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

8855.0410 FINANCIAL RESPONSIBILITY FOR REGULAR ROUTE COMMON CARRIERS OF PASSENGERS AND CHARTER CARRIERS.

A regular route common carrier of passengers or a charter carrier must obtain the following minimum amount of coverage against public liability:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for loss or damage to property of others, $50,000; and

C. limit for injury to or death of all persons injured or killed in any one accident:

(1) seating capacity of 12 passengers or less, $300,000;

(2) seating capacity of 13 to 20 passengers, $350,000;

(3) seating capacity of 21 to 32 passengers, $400,000; or

(4) seating capacity of 33 passengers or more, $450,000.

8855.0450 FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS OF PROPERTY.

Subpart 1. **Amount required.** Motor carriers of property operating under a certificate or permit issued by the board shall obtain coverage against public liability in the following amounts:

A. limit for bodily injury to or death of one person, $100,000;

B. limit for bodily injury to or death of all persons in any one accident, $300,000; and

C. limit for loss or damage to property of others, other than cargo, $50,000.

Subp. 2. **Exception.** Motor carriers of property that transport hazardous waste, hazardous substances, or hazardous materials in the quantities described in Code of Federal Regulations, title 49, section 387.7, shall obtain minimum coverage against public liability as required in that section.

8855.0500 CARGO SECURITY.

Subpart 1. **Insurance or bond required.** Each petroleum carrier and each regular route common carrier of freight shall obtain cargo insurance or bond in the amount of $5,000 and shall have its insurer file a cargo certificate of insurance or bond with the commissioner.

Subp. 2. **Federal forms, incorporations by reference.** Each insurance company insuring cargo shall file a cargo certificate of insurance, form H, "Uniform Motor Cargo Certificate of Insurance," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, or a cargo bond on form J, described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which are both incorporated by reference.

8855.0600 NAMES ON INSURANCE CERTIFICATES AND BONDS.

Certificates of insurance and bonds must be issued in the full and correct name of the person, corporation, or partnership whose operations are being insured.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

8855.0700 CANCELLATION OF INSURANCE; FEDERAL FORMS.

A certificate of insurance or bond for public liability and a certificate of insurance or bond for cargo security may be canceled.

The insurer shall cancel certificates of insurance for public liability or cargo insurance by filing with the commissioner a form K, "Uniform Notice of Cancellation of Motor Carrier Insurance Policies," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

The insurer shall cancel surety bonds for public liability or cargo insurance by filing with the commissioner a form L, "Uniform Notice of Cancellation of Motor Carrier Surety Bonds," described in Code of Federal Regulations, title 49, part 1023, as amended through October 1, 1986, which is incorporated by reference.

A cancellation notice takes effect 30 days from the day the notice is received by the commissioner.

8855.0800 AGGREGATION OF INSURANCE.

When insurance is provided by more than one insurer to aggregate coverage required under *Minnesota Statutes*, chapter 221, each insurer shall file form BMC 91X described in Code of Federal Regulations, title 49, section 1043.7, paragraph (a)(3), as amended through October 1, 1986, which is incorporated by reference.

8855.0850 INSURANCE AND BONDING COMPANIES MUST BE AUTHORIZED BY DEPARTMENT OF COMMERCE.

Insurance companies or bonding companies who file certificates of insurance or bonds with the commissioner must be authorized and registered with the Department of Commerce, to do business in the state of Minnesota.

REPEALER. Minnesota Rules, parts 7800.0100, subparts 2, 9, and 10; 7800.0300; 7800.1200; 7800.1300; 7800.1900; 7800.3500; 7800.3700; 7800.3800; 7800.4000; 7800.4100; 7800.4200; 7800.4300; 7800.4400; 7800.4500; 7800.4600; 7800.4700; 7800.4800; 7800.4900; 7800.5000; 7800.5100; 7800.5200; 7800.5300; 7800.5400; 7800.5500; 7800.5600; 7800.5700; 7800.5800; 7800.5900; 7800.6000; 7800.6100; 7800.6200; 7800.6300; 7800.6400; 7800.6500; 7800.6600; 7800.6700; 7800.6800; 7800.6900; 7800.7000; 7800.7100; 7800.7200; 7800.7300; 7800.7400; 7800.7500; 7800.7600; 7800.7700; 7800.7800; 7800.7900; 7800.8000; 7800.8100; 7800.8200; 7805.1400; 7805.1500; 7805.1600; 7805.1700; 7805.1800; 7805.1900; 7805.2000; 7805.2100; 7805.2200; 7805.2300; 7805.2400; 7805.2500; 7805.2600; 7805.2700; 7805.2800; 7805.2900; 7805.3000; 7805.3100; 7805.3200; 7805.3300; 7805.3400; 7805.3500; and 7805.3600 are repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce

Adopted Permanent Rules Relating to Credit Life Insurance

The rule proposed and published at *State Register*, Volume 12, Number 18, pages 926-928, November 2, 1987 (12 S.R. 926) is adopted as proposed.

In the Matter of the Adoption
of Rules of the State
Department of Transportation
Governing Motor Carrier
Safety and Insurance

DECLARATION
OF COUNSEL

I, JOHN B. GALUS, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0780.

John B. Galus
Special Assistant Attorney General

Dated: 4/25/88

Minnesota Department of Transportation

Transportation Building, St. Paul, MN 55155

April 21, 1988

Phone 297-2913

Ms. Julie A. Leppink
Special Assistant Attorney General
Office of the Attorney General
Room 515, Transportation Building
St. Paul, Minnesota 55155

Dear Ms. Leppink:

Enclosed for your review pursuant to Minnesota Statutes, section 14.26, are proposed permanent rules of the Department of Transportation governing motor carrier safety and insurance.

In compliance with Minnesota Rule 2010.0300, we submit the following documents:

1. A copy of the notices of solicitation of outside information as published in the State Register;
2. A copy of the proposed rule, certified by the Revisor of Statutes;
3. Notice of intent to adopt the rule without a public hearing, as mailed;
4. Statement of need and reasonableness;
5. Affidavit of mailing the notice of intent to adopt a rule without a public hearing and statement as to completeness of the agency mailing list and affidavit of additional notice;
6. Notice of intent to adopt a rule without a public hearing as published in the State Register;
7. Four copies of the rule, adopted as modified, and certified by the Revisor of Statutes;
8. The findings of fact, conclusions, and order adopting the rules;
9. Copies of written comments received by the agency; and
10. Declaration of the Special Assistant Attorney General who represents the agency.

If you have questions about these rules or the rulemaking proceeding, please contact me.

Sincerely,

Elizabeth M. Parker

Elizabeth M. Parker
Attorney

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