MINNESOTA
DEPARTMENT OF
COMMERCE

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November 28, 2001

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Senator Don Samuelson, Chair
President of the Senate
121 State Capitol
St. Paul, MN 55155

Michele Timmons
Revisor of Statutes
700 State Office Building
St. Paul, MN 55155

Representative Gregory Davids, Chair
Commerce, Jobs & Economic
Development Committee
549 State Office Building
St. Paul, MN 55155

Representative Ken Wolf, Chair
Regulated Industries Committee
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Senator Sam Solon, Chair
Commerce Committee
303 State Capitol
St. Paul, MN 55155

Senator James Metzen, Chair
Committee on Telecommunications,
Energy and Utilities
322 State Capitol
St. Paul, MN 55155

Senator Doug Johnson, Chair
Committee on Finance
205 State Capitol
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Senator Dean Johnson, Chair
Transportation & Public Safety Budget Division
124 State Capitol
St. Paul, MN 55155

Representative Dan McElroy, Chair
Jobs & Economic Development Finance Committee
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REVISOR OF STATUTES

RE: Annual Report on Obsolete, Unnecessary, or Duplicative Rules, as Required by Minnesota Statutes Section 14.05 Subdivision 5.

Minnesota Statutes, section 14.05, subdivision 5, states:

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 The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules.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

The Minnesota Department of Commerce submits the following information in response to the requirements of Minn. Stat. §14.05, subd. 5.

I. RULES IDENTIFIED AS OBSOLETE, UNNECESSARY OR DUPLICATIVE

Pursuant to Minn. Stat. §14.3691, the Minnesota Department of Commerce completed a careful review of the rules enforced by the Department and submitted a Report on Agency Rules dated August 1, 2001 to the appropriate legislators and parties required by statute. The report contains a chapter-by-chapter analysis of Department rules, and includes recommendations for repeal of obsolete provisions.

The following recommendations for repeal are outlined in the Department's comprehensive Report on Agency Rules.

A. Minn. R. part 2705.3000 – Data Service Organizations

This part of chapter 2705.3000 should be repealed because it conflicts with Minn. Stat. §79.55, subd. 5. The Department intends to repeal this rule part as part of its 2002 legislative initiatives.

B. Minn. R. chapter 2782 – Liquor Liability Insurance; Assigned Risk

The Department is recommending that chapter 2782 be repealed in its entirety. This chapter authorizes the creation of a market assistance program committee to assist liquor vendors in finding insurance coverage in the voluntary market. In 1994, the legislature amended Minn. Stat. §340A.409, subds. 2 and 3 that authorized the operation of the Market Assistance Program for Liquor Liability Insurance and transferred those duties to the Minnesota Joint Underwriting Association (MJUA). The legislature also repealed all of the statutes and rules (under chapter 2783) related to the Liquor Liability Assigned Risk Plan and transferred the duties to the MJUA. Consequently, all of the functions of the Market Assistance Committee referred to under chapter 2782 are now being performed by the MJUA, and the provisions of chapter 2782 are obsolete.

The Department intends to repeal these rules as part of its legislative initiatives during the 2002 Legislative Session.

C. Minn. R. chapter 2800 – Real Estate Broker Licensing

Two subparts under Minn. R. part 2800.0100 should be repealed. Subpart 6 provides a definition of "Override Clause" and subpart 10 provides a definition for "Protective List." Both of these subparts pertain to Real Estate Broker Practices regulated under Minn. R. chapter 2805, not Real Estate Broker Licensing regulated under chapter 2800. Definitions identical to subparts 6 and 10 already exist under Minn. R. chapter 2805. Consequently, subparts 6 and 10 of Minn. R. part 2800.0100 are unnecessary and should be repealed.

The Department will include the repeal of these subparts in its legislative initiatives for 2002.

D. Minn. R. chapter 2805 – Real Estate Broker Practices

Minn. R. part 2805.0600, clause C should be repealed, since it conflicts with statutory requirements set forth under Minn. Stat. §82.24, subd. 5(b). The rule requires that an earnest money check shall be deposited into a trust account not later than the next business day after delivery. However, in response to industry concerns that requiring trust funds to be deposited within the next business day was too burdensome, the Department amended §82.24, subd. 5 to require that the check be deposited not later the third business day following delivery of the check. Minn. R. part 2805.0600, clause C is thus obsolete and inaccurate.

The Department intends to repeal this portion of Minn. R. part 2805.0600 as part of its legislative initiatives in 2002.

E. Minn. R. chapter 2808 – Real Estate Appraisers

The following subparts of Minn. R. part 2808.2200 specify certain experience requirements necessary to be eligible for certain levels of appraiser licensure:

Subp. 6 – Licensed real property appraiser
Subp. 7 – Certified residential real property appraiser
Subp. 8 – Certified general real property appraiser

The Federal Subcommittee, which is charged with oversight of the real estate appraiser licensing and enforcement programs of each state, changed the federal experience requirements. In response to federal changes, the Department amended Minn. Stat. §82B.14 to reflect the new federal experience requirements. Accordingly, the experience requirements set forth under subparts 6, 7 and 8 of Minn. R. part 2808.2200 are obsolete and should be repealed.

The Department intends to include the repeal of these subparts in its legislative initiatives for 2002.

F. Minn. R. chapter 2830 – Abstractors and Abstracts

In 1993, the Minnesota Legislature transferred regulatory authority over the abstracting industry from the Board of Abstractors to the Commissioner of Commerce. Subsequent to this transfer, changes were made by statutory amendment to certain licensing

requirements and procedures for abstractors that made them consistent with uniform processes used by the Commissioner of Commerce in regulating other licensees and industries. As a result, the following rules have become obsolete or redundant and should be repealed:

(1)	Minn. R. part 2830.0020	Board Meeting
(2)	Minn. R. part 2830.0030	Abstractor's License and Bond or Insurance
(3)	Minn. R. part 2830.0040	Temporary License
(4)	Minn. R. part 2830.0050	Change of Name on License
(5)	Minn. R. part 2830.0060	Employing Licensed Abstractors
(6)	Minn. R. part 2830.0100	Abstractor's Liability Insurance Policy

The Department intends to repeal these rules as part of its legislative initiatives during the 2002 Session.

G. Minn. R. chapter 2870 – Collection Agencies

After substantial review and analysis, the Department is recommending that chapter 2870 of Minnesota Rules be repealed in its entirety. The Department has determined that the provisions set forth under chapter 2870 are substantially similar to or adequately covered by Minn. Stat. §§332.31 – 332.45 and Minn. Stat. ch. 45. The rules under chapter 2870 are redundant and unnecessary to effectively regulate in this area.

The Department intends to pursue a repeal of this chapter as part of its legislative initiatives during the 2002 Legislative Session.

II. STATUS OF LAST YEAR'S REPORT ITEMS

In last year's report, the Department identified the following Minnesota Rules as being obsolete, unnecessary or duplicative. The current status of these rules is described below.

A. Minnesota Rules Related to Energy

The following rules related to the regulation of energy issues were identified as being obsolete in the last year's Annual Report on Obsolete Rules. Each of these rules were repealed during the 2001 Legislative Session in HF252/SF570, chapter 23:

(1) Minn. R. part 7610.0160
Minnesota Wisconsin Power Suppliers Group

(2) Minn. R. part 7610.0700
Energy Delivered to Ultimate Consumers, Reports

(3) Minn. R. chapter 7645
Community Energy Grants

(4) Minn. R. chapter 7660
Energy Audits

(5) Minn. R. chapter 7665
Direct Heating Systems

(6) Minn. R. chapter 7680
Local Energy Audits

B. Minnesota Rules Related to Collection Agencies

Minn. R. parts 2870.0100 and 2870.0200 (pertaining to an obsolete reference to the collection agency advisory board) were repealed during the 2001 Legislative Session in HF252/SF570/chapter 23. Minn. R. part 2870.2200 will be repealed as part of the legislative initiative discussed under item I. C. (above) of this report.

III. CONTACT PERSON

If you have any questions regarding this report, please contact

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Except as noted above, the Department of Commerce has not identified any rules within its regulatory authority that are obsolete, unnecessary or duplicative of other state or federal statutes or rules.

Sincerely,

JAMES C. BERNSTEIN
Commissioner of Commerce

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c Commissioner James Bernstein
Deputy Commissioner Gary LaVasseur