

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

(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

(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 necessary 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 requirements 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 commercial 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 any 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. Incorporation 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 extinguisher 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.

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