

Minnesota Department of Transportation
2005 Legislative Rule Review Report
August 1, 2004

04 - 0394

As required by Minnesota Statutes, section 14.3691, following is a report on all administrative rules adopted by the Minnesota Department of Transportation (Mn/DOT). The cost of repairing this report is approximately \$800. This report covers all recommended repeals and changes, as well as brief justifications of Mn/DOT's rule chapters. Mn/DOT has recommended that all rule chapters remain in effect. Other than the standard updating that rules need, the department is not recommending any additional changes to the rule chapters.

Minnesota Statutes, section 14.3691, subdivision 1, provides as follows:

Reports. An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1 of the year before the legislative session in which the entity's rules are scheduled for review. The speaker of the house of representatives and the senate Committee on Rules and Administration shall designate the appropriate committees to receive these reports. The report must: (1) list any rules that the entity recommends for repeal; (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and (3) suggest any changes in rules that would improve the agency's ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties. Any costs of preparing this report must be absorbed within funds otherwise appropriated to the entity.

According to subdivision 2, paragraph (d) of the above statute, rules of the Minnesota Department of Transportation are scheduled to be reviewed before and during the legislative session in 2005. In accordance with the statute, Mn/DOT submits the following information regarding the current rules of the department.

Department of Transportation Rules

Following is the list of the current Mn/DOT rules that should remain in effect and a brief rationale for each rule chapter and a statement as to whether a change in the rule is recommended.

Chapter 7800 ...Motor carrier operations

Chapter 7800 regulates motor carrier operations. The majority of motor carrier rule provisions within chapter 7800 have already been repealed through legislation as obsolete due to the economic deregulation of the trucking industry. The remaining rule provisions pertain to the household goods industry. It is necessary to maintain the household goods rule provisions because this industry is still a regulated industry and these regulations are necessary to carry out the household goods program. The household goods rules contain the application procedures, insurance provisions, advertising, records, and claim provisions for loss or damage. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 7805 ...Motor carrier tariffs; accounting

As with chapter 7800, most of chapter 7805 has already been repealed because it contained obsolete motor carrier tariff rules. However, as with chapter 7800, the remaining six provisions pertain to household good rates and are necessary for the administration of the household goods program. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8800 ...Aeronautics

Chapter 8800 implements Minnesota Statutes, Chapter 360 regarding Aeronautics. These rules provide the necessary air navigation obstruction standards and airport licensing requirements, and the standards for seaplane, commercial, and flying club operations. Chapter 8800 is currently being revised and updated. The Request for Comments was recently published in the State Register on July 6, 2004. The department anticipates that the revised rules will be effective in 2005. The current rulemaking is addressing the necessary changes to the rules and the department recommends that the rules remain in effect.

Chapter 8805 ...Transportation project loans

Chapter 8805 establishes procedures for the transportation revolving loan fund (TRLF) established under Minn. Stats. §446A.085. The TRLF is a state fund that can be used by eligible borrowers to finance approved transportation projects. The purpose of the TRLF is to attract new funding into transportation, encourage innovative approaches to financing transportation projects, and help build needed transportation infrastructure. Pursuant to Minn. Stats. §446A.085, subd. 13, the commissioner of transportation has adopted rules for the administration of the TRLF program. The rules adopted by Mn/DOT include rules to identify, assist with the development of, and certify projects eligible for loans under the act. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8810 ...Trunk highway system

Chapter 8810 is a comprehensive set of rules that administer various highway programs and uses. The rules contain provisions governing nonmotorized traffic on interstate highways; outdoor advertising devices; the placing, constructing, reconstructing, and maintaining of utilities in the right-of-ways of trunk highways; specifications for driveways providing a means of ingress to and egress from private property located along and adjacent to the right-of-way of the trunk highway system; bicycle, pedestrian, and recreation vehicle use on and along proposed and existing public roadways and governing state trunk highways; bridge construction and reconstruction; and bridge inspection and inventory. We have no suggestions for change at this time and recommend that these rules remain in effect.

Chapter 8818 ...Mailbox installation and support standards

Chapter 8818 contains rules that provide standards and permissible locations of mailbox installations and supports on streets or highways in Minnesota so that potentially

hazardous fixed roadside appurtenances are eliminated. We have no suggestions for change at this time and recommend that these rules remain in effect.

Chapter 8820 ...Local state-aid route standards, financing

The Minnesota Constitution, Article XIV, section 5, sets aside a percentage of the highway user fund to be used for the construction, reconstruction, and maintenance of a system of highways and streets under the jurisdiction of the counties and the cities. Requirements of these state aid systems are contained in Minn. Stats., Chapter 162, which also authorizes the commissioner to adopt rules for the operation of the state-aid system. Chapter 8820 is currently undergoing a rule revision. The Notice of Intent to Adopt Rules was published in the State Register on June 28, 2004. The department anticipates that the amended rules will be effective in 2004. Other than the changes addressed in the rulemaking, the department has no suggestions for additional changes and recommend that these rules remain in effect.

Chapter 8830 ...Railroads

Chapter 8830 contains rules relating to railroads in the following areas: railroad-highway grade crossings; signs signals and other safety measures; grade crossings; clearances; accident reports; track safety standards; project accounting; rail service improvement; state rail bank program; and rail user and rail carrier loan guarantee. These rules are necessary to implement the programs associated with railroads. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8835 ...Public transit

Chapter 8835 establishes the procedures and standards for review and approval of applications for financial assistance for public transit for Greater Minnesota. The rules include provisions relating to the application and procedures for applying for financial assistance, departmental funding priorities, allowable and unallowable costs of a public transit system, sources of the local share of funds, capital assistance, the financial assistance contract, third party contracts and requirements for financial records, reports, and audits. These rules were recently updated and revised in 2000. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8840 ...Transportation for elderly, disabled

Chapter 8840 implements Minn. Stats. §§174.29 and 174.30. These rules provide the necessary operating standards for special transportation service (STS) for the elderly and disabled, including the certification of STS providers, driver qualification and training requirements, and vehicle equipment, construction, and maintenance standards. Chapter 8840 was recently revised and the newly updated rules were effective on June 21, 2004. We have no additional changes at this time and recommend these rules remain in effect.

Chapter 8850 ...Motor carrier safety

Chapter 8850 contains motor carrier safety provisions. As with the other motor carrier rules, many of these rules have already been repealed because they have been replaced by statutes in chapter 221 that specifically adopt the Federal Motor Carrier

Safety Regulations. The remaining rules have not been covered by statute or make the statutory provisions more specific and need to remain. For example, chapter 8850 contains the procedures by which intrastate drivers can obtain medical waivers for physical defects. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8855 ...Motor carrier insurance

Chapter 8855 contains insurance provisions for motor carriers. These rule provisions fill in the missing requirements not covered by statute under chapter 221. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8880 ...Limousine service, permit requirements

Chapter 8880 provides the rules that govern the department limousine program. The rules contain provisions on: limousine permit application and fees, decals, vehicle requirements, record keeping, vehicle inspection, and administrative and enforcement provisions. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8885 ...Lighting for streets, highways, lots

The purpose of chapter 8885 is to establish minimum energy efficiency standards for street, highway, and parking lot lighting in Minnesota so that energy consumption can be reduced, while ensuring the overall protection of the public health, safety, and welfare. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8895 ...Port development assistance

The purpose of the port development assistance program and chapter 8895 is to expedite, retain, or generally improve the movement of commodities and passengers on the commercial navigation system and enhance the commercial vessel construction and repair industry in Minnesota by providing state funds in a revolving account that may be used in establishing contracts between the state and eligible applicants for port development assistance. We have no suggestions for changes at this time and recommend these rules remain in effect.

Chapter 8910 ...Railroads; right of first refusal

The purpose of this chapter is to implement Minn. Stats. §§ 222.631 to 222.633 by establishing a procedure whereby a railroad interest must offer to leaseholders a first opportunity to purchase real property within a right-of-way that is either being abandoned or offered for sale. In previous legislative sessions Mn/DOT has proposed the repeal of chapter 8910. However, the railroad industry requested that the following four rules in the chapter remain: 8910: 8910.0100, definitions; 8910.0200, purpose; 8910.0300, eligibility; lease holders rights; and 8910.0400, procedure. Mn/DOT proposed to have the chapter repealed because they contain implementing language for a statute that directed Mn/DOT to resolve disputes about the sale of land between railroads and their leaseholders. The statute, Minn. Stats. § 222.633, was repealed in 2001. However the rules also describe how railroads offer the right of first refusal to their leaseholders under

remaining statutes that still require railroad in certain cases to offer land first to a person who is leasing it from them. Therefore, Mn/DOT has agreed with the industry that it would be appropriate to retain the above four rules. The department will continue to work with the railroad industry to work toward the goal of repealing the above rules. We recommend these rules remain in effect.

Chapter 8920 ...Motor carrier practice, proceedings

Chapter 8920 governs the practice and procedure in matters before the commissioner. The purpose is to secure just, economical, and expeditious determination of the issues presented to the commissioner. This Chapter applies to persons subject to the regulatory jurisdiction of the commissioner. The powers and responsibilities of the commissioner include processing and adjudicating the following types of quasi-judicial matters: (1) petitions for temporary and permanent intrastate for-hire household goods mover permits, (2) application for railroad clearance variances, (3) formal and informal complaints against household goods movers and rail carriers, (4) request for determination of train speed over public crossings, (5) complaints alleging dangerous railroad crossings and (6) various other petitions, applications, and requests regarding rail carriers. We have no suggestions for changes at this time and recommend these rules remain in effect.

Rules Recommended for Repeal

In the last few years, Mn/DOT has been successful in repealing various obsolete rules through legislation and ongoing rulemaking. Following is a list of remaining rules that are recommended for repeal:

7805.0700 Class Determined by Gross Operating Revenues.

8855.0500 Cargo Security, subpart 1. Insurance or bond required.

8850.6900 Definitions, subpart 20. Regular Route Common Carrier.