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Report of the Commissioner of the



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DEPARTMENT OF
ECONOMIC DEVELOPMENT

500 Metro Square
121 7th Place East
Saint Paul, Minnesota 55101-2146 USA



May 15, 1993

The Honorable Arne H. Carlson
Governor of Minnesota
State Capitol
St. Paul, MN 55155

Dear Governor Carlson:

In accordance with Executive Order 92-15, I am pleased to transmit herewith my report with recommendations on business regulatory and permitting reform.

In preparing the report and resulting recommendations, we solicited responses from state agencies and from members of the business community. We also considered recommendations for improving administrative rulemaking proposed by the Commission on Reform and Efficiency and the Legislative Auditor, and examined emerging trends and issues in state regulation of business. The results of these efforts are reflected in the report.

I would be pleased to discuss our conclusions and recommendations further at your convenience.

Sincerely,

E. Peter Gillete, Jr.
Commissioner

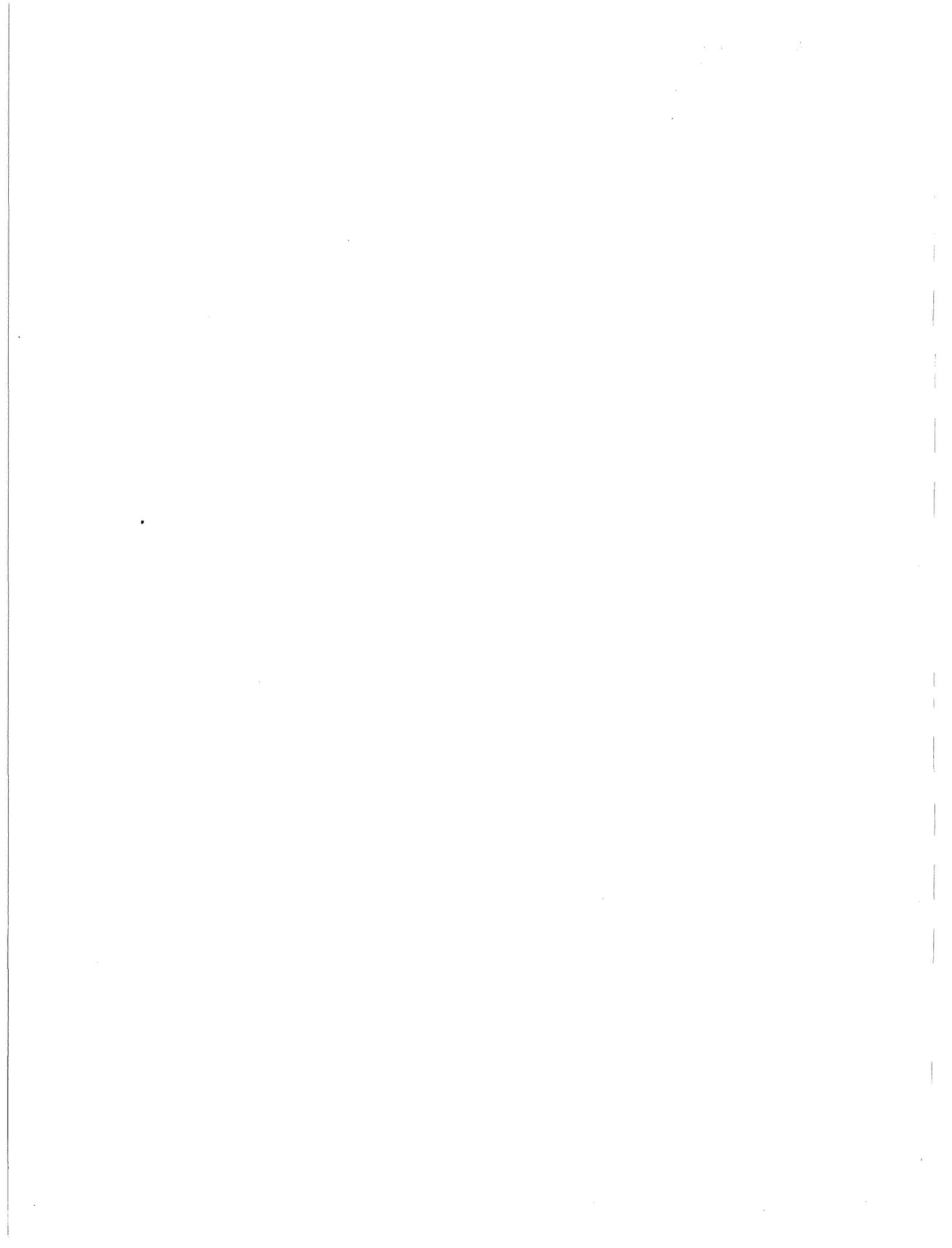
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EXECUTIVE ORDER 92-15

**REPORT OF THE COMMISSIONER OF THE
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

May 15, 1993

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EXECUTIVE SUMMARY

Background

On December 3, 1992, Governor Carlson issued Executive Order 92-15, which directed all state departments and agencies to analyze and review their rules and regulations affecting Minnesota businesses, identify rules and regulations which did not have an immediate, necessary and substantial impact on achieving the interest intended to be protected by the rule or regulation, and eliminate or revise any rule or regulation which did not have an immediate, necessary and substantial impact on achieving the interest intended to be protected. Departments and agencies were further directed to inform all staff of the Executive Order and report on their efforts to the Commissioner of Trade and Economic Development by April 1, 1993. The Commissioner of Trade and Economic Development was directed to forward to the Governor a composite report on the results of the departments' and agencies' efforts, along with recommendations for further executive or legislative action.

Activities of the Department of Trade and Economic Development

In furtherance of its responsibilities under the Executive Order, the Department of Trade and Economic Development solicited agency responses using a standardized reporting form. The Department also solicited outside opinion from members of the public.

Rules and responses from agencies were classified into six categories:

- * Occupational Licensing;
- * Regulation of Industries and Economic Regulation;
- * Facility Regulation;
- * Benefits and Services;
- * Fees, Fines and Revenue Generation; and
- * Procedural Rules

Within each category, responses were classified into:

- * Rules which do not directly affect businesses;

- * Rules which directly affect businesses and which meet the test of the Executive Order; and
- * Rules which agencies indicated will be eliminated or revised.

State Department Responses

Twenty occupational licensing boards and sixty executive departments responded to the Executive Order. Respondents identified 146 rules or portions of rules that were candidates for amendment or repeal. They identified 338 rules or portions of rules that met the test of the Executive Order, and 147 rules or portions of rules that did not directly affect businesses and therefore were outside the scope of the Executive Order. A full list of rules which will be eliminated or repealed appears as Appendix I.

Departments and agencies took a number of steps to inform staff of the Executive Order. These steps included distributing copies to all staff or to managers and supervisors who informed staff; distributing copies to staff members responsible for rules; publishing the Executive Order in the agency's employee newsletter; posting the Executive Order on employee bulletin boards and at other locations within the agency; conducting follow-up meetings with appropriate staff on progress in complying with the Executive Order, and distributing copies of the Executive Order to members of licensing boards or commissions.

Departments and agencies indicated they assist businesses in complying with rules and regulations in various ways, including distribution of newsletters; providing telephone and in-person technical assistance; conducting training seminars; making copies of statutes and rules available to regulated businesses, and providing speakers to address regulatory topics. Some agencies have advisory committees with which they consult on regulatory issues.

Departments and agencies made several recommendations for further executive and legislative branch action. Recommendations included examining the underlying statutes to assure that regulation is necessary and appropriate, and conducting periodic review of existing rules to remove obsolete or inappropriate regulations.

Other Studies

The Legislative Auditor and the Commission on Reform and Efficiency recently completed studies of administrative rulemaking in Minnesota. *Administrative Rulemaking* was issued by the Legislative Auditor in March, 1993. *Reforming Minnesota's Administrative Rulemaking System* was issued by the Commission on Reform and Efficiency, also in March, 1993.

Responses from the Public

Most public responses were specific to a particular business or industry. A number also dealt with issues that cross industries, like worker's compensation and environmental regulation. Many respondents addressed not the rules themselves but underlying policies and statutory law.

Recommendations of the Commissioner of Trade and Economic Development

1. Agencies should annually review their regulatory statutes and recommend statutory elimination of regulatory activity which is no longer is appropriate, effective or efficient.
2. Agencies should bi-annually, prior to the budget preparation process, review their rules and amend those which are no longer appropriate, effective, or efficient.
3. The executive branch of Minnesota should study ways to implement in statute and rule new procedures for achieving compliance by regulated parties and make appropriate legislative recommendations.
4. Executive branch agencies should prepare appropriate amendments to the Administrative Procedure Act on a continuing basis.
5. Within the existing framework of regulation, agencies should put in place new or improved procedures to improve their day-to-day operations so as to clarify and shorten the internal critical paths for handling regulatory/permitting matters.
6. The state should study the possibility of true "one-stop shopping" for regulatory matters.

Two draft Executive Orders implementing these recommendations are attached as Appendices (pages 167-172).

INTRODUCTION

On December 3, 1992, Governor Carlson issued Executive Order 92-15. The Executive Order was filed with the Secretary of State on December 3, 1992, and published in the *State Register* on December 14, 1992.

The Executive Order directed all departments and agencies of the State of Minnesota:

- * To analyze and review existing rules and regulations affecting Minnesota businesses;
- * To identify all rules and regulations which did not have an immediate, necessary and substantial impact on achieving the interest intended to be protected by the rule or regulation;
- * To eliminate or revise any rule or regulation which did not have an immediate, necessary and substantial impact on achieving the interest intended to be protected;
- * To ensure that staff of each state department or agency was advised of the Executive Order;
- * To report to the Commissioner of Trade and Economic Development by March 1, 1993, on efforts to comply with the Executive Order.

The Executive Order also required the Commissioner of Trade and Economic Development to forward to the Governor by April 15, 1993, a composite report on implementation of the Executive Order and to recommend any further executive or legislative action necessary.

By memo to state agency heads, the Governor on March 1 extended the deadline for submission of agency responses to the Commissioner of Trade and Economic Development until April 1, 1993. The deadline for the report of the Commissioner of Trade and Economic Development to the Governor was similarly extended to May 15, 1993.

Department of Trade and Economic Development Activities

In furtherance of its responsibilities under the Executive Order, the Department of Trade and Economic Development (DTED) identified state departments and agencies which had rules published in Minnesota Rules 1991 (1992 Supplement). DTED also prepared a form for department and agency responses.

Because the Executive Order was silent as to definition of what constituted rules and regulations "affecting Minnesota businesses" and having an "immediate, necessary and substantial impact" the following definitions were developed by DTED and included on the form for agency responses.

Definition: Rules that "directly affect Minnesota businesses" are rules which determine a business' eligibility for benefits or programs administered by the agency; rules which pertain to the granting or revocation of occupational or operating licenses or permits; rules which impose fines or penalties on businesses; rules which establish reporting requirements for businesses; rules which govern a business' access to the agency, and any other rules which directly affect the rights or duties of a business.

Definition: "Immediate, necessary and substantial impact" means that the rule is directly connected to achieving the interest; that the interest cannot be protected without the rule; and that the rule will actually contribute to achieving the interest.

These definitions created the standard for agency analysis of rules and regulations under the Executive Order without requiring or reproducing the more substantial standard of an affirmative showing of need and reasonableness found in the Minnesota Administrative Procedure Act (Minnesota Statutes Chapter 14).

On December 30, 1992, the developed form, particularized for each department or agency with a list of that department or agency's rules from Minnesota Rules, was sent to each state department or agency head with a letter from the Commissioner of Trade and Economic Development. A follow-up memorandum was sent to all department and agency heads on February 25, 1993.

In addition, to aid the Commissioner in making the recommendations authorized by the Executive Order, DTED published a solicitation of outside opinion in the January 19, 1993, *State Register* seeking comment on rules and regulations from interested and affected parties outside state government. Letters were sent to the presidents of the Minnesota Chamber of Commerce, the Minneapolis Chamber of Commerce, and the St. Paul Chamber of Commerce notifying them of the Executive Order, providing a copy of the notice of solicitation of outside opinion, and inviting comments from their members. Notice of the solicitation of outside opinion also was published in *Small Business Notes*, a publication of the Department's Small Business Assistance Office.

Scope and Limitations of the Executive Order and Responses

The Executive Order had a broad reach in requiring state departments and agencies to analyze and review "rules *and* regulations" (emphasis added). The implication of that language was that agencies should review all rules whether in furtherance of regulatory mandates or not. At the same time, the Executive Order narrowed the scope of analysis to meeting the test of immediate, necessary and substantial impact on achieving the interest intended to be protected.

In that context it is important to note what the Executive Order did not require:

- * In those cases where rules implemented regulatory activity required by statute, departments and agencies were not asked if state regulation was a necessary or appropriate activity. That is, departments and agencies were not required to determine if there were ways other than state regulation to achieve a desired result. (For example, it has been suggested in some regulatory literature that occupational licensure in many cases need no longer be performed by the state but could be left to private credentialing and standard setting bodies.) Departments and agencies in their responses could, and did, assume the necessity and appropriateness of statutory regulatory directives.
- * In those cases where rules were developed for purposes other than command and control regulation (for example, for collection of information or collection of revenue) departments and agencies were not required to comment if rules were the necessary and appropriate vehicle for those purposes. As a practical matter, the current statutory definition of a rule is broad enough to require rules and rulemaking for almost any purpose involving interaction of government and the public:

"Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure. (*Minnesota Statutes* § 14.01, Subd. 4).

STATE DEPARTMENT RESPONSES

For convenience of reference, this report uses the same rule categories identified in the legislative auditor's report, *Administrative Rulemaking* (March 1993). These are:

Occupational Licensing. These rules establish standards that govern individuals engaged in a particular profession. The rules generally are designed to protect the health and safety of the general public when it uses these services.

Regulation of Industries and Economic Regulation. These rules implement regulations intended to protect the health and safety of the general public through the regulation of specific business activities. These may be specific to a particular industry or type of business (e.g., regulation of motor carriers) or may cross industry lines (e.g., environmental regulations). Also included here are economic regulations are designed to ensure fair trade or business practices. These rules implement regulations on control of entry to a particular business, the rates which may be charged, the way competition is mandated, how fair dealing is ensured in relations with the public.

Facility Regulation. These rules develop standards that a facility must follow when it provides services to certain groups. The rules are designed to protect the health and safety of the groups, often vulnerable persons, who use the facilities.

Benefits and Services. These rules are used to determine who receives benefits or services from state agencies, and in what amount, by laying out eligibility criteria.

Fees and Fines, and Revenue Generation. These rules implement regulations that govern the imposition of fees and fines required by statute. Also included in this category are rules of the Department of Revenue governing the raising of revenue through taxes.

Procedural Rules. These rules define the procedures an agency will follow as those procedures impact the regulated entities or the general public.

Within each category, agencies are arranged alphabetically. In each agency response rules which the agency identified as not directly affecting businesses are presented first. Presented second are those rules which agencies indicated do directly affect businesses and which meet the test of the Executive Order. Presented third in order are those rules which agencies have indicated will be eliminated or repealed. A summary list of those rules to be eliminated or repealed also appears later as Appendix I of this report.

In compiling and summarizing agency responses, the Department of Trade and Economic Development has occasionally made comments to clarify a response or absence of response. Those comments are preceded in the text by the notation **Compiler's Comment**.

OCCUPATIONAL LICENSING

Occupational licensing rules establish standards that govern entry into a particular profession and the conduct of individuals engaged in that profession. The rules generally are designed to protect the health and safety of the general public when it uses these services. In Minnesota, occupational licensing is accomplished by occupation-specific licensing boards and also by regular executive departments of the state.

Occupational Licensing by Occupation-Specific Boards

Twenty-four occupation-specific licensing boards have rules. They are:

- Abstracter's Board of Examiners
- Board of Accountancy
- Board of Architecture, Engineering, Land Surveying, Landscaper Architecture and Interior Design
- Board of Assessors
- Board of Barber Examiners
- Board of Boxing
- Board of Chiropractic Examiners
- Board of Dentistry
- Board of Education
- Board of Electricity
- Board of Marriage and Family Therapy
- Board of Medical Practice
- Board of Nursing
- Board of Examiners for Nursing Home Administrators
- Board of Optometry
- Peace Officer Standards and Training Board
- Board of Pharmacy
- Board of Podiatric Medicine
- Board of Private Detectives and Protective Agents
- Board of Psychology
- Board of Social Work
- Board of Teaching
- State Board of Technical Colleges
- Board of Veterinary Medicine

Twenty boards responded to the Executive Order. Those not responding were:

- Board of Education
- Board of Marriage and Family Therapy
- Board of Optometry

Board of Social Work

Rules Which Do Not Directly Affect Businesses

Compiler's Comment: Twelve boards indicated that their rules do not directly affect businesses. As will be noted in these summaries of board responses, a number of occupational licensing boards did not see control of entry into, or conduct of, an occupation or profession as activity having an effect on business -- despite the fact that such licensing and regulation are the text-book examples of individualized economic decisions of government. It appears also that some boards saw the issue of "having an effect on business" as meaning having an effect on a business firm rather than having an effect on a business activity (i.e., the selling of professional services). The Board of Boxing, for example, indicated that its rules on boxing promoters had no effect on business because the holding of a boxing promotion franchise "... is not a job."

Boards that said their rules do not directly affect businesses were:

Abstracter's Board of Examiners

Minnesota Rules 1005 - Board, Abstracters, and Abstracts

The Board Secretary indicated the Board's rules do not affect business, but did not provide an explanation.

Board of Architecture, Engineering, Land Surveying, Landscape Architecture, and Interior Design

Minnesota Rules 1800 - Licensure

Minnesota Rules 1805 (Rules of Professional Conduct)

The Board stated that it examines and licenses individuals only. Firms in which those individuals practice are not required to be licensed. Accordingly, the Board concluded that its rules do not directly affect businesses.

Board of Assessors

Minnesota Rules 1950 - Licenses

The rules of this Board do not directly affect business. The Board's rules deal with the education, licensure and conduct of assessors who are employed by units of government to appraise property for the purpose of imposing real estate tax.

Board of Boxing

Minnesota Rules 2200 - Amateur and Professional Boxing

The Board requires licensing of promoters and sponsors of amateur or professional boxing or sparring events, and also licenses referees, judges, boxers, managers, and seconds. The Board's position is that the rules apply to individuals and do not directly affect Minnesota businesses.

Board of Dentistry***Minnesota Rules 3100 - Dentists, Hygienists, and Assistants***

The Board states that its rules regulate the practice of individual dentists, dental hygienists, and registered dental assistants, and thus do not directly affect businesses. The Board added that all rules go through the rulemaking process, which allows for public participation as well as justification of the need for and reasonableness of the rules.

Board of Medical Practice***Minnesota Rules 5600 - Licensure******Minnesota Rules 5601 - Physical Therapy******Minnesota Rules 5605 - Continuing Education******Minnesota Rules 5606 - Emeritus Registration******Minnesota Rules 5615 - Hearings Before the Board******Minnesota Rules 5620 - Fee Splitting***

The Board's practice act and rules establish standards to be met by individuals seeking the right to practice and regulate their conduct after they have been admitted to practice. With the exception of the Board's Professional Corporation Rule, which the Board plans to eliminate because it duplicates the statute, the Board stated that its rules do not directly affect business.

Board of Nursing***Minnesota Rules 6301 - Professional and Practical Program Approvals******Minnesota Rules 6305 - Professional and Practical Nurses******Minnesota Rules 6310 - Registration******Minnesota Rules 6316 - Public Health Nurse Registration******Minnesota Rules 6321 - Nursing Practice and Discipline******Minnesota Rules 6330 - Advanced Nursing Practice******Minnesota Rules 6340 - Nurse Practitioner Prescribing Authority***

The Board stated that none of the rules have an impact on business.

Board of Examiners for Nursing Home Administrators***Minnesota Rules 6400***

The Board stated that its rules establish standards to be met by individuals seeking the right to practice and regulate their conduct after licensure has been granted and thus do not directly affect businesses.

Peace Officer Standards and Training Board***Minnesota Rules 6700 - Training and Licensing***

These rules deal primarily with the training and licensure of peace officers. The Board indicated that as such, the rules do not directly affect businesses. One portion of the rules, Minnesota Rules 6700.0900 to 6700.0902, deals with approval of continuing education courses. The majority of applicants for course approval are law enforcement departments and technical or community colleges. Occasionally, however, a product vendor or other business will apply to offer continuing education

courses. The Department's response to the Executive Order is provided in the section of this report on rules which regulate industries.

Board of Podiatric Medicine

Minnesota Rules 6900 - Licensure

The Board stated that its rules establish standards to be met by individuals seeking the right to practice and regulate their conduct after licensure has been granted and thus do not directly affect businesses. The Board identified two statutes that affect both the Board and regulated licensees, but for which it has not adopted regulations. These are Minnesota Statutes Chapter 153, which requires certain medical providers and insurance companies to report to the Board any licensee against whom a malpractice settlement has been made or whose privilege to practice has been curtailed, and Minnesota Statutes Chapter 319A, which requires professional corporations to register with the board that licenses the professionals who are officers or stockholders of the corporation and pay registration and re-registration fees.

Board of Psychology

Minnesota Rules 7200 - Psychologists' Licensure and Ethics

The Board stated that the purpose of the Board of Psychology is to protect the public from the unprofessional, unethical, and incompetent practice of psychology. By statute the Board is empowered to adopt rules necessary to carry out that purpose. The Board, by means of its practice act and rules, establishes standards to be met by individuals seeking the right to practice and regulates their conduct after they have been granted that right. The Board states that its rules do not impose conditions on nor otherwise regulate businesses.

Board of Teaching

Minnesota Rules 8700 - Licensure

Minnesota Rules 8750 - Secondary Vocational Licensure

The Board indicated that its rules consist of the necessary procedures and standards for individuals to become licensed as teachers. As such, the rules do not directly affect businesses.

State Board of Technical Colleges

Minnesota Rules 3700 - Licensure

Minnesota Rules 3709 - Licensing; Emerging Occupations

Minnesota Rules 8480 - System Policy

Minnesota Rules 3700 and Minnesota Rules 3709 apply to the licensing of individuals to teach in the Minnesota technical college system. As such, the Board stated, the rules do not directly affect businesses. Minnesota Rules 8480 pertains to system policy which likewise does not directly affect businesses.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order

Seven licensing boards indicated that while their rules do have an effect on businesses, those rules meet the test of the Executive Order, and no changes are necessary. Those boards are:

Board of Accountancy

Minnesota Rules 1100 - Licensing Rules

The Board's rules pertain to licensing of partnerships and corporations, and the imposition of fees. The Board states that the rules are necessary because they form the basis for licensure and regulation of Certified Public Accountants and Licensed Public Accountants doing business as a partnership or corporation, establish rules and regulations that the businesses must follow, and allow the Board to license the businesses. The rules enable the Board to regulate and ensure that the CPA and LPA businesses are acting according to statutory standards.

Board of Barber Examiners

Minnesota Rules 2100 - Barbers' Licensing and Operation

The Board states that the purpose of the rules is to assure that the public receives high quality services in barber shops by qualified barbers. The rules are needed to effectively administer examinations, license barbers, and establish sanitation and regulatory programs to protect the public.

Board of Chiropractic Examiners

Minnesota Rules 2500 - Chiropractors' Licensing and Practice

These rules establish standards to be met by individuals seeking the right to practice chiropractic and regulate their conduct after licensure has been granted. The Board stated that the rules are necessary to protect the public from unprofessional, unethical, and incompetent practitioners. The Board added that its rule which establishes a penalty for late renewal is directly related to achieving the interest of on-time renewal. The Board states that securing timely renewals historically has been a problem.

Board of Electricity

Minnesota Rules 3800 - Licenses, Inspections

The Board of Electricity states that its mission is to protect life and property from the hazards arising from the use of electricity. The Board furthers that mission by ensuring the competence of electricians, electrical contractors, and alarm and communications contractors through examination and licensing. The Board concluded that its rules are necessary and reasonable to achieving its mission.

Board of Pharmacy

Minnesota Rules 6800 - Pharmacists' Licensing and Operation

The Board states that its rules establish standards to be met by individuals seeking the right to practice and regulate their conduct after licensure has been

granted, and also protect the public from adulterated, misbranded, or otherwise dangerous drugs. It notes that many of its regulations concerning drug labeling and certain practices are required by federal law.

Board of Private Detectives and Protective Agent Services

Minnesota Rules 7506 - Private Detectives and Protective Agents

These rules establish testing procedures to ensure that applicants for initial and continued licensure have current data on compliance issues. The rules also establish application and license fees, as required by statute. The Board stated that its rules are necessary to provide detailed guidance and information to licensees and applicants on statutory requirements and disciplinary procedures. The Board also stated that its rules have minimized or eliminated previously existing problems and that the Board has received no complaints concerning the rules.

Board of Veterinary Medicine

Minnesota Rules 9100 - Veterinarians' Licensure and Practice

The Board states that its rules establish standards to be met by individuals seeking the right to practice and regulate their conduct after licensure has been granted and are necessary to achieve these purposes. The Board further states that its rules concerning matters like sanitation, ventilation, lighting, and drainage are necessary to protect the health and welfare of animals, and the clients' interest in the animals, while the animals are housed in a veterinary facility.

Rules Which Will Be Eliminated or Revised

Board of Medical Practice

Minnesota Rules 5610 - Professional Corporation Rules

The Board indicated that these rules, which deal with notices a professional corporation must submit to the Board, duplicate a statutory requirement or are otherwise unnecessary and will be revised in conjunction with housekeeping rules it plans to promulgate in the near future.

Board of Nursing

Minnesota Rules 6320 - Nursing Scholarships

The Board indicated these rules are being repealed.

Occupational Licensing by Executive Departments

In addition to licensing boards, occupational regulation is performed by ten executive departments of the state. Occupational regulation by these departments includes licensing, registration, certification, and establishment of standards. Together, these departments regulate over 50 occupations. The departments and the occupations they regulate are:

Department of Administration

Building officials
 Manufactured home manufacturers and dealers

Department of Agriculture

Grain dealers
 Pest control applicators and dealers
 Tree inspectors
 Wholesale produce dealers

Department of Commerce

Collection agencies
 Cosmetologists, manicurists, estheticians
 Cosmetology schools
 Insurance agents
 Insurance continuing education providers
 Real estate brokers and sales persons
 Real estate appraisers
 Securities broker-dealers and investment advisers
 Self-insurance plan administrators

Gambling Control Board

Distributors of lawful gambling equipment

Department of Health

Licensure:

Asbestos abatement contractors
 Exploratory borers
 Morticians and funeral directors
 Plumbers
 Water conditioning contractors and installers
 Water well and elevator shaft contractors

Registration:

Hearing instrument dispensers
 Home care providers
 Physicians assistants
 Respiratory care practitioners
 Sanitarians
 Speech-language pathologists and audiologists
 Unlicensed mental health service providers

Certification:

Asbestos abatement site supervisors and asbestos abatement workers
 Water monitoring well contractors
 Water system and treatment facility operators

Department of Labor and Industry

- Boat pilots
- Boiler operators
- Elevator contractors
- High pressure piping contractors
- Qualified rehabilitation consultants (workers' compensation)
- Pipefitters

Pollution Control Agency

- Underground storage tank contractors
- Waste disposal operators and inspectors

Department of Public Safety

- Deputy registrars
- School bus drivers

Minnesota Racing Commission

- Class C occupational license (applies to most occupations associated with racing)
- Security officers
- Stewards

Department of Transportation

- Hazardous waste transporters
- Motor carrier drivers (joint regulation with Transportation Regulation Board)

Licensing Rules Which Do Not Directly Affect Businesses***Department of Labor and Industry***

Minnesota Rules 5225.0010-5225.1400 - Licensure of Boiler Operators and Boat Pilots

The Department states that these rules provide for the licensure of individuals and therefore do not directly affect businesses. The Department indicated these rules are currently being considered for revision.

Department of Public Safety

Minnesota Rules 7414 - School Bus Driver Qualifications

These rules establish qualification criteria for individuals who wish to work as school bus drivers. The rules address examinations, tests, background checks, physical examinations, reexamination and renewal.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order

Department of Administration

Minnesota Rules 1350.0700-1350.9200 - Manufactured Homes

These rules provide for the licensing of manufacturers and dealers of manufactured homes. The Department states that the rules are necessary to protect purchasers of those homes. The protection is backed up by a surety bond required for licensees.

Department of Agriculture

Compiler's Comment: As noted above, the Department of Agriculture regulates grain dealers, pest control applicators and dealers, tree inspectors, and wholesale produce dealers. Material submitted by the Department addressed the licensing of grain dealers and wholesale produce dealers as follows:

Minnesota Rules 1500.0101-1500.1501 - Wholesale Produce Dealers

These rules establish criteria for a wholesale produce dealer's license and set out certain financial protections for sellers of produce. The rules implement the wholesale trust provisions of the law and establish bonding requirements and mediation procedures. The Department states that these are methods by which farmers and sellers of produce can protect themselves when a dealer is unable to pay for perishable produce. The rules also establish certain requirements for produce contracts, and define unfair trade practices. The Department states that without the rules farmers and sellers of produce could face harmful financial consequences or enter into harmful contract provisions. The rules were fully revised effective May 1, 1992. (See also the section on regulation of industries.)

Minnesota Rules 1562 - Buying and Storing of Grain

These rules consolidate, in one place, the license and bonding requirements for grain buyers, grain storage warehouse operators and grain bank operators as established by Minnesota Statutes Chapters 223, 232, and 236. The rules also establish bond claim procedures. The Department states that the licensing requirements for buyers and storers of grain are necessary to protect the producers of grain from predatory or unscrupulous business practices. The Department also states that fees generated by the licensing of grain buyers and warehouse operators helps pay for a monitoring program. The monitoring program assures that licensed grain buyers are paying producers for grain purchased by the buyer; that grain deposited by producers in public grain storage warehouses is maintained there; that grain deposited with grain bank operators is maintained at the grain bank; and that the warehouse or grain bank storing the grain and the grain buyer are accurately reporting grain storage and grain banking liability and grain purchase amounts so that adequate bonding levels are maintained. The monitoring program supported by fees also helps maintain a licensee's eligibility for certain federal programs. Except where there are similar federal programs in place, no independent agency monitors the buying, storing and grain banking of grain.

Department of Commerce

Minnesota Rules 2870 - Collection Agencies

The Department indicates these rules are directed at two levels of potential abuse. The rules delineate prohibited conduct in collecting amounts owed by a debtor and require the licensee to be accountable to the creditor and to be responsible for the return of collected funds. The Department concluded the rules are necessary.

Minnesota Rules 2642 - Cosmetology; Salons

Minnesota Rules 2644 - Cosmetology; Schools

Minnesota Rules 2642 establishes the qualifications and standards for individual cosmetologists, manicurists, and estheticians, and for cosmetology, esthetician, and manicure salons. Minnesota Rules 2644 establishes standards for cosmetology schools. The Department states that the professional, safety, and health standards established in these rules are necessary to protect the health of persons who patronize those establishments. The technical requirements of Minnesota Rules 2642 rule were promulgated after the Department received significant input from industry representatives. As noted in the section on rules which will be eliminated or revised, the Department identified some sections of Minnesota Rules 2642 and Minnesota Rules 2644 which it indicated should be repealed or which will be repealed by pending legislation.

Minnesota Rules 2795 - Insurance Agents

These rules establish the minimum standards for the professional conduct of insurance agents who do business in Minnesota. The Department states that licensees benefit from these rules by having clear and concise statements of the level of professional conduct expected of them. Consumers and insureds benefit from the rules via the provisions intended to reduce or eliminate inappropriate or fraudulent activity by licensees.

Minnesota Rules 2725 - Insurance Continuing Education Providers

These rules establish guidelines and criteria for the approval of continuing education courses for insurance licensees. The guidelines ensure that continuing education courses will meet basic standards and will provide information which is relevant and beneficial to the insurance agent's representation of clients. The Department states that the rule requirements were developed with significant involvement of representatives of the insurance industry and insurance agents.

Minnesota Rules 2800 - Real Estate Broker Licensing and Education

Minnesota Rules 2805 - Real Estate Broker Practice

Minnesota Rules 2800 establish criteria for education and licensure of real estate brokers and salespersons. Minnesota Rules 2805 establish standards of practice for real estate brokers and salespersons. The Department states that the rules establish minimum standards for the industry and educational requirements that will be relevant and beneficial to licensees in servicing their clients. Both sets of rules were established in cooperation with the real estate industry.

Minnesota Rules 2808.0100-2808.7400 - Real Estate Appraiser Licensing and Education

These rules became effective on January 26, 1993 and were promulgated to comply with federal law requiring all states to establish procedures for the education and licensing of real estate appraisers. The rules were developed with the input and support of an advisory board and two consumer panels. The Department states that the rules are intended to assure that Minnesota's appraiser licensing law and rules conform to federal requirements without unduly limiting the ability of appraisers to exercise their profession.

Minnesota Rules 2875 - Securities Broker-Dealer and Investment Adviser Licensing

A portion of these rules deal with licensing requirements for securities broker-dealers and investment advisers. The Department indicated the rules were promulgated to address specific abuses that were occurring in the state. The interest protected is preventing misrepresentation to and victimization of Minnesota citizens in the marketing and sale of securities products. The rules were developed with representation of the Securities Regulation Advisory Committee, comprised of representatives of the securities industry and Department of Commerce staff.

Minnesota Rules 2767 - Self-Insurance Plan Administrators

These rules establish requirements for the licensure of third party administrators of self-insurance plans. The Department states that the rules are necessary to assure that the administrator has the proper expertise and is financially solvent. The rules are necessary to protect the financial interests of businesses that are self-insured.

Gambling Control Board*Minnesota Rules 7863 - Lawful Gambling; Distributors*

These rules establish the requirements for a distributor's license for the sale of gambling equipment. The rule also sets forth record keeping requirements for licensed distributors. The Board states that the rules consolidate the requirements of distributors established by Minnesota Statutes Chapter 349 and clarify how those requirements must be met.

Department of Health***Licensure***

The Department of Health establishes licensing criteria and standards for each of the following occupations:

Minnesota Rules 4610.0400-4610.0600 - Morticians and Funeral Directors

Minnesota Rules 4620.3200-4620.3400 - Asbestos Abatement Contractors

Minnesota Rules 4727.0400-4727.0900 - Exploratory Borers

Minnesota Rules 4715.3140-4715.3170 - Plumbers

Minnesota Rules 4715.5800-4715.6000 - Water Conditioning Contractors and Installers

Minnesota Rules 4725.0500-4725.1800 - Water Well and Elevator Shaft Contractors

The Environmental Health section of the Department, which licenses all of the above except morticians and funeral directors, states that for each of these

occupational licenses, the rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. Rules concerning wells and borings are new or were substantially revised in the past three years. Rules concerning asbestos abatement are new or were substantially revised in the past five years.

Registration

Minnesota Statutes § 214.001 establishes a hierarchical system for determining the appropriate level of regulation for occupations not credentialed or regulated at the time the law was enacted. One of those levels is a registration system whereby registered practitioners are the only persons permitted to use a designated title and be listed on an official roster after having met predetermined qualifications. In furtherance of this statutory structure, the Department of Health has selected the following occupations for registration:

Minnesota Rules 4692 - Hearing Aid Seller Permits

Minnesota Rules 4745 - Hearing Instrument Dispenser Registration

Minnesota Rules 4667 - Home Care Provider Registration

Minnesota Rules 5600.2600-5600.2670 - Physician Assistant Registration

Minnesota Rules 4762 - Respiratory Care Practitioner Registration

Minnesota Rules 4695.2500-4695.3000 - Sanitarian Registration

Minnesota Rules 4750 - Speech-Language Pathologist and Audiologist Registration

Minnesota Rules 9000 - Unlicensed Mental Health Provider Registration

The Department states that registration is voluntary, and unregistered practitioners are not prohibited from conducting business. Unregistered practitioners may not, however, use certain titles designated in the rules that suggest a level of competency. To qualify for registration, practitioners must satisfy specific training, knowledge, skills and expertise criteria that are specified by the rules. The Department is required to evaluate its experience with registration and make biennial reports to the legislature. The Department states that this evaluation is done as required by statute, and rules are amended accordingly. Representatives of the regulated occupations are involved in the review and amendment of the rules.

Certification

The Health Department by rule provides for the certification of the occupations listed below:

Minnesota Rules 4620.3200-4620.3400 - Asbestos Abatement Site Supervisors and Asbestos Abatement Workers

Minnesota Rules 4725.0500-4725.1800 - Water Monitoring Well Contractors

Minnesota Rules 9400.0700-9400.1500 - Water System and Treatment Facility Operators

The Department states that for each of these, the rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The

Department states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

Department of Labor and Industry

Minnesota Rules 5220.0100-5220.2780 - Qualified Rehabilitation Consultants and Registered Rehabilitation Vendors

Portions of Minnesota Rules 5220 deal with requirements to be a qualified rehabilitation consultant or registered rehabilitation vendor in the workers' compensation system. The Department indicated generally that Minnesota Rules 5220 are necessary to provide a framework or process for providing rehabilitation services, but the Department did not specifically address the rules providing for approval of rehabilitation consultants and rehabilitation vendors. The Department stated that the rules dealing with qualification of rehabilitation consultants and approval of rehabilitation vendor firms do not affect employers.

Minnesota Rules 5226.0300 - Licensure of Elevator Contractors

The elevator fee rules state that elevator contractors must meet federal, state, and local law and code requirements as a condition of securing a license. The Department states that the fee rules have an immediate, necessary and substantial impact as the fees are required by statute to cover the costs of operation of the unit. The Department did not address the standard of the Executive Order as it relates to the qualifications for licensure.

Minnesota Rules 5230.0010-5230.0201 - Licensure of Pipefitters and Contracting Pipefitters

These rules establish standards for the number, qualifications, and licensure of persons working on high pressure piping. Portions of the rule are under a temporary restraining order due to a possible ERISA issue. The Department indicates the rules are necessary to assure that qualified personnel work on high pressure piping systems.

Pollution Control Agency

Minnesota Rules 7048 - Waste Disposal Operators and Inspectors

The Department states that Minnesota has a large number of facilities that treat or dispose of solid waste, sewage sludge, wastewater, hazardous waste and construction debris. If these wastes are handled, stored, treated or managed incorrectly, they can contaminate state waters. These rules establish knowledge and skill standards for the operators of these treatment and disposal facilities. The Department has determined that all portions of the rules are needed to establish a certification program for treatment and facility operators and inspectors and to ensure that facility operators and inspectors have the skills that are necessary to do the job correctly.

Minnesota Rules 7105 - Underground Storage Tank Contractor Training and Certification

The Department states that these rules were promulgated in response to Minnesota Statutes § 116.491, which requires the Agency to adopt rules containing

standards of competence for tank service providers. Since the rule became effective in 1990, the Agency has amended it to extend the length of the certification period for project supervisors to make the program less burdensome.

Department of Public Safety

Minnesota Rules 7406 - Deputy Registrars

The rules establish procedures for appointing deputy registrars and setting standards for deputy registrar offices. Deputy registrars are responsible for collecting fees and taxes in the registration of motor vehicles. The Department states that the regulations are necessary to ensure that the correct fees are collected and properly deposited. The rules also help assure that deputy registrars are run efficiently, and that the Department regulates each office in a consistent manner.

Minnesota Racing Commission

Minnesota Rules 7877 - Class C Licenses

By statute all persons participating in pari-mutuel horse racing at a licensed facility must be issued a Class C occupational license by the Racing Commission. The rule encompasses virtually all persons on the grounds of a licensed track, with the exception of the wagering public. The rule establishes criteria the Commission will apply in determining whether to issue a Class C license. The Commission states that the rule is necessary to determine whether the applicant's experience, reputation, competence, status within the criminal justice system, and financial responsibility are consistent with protecting the integrity and safety of pari-mutuel horse racing.

Minnesota Rules 7878 - Security Officers

These rules establish the qualifications and code of conduct for security officers employed at a pari-mutuel horse racing facility. The rules allow the Commission to monitor the appointment of security officers, establish minimum standards for employment, and mandate continuing education for security officers employed at a licensed facility.

Minnesota Rules 7879 - Stewards

This rule provides a basis for selection of stewards, and establishes qualifications for those individuals. In addition, the rule outlines appointment procedures, authority and duties of the stewards, and provides for disciplinary actions, sanctions, and fines for infraction of racing rules. The Commission states that the rule is necessary to assure the integrity of all phases of pari-mutuel horse racing and wagering. The public is served by knowing that these standards exist and are employed by the Commission in the selection and appointment of stewards.

Department of Transportation

Minnesota Rules 8870 - Hazardous Waste Transporters

These rules clarify when a hazardous waste transporter license is needed, establish the procedure for obtaining a license and vehicle decal, and establish insurance, training, and reporting requirements. Reporting is required for serious

accidents involving vehicles used to transport hazardous waste or hazardous waste incidents described in Minnesota Statutes § 221.034. The Department states that these rules are necessary to protect the interest of the public in safe transportation of hazardous waste and protecting the safety of the motoring public and the environment.

Minnesota Rules 8850 - Motor Carrier Drivers

These rules incorporate by reference federal motor safety carrier regulations promulgated by the Federal Highway Administration which are used throughout the country as established safety standards with which motor carriers and drivers must comply. The Department states that the rules are adopted pursuant to Minnesota Statutes § 221.031, which requires the Department to prescribe rules for the operation of motor carriers, including driver qualifications and hours of service.

Rules Which Will Be Eliminated or Revised

Department of Commerce

Minnesota Rules 2642 - Cosmetology; Salons

Minnesota Rules 2644 - Cosmetology; Schools

The Department plans to revise Minnesota Rules 2642.0120, subpt. 1 (to be eliminated because it restates a statutory requirement); Minnesota Rules 2642.0340, subpts. 1 and 2 (to be eliminated as unnecessary); subpt. 2.A (to be revised to allow additional hours to count toward licensure requirements). Also, amendments will be required if current pending legislation is passed. The legislation will repeal Minnesota Rules 2642.0310, subpts. 3, 4, and 5; Minnesota Rules 2642.0330, subpts. 3 and 4; Minnesota Rules 2642.0800, 2642.0810; 2644.0310, subpts. 2, 3 and 4. The Department plans to initiate the revisions by January 1, 1994.

Minnesota Rules 2767 - Self-Insurance Plan Administrators

Minnesota Rules 2767.0600, subpt. E will be revised to allow for waiver of the requirement that a licensee provide certified audited financial statements as a condition of licensing renewal. At the present time, waivers are considered for licensees that have gross annual income of less than \$15,000. The threshold will be increased to \$50,000 in an effort to reduce the regulatory burden on licensees that have only a small portion of their income derived from Minnesota companies. The Department plans to commence rulemaking to make this change in March, 1993.

Department of Education

Senate File 157, pending in the Legislature, would eliminate all statutes and rules of the Department of Education. If that bill is passed as introduced, these rules will be eliminated.

Gambling Control Board

Minnesota Rules 7863 - Lawful Gambling; Distributors

The Board has identified several areas of the rules that it believes impose an unnecessary burden on licensees. Many of these provisions are, however, required by statute. Legislation that is pending during the current session would remedy this matter. In addition, Board staff have identified several rule requirements relating to the sale of registration stamps and the requirement for a tracking system of those stamp numbers for distributors and manufacturers that could be eliminated. A bar code system developed by the Department of Revenue could provide the necessary record keeping. The Board did not, however, provide a timetable for revising the rules. The Board also indicated it is drafting rules related to manufacturers and distributors of lawful gambling equipment. No date for completion of this process has been established.

Department of Health

Minnesota Rules 4745 - Hearing Instrument Dispenser Registration

The Department is considering a proposal from hearing instrument sellers to discontinue the registration system and amend Minnesota Statutes § 153A.13 *et seq.* to require sellers to pass an examination in order to obtain a certificate.

Minnesota Rules 9000 - Unlicensed Mental Health Providers

The Health Department reports that most of the provisions of this rule were effectively repealed by legislation enacted in 1990. The Department has indicated it has no present intention to amend or repeal the rule, however, but will consider amendments if it determines that it is necessary to protect the health, safety and welfare of Minnesotans.

Occupational Registrations

As required by statute, the Department of Health regularly evaluates its experience with the system of registering, certifying or licensing persons in health care occupations. In conjunction with members of the regulated occupations, it considers amending rules as appropriate. Rules concerning the registration of physicians assistants are currently under consideration, and the Department in 1994 will examine the appropriateness of continued registration of speech-language pathologists and audiologists, and respiratory care practitioners.

Pollution Control Agency

Minnesota Rules 7105 - Underground Storage Tank Contractor Training and Certification

The rule has been amended to extend the length of the certification period for project supervisors to make the program less burdensome. The Agency indicated that several other changes are currently under consideration which will further streamline the program. No timetable for making these changes was provided.

Department of Public Safety

Minnesota Rules 7406 - Deputy Registrars

The Department is currently updating and revising these rules. As part of the revision the Department plans to identify provisions that have adverse effects on registrars and which do not protect an interest of the state. A task force comprised of deputy registrars has been formed to work on the development of the rules. No date for accomplishing the rules revision was provided.

REGULATION OF INDUSTRIES AND ECONOMIC REGULATION

These rules implement regulations intended to protect the health and safety of the general public through the regulation of specific business activities. These may be specific to a particular industry or type of business (e.g., regulation of motor carriers) or may cross industry lines (e.g., environmental regulations). Also included here are economic regulations are designed to ensure fair trade or business practices. These rules implement regulations on control of entry to a particular business, the rates which may be charged, the way competition is mandated, how fair dealing is ensured in relations with the public.

Rules Which Do Not Directly Affect Businesses

Ethical Practices Board

- Minnesota Rules 4500 - Campaign Financing*
- Minnesota Rules 4505 - Economic Interest Disclosure*
- Minnesota Rules 4510 - Lobbyist Registration and Reporting*
- Minnesota Rules 4515 - Conflicts of Interest*
- Minnesota Rules 4520 - Representation Disclosure*
- Minnesota Rules 4525 - Hearings*

These rules implement Minnesota Statutes Chapter 10A, the Minnesota Ethics in Government law. The Ethical Practices Board states that the rules do not directly affect businesses.

Department of Public Safety

- Minnesota Rules 7420 - Emergency Vehicle Services*
- Minnesota Rules 7445 - Passenger Automobile Tires*

The Department indicates that these have no impact on business. **Compiler's Comment:** Minnesota Rules 7420 set standards as to which sirens may be acquired for use on emergency vehicles; as such it would appear to have an impact on manufacturers and distributors of those sirens. Similarly, Minnesota Rules 7445 sets standards for automobile tires that may be acquired for emergency vehicles and thus would appear to have an impact on manufacturers and distributors of those tires.

Minnesota Racing Commission

- Minnesota Rules 7876 - Stabling*
- Minnesota Rules 7883 - Thoroughbred and Quarter Horse Races*
- Minnesota Rules 7884 - Harness Races*
- Minnesota Rules 7890 - Horse Medication*
- Minnesota Rules 7891 - Physical Examination of Horses*
- Minnesota Rules 7892 - Medical Testing*

Minnesota Rules 7876 deal with on-track and off-track stabling of horses racing at a licensed race. Minnesota Rules 7883 establish criteria for participation in and the conduct of thoroughbred and quarter horse races. Minnesota Rules 7884 establish

criteria for participation in and the conduct of harness races. Minnesota Rules 7890 establish criteria, prohibitions, disclosures, and reporting procedures for the medication of race horses. Minnesota Rules 7891 deal with the examination of racing horses and conditions under which postmortem examinations must be conducted. Minnesota Rules 7892 deal with medical testing of race horses, including taking of samples, testing, redistribution of purses upon receipt of a positive laboratory report, and cost recovery.

Department of Transportation

Minnesota Rules 8810.3100 - Utilities Equipment

Minnesota Rules 8810.4100-8810.5600 - Driveways

The Department did not address these rules in its response.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order

Department of Administration

Minnesota Rules 1300-1370--Minnesota Building Code

As noted below the Department has proposed elimination or revision of a number of provisions of the code. For those provisions not being recommended for elimination or revision, the Department notes that those rules are made in furtherance of Minnesota Statutes 16B.59 to 16B.75 to provide minimum standards for life and safety, health, property, construction, quality of materials, use and occupancy, location and maintenance of all structures within a jurisdiction that adopts and enforces the code, as well as regulating certain equipment specifically covered by the code such as fire protection systems and alarm systems. Those sections are:

Minnesota Rules 1300.2100 to 1300.3100--Code Administration

These rules establish the general purpose, application and scope of the state building code. The rules provide for the rule adoption process, guidelines for an appeal of the code, collection of permit surcharges on permits, a list of those sections of the code that local governments are required to enforce (if they adopt the codes), and a list of optional sections that local governments may adopt.

Minnesota Rules 1302.0100 to 1302.0900--Construction Approvals

Minnesota Statutes § 16B.61, subd. 1a, authorizes the Commissioner of Administration to administer and enforce the building code with respect to public buildings in the state. Minnesota Rules 1302 establishes the basis for plan review of construction projects, provides for appropriate fees for plan review and construction inspection and permits the commissioner to contract with qualified individuals or qualified, adequately staffed municipalities to conduct the work. The Department states that the rules are necessary to provide for the review and inspection of public buildings being constructed in communities that have not adopted the state code.

Minnesota Rules 1305.0100 to 1305.7100--Amendments to the Uniform Building Code

These rules adopt the national uniform building code by reference and amends certain portions of it as necessary for application in the state of Minnesota.

Minnesota Rules 1315.0200--Electrical Code

This chapter adopts the National Electric Code (NEC) as a part of the state building code. The adoption of the NEC by reference is a joint effort by the Department of Administration and the State Board of Electricity. This code is adopted without amendment.

Minnesota Rules 1350.0100 to 1350.9200--Manufactured Homes

This rule provides minimum standards for the proper installation of manufactured homes including support systems, utility connections, and tiedown anchors. The proper installation of manufactured homes is critical to safety, health, and welfare of the occupants and to the long-term performance of the home. The rule also requires the licensing of manufacturers and dealers. It provides protection to the purchasers of manufactured homes, backed up by a surety bond required for licensees.

Minnesota Rules 1355.0100--Plumbing

This chapter incorporates the state plumbing code as promulgated by the Health Department as part of the enforcement requirements of the state building code to protect public health and safety.

Minnesota Rules 1360.0100 to 1360.3600--Prefabricated Buildings

This rule provides for state certification of prefabricated buildings that are to be sold, offered for sale, or installed in this state. It assures compliance with the Minnesota state building code so that inspection of closed portions of prefabricated buildings is not necessary by municipal building officials.

Minnesota Rules 1365.0200 to 1365.0800--Appendix on Snow Loads

This chapter was promulgated as a part of the state code in 1974. It was adopted because national standards for roof construction design were considered inadequate for potential snow loadings on structures in Minnesota. The rules were adopted after an in-depth study of roof failures in Minnesota. This rule is now being studied by model code groups for inclusion in national codes.

Minnesota Rules 1370.0100 to 1370.0220--Storm Shelters

This chapter was promulgated as a result of a legislative mandate, M.S. 327.205, to provide for minimum standards for the construction of low-cost manufactured home park storm shelters. The rules provide for storm shelter construction so that residents of manufactured home parks have protection against high winds and tornadoes.

*Department of Agriculture**Minnesota Rules 1500 - Wholesale Produce Dealers*

Compiler's Comment: The Department addressed Minnesota Rules 1500.0101-1500.1501, but did not address Minnesota Rules 1500.1800-1500.2100 or Minnesota Rules 1500.3300-1500.3800, which also are part of this chapter.

The rules addressed by the Department implement the Minnesota Wholesale Produce Dealer's Act and establish certain financial protections for sellers of produce. The rules cover the wholesale trust provisions of the law, bonding requirements and mediation, which the Department states are methods farmers and sellers of produce can use to protect themselves when a dealer is unable to pay for perishable produce. The rules also establish certain requirements for produce contracts, and define unfair trade practices. The Department states that without the rules farmers and sellers of produce could face harmful financial consequences or could enter into harmful contract provisions. The rules were fully revised effective May 1, 1992.

Minnesota Rules 1505 - Pest and Disease Control

Compiler's Comment: The Department addressed Minnesota Rules 1505.0770-1505.0820 of this Chapter. The Department did not address other parts of the Chapter, which deal with tree inspectors, shade tree disease control, sanitation and reforestation programs, wood utilization and disposal systems, quarantines, noxious weeds, pest control, disposal of refuse from transport involved in foreign commerce, pesticide chemigation safety, and bulk pesticide storage.

Minnesota Rules 1505.0770-1505.0820 implement portions of the Plant Pest Act dealing with the sale of certain nursery stock. The rules set standards for proper labeling, care and maintenance of perishable plant material. The rules provide guidelines which assure that the consumer will receive a plant which is clearly labeled and has been maintained in a manner which assures its viability. The Department states that the rules are necessary to assure that live and properly labeled plants are sold to the public.

Minnesota Rules 1515 - Livestock

These implement Minnesota Statutes Chapter 17A. The Department states that the rules provide livestock dealers, agents, marketing organizations and processors with the information necessary to comply with the license and bonding requirements of the statute. The rules also provide for the state weighing service and detail the responsibilities of all parties in this activity. The Department states that all parts of the rules are necessary at this time but indicated some technical adjustments and changes are needed which will be initiated as soon as possible. The Department stated that the necessary adjustments do not negatively impact businesses. **Compiler's Comment:** The Department indicated it did not comment on Minnesota Rules 1515.3000-1515.3900 dealing with compensation for livestock destroyed by endangered species.

Minnesota Rules 1525 - Dairy Industry

Minnesota Rules 1525.0010-1525.0460 implement the Dairy Unfair Trade Practices Act of Minnesota Statutes Chapter 32A. The Department states that the rules are necessary to provide the sellers of selected dairy products with the knowledge and understanding necessary to comply with the Act. The Department said that all parts of these rules are required at this time.

Minnesota Rules 1525.0470-1525.2520 govern the dairy industry. The Department states that the rules were revised within the last five years to reflect changes in Minnesota Statutes Chapter 32. The Department states that the rules are up-to-date and provide the necessary information to enable the dairy industry to maintain the records and compliance procedures required by the underlying statute.

Minnesota Rules 1520 - Poultry and Eggs

The Department states that the purpose of these rules is to maintain standards of quality and grades for eggs. The rules are necessary to assure that egg grading standards for Minnesota eggs are uniform with federal requirements. The rules also establish uniform standards of quality and operation for the poultry industry. A portion of the rules provides for the Minnesota National Poultry Improvement Plan, an organization of participants who cooperate through a board to develop high standards in the production of disease-free chicks. The Department identified a portion of the rules that may be repealed; this is discussed in the section of this report on rules which can be eliminated or repealed.

Minnesota Rules 1530 - Milk, Milk Products, and Standards

Minnesota Rules 1535 - Cheese and Cheese Products

Minnesota Rules 1530 provides definitions and standards for milk and dairy products. Minnesota Rules 1535 establishes definitions and manufacturing procedures for cheese and cheese products. Both sets of rules incorporate by reference the federal standards appearing in the Code of Federal Regulations. Although the Minnesota rules have not specifically been revised to reflect changes in federal definitions or to reflect new products that have come on the market, incorporating the federal standards by reference assures that the products meet requirements for sale in the state. The Department indicated that the rules should be revised to reflect changed federal definitions and the entry of new products in the market, but that the rules as published do not have a negative effect on businesses. No timetable for revising the rules was provided.

Minnesota Rules 1535.4000 - Class I Milk Over Order Premium (Emergency Rules)

These emergency rules were promulgated to provide the information necessary for implementation of the Minnesota Class I Milk Over Order Premium. The Department indicates that a portion of the rules have been placed under a temporary injunction by the federal district court in Minneapolis. When the pending court action is concluded it will be necessary to make changes in the rules, but the Department indicated it is unclear when that will occur. In the meantime, the Department states, the emergency rules not affected by the court action will provide the rules and

regulations necessary for businesses in Minnesota to comply with the portion of the emergency rules remaining in effect. The Department indicated that permanent rulemaking will begin when a final legal decision is reached by the courts.

Minnesota Rules 1540 - Meat Inspection

The Department indicated that many parts of this Chapter will be repealed because the Department no longer inspects meat and poultry in slaughter and processing plants. This inspection is now done by the U.S. Department of Agriculture. The Department does inspect custom slaughter and processing facilities and food and meat products processed and offered for sale in retail markets. The Department said that the portions of the rules that are presently and immediately enforceable are needed to assure a wholesome and properly represented meat supply to the consumer.

Minnesota Rules 1545 - Meat, Fish, and Poultry Industry

These rules establish identity standards and minimum operating standards for meat, fish, poultry, and rabbit operations in Minnesota. The Department states that the standards of operation and quality standards are necessary to protect consumers' interest in safe food and to provide the industry with the minimum standards for a sanitary operation that produces a wholesome and safe product.

Minnesota Rules 1547 - Retail Food Store Sanitation

These rules were adopted in 1987 in response to a grocery store industry request for a complete and uniform set of rules and standards for sanitary operation. The Department states that the rules are necessary to maintain uniform statewide requirements for all retail food stores and to protect the public from contaminated or adulterated food.

Minnesota Rules 1550 - Food; General Rules

The Department states that these rules are necessary to assure that food products that are sold in the state are safe and wholesome, and that food products are properly labeled to inform consumers about ingredients, weight, and other required information. The rules also cover various specific types of food handling from beverage plants to bakeries to food vending.

Minnesota Rules 1550.2340-1550.2480 - Honey Houses

These rules establish uniform sanitation standards for honey houses. The Department states that the standards can easily be given to individuals to assist in the construction or setting up of honey houses. The rules conform to those applicable to other food handling establishments, thus providing for uniformity among regulated entities. The Department states the rules are necessary to protect the public health and interest in maintaining a safe food supply.

Minnesota Rules 1555 - Food Definitions and Standards

These rules establish uniform standards for the identification of food products. The Department states that the state standards are consistent and uniform with

federal standards and thus do not create an additional burden on businesses. The Department states that the rules are necessary to assure that food products are properly and consistently identified and that consumer expectations are met.

Minnesota Rules 1560 - Miscellaneous

The Grain Inspection Division addressed Minnesota Rules 1560.7700-1560.8800, dealing with warehouses other than grain or cold storage. The rules implement Minnesota Statutes Chapter 231. The rules establish the format for warehouse receipts and liability limits for warehouse operators. The rules also place certain requirements on a warehouse operator before a license to store general merchandise can be issued. The Department states that those requirements are necessary to assure that depositors place their merchandise in warehouses that have adequate fire protection, are secure from the weather, and are maintained in good condition. The rules provide for an inspection to assure that the standards established by the rules are met. The Department states that without the rules, merchandise could be received for storage in unsuitable buildings. The Department indicates that amendments to the underlying statute are pending in the Legislature. If the revisions are enacted, corresponding amendments to the rules will be required. The Department states that amendments will be made with the Executive Order in mind.

Compiler's Comment: The Department did not address other parts of Minnesota Rules 1560 establishing Christmas tree standards (Minnesota Rules 1560.0100-1560.1600), defining eligibility and other aspects of the Family Farm Security Program (Minnesota Rules 1560.1800-1560.3200), and providing for licensing of weather modification operators and operations (Minnesota Rules 1560.3300-1560.5300).

Board of Animal Health

Minnesota Rules 1700 - Importation of Livestock and Poultry

These rules establish the requirements for bringing livestock into Minnesota. The rules are designed to protect the livestock of Minnesota from contagious and infectious diseases that have been eradicated from the state or that are controlled from spreading in the state. The rules were amended, effective December 4, 1992, to reduce the requirements when it can be shown that the animals are imported from herds or states with controls that are similar to those in Minnesota.

Minnesota Rules 1705 - Diseases of Domestic Animals

These rules are intended to protect livestock in Minnesota from contagious or infectious diseases of infected livestock which also are in Minnesota. The rules are being amended to reflect the status of each disease in the state. Minnesota Rules 1705.0430 was amended effective December 4, 1992, to allow the sale of breeding cattle without a brucellosis test because Minnesota has been designated a brucellosis free state by the United States Department of Agriculture. Minnesota Rules 1705.2400-1705.2520 dealing with pseudorabies control is being considered for amendment. The proposed amendment will reduce the requirements for testing for the disease due to the decrease in infected swine herds in Minnesota and improvements in technology to identify and eradicate the disease.

Minnesota Rules 1710 - Diseases of Poultry

These rules are intended to eradicate or control various diseases of poultry. The Board is in the process of amending these rules to reflect changes in the poultry industry and diseases involved. The poultry industry is involved in these rule changes.

Minnesota Rules 1715 - Livestock Exhibitions and Markets

These rules were amended in December, 1992 to reduce the requirements for Minnesota cattle offered for exhibition. This is because Minnesota has been designated a brucellosis free state by the United States Department of Agriculture.

Minnesota Rules 1720 - Miscellaneous

These are various rules of the Board, dealing with topics like transportation and rendering of carcasses of animals, cleaning and disinfection of vehicles used as carriers; pet food processing; sale and distribution of biological products and antigens; licensing institutions to procure impounded animals, quarantined feedlots; feeding garbage to livestock and poultry; official identification tags and brands; movement of livestock from slaughtering houses; maintenance, operation and inspection of kennels and dealers; identification of slaughter cattle and slaughter swine. Rules are presently being promulgated to authorize additional methods of livestock carcass disposal in addition to rendering (Minnesota Rules 1720.0210) and burying or burning (Minnesota Statutes Chapter 35; Minnesota Rules 1720.0820-1720.0850). This is being done to reflect new technology in carcass disposal and to address modern livestock production methods. Rules concerning quarantined feedlots (Minnesota Rules 1720.0820-1720.0850) were eliminated effective December 4, 1992, to reflect the fact that Minnesota has been designated a brucellosis free state by the United States Department of Agriculture. The Board also is proposing amendment of Minnesota Rules 1720.0860-1720.0940 to reflect legislation passed in 1992 to reduce the requirements for cooking of non-meat garbage.

*Department of Commerce**Minnesota Rules 2605 - Filing Fees; Insurance*

The Department states that these rules are intended to reduce or eliminate confusion with respect to statutory filings to be made by insurers and other organizations doing similar business in Minnesota. By establishing clear and concise statements in the rules as to what will be required for approval of policies, affected businesses can evaluate the cost and ease of doing business in Minnesota. Thus, the rules under this chapter are important, necessary and substantial in helping affected businesses identify what constitutes a filing and what the associated cost of the filings will be. The Department plans to amend one portion of the rule, dealing with fees, to achieve conformity with the underlying statute.

Minnesota Rules 2630 - Administering Safe Toys Act

These rules establish a procedure for banning and seizure of hazardous toys and establishes standards to promote safe toys. The Department states that the standards are necessary to protect children. The Department further states that Minnesota

safety standards and enforcement provisions are stronger than comparable federal standards and enforcement provisions. Although the toy safety laws and regulations impose duties on Minnesota businesses, the Department believes the safety of children weighs heavily against recommending any lesser restrictions under Minnesota law.

Minnesota Rules 2675 - Loans, Investments, and Procedures

These rules are intended primarily to protect customers of financial institutions by establishing specific operating procedures and practices for state banks, state savings and loan associations, licensed consumer lenders, credit unions, and debt prorated companies. The Department states that the rules have an immediate, necessary, and substantial impact on protecting consumers and depositors by delineating safe and sound business practices to be followed by the regulated institutions.

Minnesota Rules 2700 - Insurance Policies, Practices

These rules establish minimum standards for policies of insurance issued or delivered in Minnesota. The interests to be protected by the rules are (1) the protection of consumers and insureds from unfair or fraudulent business practices, and (2) providing clear and concise regulatory standards for insurers and their employees and agents. The Department states that the rules are necessary because they clearly identify policy requirements and practices that will be considered violations of law with respect to policy content.

Minnesota Rules 2705 - Data Service Organizations

These rules establish criteria and procedures for licensing of data service organizations as required by Minnesota Statutes Chapter 79. The rules also establish minimum standards for ratemaking reports issued by these organizations. Data service organizations are entities comprised of ten or more members engaged in collecting data primarily for use in establishing workers' compensation insurance rates for members. The Department states that the rules are critical to ensuring the accurate collection and compilation of the data to set workers' compensation insurance rates and that the rates do not violate the statutory prohibition against excessive, inadequate, or unfairly discriminatory premiums.

Minnesota Rules 2710 - Annual Audits

These rules were promulgated to improve the Department's ability to monitor the financial condition of insurers doing business in Minnesota. The Department indicated it recently completed a study to identify differences between Minnesota's audit and reporting requirements and national model laws drafted by the National Association of Insurance Commissioners (NAIC). Conformity with national standards is necessary for NAIC accreditation; without accreditation, the examination and reports on the financial condition of insurers performed by the Department need not be given full faith and credit by other states in which these companies do business. Accordingly, those states can conduct their own examinations of Minnesota domestic insurers, thereby increasing expensive duplication of examination by insurers in non-

accredited states. As a result of its study, the Department is pursuing legislative changes to bring Minnesota accounting and actuarial standards into closer conformity with NAIC model laws. If the legislation is passed, Minnesota Rules 2710 will be amended accordingly.

Minnesota Rules 2711.0020-2711.0100 - Actuarial Opinion and Memorandum Rules

The Department states that promulgation of these rules was essential for the Department to maintain accreditation with the National Association of Insurance Commissioners (NAIC). Adoption of model NAIC regulations benefits insurance businesses by coordinating reporting and filing requirements among the various states. Reduction of cost and time associated with preparing reports to be filed in each state in which a company does business has been a positive result for affected businesses in the promulgation of NAIC model regulations. Consumers also benefit, since minimum standards ensure protection of their rights and assets. The rules became effective January 26, 1993.

Minnesota Rules 2715 - Domestic Stock Companies

These rules establish reporting requirements for principal stockholders, directors and officers in equity securities. The rules also govern the use of proxies, consents and authorizations as provided for generally under Minnesota Statutes § 60A.22, Subd. 3. The Department states that the rules protect shareholders by preventing insider trading and other abusive tactics in securities transactions involving domestic insurers. The detailed reporting requirements are necessary to meet the purposes of the enabling statute.

Minnesota Rules 2720 - Insurance Holding Company Systems

These rules establish procedures to be followed by members of an insurance holding company in order to adequately inform the public, the Department, shareholders and policy holders of proposed changes in control of the holding company system. The Department states that the rules were amended significantly in November, 1992, to conform to standards established by the National Association of Insurance Commissioners.

Minnesota Rules 2735 - Sexual Discrimination

These rules articulate the standard used by the Department to determine if sexual discrimination occurs in the issuance of insurance benefits or coverage. The rules further the statutory requirement that Minnesota citizens not be denied the ability to obtain certain insurance benefits or coverage on the basis of their gender or marital status. The Department's experience has shown that without these rules many residents (especially divorced persons, single parents, and women in general) would have a difficult if not impossible task in obtaining certain insurance benefits.

Minnesota Rules 2740 - Comprehensive Health Insurance

These rules facilitate the implementation, enforcement and application of Minnesota Statutes § 62E, the Comprehensive Health Insurance Act of 1976. The

rules provide detailed guidelines so that employers, insurers and insureds understand how the Act will apply to them. The rules also describe the actuarial equivalence for qualified plans, as allowed by statute. The rules assign certain point values to various benefits and coverages. When a plan has met the requisite total level of points, the plan will be deemed to meet the requirements of a qualified plan. The detailed charts and analysis included in the rules are necessary to give insurers and related entities information which allows them to evaluate policy coverages on a uniform basis. Although the Department indicated the rules in general meet the standards of the Executive Order, it identified portions of the rules that are candidates for repeal.

Minnesota Rules 2742 - Coordination of Benefits

The Department indicates these rules were adopted to eliminate certain abuses of overinsurance, duplication of benefits and harmful delays in claim payments due to inconsistent or incompatible provisions in health plans. The rules are based on model regulations of the National Association of Insurance Commissioners.

Minnesota Rules 2745.0010-2745.0050 - Long Term Care Rules

These rules establish general standards to assure that assessments used in the prescribing of long term care are reliable; valid, and clinically appropriate. These assessments are performed in a variety of locations throughout the state and by differing persons (registered nurse or licensed social worker), to determine whether there is a basis for prescribed long-term care. Assessment standards must be clear and fair so that patients and their families are assured that persons who are unable to perform activities of daily living or who are cognitively impaired receive care, and so that insurers are assured that assessment standards are clear and do not unfairly qualify claimants who are not impaired or who are able to perform activities of daily living. The rules were effective September 15, 1992, and were promulgated with substantial input from an advisory committee comprised of consumer advocates, nursing home providers, home health care providers, the insurance industry and academia.

Minnesota Rules 2750 - Variable Life Insurance

These rules were promulgated pursuant to Minnesota Statutes §§ 61A.17 and 61A.20, which give the Commissioner of Commerce the responsibility to regulate the issuance and sale of variable life insurance contracts in Minnesota. The Department states that the rules are necessary to regulate entities offering these products and to protect Minnesota consumers from abuses that occur in the sale and maintenance of variable life contracts.

Minnesota Rules 2751 - Modified Guaranteed Annuities

These rules enable the Commissioner of Commerce to evaluate a company that delivers or issues for delivery in Minnesota a modified guaranteed annuity. The rules outline minimum requirements for such contracts, and are intended to eliminate abuses and conform the annuities to standards of the National Association of Insurance Commissioners.

Minnesota Rules 2755 - Group Insurance Coverage Replacement

These rules clarify Minnesota Statutes § 60A.082 and provide guidelines for implementation and enforcement of the statute. The rules delineate the responsibilities of prior carriers and succeeding carriers when group coverage is replaced. The rules protect policy holders and the interests of insurers who need to know the extent of their liability in such situations. Uniform application of the rules reduces the likelihood of duplicative coverage, lack of coverage, and the time and expense involved in litigation to resolve disputes.

Minnesota Rules 2760 - Sales of Credit Life Insurance

These rules are intended to protect consumers with respect to rates charged by lenders or retail merchants for the purchase of credit life insurance. Rate regulation for credit life insurance products has been the subject of significant research and concern nationwide. The Department states that the rules are essential to protect consumers from paying premiums which are excessive in relation to insurance benefits received.

*Minnesota Rules 2765 - Employee Joint Self-Insurance**Minnesota Rules 2785 - Political Subdivision Self-Insurance Pools*

These rules establish requirements for entities that wish to combine resources for the purposes of creating self insurance arrangements for employee health and welfare benefits. While Minnesota Rules 2785 regulates the formation of such arrangements by political subdivisions and Minnesota Rules 2765 regulates other employer groups interested in self-insurance options, the procedural requirements of these two chapters are substantially similar. The Department is completing a study of these rules which is designed to address whether the rules should be streamlined and combined in one chapter. The Department states that the rules are necessary to guide employers in establishing pooling arrangements and to provide parameters for competent administration of such joint self-insurance plans. Regulation of multiple employer trust and multiple employer welfare arrangements has been an important issue nationwide, due to substantial abuses by fraudulent or unsophisticated managers of such arrangements. The Commissioner of Commerce has statutory authority to regulate such arrangements to the extent regulation is not preempted by ERISA.

Minnesota Rules 2770 - Automobile Insurance

These rules establish minimum standards for automobile insurance provided in Minnesota, and disclosures which must be made. Minnesota Rules 2770.1100-2770.1900 set forth surcharge disclosure statement requirements which are intended to enhance a consumer's ability to make sound decisions when comparison shopping for automobile insurance. Minnesota Rules 2770.3100-2770.5200 provide procedures for efficient out of court settlement of commercial vehicle accident claims involving economic loss between insurers. Minnesota Rules 2770.6100-2770.7400 establish application procedures and reporting requirements for persons wishing to self-insure for no-fault act liabilities. The Department states that these rules are designed to protect insureds by establishing financial and administrative standards to be followed

by the self-insured entity. Minnesota Rules 2770.7500-2770.8500 protect insured by limiting the reasons for nonrenewal of an automobile policy by an insurer. Minnesota Rules 2770.9010-2770.9170 establish an arbitration procedure for appealing denial of health claims related to an automobile accident. Minnesota Rules 2770.7400 will be repealed.

Minnesota Rules 2780 - Workers' Compensation Self-Insurance

These rules are intended to protect the employees of employers who elect to self-insure for purpose of workers' compensation benefits. The rules accomplish this purpose by establishing an application process, financial standards, and reporting requirements to ensure that self-insurers have the ability to pay losses and meet the requirements of Minnesota statutes.

Minnesota Rules 2781 - Workers' Compensation Assigned Risk Plan

These rules establish minimum underwriting criteria for acceptance and rating of policies in the assigned risk plan. The Department states that by establishing clear and concise requirements in the rules, regulated and affected businesses can evaluate the cost and ease of doing business in Minnesota. Pending legislation may change the structure of operations of the assigned risk plan. If such legislation is enacted, the rules will be amended accordingly.

Minnesota Rules 2782 - Market Assistance; Liquor Liability

These rules establish procedures for a marketing assistance program to assist liquor licensees in obtaining liquor liability insurance coverage. The program is required by Minnesota Statutes § 340A.409, subd. 2. Legislation has been introduced to merge the Liquor Liability Assigned Risk Plan and the Minnesota Joint Underwriting Association. If the legislation is enacted, these rules will be repealed.

Minnesota Rules 2783 - Liquor Liability Assigned Risk Plan

These rules implement Minnesota Statutes § 340A.409, which establishes an assigned risk plan for liquor liability which provides coverage to liquor licensees who cannot purchase the required coverage from the standard insurance market. The statute also requires that premiums charged by the assigned risk plan must be determined on an actuarial sound basis. The Department secured the services of an independent actuary to review rates and reserving procedures for actuarial soundness. Based on that study, it was determined that the rates charged by the assigned risk plan are inadequate and should be increased. As a result the Department has initiated rulemaking procedures. A hearing is scheduled for April 27.

Minnesota Rules 2790 - Insurance Marketing Standards

These rules establish permissible activities in which insurers may engage in marketing their products in Minnesota. The Department states that the rules are necessary to protect Minnesota residents from misrepresentation in the marketing and sale of insurance products, and to guide insurers in their marketing activities.

Minnesota Rules 2810 - Subdivided Land Sales

These rules establish standards for the advertisement, registration, and conduct of sales of subdivided lands. The Department states that the rules have been effective in preventing abuses without being unduly burdensome on reputable real estate licensees. The Department further states that as a result of these regulations, Minnesota is viewed as a leader in the regulation of subdivided land sales.

Minnesota Rules 2860 - Franchises

These rules establish registration and disclosure requirements for franchises offered or sold to Minnesota residents. The rules also establish minimum advertising standards and identify prohibited practices in the offer or sale of franchises. The rules were promulgated to address specific abuses that were occurring the state. The D Department states that the rules were comprehensively reviewed in 1991 by an advisory committee and were found to not require changes at that time.

Minnesota Rules 2872 - Currency Exchange Rates

These rules impose limitations on check cashing fees to assure that such fees are fair and reasonable, and establish uniformity in the manner in which these services are provided to the public. The Department states that the rules are specifically required by statute and were promulgated after a contested case hearing at which all affected parties had an opportunity to be heard.

Minnesota Rules 2875 - Regulation of Securities

These rules establish standards and requirements for the offer and sale of securities in Minnesota. The rules also establish criteria for licensing securities broker-dealers and investment advisers, and establish record keeping requirements as discussed in the occupational licensing section of this report. The Department states that the rules protect the interest of preventing the misrepresentation to, and victimization of, Minnesota citizens in the marketing and sale of securities products.

Minnesota Rules 2880 - Nonrenewal of Homeowners Insurance

These rules establish criteria and procedures to be followed by an insurance company that refuses to renew a homeowners insurance policy. The Department states that the rules are necessary to assure Minnesota residents that any nonrenewal actions taken by an insurer will be in accordance with the law, and to balance the rights of the insured to continued coverage with the rights of the carrier to discontinue undue risks.

Minnesota Rules 2885 - Unclaimed Property

These rules implement and interpret several provisions of the Uniform Disposition of Unclaimed Property Act which have been problematic to the Department. The rules define and explain when service charges may be lawfully deducted, describe the requirements of a holder, and define other terms that the Department believes are unclear in the statute.

Environmental Quality Board

Minnesota Rules 4410.7900-4410.7934 - Exploratory Drilling for the Disposal of High Level Radioactive Waste

These rules require anyone who is doing geologic and hydrologic drilling related to disposal of high level radioactive waste to obtain a permit from the Environmental Quality Board. Issues addressed in the rules include negotiated easement agreements, payment of fees, public meeting requirements and permit conditions that specify conditions for restoration of the drill site. The underlying statute, Minnesota Statutes § 116C.724, and the rules are intended to regulate and control the exploration for high level waste disposal within the state of Minnesota. The statute was enacted several years ago when Minnesota was being considered by the U.S. Department of Energy has a repository for high level waste. In anticipation, the legislature enacted legislation regulating radioactive waste management, and directed that rules be formulated to regulate exploratory drilling. Since the rules were adopted the U.S. Department of Energy has designated Nevada as the repository state. The Board concludes, however, that until the federal government resolves a number of issues related the disposal of high level waste, the rules should be retained to protect Minnesotan' interest in this matter. The Board states that the rules protect the interests of the state and its citizens, while providing for an orderly review process.

Minnesota Rules 4415 - Pipeline Routing

These rules implement the pipeline routing program that was established in 1987 by Minnesota Statutes §116I.015 to provide for stricter review of pipeline location decisions. The law was enacted to minimize the risk of injury to innocent bystanders from pipeline explosions. The Board states that the review program established by these rules is designed to: (1) locate proposed pipelines in an orderly manner that minimizes adverse human and environmental impact; (2) provide information to the project proposer, governmental decision makers, and the public concerning the primary human and environmental effects of a proposed pipeline; (3) reduce delay, uncertainty, and duplication in the review process; and (4) ensure that pipeline routing permit needs are met and fulfilled in an orderly and timely manner. The Board states that the rules are necessary to provide the public with information about the proposed project and a means of participating in the decision-making process. The rules also establish a timely process for route designation and issuance of a pipeline routing permit that minimizes duplication and incorporates the requirements for environmental review.

Minnesota Rules 4420 - Release of Genetically Engineered Organisms into the Environment

The Environmental Quality Board is established by statute as the state coordinating organization for state and federal regulatory activities relating to genetically engineered organisms. The statute directs the Board to adopt rules requiring a permit and environmental review for any release of genetically organisms to the environment and to establish an advisory committee to advise the Board on general issues and on specific releases.

The rules implement the statutory mandate in a manner that provides for orderly and timely review. The process also provides for self certification of containment facilities where use of genetically organisms does not require a permit and provides for inspection of containment facilities by the Board and for exemptions when a permit from another state agency is required. The Board states that the rules are necessary to protect the interests of the proposer and of the public with regard to the release of genetically engineered organisms into the environment. Without a state permitting process different units of government may impose different requirements that affect multiple releases of material when located in different counties or parts of the state.

Gambling Control Board

Compiler's Comment: The Gambling Control Board submitted an exhaustive analysis and justification for its rules. In general, the Board views its rules as necessary because they either are required by statute or because the statutory language does not provide sufficient detail to effectively administer the statutory requirement. The Board's discussion of specific rules is summarized below. See also the section of occupational licensing for the discussion of the Board's rules relating to the licensing of distributors of lawful gambling equipment and the section on procedural rules for discussion of rules relating to disciplinary actions.

Minnesota Rules 7861 - Lawful Gambling - General Provisions

These rules relate to organizations licensed to conduct lawful gambling. Issues covered include the issuance, renewal, and denial of licenses and premises permits; prohibitions against illegal gambling at lawful gambling sites; the conduct of lawful gambling; the requirements for internal accounting and administrative controls; the conduct of bingo raffles by excluded organizations; the conduct of lawful gambling by exempted organizations, and technical assistance requirements for licensed organizations and gambling managers. The Board states that these rules are necessary to achieve the interest established by Minnesota Statutes § 349.11, i.e., the regulation of lawful gambling to prevent its commercialization, to ensure the integrity of its operations, and to provide for the use of net profits only for lawful purposes.

Minnesota Rules 7862 - Lawful Gambling - Bingo Hall Licenses

These rules establish procedures and criteria for the issuance, renewal, and denial of bingo hall licenses. The Board states that the rules are necessary to provide a consolidated and concise description of the requirements for bingo hall licenses. While the underlying statute requires the issuance of a license, it does not provide sufficient detail on actual requirements for securing a license.

Minnesota Rules 7864 - Lawful Gambling - Manufacturers

These rules establish procedures and criteria for the application for and licensing of manufacturers of lawful gambling equipment, and for the renewal of licenses. The rules also establishes requirements for accounting and record keeping. The rule consolidates requirements for manufacturers that are scattered throughout Minnesota

Statutes Chapter 349 and provides details that are not included in the statute on how manufacturers must meet licensing requirements.

Department of Health

Minnesota Rules 4610 - Disposition of the Dead

These rules regulate the funeral industry, including the licensing of morticians and funeral directors, issuance of a funeral establishment permit, transportation of the dead, and sanitary conditions. (See section on Occupational Licensing for discussion of rules governing the licensing of morticians and funeral directors.)

Minnesota Rules 4620 - Clean Indoor Air

These rules implement the Minnesota Clean Indoor Air Act; establish maximum permissible levels of formaldehyde in housing units; establish asbestos abatement standards; and establish standards and procedures for monitoring air quality in enclosed sports arenas. The Department further states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. Some of the regulations may be delegated to local boards of health, which may establish stricter standards.

Minnesota Rules 4625 - Food, Beverage, and Lodging Establishments

These rules establish requirements and licensing criteria for food and beverage establishments, lodging establishments, itinerant food services, mobile food service and push cart operations, and food service provided at special events. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. Rules relating to food, beverage, and lodging establishments have been substantially revised in the last five years. This activity may be delegated to local boards of health, which may establish stricter standards.

Minnesota Rules 4630 - Camps and Mobile Home Parks

These rules regulate mobile home parks, recreational camping areas, children's camps, and migrant labor camps. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. This activity may be delegated to local boards of health, which may establish stricter standards.

Minnesota Rules 4685 - Health Maintenance Organizations

These rules are intended to ensure that Minnesota health maintenance organizations are fiscally sound and capable of providing affordable, necessary,

accessible and quality care and services to enrollees. The rule also is intended to protect the public from a health maintenance organization that is not capable of providing an adequate network of qualified providers or of meeting its financial obligation. The Department identified several parts of the rule that are candidates for elimination or revision (see that section of this report).

Minnesota Rules 4690 - Ambulance Services

These rules establish standards for ambulance services operating in Minnesota. The rules are required by Minnesota Statutes §§ 144.801-144.8092, which required the Department to license ambulances, and establish standards governing the assignment of ambulance service areas, and the minimum training and equipment standards for ambulance services. (Minnesota Rules 4735.5000 establishes license fees for ambulance services.) The interest addressed is to assure that emergency ambulance service will be available to all citizens statewide, regardless of the ability to pay, and that these services meet minimum practice requirements. The Department indicated the rules need to be made clearer and brought up to date with current practices. New rules are expected to be promulgated by the end of 1993. Approximately 90 percent of ambulance services in Minnesota are operated by not-for-profit organizations or governmental entities; the remaining ambulance services are for-profit businesses.

Minnesota Rules 4715 - Minnesota Plumbing Code

These rules establish standards for plumbing installations and provide for the licensing of plumbers and water conditioning contractors and installers (see section on Occupational Licensing). The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

Minnesota Rules 4725 - Water Well Construction Code

These rules provide for permits and notification for the construction of wells, establish standards for general protection of groundwater quality and resources, and standards for the construction of wells. The rules address record keeping, and the taking and labeling of samples. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. This activity may be delegated to local boards of health, which may establish stricter standards.

Minnesota Rules 4727 - Explorers and Exploratory Borings

Minnesota Rules 4727.1000-4727.1300 deal with abandonment of exploratory borings. These rules also establish standards for licensing of exploratory borers (see section on Occupational Licensing). The Department states that these rules are authorized or required by statute, were adopted in accordance with established

procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. Rules relating to wells and borings have been adopted or revised in the past three years.

Minnesota Rules 4730 - Ionizing Radiation

These rules provide for the registration of persons who possess sources of ionizing radiation; reporting requirements; establish permissible uses of X-rays and radium; establish standards; provide for the monitoring of nuclear facilities. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. Rules relating to ionizing radiation have been adopted or revised in the past three years.

Minnesota Rules 4760 - Lead Abatement in Soil

Minnesota Rules 4761 - Residential Lead Abatement

Minnesota Rules 4760 establish standards for persons who perform lead abatement in bare soil on residential property and playgrounds. Minnesota Rules 4761 establish standards for persons performing or ordering performance of lead abatement on residential sources of lead exposure to people or the environment. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose. These rules are currently under revision.

Department of Human Services

Minnesota Rules 9500 - Assistance Payment Programs

The Department states that these rules have an immediate, necessary and substantial impact in that they provide for compliance with federal regulations, protect medical assistance consumers, achieve uniform and equitable management of contracts with prepaid health plans, and assure that public fund payments to hospitals are made in a cost effective prudent manner.

Minnesota Rules 9505 - Health Care Programs

The Department states that this rule meets the test of Executive Order 92-15 in two ways. First, the rule establishes payment rates for health care providers. Without this rule, health care providers would be unable to provide input or make business plans related to serving MA/GAMC/MinnesotaCare clients. Second, the rules establish standards which identify which health care services are covered, and therefore will be paid for by the Department. The Department states that the rules have an immediate and substantial impact because without this chapter health care providers would be unable to determine which service standards are covered and

payable under the MA/GAMC/MinnesotaCare programs. Furthermore, the interests of recipients in terms of adequate health care services would not be protected without this rule.

Minnesota Rules 9510 - Rates for Health Care Facilities

The Department states that this rule meets the test of Executive Order 92-15 by determining payment rates to nursing homes under medical assistance.

Minnesota Rules 9530 - Chemical Dependency Programs

The Department states that this rule meets the test of Executive Order 92-15 in two ways:

- (1) By establishing licensing regulations to assure client protection and client access to minimum levels of service type, amount and quality.
- (2) By establishing vendor eligibility rules to ensure that public pay clients get the same quality of service as private pay clients and to ensure that an efficient payment system and fair competition exist.

Minnesota Rules 9543 - Licensure

The Department states that this rule which provides for background checks for applicants to run licensed programs serving children or vulnerable adults meets the test of the Executive Order by having an immediate, necessary and substantial impact in preventing harm to those children and adults.

Minnesota Rules 9546 - Relocation of Residents

The Department indicates that this rule meets the test of the Executive Order by governing services local agencies are required to provide to residents being relocated from a health care facility. This rule protects the public and assures continuity of health care for vulnerable adults.

Minnesota Rules 9549 - Nursing Home Payment Rate Determination

This rule establishes procedures for determining the payment rates for nursing facilities participating in the medical assistance program. The rule is necessary to provide nursing facility payment rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations and safety standards. The rule is necessary for a uniform cost reporting system.

Minnesota Rules 9560 - Social Services for Children

The Department states that this rule meets the test of Executive Order 92-15 by ensuring that children placed in foster care or group foster care or who are placed for adoption receive the necessary nurturing and protection while out of the home.

Minnesota Rules 9570 - Services; Physically Handicapped

The Department states that this rule meets the test of Executive Order 92-15 by providing a minimum standard of health and safety for physically handicapped persons in some Department of Human Services programs.

*Department of Labor and Industry**Minnesota Rules 5200 - Wages and Labor*

Minnesota Rules 5200.0010-5200.0270 implement the Minnesota Fair Labor Standards Act. The Department states that these rules have an immediate, necessary and substantial impact on the interest of achieving compliance with the law. Minnesota Statutes § 177.28 requires the Department to promulgate rules to prevent circumvention or evasion of the statutes and to define terms not otherwise defined or which are unclear. The Department proposes amending portions of the rules dealing with minimum wages to conform the rules to statutory changes. The Department did not address other portions of Minnesota Rules 5200, which deal with apprenticeship programs (Minnesota Rules 5200.0290-5200.0420), fee employment agencies (Minnesota Rules 5200.0500-5200.0850), child labor standards (Minnesota Rules 5200.0900-5200.0960), and prevailing wage determinations (Minnesota Rules 5200.1000-5200.1120).

Minnesota Rules 5205 - Safety and Health Standards

These rules establish state occupational safety and health standards and incorporate federal standards by reference. The Department states that the rules are necessary to alert employers and employees to these standards and to provide assistance in eliminating hazards. Most of the standards were proposed because a hazard was found to exist on more than on occasion and in some cases resulted in serious injury or death. Without these rules, many of the hazardous would be unrecognized and uncorrected, resulting in employee injuries or illnesses. The Department notes that the rules were last reviewed and amended in November, 1992.

Minnesota Rules 5206 - Employee Right-to-Know Standards

These rules implement the Employee Right-to-Know Act of 1983. The rules require employers to provide training and information to employees who work with hazardous substances, harmful physical agents, or infectious agents as part of their jobs. The Department states that without these rules employees who work with or who are exposed to a hazardous substance might not know what personal protective equipment should be used, how to work safely with the substance, or what to do in case of an emergency involving the substance. The rules also are required by federal occupational safety and health laws. The rules were developed with the help and expertise of labor, management, regulatory agencies, and the chemical industry. The rules were last revised in 1992.

Minnesota Rules 5207 - Standards for Construction

These rules provide notice to employers and employees of construction hazards and other problems unique to Minnesota (such as cold weather protection for

employees who must work outside during the winter), and to provide guidance in eliminating those hazards. The Department states that without these rules, many of the hazards may go unrecognized and uncorrected, resulting in employee injury or illness. The purpose of separating the construction rules from the general industry rules found in Minnesota Rules 5205 is to make it easier and more convenient for employers to locate rules that apply to their industry.

Minnesota Rules 5219 - Medical Record Cost Reimbursement

These rules are intended to help control overall costs of the workers' compensation system by regulating the amount health care providers can charge for copies of records or reports they are required by statute to submit. The Department states that the rules have an immediate, necessary and substantial impact on establishing a reasonable and acceptable standard for time and amount of payment, thereby eliminating disputes on this subject and reducing costs for employers.

Minnesota Rules 5221 - Fees for Medical Services

These rules define excessive medical charges and services and prohibit health care providers from receiving excessive reimbursement for their services. The Department states that the rules are necessary to assure that medical treatment of injured workers is provide in the most efficient, cost effective manner so that overall claim costs and workers' compensation insurance premiums are reduced.

Minnesota Rules 5225 - Boilers and Power Boats

These rules establish the administrative standards for boiler operator and power boat operator licensure, and safety standards and inspections of boilers, pressure vessels and power boats. The Department states that all aspects of these rules have an immediate, necessary and substantial impact because they establish minimum standards for safe operation of equipment that if not met can adversely affect the health and safety of the public.

Minnesota Rules 5226 - Elevator Permits and Fees

Minnesota Rules 5226 presently establish fees for the inspection of elevators and related equipment. Rules for the inspection of elevators and related devices are currently in Minnesota Rules 5205.0400-5205.0590. These latter rules are being revised in their entirety to reflect current national code requirements, eliminate conflict with other codes and consolidate elevator related rules in the same chapter. The new rules will not lessen the impact on business but will reduce the problem of inconsistency with current code requirements. The Department states that all aspects of these rules have an immediate, necessary and substantial impact because they establish minimum standards for safe operation of equipment that if not met can adversely affect the health and safety of the public.

Minnesota Rules 5230 - Pipefitters; Power Piping Systems

These rules establish the administrative and safety standards for high pressure piping installation and pipefitter licensure. The Department states that all aspects of

these rules have an immediate, necessary and substantial impact because they establish minimum standards for safe operation of equipment that if not met can adversely affect the health and safety of the public. The Department indicated the rules are under active review for revision or will be reviewed for revision in 1993.

Department of Natural Resources

Compiler's Comment: The Department indicated that certain sections of Minnesota Rules 6110 - Water Safety and Water Surface Use had an impact on business:

Minnesota Rules 6110.0200 - Display of License Certificate

Minnesota Rules 6110.0800 - Dealer License Numbers

Minnesota Rules 6110.1100 - Rental of Watercraft

Minnesota Rules 6110.1300 and Minnesota Rules 6110.1400 - Capacity Requirements for Watercraft

Minnesota Rules 6110.1600, Subd. 2 - Marking of Legally Designated Swimming Areas

Minnesota Rules 6110.1800 - Placement of Temporary Structures and Buoys in Waters of the State

The Department's response did not indicate how these rules meet the test of an immediate, necessary and substantial impact as required by the Executive Order.

The Department indicated that it regulated utility crossings of public waters and DNR administered lands under Minnesota Rules 5100. That chapter deals with Indian business loans. The correct citation is Minnesota Rules 6135.0100-6135.1800.

Minnesota Rules 6125 - Mineral Resources

The Department states that these rules promote and regulate the prospecting for and mining and removal of metallic minerals on state-owned and state-administered lands. These rules have a necessary and substantial impact on achieving this interest by authorizing exploration and development of these minerals and by imposing requirements on the lease of state lands. These requirements include compliance with environmental and other regulations and the payment of rents and royalties. As noted later in the section on rules which will be eliminated or revised, sections of Minnesota Rules 6125 dealing with particular minerals will be repealed, amended or made subject to new rules now under development.

Minnesota Rules 6130 - Marineland Reclamation

Minnesota Rules 6131 - Peatland Reclamation

Minnesota Rules 6132 - Mineland Reclamation Non-Ferrous

The Department states that these rules are to control the adverse environmental effects of mining, to preserve natural resources, and to encourage land use planning while promoting the orderly development of mining and encouraging good mining practices. The rules have an immediate, necessary and substantial impact in achieving these purposes by providing for the reclamation of lands disturbed by mining and their return to a safe, productive and environmentally sound condition.

Minnesota Rules 6135.0100-6135.1800 - Utility Crossing of Public Lands and Waters

The Department states that this rule monitors and regulates crossings of public waters and DNR administered lands. It meets the test of an immediate, necessary and substantial impact by ensuring protection of natural resources and preventing damage to one utility company by another during construction and maintenance.

*Peace Officer Standards and Training Board**Minnesota Rules 6700 - Training and Licensing*

Minnesota Rules 6700.0900 to 6700.0902 deals with approval of continuing education courses. While the majority of applicants for course approval are law enforcement departments and technical or community colleges. Occasionally, however, a product vendor or other business will apply to offer continuing education courses. The Department states that these rules have an immediate, necessary and substantial impact on achieving the interest intended to be protected by the rule because the help ensure that peace officers in Minnesota are trained according to sound educational principles by individuals who are qualified in the relevant subject area. This in turn increases the professional level of the state's law enforcement officers and protects the public from potential dangers of unregulated training and practice of law enforcement.

Pollution Control Agency

Compiler's Comment: In 1991, the Air Quality Division of the Pollution Control Agency initiated a major effort to review and revise air quality rules. That effort was initiated to respond to the 1990 amendments to the federal Clean Air Act and to concerns raised in a 1991 report by the Legislative Auditor and Division staff that many rules were outdated. In addition, state legislation has been passed to conform Minnesota law to federal requirements. The Agency indicated that it will, over the next four years, review and revise each air quality rule in order to eliminate unnecessary or ineffectual rules, and to amend existing rules or adopt new rules where necessary. Air quality rules that will be amended are discussed in the section of this report on rules which will be eliminated or revised.

Minnesota Rules 7010 - Noise Pollution Control

These rules regulate the operation of businesses that generate outdoor noise as a by-product of their activities. The Agency states that the rule was intended to, and continues to perform effectively in protecting the interests of public quietude statewide. The Agency further notes that because federal government does not regulate noise pollution, state regulation is needed.

Minnesota Rules 7020 - Animal Feedlots

These rules establish a process for reviewing animal feedlots and issuing certificates of compliance to feedlots that meet state standards. Animal feedlots that are not properly constructed or operated present a threat to state water quality. The Agency states that the rules are necessary to establish a complete administrative process for issuing certificates of compliance, to establish standards for construction

and operation of new feedlots, and to take enforcement action when existing feedlots threaten water quality.

Minnesota Rules 7035.2895, 7035.2900, 7001 - Ash Utilization (proposed)

These rules were developed with the assistance of an advisory group in recognition that the large quantities of ash disposed in Minnesota contain certain properties which made them a potentially valuable resource as a construction material. Unregulated use of these materials could, however, result in the indiscriminate release of potentially toxic heavy metals into the environment. The Agency states that regulation of ashes and their products is necessary to assure proper treatment and handling during processing, use, recycling and disposal so that the environment is adequately protected. Proposed Minnesota Rules 7035.2895 will establish requirements for processing ash which would otherwise be disposed of as part of the solid or hazardous waste stream. Proposed Minnesota Rules 7035.2900 will establish requirements for the use of processed materials to assure their safe use in the environment. Proposed Minnesota Rules 7001 will contain administrative requirements to assure proper permitting procedures for processing of ash and use of their products are followed.

Minnesota Rules 7037 - Petroleum Contaminated Soil Management (proposed)

This proposed new rule primarily provides technical standards and administrative requirements for persons who use, operate or own petroleum contaminated soil land treatment sites. Petroleum contaminated soil comes from sites in which a petroleum storage tank leaked or a petroleum spill occurred. Previously, land treatment sites were regulated with general guidance. The Agency has found that this general guidance lacked adequate technical detail and was difficult to enforce; therefore, new rules are needed. The Agency believes that because the overall regulatory approach under the proposed rules is similar to the general guidance presently used, land treatment will remain a desirable option for dealing with petroleum contaminated soil. Landowners typically affected by the rules are farmers.

Minnesota Rules 7040 - Sewage Sludge Management

These rules establish standards for the design, location and operation of sewage sludge landspreading sites and facilities. Landspreading is a common method of utilizing and disposing of sewage sludge. If this process is done incorrectly the sludge can contaminate state waters. The Agency states that the rules are necessary to establish a complete administrative process for permitting landspreading facilities, to establish standards for construction and operation of new landspreading sites, and to take enforcement action when existing water quality is threatened at existing facilities.

Minnesota Rules 7045 - Hazardous Waste

These rules provide for the identification and listing of hazardous waste and establish hazardous waste management standards for generators, facilities, and transporters. The state is required to promulgate administrative rules that incorporate federal requirements in order to retain Minnesota's authority from the Environmental

Protection Agency to administer and enforce a state hazardous waste management program in lieu of the federal program under Subtitle C of the Resource Conservation and Recovery Act.

Minnesota Rules 7080 - Individual Sewage Treatment Systems

These rules establish the minimum standards and criteria for the design, location, installation, use and maintenance of individual sewage treatment system. The rules are necessary to assure that state waters will be protected from contamination and so that the effectiveness of existing systems can be evaluated. An improperly constructed or operating individual sewage treatment system can degrade water quality by discharging inadequately treated sewage to surface and ground waters. These rules are necessary to assure the standards are met and state waters are protected.

Minnesota Rules 7100 - Miscellaneous Water Quality Division Rules

Improper storage of oil and other substances, high levels of nutrients in cleaning agents and water conditioners, and the use of polychlorinated biphenyls are potential sources of water quality degradation and environmental contamination. These rules establish standards for environmentally safe use, or where appropriate, prohibition of these hazards. The Agency states that the rules are needed to clearly describe the requirements for handling these potentially hazardous materials. The Agency indicated that a year ago it attempted to amend Minnesota Rules 7100.0010-7100.0090, which deal with storage and keeping of oil and other liquid substances. The amendment would have allowed tank owners to install protective safeguards on their aboveground tanks without going through the permitting process. The proposed amendments were not adopted, however, because the legislature directed the Agency to delay rulemaking in this area until the federal Environmental Protection Agency adopted rules for aboveground storage tanks. The federal government has not yet enacted legislation which would authorize such a program, so the Agency is not able to amend rules in this area.

Minnesota Rules 7150 - Technical Standards for Underground Storage Tanks

These rules establish standards for the installation, repair, removal, upgrade and monitoring of underground storage tanks. The state is required by federal law to promulgate administrative rules incorporating federal requirements in order to obtain program approval from the Environmental Protection Agency to administer and enforce a state underground storage tank management program in lieu of a federal program under Subtitle I of the Resource Conservation and Recovery Act.

Minnesota Rules 9220 - Waste Tire Management

These rules establish criteria for waste tire management. The Agency indicated that in the nine years of the program's existence, the industry has developed a good infrastructure and all known tire dumps will be cleaned up by the end of 1993. Although some parts of the rules remain necessary to manage the program, significant streamlining and modification will be made to the rule in 1994.

Department of Public Safety***Minnesota Rules 7405 - Commercial Fleet Vehicle Registration***

The Department states that this rule meets the test of Executive Order 92-15 by implementing procedures for the registration of rental trucks and trailers as required by Minnesota Statutes.

Minnesota Rules 7409.3700 to 7409.3770 - Ignition Interlock Devices

The Department states that this rule meets the test of Executive Order 92-15 in order adequately to test a technological DWI countermeasure authorized by statute to ensure the safety of public highways. The Department states that the rule considered the impact on businesses engaged in building, distributing, installing, calibrating and removing the devices. This rule will, by statute, be reviewed as part of the program review and report to the legislature by February 1, 1994.

Minnesota Rules 7411 - Commercial Driver Training Schools

The Department states that this rule meets the test of Executive Order 92-15 by implementing the statutory requirement to regulate driver training to ensure that quality training is delivered to the public. This rule's most recent revision will become effective April 1993.

Minnesota Rules 7413 - Automobile Insurance

The Department states that this rule meets the test of Executive Order 92-15 by implementing statutorily required procedures for a plan of automobile reparation security as required by Minnesota statutes.

Minnesota Rules 7425 - Lighting, Glazing and Towing Standards

The Department states that this rule meets the test of Executive Order 92-15 in establishing standards to ensure protection of the motoring public in furtherance of Minnesota Statutes Chapter 169.

Minnesota Rules 7450 - Wheelchair Safety Devices

The Department states that this rule meets the test of Executive Order 92-15 in seeking to protect persons in wheelchairs who are being transported in vehicles. The Department states that this rule was last revised in 1992.

Minnesota Rules 7470 - School Bus Inspection Certificates

The Department states that this rule meets the test of Executive Order 92-15 by providing uniform, impartial criteria for issuance of school bus inspection certificates. This rule seeks to ensure the safety of children while they are being transported in school buses.

Minnesota Rules 7500 - Explosives and Blasting Agents

The Department states that this rule meets the test of Executive Order 92-15 by adopting safety standards consistent with the appropriate section of Minnesota Statutes for manufacture, storage and use of explosives and blasting agents.

Minnesota Rules 7501 - Preliminary Screening Breath Test Devices

The Department states that this rule meets the test of Executive Order 92 - 15 by establishing standards consistent with those of the National Safety Council for the accuracy of breath screening devices to test blood alcohol content. These standards ensure that accurate determinations are made to further determine violation or non-violation of DWI laws.

Minnesota Rules 7504 - Firearms Dealers Security Standards (Emergency Rules)

The Department states that this rule meets the test of Executive Order 92-15 by establishing statutorily required security standards for firearms dealers' places of business. The purpose of these standards is to reduce the number of stolen handguns with subsequent reduction in the use of such guns in other crimes. The Department notes that the rule provides for alternative security systems if they provide similar security to those in the rules. The Department plans to make those rules permanent before the emergency rule expiration date of October 1993.

Minnesota Rules 7510.3100-7510.4900 and Minnesota Rules 7510.7100-7510.9985 - Uniform Fire Code and Other Fire Safety Provisions

The Department states that this rule meets the test of Executive Order 92-15 by providing national standards governing materials, construction methods and processes, maintenance and operational features of buildings and other structures to protect against fire.

Minnesota Rules 7510.5500-7510.5770 - Furniture Flammability Rules

The Department states that this rule meets the test of Executive Order 92-15 by establishing statutorily mandated standards for furniture in public occupancies like auditoriums and stadiums, public areas of hotels, nursing homes and hospitals where there is increased life safety hazard due to fire. By the language of the most recent revision, these rules will apply to furniture manufactured after March 1, 1993.

Minnesota Rules 7530.0100-7530.1500 - Pipeline Safety Enforcement and Sanctions

Minnesota Rules 7530.5010-7530.5060 - Pipeline Funding

Minnesota Rules 7535 - Pipeline Setback Ordinance

Minnesota Rules 7560 - Excavation Notice System

The Department indicates that these rules meet the test of the Executive Order in the following ways: Minnesota Rules 7530.0100-7530.1300 establish a statutorily required program to obtain and maintain Interstate Inspection Agent status from the Federal Office of Pipeline Safety; Minnesota Rules 7530.5010-7530.5060 establish procedures for meeting the statutory requirement of recovering all costs of running the Office of Pipeline Safety; Minnesota Rules 7535 establish procedures for complying with federal law on pipeline rights of way; Minnesota Rules 7560 establish the statutorily required notification center.

Department of Public Service

Minnesota Rules 7615 - Petroleum Set Aside Program

Minnesota Rules 7620 - Petroleum Supply Emergencies

The rules set forth the procedures for declaring an energy emergency in Minnesota and set forth the governor's powers during such a declared emergency. While these rules do place restrictions on fuel refiners, suppliers, citizens, businesses and institutions in case of emergency, the Department states that they do meet the test of immediate, necessary and substantial impact by helping Minnesota citizens continue vital operations during an energy emergency.

Minnesota Rules 7635 - Residential Conservation Program

The Department indicates that this rule meets the test of Executive Order 92-15 by establishing the requirements for certification as an energy auditor and the measures that must be included in audits. This rule is necessary to make such audits uniform and meaningful.

Minnesota Rules 7640 - Thermal Insulation Standards

The Department states that this rule meets the test of Executive Order 92-15 by protecting against fires and product failure by establishing standards to be met by insulation sold in Minnesota.

Minnesota Rules 7655 - Energy Audits

The Department states that these rules establish the standards that govern energy standards for rental housing. It includes the minimum standards for energy efficiency and establishes evaluation procedures. In addition, it sets qualification procedures for the evaluators. At the present time the Department does not have staff to enforce this rule, but it is important that they remain in effect because other organizations use the rule as a guide. In addition, the cities of Minneapolis and St. Paul have been given authority to enforce these rules in their communities. Without this rule the tenants of the state would have no recourse to get the building owners to repair their building to at least the minimum energy standards.

Minnesota Rules 7660 - Cost Share Maxi-Audit Grants

These rules set forth eligibility and application procedures for schools, hospitals and public buildings receiving grants to conduct detailed energy audits. These rules also include the technical standards by which these audits must be conducted, such as professional engineers, minimum requirements, calculation procedures and basic data requirements. Most of the firms that conduct these audits are small, private, engineering businesses. Therefore, these rules do establish certain procedures and requirements for these private businesses. These procedures and requirements have "immediate, necessary and substantial impact" by keeping the quality of the energy audits high thereby protecting the grant recipients. It should also be pointed out that this is a totally voluntary program. Only businesses that choose to deliver these audit services are bound to any requirements under this rule.

Minnesota Rules 7670 - Model Energy Code Amendments

The Department states that this rule meets the test of Executive Order 92-15 by establishing the enforcement authority for building code inspectors dealing with building envelope requirements, mechanical systems, service water heating, electrical power and lighting and building design.

Public Utilities Commission

Minnesota Rules 7810 - Telephone Utilities

These rules establish service standards for telephone utilities operating in Minnesota. The rules establish standards for judging whether a telephone company's filing is complete, and help assure equitable treatment of all regulated companies. The Commission states that the standards and procedures set forth in the rules are a reasonable and necessary exercise of the Commission's regulatory responsibilities and are necessary to ensure adequate and reliable telephone service to the public.

Minnesota Rules 7820 - Utility Customer Service

These rules establish standards and procedures for terminating utility service, including implementation of the state's cold weather rule governing disconnection during cold weather. The Commission states that the rules are necessary to ensure that utilities do not disconnect a customer's primary heat source without first allowing the customer to demonstrate eligibility for protection against disconnection.

Minnesota Racing Commission

Minnesota Rules 7870 - Licensure

These rules establish disclosure requirements for entities filing applications to own or operate a pari-mutuel horse racing facility. The Commission states that the rules have an immediate, necessary and substantial impact on providing the Commission with all information necessary to enable it to determine the entity's fitness, ability, and eligibility to own or operate a race track and to protect the integrity of pari-mutuel horse racing. The rules protect the interest of assuring the public that the Commission has conducted a thorough background investigation of all entities seeking licensure and protect the surrounding community and competitors from adverse effects of granting licensure.

Minnesota Rules 7871 - Pari-Mutuel Rules on Televised Racing Days

These rules establish disclosure requirements for applicants for approval of pari-mutuel pools, define the type of wagers that may be offered by racing associations, establish payouts on pools, and establish Commission oversight of pools. The Commission states that the rules are immediate, necessary, and substantial to protect the public interest in the integrity of pari-mutuel pools and to ensure compliance with state and federal laws and other applicable rules of the Commission.

Minnesota Rules 7873 - Pari-Mutuel Rules

These rules establish disclosure requirements for racetrack operators and establish Commission oversight of the pari-mutuel function. The Commission states

that the rules have an immediate, necessary and substantial impact on protecting the public interest in the integrity of pari-mutuel pools and in proper and expeditious payouts to winning bettors. The Commission states that the rules are also necessary to enforce compliance by licensees.

Minnesota Rules 7874 - Direct Deposit; Reporting Payments

The rules establish procedures for direct deposit and reporting of taxes, breakage and unredeemed tickets as required by Minnesota Statutes § 240.15, subd, 1, 2, and 5. The Commission states that the rules have an immediate, necessary and substantial impact on assuring that monies due the state are deposited and paid in a timely fashion, thereby protecting the citizens of the state from loss of revenue.

Minnesota Rules 7875 - Facilities and Equipment

These rules establish safety standards and other conditions for operating a racing facility. The Commission states that the rules have an immediate, necessary and substantial impact on assuring the health, safety and welfare of employees, owners, persons attending races, and the animals.

Minnesota Rules 7895 - Breeders' Fund

These rules establish criteria and methods for registering horses in the various breeders' fund programs which makes them eligible to win purse money. The Commission states that the rules are necessary in order to provide continuity and to allow breeders to know what they must do in order to make their horses eligible to participate. The rules were developed with substantial industry participation.

Minnesota Rules 7897 - Prohibited Acts

These rules define acts which are prohibited by the Commission and establish disciplinary and appeal procedures for handling violations. The Commission states that the rules are necessary to clearly define conduct and activities that will result in disciplinary sanctions by the stewards or the Commission, thereby promoting public confidence that pari-mutuel horse racing is conducted according to statutory and rule requirements.

Department of Trade and Economic Development

Minnesota Rules 4348 - Uniform Business Licensing

The preapplication conference procedure is established by Minnesota Statutes § 116J.79 for a proposed business undertaking which (1) may require multiple licenses from the same or different state departments; (2) will take place over an extended period of time; (3) will involve substantial expense for preparation of detailed plans, specifications and license applications; or (4) is of a new or unique nature. The procedure enables the business to obtain advance written review and opinion as to all licenses required for the proposed undertaking, the standards and conditions which will need to be met in order to obtain the licenses, timetables involved, and any related circumstances and findings. The rules define certain essential terms that are not defined in the statute; set forth the factors the director of the bureau of business

licenses will consider in determining whether a preapplication conference is warranted, and the procedure the director will use in securing written review and opinion from licensing agencies. These rules assure that those involved in the preapplication conference procedure are treated in a consistent manner and that the process is completed as expeditiously as possible.

Although the Department receives occasional inquiries about the preapplication conference procedure, it is seldom used. Generally this is because either (1) the licensing needs of the proposed business venture are not complex enough to require using the procedure, or (2) the principals in the proposed venture wish to use the services of professional advisors. Nonetheless, the Department believes that so long as the underlying statute remains on the books the rules are necessary to assure consistency and efficiency in utilizing the procedure.

Minnesota Rules 4350 - Environmental Permit Coordination

The Minnesota Environmental Coordination Procedures Act, Minnesota Statutes § 116C.22 to § 116C.34, provides an optional procedure to assist businesses which, before undertaking a project which would use the state's air, land, or water resources, must obtain more than one state permit. Assistance includes identifying all such required permits before the project is implemented; providing a single hearing on appropriate permit applications; providing time frames for the making of agency decisions; and providing to the applicant statements of the reasons that agencies approve or deny the permit application. The rules establish application procedures to be followed by applicants, the affected agencies, and the Department.

The rules provide supplemental interpretation of the underlying statute, and establish uniform procedures for utilizing the voluntary process established by the statute. So long as the legislation stands, the Department believes the rules should be retained. Several proposals are presently under consideration by the legislature that would reassign the duties of the Department's Environmental Permit Coordination Unit. Elimination or revision of the rules may be considered if and when those initiatives are enacted.

Department of Transportation

Minnesota Rules 7800--Motor Carrier Operators

This rule, the Department states, meets the test of Executive Order 92-15 by setting out procedures for granting certificates and permits for motor carriers; by establishing rules for various operations; by setting requirements for shipping documents; charges for shipments and claims against carriers.

Minnesota Rules 7805--Tariffs and Accounting

The Department indicates that this rule meets the test of Executive Order 92-15 by providing a mechanism for the preparational filing of motor carrier tariffs in furtherance of Minn. Stat. § 221.161. These procedures advance the public interest in reliable, financially stable carriers. As noted below in the section on rules to be eliminated or revised, the Department indicates it is presently working to revise these rules in light of current ICC standards.

Minnesota Rules 8800--Commercial Operations

The Department states that these rules meet the test of Executive Order 92-15 by facilitating the orderly development and conduct of the aviation business while promoting aviation safety. To these ends the rule establishes minimum requirements for licensing/certification, airport operations, facilities, maintenance, record-keeping, policy formulation, insurance/performance bonds, etc.

Minnesota Rules 8810.0900, Subpart 3--Trunk Highway System, Signs in Business Areas

The Department states that this rule meets the test of Executive Order 92-15 by defining "business area" and other terms required by Minn. Stat. § 173.02. These definitions enable implementation of the legislative intent to confine outdoor advertising devices to designated business area.

Minnesota Rules 8840--Special Transportation Services

This rule is authorized by Minn. Stat. § 174.30 Subd. 2 to establish standards for operation of vehicles used to provide special transportation services to the disabled. The Department states that this rule meets the test of Executive Order 92-15 by having the necessary impact on protecting the health and safety of individuals who use special transportation service.

Minnesota Rules 8855--Motor Carrier Insurance

The Department notes that appropriate levels of liability insurance is a widely recognized safety measure to ensure compensation to victims of motor vehicle accidents. Pursuant to Minn. Stat. § 221.031 and 221.141 this rule establishes the procedures for filing proof of insurance and cancellation of coverage.

Rules Which Will Be Eliminated or Revised*Department of Administration*

As noted above, the Department indicates plans to eliminate or revise sections of the building code. Those are:

Minnesota Rules 1310.0100 to 1310.9300--Building Security

This chapter deals with building security issues. The chapter was adopted as part of the code in 1978. It is an optional code provision. The division knows of only two communities that have adopted it. We are not aware of how extensively the provisions are enforced.

This rule has not been amended since its adoption in 1978 and parts of it may no longer be state of the art. We will consult with the Department of Public Safety and local building officials to determine if the rules are still necessary. We will conduct the review as part of our next cycle of code amendments. Expected completion date is August 1994.

Minnesota Rules 1330.0100 to 1330.2100--Fallout Shelters

This issue has been a part of the state building code since its inception in 1972 and is a carry over from a time of great national concern about a nuclear war. The chapter details the technical requirements for fallout shelters deemed essential by the Department of Public Safety and the state architectural engineer.

This rule has never been amended and may no longer be necessary. The department will consult with the Department of Public Safety to determine if the rule is still needed or should be amended. The rule would be amended or repealed during the next cycle of code changes. Expected completion date is August 1994.

Minnesota Rules 1335.0200 to 1335.3100--Floodproofing

This chapter has been a cooperative effort by the Department of Natural Resources and the Building Codes and Standards Division to comply with the federal government's requirements for insurance protection in flood-prone areas. The rule deals with ordinary high water level criteria established by DNR and other local land use regulations and zoning and establishes requirements for protecting buildings in floodways or flood fringes.

This rule could possibly be repealed and incorporated into DNR's rules. The department will consult with the Department of Natural Resources to see if the rule should be repealed or amended. Repeal or amendments would be done during the next code amendment cycle. Expected completion date is August 1994.

Minnesota Rules 1340.0200 to 1340.9900--Facilities for the Handicapped

This chapter will be repealed because the 1991 edition of the national uniform building code has adopted new standards to comply with the Americans With Disabilities Act's accessibility guidelines. New state rules adopting and amending as necessary for Minnesota the national uniform building code standards will be included as part of Chapter 1305. This rule should be repealed by Fall 1993.

*Department of Agriculture**Minnesota Rules 1515 - Livestock*

These implement Minnesota Statutes § 17A governing livestock dealers, agents, marketing organizations and processors. The Department states that the rules are necessary at this time, but some technical adjustments and changes are needed which will be initiated as soon as possible. The Department stated that the necessary adjustments do not negatively impact businesses.

Minnesota Rules 1520 - Poultry and Eggs

The Department plans to repeal as unnecessary Minnesota Rules 1520.4200-1520.5100, dealing with Minnesota Certified Grade A Egg Products. The Department indicated it plans to accomplish this by January 1, 1994.

Minnesota Rules 1535.4000 - Class I Milk Over Order Premium (Emergency Rules)

These emergency rules were promulgated to provide the information necessary for implementation of the Minnesota Class I Milk Over Order Premium. The

Department indicates that a portion of the rules have been placed under a temporary injunction by the federal district court in Minneapolis. When the pending court action is concluded it will be necessary to make changes in the rules, but the Department indicated it is unclear when that will occur.

Minnesota Rules 1540.0060-1540.3700 - Meat Inspection

Minnesota Rules 1540.3960-1540.4340 - Canning of Meat Products

The Department states that these rules will be repealed by January 1, 1994. The U.S. Department of Agriculture, not the state, now performs these inspections, so the state rules are not necessary.

Minnesota Rules 1560.7700-1560.8800 - Warehouses

Amendments to the underlying statute are pending in the Legislature. If the revisions are enacted, corresponding amendments to the rules will be required. The Department states that amendments will be made with the Executive Order in mind.

Board of Animal Health

Minnesota Rules 1705 - Diseases of Domestic Animals

Minnesota Rules 1705.0430 was amended effective December 4, 1992, to allow the sale of breeding cattle without a brucellosis test because Minnesota has been designated a brucellosis free state by the United States Department of Agriculture.

Minnesota Rules 1705.2400-1705.2520 dealing with pseudorabies control is being considered for amendment. The proposed amendment will reduce the requirements for testing for the disease due to the decrease in infected swine herds in Minnesota and improvements in technology to identify and eradicate the disease.

Minnesota Rules 1710 - Diseases of Poultry

These rules are intended to eradicate or control various diseases of poultry. The Board is in the process of amending these rules to reflect changes in the poultry industry and diseases involved. The poultry industry is involved in these rule changes.

Minnesota Rules 1715 - Livestock Exhibitions and Markets

These rules were amended in December, 1992 to reduce the requirements for Minnesota cattle offered for exhibition. Minnesota has been designated a brucellosis free state by the United States Department of Agriculture, and therefore less regulation is required.

Minnesota Rules 1720 - Miscellaneous

Rules are presently being promulgated to authorize additional methods of livestock carcass disposal in addition to rendering (Minnesota Rules 1720.0210) and burying or burning (Minnesota Statutes Chapter 35; Minnesota Rules 1720.0820-1720.0850). This is being done to reflect new technology in carcass disposal and to address modern livestock production methods.

Rules concerning quarantined feedlots (Minnesota Rules 1720.0820-1720.0850) were eliminated effective December 4, 1992, to reflect the fact that Minnesota has

been designated a brucellosis free state by the United States Department of Agriculture.

The Board also is proposing amendment of Minnesota Rules 1720.0860-1720.0940 to reflect legislation passed in 1992 to reduce the requirements for cooking of non-meat garbage.

Department of Commerce

In General

The Department indicated it regularly reviews its rules to eliminate or revise any rule that is outdated, irrelevant, or inconsistent with Minnesota statutes. The Department also conducted substantial review of rules pertaining to insurance company solvency, reporting and filing requirements, and insurance industry business practices, as part of the Department's efforts to become accredited by the National Association of Insurance Commissioners. To maintain accreditation, the state must adopt the minimum standards of the NAIC's model regulations, which the Department develops with the participation of the insurance industry. As to all of its rulemaking activity, when preparing to adopt rules, the Department states that it routinely encourages and solicits comment and recommendations from and works with persons and industries who will be affected by the rules. This is done through numerous advisory boards and task forces appointed by the Commissioner. The Department also routinely reviews its operations and procedures to assure that rules are up to date and responsive to the needs of regulated industries.

Minnesota Rules 2605 - Filing Fees; Insurance

The Department plans to amend this rule to conform fees to the underlying statute.

Minnesota Rules 2630 - Administering Safe Toys Act

The Department indicated changes will be made in the Revisor of Statutes' technical corrections bill next session to correct references to "director" which are meant to describe the Commissioner.

Minnesota Rules 2710 - Annual Audits

The Department has proposed legislation that will bring the audit requirements for domestic insurance companies into closer conformity with the standards of the National Association of Insurance Commissioners. If the legislation is passed, the rules will be amended accordingly.

Minnesota Rules 2740 - Comprehensive Health Insurance

The Department indicated Minnesota Rules 2740.3100 subpt. 2C and Minnesota Rules 2740.3100 subpts. 3A, 3C, and 3D should be repealed because they have been superseded by statute. The Department plans to amend or repeal these provisions by the end of 1993.

*Minnesota Rules 2765 - Employee Joint Self-Insurance**Minnesota Rules 2785 - Political Subdivision Self-Insurance Pools*

The Department is completing a study of these rules which is designed to address whether the rules should be streamlined and combined in one chapter. The study is expected to be completed by May, 1993.

Minnesota Rules 2770 - Automobile Insurance

Minnesota Rules 2770.7400, dealing with waiver of standards in the issuance of automobile policies will be repealed because the procedure is no longer available. The Department plans to initiate repeal within the next several months.

Minnesota Rules 2780 - Workers' Compensation Self-Insurance

Portions of these rules will be amended following the current legislative session to reflect statutory changes that occurred in 1992 and which may occur as a result of pending legislation. The Department indicates that necessary changes will be made before the end of 1993.

Minnesota Rules 2781 - Workers' Compensation Assigned Risk Plan

Pending legislation may change the structure of operations of the assigned risk plan. If such legislation is enacted, the rules will be amended accordingly. The Department plans to complete the amendments by the end of 1993.

Minnesota Rules 2782 - Market Assistance; Liquor Liability

Legislation has been introduced to merge the Liquor Liability Assigned Risk Plan and the Minnesota Joint Underwriting Association. If the legislation is enacted, these rules will be repealed.

Minnesota Rules 2783 - Liquor Liability Assigned Risk Plan

As a result of an actuarial audit, the Department has determined that rates charged by the assigned risk plan are inadequate and should be increased. As a result the Department has initiated rulemaking procedures. A hearing is tentatively scheduled for April 27. If fewer than 25 persons request a hearing, none will be held, and the rule amendments are expected to be effective within four months.

Gambling Control Board*Minnesota Rules 7861 - Lawful Gambling - General Provisions*

The Board indicated that its rules were revised in their entirety beginning in September 1990. The new rules were effective March 31, 1992. The Board is currently involved in two rules promulgations. These include rules relating to lawful purpose expenditures of gambling funds by licensed organizations and rules relating to the conduct of paddlewheels. Rules hearings were held in December, 1992, and the Board expects the rules will be effective in April, 1993. The Board also is drafting rules related to manufacturers and distributors of lawful gambling equipment. No date for completion of this process has been established.

Board staff has determined that Minnesota Rules 7861.0020, subpt. 8 and Minnesota Rules 7861.0400, subpt. 8 which provide the procedure for license and permit renewals in some cases result in unnecessary delay for applicants. The rules will be amended to make appropriate revisions as soon the Board grants approval to do so.

Board staff has further determined that rules relating to the sale of registration stamps and the requirement for a tracking system of those stamp numbers for distributors and manufacturers could be eliminated because the Department of Revenue has developed and implemented a bar code system which effectively provides the necessary record keeping.

The Board indicated there are several areas of the rules that Board staff, on review, has determined provide an unnecessary burden on licensees. However, these particular provisions are based on current statutory requirements and cannot be changed without amending the underlying statute. Many of these issues are addressed in legislation currently before the legislature. These include: clarification of allowable expenses relating to advertising for licensed organizations; clarification of the definition of bingo and how the game is played; clarification on how contributions or expenditures for wildlife management projects will qualify as lawful purposes; clarification that restrictions on distributor sales apply to all sales of gambling for use in the state; and amendment that would permit manufacturers and distributor to file prices for new products which would enable manufacturers and distributors to sell and distribute new products immediately on Board approval; clarification of when gambling receipts must be deposited, and clarification of bingo prize limits.

Department of Health

Minnesota Rules 4610.2210 - Serving of Foodstuffs in Funeral Establishments

The Department recommends that this regulation be eliminated in order to allow funeral establishments to provide better service. Concerns for public health would be addressed by the enforcement of the Department's food and beverage regulations. No timetable has been established.

Minnesota Rules 4685 - Health Maintenance Organizations

The Department identified several parts of these rules which may be eliminated or revised. Minnesota Rules 4685.0700, subpt. 3M has been forwarded to the Revisor of Statutes for possible housekeeping changes. The proposed change will further allow health maintenance organizations to reduce costs of comprehensive services by permitting additional limitations on the coverage of prescription drugs. The remaining rules will be part of an extensive review of Minnesota Rules 4685, which will be completed by September 30, 1993. This review will focus on the rules or subparts which can be eliminated or revised. The Department also indicated that it will consider expanding the waiver authority of the Commissioner to allow health maintenance organizations to request waivers of particular requirements when justified. Upon completion of the review, necessary repeals or revisions will be handled according to the Administrative Procedure Act, with completion anticipated by September 30, 1994, if the changes are noncontroversial. The Department believes

that these rule revisions, along with anticipated health care reform efforts of the Health Care Commission, will help ease the regulatory burdens on health maintenance organizations.

Minnesota Rules 4690 - Ambulance Services

These rules establish standards for ambulance services operating in Minnesota. The Department indicated the rules need to be made clearer and brought up to date with current practices. New rules are expected to be promulgated by the end of 1993.

Minnesota Rules 4760 - Lead Abatement in Soil

Minnesota Rules 4761 - Residential Lead Abatement

These rules are currently under revision; the Department provided no timetable. Minnesota Rules 4760 establish standards for persons who perform lead abatement in bare soil on residential property and playgrounds. Minnesota Rules 4761 establish standards for persons performing or ordering performance of lead abatement on residential sources of lead exposure to people or the environment. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment.

Department of Human Services

Minnesota Rules 9510 - Rates for Health Care Facilities

The Department indicates that this rule can be repealed at such time as all rate appeals and related litigation are decided.

Minnesota Rules 9553 - Payment; Intermediate Care Facilities

The Department indicates that discussions with regulated parties are presently underway to discuss how the rule might be streamlined or simplified and still achieve its objectives. The earliest any revision to the rule would be effective is October 1994.

Minnesota Rules 9555 - Social Services for Adults

The Department states that the licensing section of this rule will be evaluated within the next five years for necessary revisions.

Department of Labor and Industry

Minnesota Rules 5200 - Wages and Labor

The Department plans to ask the Revisor of Statutes to repeal Minnesota Rules 5200.0010 dealing with proof of minor's age and Minnesota Rules 5200.0020 dealing with subminimum wages for learners or apprentices because the minimum wage under Minnesota law is the same for everyone. If repeal cannot be achieved through the Revisor's housekeeping bill, rulemaking under the Administrative Procedure Act will be initiated. Minnesota Rules 5200.0080, subpts. 2, 3, and 4 dealing with tip credits and gratuities will be amended through regular rulemaking process. The Department indicated it is now preparing to announce a notice of intent to solicit opinions on this proposed rulemaking.

Minnesota Rules 5205 - Safety and Health Standards

See discussion of proposed amendments to elevator rules under Minnesota Rules 5226.

Minnesota Rules 5221 - Fees for Medical Services

These rules are being reviewed for revision in 1993.

Minnesota Rules 5225 - Boilers and Power Boats

The Department indicated that proposed rules governing power boats are expected to be announced in March, 1993. Other boiler related rules are under review at this time for possible revision. Proposed changes are expected to be available for public comment by December, 1993.

Minnesota Rules 5226 - Elevator Permits and Fees

Public comment on changes to existing fee rules in Minnesota Rules 5226 has been solicited, and final proposed rules are expected to be published in April, 1993. The revisions are necessary to conform the Department's fee structure to Minnesota Statutes § 16A.128 which requires fees to cover the cost of operating the inspection unit. Amendments to other elevator rules are expected to be proposed by July, 1993. The rules are being proposed for amendment in order to reflect current national code requirements, eliminate conflict with other codes, and consolidate elevator related rules in one chapter. The rule amendments will also address existing Minnesota Rules 5205.0400-5205.0490 governing elevators, dumbwaiters, escalators, and moving walks and Minnesota Rules 5205.0550-5205.0590 governing platform manlifts which formerly were administered by the Department's occupational safety and health division.

Minnesota Rules 5230 - Pipefitters; Power Piping Systems

The Department indicated that all of these rules dealing with the administrative and safety standards for high pressure piping installation and pipefitter licensure are under active revision or will be reviewed for revision in 1993. A notice of intention to solicit outside opinion regarding changes to the fee rules for power piping systems is proposed for publication in March, 1993. Other power piping system related rules are under review for possible revision, and any changes should be prepared for public comment by December, 1993.

*Department of Natural Resources**Minnesota Rules 6125 - Mineral Resources*

Minnesota Rules 6125.1000-6125.1900 - Permits and Leases for Gold and Other Ores will be repealed as costs and schedules allow. Operation of these permits is now covered by Minnesota Rules 6125.0100 through 6125.0700 Permits and Leases for Metallic Minerals Except Iron Ores and Taconite Ores.

Minnesota Rules 6125.6000 through 6125.7100 - Permits and Leases for Sand and Gravel will be amended though no specific timetable has been announced. These permits will be covered under new rules now under development on select industrial minerals.

Minnesota Rules 6125.4500 through 6125.5700 - Permits and Leases for Marl will be replaced by new rules under development on select industrial minerals.

Minnesota Rules 6131 - Peatland Reclamation

The Department states that it is the Department's intention to amend Minnesota Rules 6131 as may be needed in light of new information concerning the technological, economic and environmental feasibility of reclaiming large-scale peat mining operations.

Minnesota Rules 6135.0100-6135.1800 - Utility Crossing of Public Lands and Waters

The Department states that it is currently reviewing these rules for possible revision. The intent is to reduce the time from receipt of application to issuance of license. In part this is being done by identifying those types of utility line construction methods which are considered to have minimal environmental impacts. Companies intending to use such methods would receive a license without being subjected to a full Departmental review, thus reducing the time to issuance of license by several weeks. In a further effort to streamline the application and review process, certain responsibilities including the preliminary verbal approval to proceed (under certain circumstances) will be shifted to regional DNR staff who are in direct contact with utility company representatives.

Pollution Control Agency

Minnesota Rules 7005 - Air Pollution Control

The Agency indicated the following air quality rules will be revised or eliminated to conform to changes in federal and state law:

Minnesota Rules 7005.0080 - State Ambient Air Quality Standards

The Agency is proposing to repeal the state ambient air quality standard for hydrocarbons. The Environmental Protection Agency revoked the federal primary and secondary national ambient air quality standard for hydrocarbons on January 5, 1983. Minnesota continues to control hydrocarbons because of their contributions to the formation of ozone but regulates them through emission standards and an ozone standard.

The Agency also is proposing to repeal the Total Suspended Particulates (TSP) standard and replace it with a PM10 standard to conform to federal regulations. The PM10 standard is considered more indicative of health impacts of ambient air quality. By repealing the TSP standard, the Agency will no longer require facilities to model demonstrations of attainment for TSP since PM10 is the more appropriate measure for particulate matter. This action will remove an outdated standard and replace it with the current standard.

Minnesota Rules 7005.0600-7005.0650 - Waste Combustors

New legislation and advancements in control technology have made the Agency's existing incinerator rule outdated. Accordingly, this rule is the first in a series of performance standard revisions that are planned for the next four

years. The Agency states that regulation is necessary to protect the state's interest in air quality and to comply with state and federal statutes. The Agency further states that Minnesota's emphasis on combustion of waste demands that this alternative for waste handling be regulated at or above national standards.

Minnesota Rules 7005.0705-7005.0815 - Open Burning Restrictions and Permitting Requirements

The Agency indicates that responsibility for this program has been shared in the past with the Department of Natural Resources. A memorandum of understanding is presently being drafted that will allow the Department of Natural Resources to administer the open burning program. The Department of Natural Resources is seeking certain statutory changes in this area as well. Once the memorandum of understanding and statutory changes are in place, the Agency will repeal the rules. The Agency notes that the rules have been difficult to enforce and ineffective in controlling open burning. Placing responsibility for regulating open burning in one agency is expected to reduce confusion.

Minnesota Rules 7005.0900-7005.0960 - Odor Standard

The Agency stated that it proposed to repeal this standard in April, 1992, because test results required by the rule were subjective and not based on standards. In addition, it was difficult to monitor compliance. An advisory group comprised of representatives of industry, environmental organizations, and units of local government opposed repealing the rule, however. As a result of these discussions, the ambient odor standard will be repealed, and the stack odor standard will be reviewed by an expert panel and revised to allow for compliance monitoring.

Minnesota Rules 7005.3010-7005.3060 - Offset Rule

This rule establishes conditions under which new emissions sources may be secure permits in areas that have not attained air quality standards. The state has attempted since 1987 to develop an offset rule that will meet requirements of the Environmental Protection Agency, but has not been successful. As a result, construction of major new sources or major modifications to existing sources in nonattainment areas are banned in Minnesota. In order to correct this, the Agency proposes to adopt applicable federal regulations by reference as the state offset rule. Once this rule is approved by the Environmental Protection Agency, the construction ban on facilities in nonattainment areas will be lifted, allowing for industrial expansion while protecting air quality.

*Minnesota Rules 7005.0360-7005.2920 - Standards of Performance and
Minnesota Rules 7005.1860 - Performance Tests*

Performance tests are a key element in determining compliance with emission limits established by a permit, compliance document, statute, or regulation, and of characterizing those emissions. The current general rule for performance test requirements was promulgated in 1976 and has had few changes

since that time. The Agency is proposing to amend the rules because current performance test requirements contained in several air quality rules and documents are inconsistent. Amendments also are necessary to reflect the increased number of regulated pollutants and test methods that are available for testing.

Proposed New Air Quality Rules

In addition to revising the above air quality rules, the Agency indicated it is proposing the following new rules:

Air Toxics Rule (Proposed)

The Agency is considering the adoption of restrictions on the emissions of many pollutants that do not currently have standards. There currently are standards for only six pollutants. The new standards will incorporate federal requirements and will also address health risk issues that the federal law does not address. The Agency has concluded that existing standards and federal requirements are not adequate to protect the health of state residents, and thus will formulate and adopt rules that establish acceptable ambient limits for the toxic pollutants of most concern in the state.

Incorporation of Federal Rules by Reference (Proposed)

The Agency proposes to incorporate several federal pollution control rules by reference into applicable state rules. Federal rules that will be incorporated by reference include rules governing permit review under the Prevention of Significant Deterioration of Air Quality (PSD) program, requirements for new stationary sources of air pollution (New Source Performance Standards or NSPA), and the National Emission Standards for Hazardous Air Pollutants (NESHAPS). These rule amendments will update Minnesota's rules to allow the state to fully implement the federal operating permit program required by the Clean Air Act amendments, reflect in Minnesota's rules the current, nationally-applicable PSD, NSPS and NESHAPS standards, and update state air pollution control rules.

Minnesota Rules 7045 - Hazardous Waste

The Agency notes that the process of assessing the rules to consider business concerns is ongoing and has resulted in significantly reduced level of hazardous waste regulation particularly for small businesses. The Agency has focused on providing reasonable mechanisms for safe hazardous waste management while recognizing the constraints under which business operates. The following are areas where the Agency has reduced its regulation in recognition of specific business concerns:

Minnesota Rules 7045.0125 - Recycling

The hazardous waste rules provide a reduced level of regulation for hazardous wastes that are being recycled in order to encourage businesses to manage their wastes by recycling whenever possible.

Minnesota Rules 7045.0225-7045.0250 - Generator Licensing

The Agency recently amended its rules to provide a much more streamlined hazardous waste generator licensing and reporting process.

Minnesota Rules 7045.0292 - Satellite Accumulation

The Agency is proposing the repeal of the record keeping requirements for satellite accumulation. The rules currently allow a generator to accumulate small amounts of waste at satellite locations without having to meet the accumulation time limit. The existing rule requires generators to inspect the satellite containers and areas weekly and to keep a written record of inspections. The Agency believes existing requirements adequately cover the interest to be protected and thus a separate satellite accumulation record keeping rule is not necessary.

Minnesota Rules 7045.0320 - Hazardous Waste Consolidation Points

This rule allows very small quantity generators to transport their own hazardous wastes to consolidation points from which the wastes can be more economically transported to a disposal facility. Formerly, generators regardless of size were required to arrange to have their hazardous wastes transported directly to a disposal facility by a licensed hazardous waste transporter. This was very expensive for many small businesses who had very small quantities of wastes. The rule amendment allows very small quantity generators to manage their wastes in a more cost effective manner.

Minnesota Rules 7045.0675, 7045.0685, 7045.0695 - Reduced Regulation for Common Wastes

In the past few years the agency has frequently amended its rules to provide a reduced level of regulation to some wastes commonly generated by businesses in order to encourage compliance while still providing adequate environmental protection. The regulations governing used oil, precious metal wastes, and lead acid batteries were all developed with the intention of removing regulatory obstacles to compliance.

Minnesota Rules 9220 - Waste Tire Management

Although most known tire dumps are expected to be cleaned up by the end of 1993, the Agency indicated some of the rules will continue to be necessary for program management. The rules will be evaluated in 1994 to determine where streamlining and other modifications can be made.

Other Issues

The Agency indicated there are several emerging issues which will take Executive Order 92-15 into consideration. These include:

Improved Federal Regulations

The Agency has been active in the development of federal initiatives to establish a risk-based approach to waste management, promote recycling, and establish greater consistency in the cleanup of contaminated debris. The Agency believes this will result in a more cost effective, common sense program for hazardous waste management.

Problem Waste Management Rules

The Agency is examining ways to more effectively manage wastes like fluorescent lamps, batteries and thermostats which, while technically hazardous, are widely generated by businesses that do not otherwise consider themselves to be hazardous waste generators.

Waste Lead Paint Management

The Agency supports an initiative currently pending before the legislature that would establish standards for managing waste lead paint in a cost effective and environmentally acceptable manner. The intent is to establish reasonable options for business to manage their wastes, resulting in greater compliance.

Circuit Boards

A working group of industry representatives is working with the Agency to evaluate its regulation of scrap circuit boards and develop amendments to the Agency's hazardous waste rules that are more appropriate to the level of risk presented by the waste.

PCB Certificate of Exemption

The Agency indicated that federal regulations of PCBs is more stringent than the state statute and rules regulating PCBs; therefore, the statute and the rules can be repealed. No timetable was provided for doing this.

Department of Public Safety

Minnesota Rules 7430 - Auto Lamp Adjusting Stations

Minnesota Rules 7435 - Brake Testing Stations

Minnesota Rules 7510.6100-7510.6910 - National Gas Pipeline Facilities and Transportation

Minnesota Rules 7515 - Liquor

The Department states that it has prepared housekeeping legislation (no timetable given) to repeal the statutes that authorize these rules Minnesota Rules 7430 and Minnesota Rules 7435. The Department states that Minnesota Rules 7510.6100-7510.6910 have been superseded by Minnesota Rules 7530.0100-7530.1500 and will be repealed as time and other priorities permit. The Department states it plans to revise Minnesota Rules 7515 beginning in 1993.

Department of Public Service***Minnesota Rules 7600 - Commercial Scales***

The Department states that virtually all of the rules in Minnesota Rules 7600 will be repealed or amended due to their obsolescence, redundancy, etc. A new chapter, Minnesota Rules 7601 has been proposed.

Minnesota Rules 7605 - Fluorescent Light Ballasts

The Department states that these rules are identical to and are preempted by federal standards. The rule could be eliminated at any time though no schedule has been given. **Compiler's Comment:** The Minnesota Pollution Control Agency has indicated that it is examining ways to more effectively manage wastes like fluorescent lamps which while technically hazardous, are widely generated by businesses that do not otherwise consider themselves to be hazardous waste generators.

Minnesota Rules 7625 - Outdoor Display Lighting

The Department states that there is no inspection or enforcement mechanism for this rule and no recent inspection or enforcement efforts. The subject of this rule is enforced by the State Energy Code (Minnesota Rules 7670). The rule could be eliminated at any time though no schedule has been given.

Minnesota Racing Commission***Minnesota Rules 7870 - Licensure***

The Commission is in the process of promulgating amendments to its Class D licensing rules (Minnesota Rules 7870.0600-7870.0870) governing the licensing of county agricultural societies to conduct pari-mutuel betting at horse races conducted at county fairs. The rules reflect the limited resources such organizations have for the conduct of racing, but retain Commission oversight of the races and wagering to protect the integrity of the racing.

Department of Transportation***Minnesota Rules 7800 - Motor Carrier Operations***

The Department indicates that this rule, described above, will be amended in 1994.

Minnesota Rules 7805 - Tariffs and Accounting

The Department indicates this rule will be revised in favor of up-to-date rules easier to understand and follow. The process is expected to be completed in summer or fall of 1993.

Minnesota Rules 8830.0100-8830.3900 - Railroads***Minnesota Rules 8830.5100-8830.6700 - Rail Service Improvement******Minnesota Rules 8830.9900-8830.9950 - Railroads***

The Department is in the process of revising all of Chapter 8830. The Department indicates that as part of its revision of this chapter 8830 it will deal with a number of rail safety, rail bridge and other issues whose treatment is outdated in

the current rule. The Department states that the Federal Rail Line Subsidy Program covered by 8830.5400 has been eliminated. The Rail User Loan Guarantee of 8830.6100--8830.6700 has had little acceptance and has been used only twice since its inception.

Minnesota Rules 8860 - Tank Motor Vehicles; Variances

The Department indicates that it has nearly completed a rulemaking which will extend the variance process to additional tanks beyond the current limit of 3,000 or less gallons and manufactured between 1950 and 1975. These amendments are mandated by statute.

Transportation Regulation Board

Minnesota Rules 7800 - Motor Carrier Operations

Minnesota Statutes Chapter 221 dealing with the granting of motor carrier permit was amended substantially during the 1992 legislative session. As a result, a number of the rules in Minnesota Rules 7800 are obsolete. The rules are scheduled for amendment in 1993. The Board anticipates the rulemaking process will take approximately one year to complete.

FACILITY REGULATION

These rules develop standards that a facility must follow when it provides services to certain groups. The rules are designed to protect the health and safety of the groups, often vulnerable persons, who use the facilities.

Rules Which Do Not Directly Affect Businesses

Department of Corrections

Minnesota Rules 2905 - Community Corrections Act

Minnesota Rules 2910 - Adult Detention Facilities

Minnesota Rules 2930 - Secure Juvenile Detention Facilities

Minnesota Rules 2935 - Juvenile Residential Facilities

Minnesota Rules 2905 establishes planning, evaluation, and service requirements for counties that participate in the Community Corrections Act. Minnesota Rules 2910 establishes minimum standards for adult detention facilities throughout the state, including lockups, holding facilities, jails and adult corrections facilities. Minnesota Rules 2930 establish minimum standards for operating secure juvenile detention facilities and provide a framework for inspection and licensing secure juvenile detention facilities. Minnesota Rules 2935 establishes minimum standards for juvenile residential facilities, including personnel, reports and record keeping, resident welfare, food service, security, health and sanitation. The Department indicates none of these rules affect businesses.

Department of Health

Minnesota Rules 4615.0300-4615.0700 and Minnesota Rules 4615.2100-4615.3300 - Maternal and Infant Health

Minnesota Rules 4615.0300-4615.0700 deal with responsibilities of hospitals, physicians, and the Department of Health to assure that newborns are screened for certain metabolic diseases. Minnesota Rules 4615.2100-4615.3300 establish procedures for administering early and periodic health and developmental screening programs.

Department of Human Services

Minnesota Rules 9515 - State Hospital Administration

Minnesota Rules 9565 - Individual and Family Services

Minnesota Rules 9515 govern the administration of certain treatment methods to committed patients residing at state hospitals. Minnesota Rules 9565 deal establish standards of service for various individual and family services programs administered or regulated by the Department of Human Services.

Minnesota Zoological Board***Minnesota Rules 9900 - Minnesota Zoological Garden***

These rules govern the operation of the Minnesota Zoo. The Board has determined that the rules do not affect businesses.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order***Department of Corrections******Minnesota Rules 2900 - New Corrections Facilities***

These rules establish minimum standards for construction of correctional facilities in the state. The Department states that the rules are necessary to assure that plans comply with safety and security standards for the intended use.

Minnesota Rules 2920 - Adult Halfway Houses

These rules establish minimum standards for adult halfway houses that serve correctional clients. The majority of these facilities are privately run. The Department states the rules are necessary to assure the safety and security of the clients and the community in which the facility is located.

Minnesota Rules 2925 - Group Foster Homes

These rules establish minimum standards for all foster homes and group foster homes that serve delinquent juveniles. The majority of these homes are privately run. The Department states the rules are necessary to assure the safety and security of the clients and the community in which the facility is located.

Department of Health***Minnesota Rules 4635 - Towels; Machines; Sports Arenas***

These rules prohibit roller towels in public places, public conveyances, and public buildings, unless soiled parts are kept separate from the clean part of the towel. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

Minnesota Rules 4638 - Health Care Facilities Generally

These rules establish criteria by which health care facilities may permit residents or patients to have pets. The Department states that the rule is necessary to allow pets, provide for resident comfort and safety with respect to the pet, and to provide for necessary sanitation related to the pet.

Minnesota Rules 4640 - Hospital Licensing and Operation

These rules set standards for the licensing and operation of hospitals. The Department states that because of state law changes this rule may no longer be

necessary. The Department indicates that it is in the process of reviewing all rules of the Health Resources Division. Review of this rule is scheduled for Fiscal Year 1997.

Minnesota Rules 4642 - Medical Records

These rules specify what hospitals must include in a patient's individual permanent medical record. Review of this rule is scheduled for 1997, when other hospital-related rules will be reviewed.

Minnesota Rules 4643 - Traumatic Brain/Spinal Cord Injury Registry

These rules implement Minnesota Statutes § 144.664, subd. 5, which directs the Commissioner of Health to establish a statewide traumatic brain/spinal cord injury registry. Information obtained from the registry is to be used to assure that persons who sustain such injuries receive appropriate rehabilitation services and that programs are developed to reduce the number and severity of such injuries in the future. Since most traumatic brain/spinal cord injuries require some period of acute, inpatient care, hospital medical records contain the information necessary for the registry, therefore the rules require that hospitals report those data elements which are necessary to achieve the statutory objectives of the registry. The information is not available from any other source.

Minnesota Rules 4645 - Hospital Construction and Equipment

These rules establish construction standards necessary to assure conformity with requirements of federal reimbursement standards. The standards relate to safety. The Department indicates that some parts of the rule are out of date and have been superseded by life safety codes, building codes, and the like. The Department is in the process of reviewing its rules, and has scheduled review of this rule in 1997.

Minnesota Rules 4650 - Health Care Cost Information System

These rules require all acute care hospitals and freestanding outpatient surgical centers to supply data specified in the rules to the health care cost information system. The system is established by Minnesota Statutes §§ 144.695-144.703. The Department states that the Health Care Cost Information System is responsible for providing accurate and reliable information about the financial and utilization characteristics of hospitals and freestanding outpatient surgical centers to public policy makers, purchasers of health care services, and to the public in general. The Health Care Cost information System is the only statewide system responsible for the collection and dissemination of financial and operating conditions and characteristics of hospitals and freestanding surgical centers.

Minnesota Rules 4655 - Nursing; Boarding Homes: Operation

Minnesota Rules 4660 - Nursing; Boarding Homes; Physical Plant

These rules establish standards for the construction and operation of nursing homes and board and homes. The Department indicated these rules are under review which is expected to be completed by 1994.

Minnesota Rules 4665 - Supervised Living Facilities

These rules regulate the operation and physical plant of supervised living facilities. These facilities typically provide services in a residential setting to mentally retarded persons, chemically dependent persons, or persons with mental illness. The Department indicated many parts of these rules need revision. Review of this rule is scheduled for Fiscal Year 1995.

Minnesota Rules 4675 - Freestanding Outpatient Surgical Centers

These rules govern construction, equipment, maintenance, operation and licensure of free standing outpatient surgical centers. The Department states that its Health Resources Division is in the process of reviewing its rules. This rule is scheduled for review in 1999.

Minnesota Rules 4680 - Health Facilities Grievance Mechanism

These rules establish the requirements for a grievance mechanism that must be established, operated and maintained by every hospital and outpatient surgical center. These rules are required by Minnesota Statutes § 144.691. The Department indicated that this rule is scheduled for review in 1977, along with review of Minnesota Rules 4640 and Minnesota Rules 4645 that relate to hospitals.

Minnesota Rules 4717 - Environmental Health Rules

Minnesota Rules 4717.0100-4717.3900 deal with public swimming pools. Minnesota Rules 4717.4000-4717.4500 deal with on-land disposal facilities for sewage and other wastes from marine toilets. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

Minnesota Rules 4720 - Public Water Supplies

These rules provide for the approval by the Department of public water supply systems, and systems for disposal of sewage, industrial waste, garbage, or refuse. The rules also provide for record maintenance, reporting, and public notification of violations of maximum containment levels, treatment techniques, and variances. The rules also establish standards for water haulers. The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

Minnesota Rules 4740 - Laboratories; Accreditation Requirements

These rules regulate laboratories which must supply tests on environmental samples. The Department states that maintenance of laboratory results of high and consistent quality is the primary interest served by these rules. The rules describe the criteria for certification, which is a process by which laboratory test quality can be

maintained. Without this certification process, there would be no assurance that the quality of laboratory results being produced by a particular laboratory are performed at an acceptable level of quality.

Department of Human Services

Minnesota Rules 9502 - Licensing Day Care Facilities

Minnesota Rules 9503 - Licensing Requirements for Child Care Centers

The Department states that these rules meet the test of the Executive Order by ensuring that minimum levels of care and service are given and that the protection, care, health, safety and development of affected children are assured.

Minnesota Rules 9520 - Programs for Mentally Ill Persons

The Department states that this rule meets the test of Executive Order 92-15 by establishing the standards for operation of adult residential treatment centers.

Minnesota Rules 9525 - Programs for Mentally Retarded Persons

The Department states that this rule contains sections on licensing standards and on program administration. The licensing standards section meets the test of Executive Order 92-15 by establishing standards necessary to protect persons with mental retardation or related conditions who are the recipients of these services. The administration rule section meets the test by providing uniform administration of services and complying with requirements necessary to assure continued federal financial participation.

Minnesota Rules 9545 - Licensing of Facilities for Children

The Department states that this rule meets the test of Executive Order 92-15 by establishing the statutorily required minimum program requirements to enable these facilities to receive funding. See, however, the section on rules which will be eliminated or revised which indicates that this entire chapter is presently being reviewed for revision.

Minnesota Rules 9553 - Payment, Intermediate Care Facilities

The Department indicates that this rule meets the test of Executive Order 92-15 by addressing the concern that care for persons with mental retardation be provided in a cost-efficient manner consistent with quality care; by ensuring federal financial participation; and by encouraging business planning and good management practices.

Minnesota Rules 9555 - Social Services for Adults

The Department states that this rule meets the test of Executive Order 92-15 by establishing procedures and standards for licensing adult day care centers to assure the health, safety and rights of adult day care participants.

Pollution Control Agency***Minnesota Rules 7001.3000-7001.3550 - Solid Waste Management Facility Permits***

These rules establish standards for assuring that a solid waste management facility is properly sited, designed, operated, and when operations cease, properly closed. The rules also provide for the issuance of a permit-by-rule, which enables certain facilities that have minimal impact on the environment to obtain a permit and start up operations quickly. Yard waste compost facilities, certain demolition landfills, recycling facilities, and transfer stations designed for less than 30 cubic yards of solid waste per day are eligible for a permit-by-rule. The Agency states that the rules are necessary to protect public health and the environment. Recent changes to federal regulations will require minor changes to the state rules to conform to federal requirements.

Minnesota Rules 7035 - Solid Waste

These rules establish standards for the design, construction, and operation of solid waste management facilities. The rules are intended to prevent, mitigate, and correct potential ground water contamination from waste management facilities. The Agency indicated that the rules are instrumental in protecting the environment, and provide an administrative framework to help assure equal treatment of all persons who apply for a solid waste permit or renewal of a permit. The Agency did, however, identify several portions of the rules that can be eliminated. These include rules dealing with recycling facility annual reports, rules dealing with abandoned motor vehicles and scrap metals, and rules dealing with compost facility odors. These are discussed in the section of this report on rules that will be eliminated or revised.

Rules Which Will Be Eliminated or Revised***Department of Corrections******Minnesota Rules 2900 - New Corrections Facilities******Minnesota Rules 2920 - Adult Halfway Houses******Minnesota Rules 2925 - Group Foster Homes***

The Department indicated it recently completed the process of amending Minnesota Rules 2900, and the new rules will be effective July 1, 1994. Minnesota Rules 2920 and Minnesota Rules 2925 were promulgated in 1980 and were amended in 1985. The Department plans to review and revise these rules again in 1994.

Department of Health***Minnesota Rules 4640 - Hospital Licensing and Operation******Minnesota Rules 4642 - Medical Records******Minnesota Rules 4645 - Hospital Construction and Equipment***

Minnesota Rules 4640 sets standards for the licensing and operation of hospitals. The Department states that because of state law changes this rule may no longer be necessary. Minnesota Rules 4642 establishes requirements for medical records to be maintained by hospitals. Minnesota Rules 4645 establishes construction standards

necessary to assure conformity with requirements of federal reimbursement standards. The Department indicates that some parts of this rule are out of date and have been superseded by life safety codes, building codes, and the like. The Health Resources Division of the Department indicates that it has scheduled review of these rules relating to hospitals for 1997.

Minnesota Rules 4655 - Nursing; Boarding Homes: Operation

Minnesota Rules 4660 - Nursing; Boarding Homes; Physical Plant

These rules establish standards for the construction and operation of nursing homes and board and homes. The Department indicated these rules are under review which is expected to be completed by 1994.

Minnesota Rules 4665 - Supervised Living Facilities

These rules regulate the operation and physical plant of supervised living facilities. These facilities typically provide services in a residential setting to mentally retarded persons, chemically dependent persons, or persons with mental illness. The Department indicated many parts of these rules need revision. Review of this rule is scheduled for Fiscal Year 1995.

Minnesota Rules 4675 - Freestanding Outpatient Surgical Centers

These rules govern construction, equipment, maintenance, operation and licensure of outpatient surgical centers. This rule is scheduled for review in 1995.

Minnesota Rules 4740 - Laboratories; Accreditation Requirements

These rules regulate laboratories which must supply tests on environmental samples. The Department indicated that portions of the rule relating specifically to drug laboratory licensing requirements are no longer in effect, due to a significant amendment to the drug laboratory licensing law enacted as 1991 Laws of Minnesota Chapter 60. No timetable for repealing the rule was provided.

Department of Human Services

Minnesota Rules 9503 - Licensing Requirements for Child Care Centers

The Department states that this rule is scheduled for review in the summer of 1993 with final revisions proposed in December 1994. Those revisions will reflect new information and research and will address the changing needs of families for the care and education of young children.

Minnesota Rules 9505 - Health Care Programs

The Department indicates that portions of this rule dealing with general assistance medical care are presently under review. The Department plans to ask the 1994 legislature for authority to repeal the general assistance medical care section.

The Department also indicates that portion of the rule dealing with the catastrophic health expense protection program should be eliminated since that program was eliminated by the legislature. No schedule for this action was given in the Department's response.

Minnesota Rules 9525 - Programs for Mentally Retarded Persons

The Department states that it plans to seek consolidation of licensing requirements in parts 9525.0500-9525.0660; parts 9525.0215-9525.0355; parts 9525.1500-9525.1690; parts 9525.2000-9525.2140. In addition amendments will be prepared to those rules governing case management (parts 9525.0015-9525.0165; 9525.0180-9525.0190). Work on the licensing rule will commence in February 1993 with the new consolidated rule expected to be effective by the end of 1994. A public hearing on the case management amendments is scheduled for May 1993.

Minnesota Rules 9530 - Chemical Dependency Programs

The Department of Human Services has already established a task force, including representation from the chemical dependency provider community, to examine the licensing rules and recommend changes which make it easier to conduct business while protecting client rights and services. Some of the changes already identified include removing requirements for advisory committees, audits, reports to the board, and restrictions on intake criteria; changes in treatment and discharge planning; and greater flexibility in the provision of service. These changes will go into effect as soon as the task force has completed its work and the requirements of the Administrative Procedure Act have been fulfilled.

Minnesota Rules 9545 - Licensing of Facilities for Children

The Department indicates that this entire chapter regulating child foster care homes, foster parent licenses, children's residential treatment facilities, maternity shelters, group homes and group home providers, is being reviewed for revision.

Pollution Control Agency

Minnesota Rules 7001.3000-7001.3550 - Waste Management Facility Permits

Recent changes to federal regulations will require minor changes to these state rules dealing with the operations and permitting of waste management facilities operations that affect public health or the environment.

Minnesota Rules 7035 - Solid Waste

Although most of these rules are still necessary, the Agency indicated several portions of the rules that can be eliminated. Minnesota Rules 7035.2845, subpt. 4.C, dealing with recycling facility annual reports, is currently being evaluated to determine whether a more convenient method of providing this information can be established. Minnesota Rules 7035.3000-7035.3600, dealing with abandoned motor vehicles and scrap metals, can be repealed. It is a low priority program for the Agency, and is enforced primarily by units of local government. The Agency states that it believes Minnesota Statutes § 168B.01 is specific enough to be used for enforcement purposes. Minnesota Rules 7035.2835, dealing with compost facility odors is being repealed because it is ineffective at achieving the desired result and because of problems in monitoring compliance.

Minnesota Rules 7047 - Hazardous Waste Acceptance; Stabilization/Containment Facility

These rules were promulgated when the state was in the process of siting a state owned hazardous waste disposal facility. The Agency's rules for the acceptance of waste at that facility were required to address a possible future need. Since the Office of Waste Management has suspended the facility siting process, these rules are no longer needed and should be repealed. The Agency did not establish a timetable for repealing the rules.

BENEFITS AND SERVICES

These rules are used to determine who receives benefits or services from state agencies, and in what amount, by laying out eligibility criteria.

Rules Which Do Not Directly Affect Businesses

Department of Administration

Minnesota Rules 1215 - Emergency 911 Telephone Systems

Minnesota Rules 1220 - Grant Proposals

Minnesota Rules 1250 - State Publications

Minnesota Rules 1265 - Telpak

Minnesota Rules 1215 deal principally with requirements on county government rather than business. Rules affecting telephone companies include requirements for 911 system capacity and reliability and requirements and procedures for reimbursement of expenses. The rules are necessary to ensure that 911 service is available 24 hours a day, that there is a low probability of callers getting busy signals, and that telephone companies are only reimbursed for proper 911 expenses.

Minnesota Rules 1220 govern the application, solicitation, review, analysis and final disposition of grant proposals received by the Intergovernmental Information Systems Advisory Council. Grantees are units of government. Minnesota Rules 1250 govern the availability of publications from the Print Communications Division of the Department of Administration. Minnesota Rules 1265 govern the procedures relating to the application by units of government for the sublease of TELPAK services from the Telecommunications Division of the Department of Administration.

Minnesota Center for the Arts

Minnesota Rules 3600 - School and Programs Admission

These rules establish criteria for admission to the Minnesota Center for the Arts school and programs.

Higher Education Coordinating Board

Minnesota Rules 4800 - Foreign Student Assistance

Minnesota Rules 4810 - Miscellaneous Student Funding Programs

Minnesota Rules 4830 - Financial Assistance

Minnesota Rules 4840 - Registration and Name Approval

Minnesota Rules 4850 - Supplemental Student Loans

These rules deal with financial assistance programs for students administered by the Board.

Minnesota Housing Finance Agency***Minnesota Rules 4900 - Housing Loans and Grants***

The Agency states that all of its rules are for the implementation of programs. The Agency has no regulatory powers over business entities. The Agency states that it is required to use rules as a program implementation mechanism and tries to use the process in the least complicated manner possible.

Department of Health***Minnesota Rules 4615.2100-4615.3300 - Maternal and Infant Health******Minnesota Rules 4647 - Health Care Equipment Loan Program******Minnesota Rules 4705 - Services for Children with Handicaps***

Minnesota Rules 4615.2100-4615.3300 establish procedures and criteria for local organizations which seek funds from the Department of Health to distribute nutritional supplements. Minnesota Rules 4647 establish criteria for reviewing applications from hospitals for assistance under the Health Care Equipment Loan Program established by Minnesota Statutes § 446A.08. Minnesota Rules 4705 specify criteria, procedures, and responsibilities relating to applicant eligibility, cost sharing, and reimbursement to service providers for services authorized by this program for physically handicapping conditions in children.

Department of Jobs and Training***Minnesota Rules 3300 - Training; Community Support Services******Minnesota Rules 3305 - Unemployment Benefits******Minnesota Rules 3320 - Federal Jobs Tax Credit******Minnesota Rules 3321 - Services for the Blind******Minnesota Rules 3325 - Rehabilitation; Visually Handicapped***

Minnesota Rules 3300 implement various community support services programs of the Department of Jobs and Training, including youth employment, weatherization assistance for low income persons, certification of rehabilitation facilities and independent living centers, and the opportunities industrialization centers. The rules also establish fees charged by the Department for rehabilitative services. Minnesota Rules 3305 govern the Department's determination of a claimant's eligibility for unemployment compensation services. Minnesota Rules 3320 establish criteria for certifying an employee as eligible for the federal targeted jobs tax credit program. An employer receives federal tax credits for wages paid to a certified employee. Minnesota Rules 3321 establish criteria for the selection and licensing of blind persons to operate vending stands and other business enterprises established by Services for the Blind. Minnesota Rules 3325 establish procedures and standards for the provision of rehabilitation services to blind and visually disabled individuals.

Bureau of Mediation Services***Minnesota Rules 5520 - Labor-Management Committee Grants***

These rules apply to the preparation, submission and approval of applications for grants under the Minnesota Area Labor-Management Committee grant program established by Minnesota Statutes § 179.81 to § 179.85. **Compiler's Comment:** It

should be noted that eligible grantees are area labor-management committees, which are comprised of representatives of multiple labor organizations and multiple employer enterprises within a geographic area or statewide employment sector. Thus the rules could affect businesses to the extent they choose to participate in this type of committee.

Minnesota Rules 5530 - Arbitration Roster

These rules apply to the empanelment, referral, conduct, and removal of persons on the arbitrator roster maintained by the Commissioner of Mediation Services. The rules apply to all persons on the roster, to applicants for placement on the roster, to users of the roster, and to all arbitration proceedings conducted as the result of a referral from the roster.

Department of Public Service

Minnesota Rules 7606 - Institutional Energy Loans

Minnesota Rules 7610 - Energy Information Reporting

Minnesota Rules 7645 - Community Energy Grants

Minnesota Rules 7680 - Building Energy Audits

Minnesota Rules 7690 - Conservation and Resource Programs

Minnesota Rules 7606, Minnesota Rules 7645, and Minnesota Rules 7680 deal with programs affecting units of local government and as such do not directly affect businesses. Minnesota Rules 7610 and Minnesota Rules 7690 establish reporting requirements for utilities. As such, they do directly affect businesses. The Department stated it only analyzed rules that directly affect small businesses in responding to the Executive Order.

Department of Trade and Economic Development

Minnesota Rules 1501 - Export Financing

The Department states that this rule establishes the framework for the Minnesota Export Finance Authority to make loan guarantees. The Department states that it does not impose any regulatory requirement on the business community. Revisions to the rules are under development and are expected to be in place by September 1993.

Minnesota Rules 4300 - Community Block Grants

Chapter 4300 consists of state rules for the administration of the federally funded Community Development Block Grant program and the state funded Economic Recovery Fund program. The rules specify the procedures for evaluating applications and awarding grants to eligible general purpose local units of government for community based housing, public facility and economic development projects. The rules do not regulate, control, restrict, protect, or affect businesses. They do not prescribe or determine a business's eligibility for assistance or benefits under the program, nor do they relate to licenses, permits, fines, reporting requirements or other rights and duties of a business.

Minnesota Rules 4309 - Pilot Community Development Projects

This rule applies only to non-profit community development corporations. There has been no appropriation of funds for this program for several years.

Minnesota Rules 4340 - Bonding

This rule has no direct effect on businesses but instead provides for allocation to local governments of industrial development bond issuance authority.

Minnesota Rules 7380 - Public Facilities Authority Loan Programs

These rules provide eligibility and application criteria for loans to units of government.

*Department of Veterans Affairs**Minnesota Rules 9050 - Veterans Homes*

These rules establish the standards used to determine an individual's eligibility for admission to and continued stay in a Minnesota veterans home.

*Board of Water and Soil Resources**Minnesota Rules 8400 - Cost-Share Program**Minnesota Rules 8405 - Local Water Protection and Management*

Minnesota Rules 8400 establish criteria for participation in the Board's cost sharing program for the installation of soil and water conservation practices. Minnesota Rules 8405 establish criteria for local government participation in the Board's grant program for local water protection and management.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order*Department of Administration**Minnesota Rules 1230 - State Contracts*

Minnesota Rules 1230.0100-1230.1300 establish general rules relating to state contracts. Largely, these rules are established to set standards for competitive bidding and to provide for fair and equitable treatment of all vendors. The interests intended to be protected by the rule, therefore, are two-fold: the interest of the state to ensure performance by vendors and the interest of the vendors to ensure fair treatment in selling to the state.

Minnesota Rules 1230.1400-1230.2300 establish standards for participation in a program which provides preferential treatment to eligible vendors in "protected classes." The rules are established to ensure that only those vendors truly eligible are allowed to receive preferential treatment and that those vendors who would fraudulently attempt to participate are excluded from the program.

The rules were substantially revised in August 1991. At that time, specific attention was given to eliminating those parts of the rule which were deemed unnecessary to achieving the interest intended to be protected by the rule.

Department of Commerce***Minnesota Rules 2791 - Medical Malpractice Insurance***

These rules list the classes of health care providers that are eligible to receive medical malpractice insurance through the Minnesota Joint Underwriting Association (MJUA). The MJUA issues coverage to health care providers who are unable to obtain malpractice insurance on the private market. The list is developed following a hearing to determine whether MJUA should be authorized or re-authorized. If it is determined at the hearing that insurance exists in the voluntary market for any class of provider, the authorization for MJUA to issue medical malpractice insurance for that class of providers is revoked.

Department of Corrections***Minnesota Rules 2915 - Services for Battered Women***

These rules establish procedures for awarding grants to organizations that provide services for women who have been victims of domestic abuse. The Department states that the rules are necessary to assure that the granting of funds for the delivery of these services is done in a fair and unbiased manner.

Department of Health***Minnesota Rules 4656 - Medical Assistance Program***

These rules establish individual patient rates for nursing home care. Changes may be needed to make the rules compatible with recent federal resident assessment requirements. The Department is presently reviewing the rule for necessary changes, and this work is expected to be completed by the fall of 1993. Corresponding rule changes by the Department of Human Services also will be required.

Minnesota Rules 4717 - Environmental Health Rules

Minnesota Rules 4717.6000-4717.7050 deal with the water purification and filtration plant grants program.

Department of Human Services***Minnesota Rules 9535 - Program Grants; Mentally Ill Persons***

The Department states that this rule meets the test of Executive Order 92-15 by complying with the statutory requirement of rules to establish funding policies for grants for adult residential treatment.

Indian Affairs Council***Minnesota Rules 5100 - Business Loans to Indians***

These rules establish the criteria for acceptance or rejection of business loan applications. The Council states that the rules have an immediate, necessary and substantial impact on achieving the interest intended to be protected in that all necessary documentation must be present and reviewed by the Council before the application is forwarded to the appropriate Tribal Council for a decision on approving or rejection the application. The Council states that the interest cannot be protected without the rules, which contribute to achieving the purpose of the interest.

Department of Jobs and Training

Minnesota Rules 3315 - Employer Taxes

These rules establish procedures and criteria for making determinations of wages, employment, experience ratings, and reporting requirements under the state unemployment compensation law. The Department states that the rules were adopted to clarify provisions of Minnesota Statutes §§ 268.03-268.24 and various administrative and judicial interpretations of the statutes. The rules are used by employers, agency staff and the courts to guide decisions regarding the types of employment remuneration which are considered wages subject to unemployment tax, and which services are performed under the law of master and servant, thus allowing the worker to be eligible for unemployment compensation benefits.

The Department notes that the unemployment tax law was enacted in 1936 and is governed by both federal and state law, making the provisions complicated. Further adding to the complexity is a nationwide trend toward attempting to make more workers independent contractors rather than employees. Independent contractors are not eligible for unemployment benefits. Thus it is important to state in the rules the criteria for determining whether a worker is an employee or independent contractor. The Department further states that the rules are necessary to assure that policies interpreting the unemployment compensation statutes are consistent and fair, and because the courts have said that such policies must be codified as rules. The Department notes that the rules have substantially improved consistency in interpretations since they were enacted.

The Department identified several rule amendments and a policy change that will be implemented in response to Executive Order 92-15. These are discussed in the section of this report on rules which will be eliminated or revised.

Department of Natural Resources

Minnesota Rules 6100 - Parks, Trails and Snowmobiles

The Department states that these rules provide for the public enjoyment of state parks in a way that will leave them uncompromised and will minimize conflicts among users.

Minnesota Rules 6105 - Wild, Scenic and Recreational Rivers

Compiler's Comment: The Department responded only to those sections of *Minnesota Rules 6105* dealing with the Lower St. Croix National Scenic Riverway. The Department stated that those rules had a minor effect on business because there are very limited business interests permitted within the Lower St. Croix National Scenic Riverway land use district. There was no response on those sections applying to other rivers covered by *Minnesota Rules 6105*.

The purpose of these rules is to preserve and protect the scenic, recreational, geologic, fish and wildlife, historic, cultural and similar values of the Minnesota portion of the Lower St. Croix National Scenic Riverway by establishing minimum standards and criteria for the management and development of the lands within the Lower St. Croix National Scenic Riverway Land Use District.

Pollution Control Agency

Minnesota Rules 7075 - State Fund and Federal Grants

These rules were adopted many years ago when discharges from wastewater treatment facilities were a major contributor to water degradation. The grant program provided funds to assist municipalities with the expenses of constructing wastewater treatment facilities capable of meeting state water quality standards. The majority of municipalities now have technically modern facilities. Because of this progress, the federal program has been eliminated and the state matching grant program has not been funded by the legislature. The rules are necessary now because not all grant projects have been completed, but Agency plans to propose deletion of these rules as soon as the few remaining grant projects are completed.

Minnesota Rules 7076 - Clean Water Partnership Grants

Nonpoint source pollution causes degradation of many Minnesota water resources. The Clean Water Partnership grant program and the Nonpoint Source Management Program offer funding to assist local units of government in investigating a specific nonpoint source pollution problem, conducting a recovery project for the water impacted by the problem, and developing a method to solve the problem. The Agency states that these rules are necessary to establish a complete administrative process for the funding programs.

Minnesota Rules 7077 - Wastewater Treatment Assistance

The majority of the water pollution problems that were associated with point source wastewater discharges were addressed with funds awarded under the state and federal grant programs provided for in Minnesota Rules 7075. Minnesota Rules 7077 describe the financial assistance programs that are currently available to municipalities for constructing or maintaining wastewater treatment systems. The Agency states that the rules are needed to establish a complete administrative process for these financial assistance programs.

Department of Trade and Economic Development

Minnesota Rules 1580 - Agricultural Loans

The rules specify (1) the businesses that are eligible for financial assistance under this program, (2) the required content of the application for financial assistance, (3) the application procedure, and (4) the criteria for approval of applications. The Department states that the test of Executive Order 92-15 is met since without these guidelines there would be no discretion as to the types of business eligible for financial assistance nor the purposes of the loans that could be made.

Minnesota Rules 1585 - Hazardous Waste Processing Facility Loans

These rules specify (1) the eligible applicants, (2) procedures for submitting an application, (3) required content of the application, and (4) review and approval of the application. The Department states that the test of Executive Order 92-15 is met since without these rules there would be no discretion as to the businesses eligible for financing.

Minnesota Rules 1587 - Financial Assistance

The purpose of these rules is to (1) specify procedures for financial assistance applications, (2) identify required content of applications, (3) specify the collateral requirements, and (4) establish procedures for application processing. In addition the rules (1) define certain terms in the statute, (2) identify when meetings will be held, (3) direct procedures governing public appearances at meetings, and (4) govern the Board's action in the case of misrepresentation of information in applications. The Department states that the test of Executive Order 92-15 is met since without these rules there would be no discretion for the eligible businesses for financial assistance or the purposes of the financial assistance.

Minnesota Rules 1589 - Small Business Development Loan Program

The rules specify (1) the businesses that are eligible for financial assistance under this program, (2) the required content of the application for financial assistance, (3) the application procedure, and (4) the criteria for approval of applications. The Department states that the test of Executive Order 92-15 is met since without these guidelines there would be no discretion as to the types of business eligible for financial assistance nor the purposes of the loans that could be made.

Minnesota Rules 4308 - Tourism Loan Program

These rules exist to (1) define terms in the statute, (2) define eligible borrowers, (3) define eligible costs to be financed, (4) establish the interest rate for loans, (5) establish the terms of loans, (6) establish security requirements for loans, (7) direct application process, (8) establish procedures for loan evaluation and approval, and (9) identify loan servicing responsibilities. The Department states that the test of Executive Order 92-15 is met since without these rules there would be no discretion as to the types of businesses eligible nor the purposes of the loans.

*Office of Waste Management**Minnesota Rules 9205 - Hazardous; Industrial Waste Management*

These rules establish eligibility and criteria for review and selection of applicants for various hazardous waste grant and loan programs provided by the Office. The programs are designed to provide incentives for improved management of hazardous waste as well as increased pollution prevention in Minnesota. The Office states that the rules have an immediate, necessary and substantial impact on achieving the interests to be protected in that the criteria help the state to select the best applicants and use state funds in the most efficient and effective manner. Businesses that are awarded grants or loans benefit from the program in that it enables them to receive state incentives for improved hazardous waste management and pollution prevention.

Minnesota Rules 9210 - Solid Waste Grant and Loan Programs

The portions of these rules that directly affect businesses establish application procedures and criteria for review and selection of business applicants for state grant and loan programs provided by the Office. The programs are designed to improve management of solid waste. The Office states that the rules have an immediate,

necessary and substantial impact on achieving the interests intended to be protected in that the criteria for review and selection help ensure that the best proposals are selected and that state funds are used in the best possible manner. The businesses that are ultimately awarded a state grant or low interest loan benefit from the existence of these rules. The rules also outline application procedures and criteria for review and selection of local government recipients of state grants for projects designed to improve management of solid waste.

Rules Which Will Be Eliminated or Revised

Department of Health

Minnesota Rules 4656 - Medical Assistance Program

These rules establish individual patient rates for nursing home care. Changes may be needed to make the rules compatible with recent federal resident assessment requirements. The Department is presently reviewing the rule for necessary changes, and this work is expected to be completed by the fall of 1993. Corresponding rule changes by the Department of Human Services also will be required.

Department of Human Services

Minnesota Rules 9535 - Program Grants; Mentally Ill Persons

The Department has drafted legislation to facilitate changes in Minnesota Rules 9535.2000-9535.3000 and in Minnesota Rules 9535.1700-9535.1760. These parts deal with funding policies for adult residential treatment, adult community support services and children's community-based mental health services. Promulgation is expected in July 1993.

Minnesota Rules 9540 - Program Grants; Mentally Retarded

The Department states that these rules are obsolete and no longer have an impact on the intent to be protected. The Department is developing a timetable for repeal.

Indian Affairs Council

Minnesota Rules 5100 - Business Loans to Indians

The Council indicated that it plans to revise the rules in the near future to enhance the program.

Department of Jobs and Training

Minnesota Rules 3315.0210 - Types of Wages

This rule will be revised so that only payments made to officers of S corporations (and not retained earnings) are subject to unemployment tax. The Department stated this change affects smaller businesses and will simplify reporting, protect the interest of the unemployment program by taxing only wages earned in employment, and lower business costs.

Minnesota Rules 3315.1020 - Consolidated Reports

This rule clarifies application and reporting for joint accounts for unemployment tax purposes. Currently the rule requires that a separate tax form be submitted quarterly for the joint account. It is no longer necessary to file a separate tax return for this purpose and the rule will be revised. The Department expects this to simplify reporting for several thousand employers

Minnesota Rules 3315.1315 - Experience Rates

This rule clarifies when a new employer is eligible for assignment of an unemployment tax rate. The proposed new rule would base the rate on the employer's own unemployment experience record rather than on assignment of the standard new employer tax rate. The Department indicated that a review of the law and federal guidelines reveals that employers who start a new business in the second quarter are eligible for an experience rate one year sooner than the existing rule states and the rule therefore will be revised. In 1993, 1800 businesses qualified one year earlier and 1600 received a significantly lower rate. Corrected tax rates were mailed to the 1600 who received lower rates resulting in substantially lower unemployment costs for many new employers.

Policy Revision

The Department also indicated it is revising its policy regarding payment of unemployment benefits to corporate officers who go out of business. Benefits can now be paid to corporate officers who establish that going out of business was the most reasonable course of action available (for example: due to economic hardship). The former policy treated corporate officers who discontinue business as having voluntarily separated from employment and disqualified them from receiving unemployment benefits. The Department stated that this change enhances the economic security of many business owners that have no alternative but to go out of business.

Bureau of Mediation Services

Minnesota Rules 5520 - Labor-Management Committee Grants

Minnesota Rules 5530 - Arbitration Roster

The Bureau indicated it is reviewing all of its rules that apply to employers, and plans to complete this review by June 30, 1993.

Pollution Control Agency

Minnesota Rules 7075 - State Fund and Federal Grants

These rules were adopted many years ago to assist municipalities with the expenses of constructing wastewater treatment facilities capable of meeting state water quality standards. Most municipal treatment facilities now meet state standards, and these rules will be repealed when the few remaining grant projects are completed.

Department of Trade and Economic Development

Minnesota Rules 4351 - Tax Credit Certification

The purpose of this chapter is to provide notice of the procedures and criteria used by the Commissioner of Trade and Economic Development to certify business entities and nonprofit corporations for participation in the small business investment tax credit program of Minnesota Statutes § 290.069. This legislation was repealed by 1991 Laws of Minnesota Chapter 291, Article 7, Sections 26 and 27. Therefore, this chapter no longer has an immediate, necessary, or substantial impact on achieving the interest intended to be protected by the rule.

The Department will evaluate the need for the rule at the end of the current legislative session. If, as presently seems likely, legislation reauthorizing the program is not enacted, the Department will initiate rulemaking to repeal this chapter at the end of the legislative session.

Minnesota Rules 4370 - Challenge Grants

The rules stipulate (1) the requirements for the "Regional Organizations" (the Minnesota Initiative Funds) who receive the grants from the Rural Development Board, and (2) the eligibility guidelines for the businesses who will be seeking loans from the Regional Organizations. Without these basic guidelines, potential recipients of the funds would have no direction as to the obligations or requirements they must meet.

Two aspects of the rules will be amended in order to meet the needs of fund recipients:

(1) Minnesota Rules 4370.0040 will clarify that the match for the state funds can be non-state, rather than the more restrictive non-public funds. This will permit more businesses to leverage a greater variety of local funds in preparing financing packages.

(2) Minnesota Rules 4370.0010, 4370.0060, subpt. 3 will be amended to change the timing of the requirement of an annual report from the Regional Organization to September 30, rather than February 15, to better accord with their standard fiscal year, and reduce staff time devoted to preparing overlapping reports.

Revisions in the rules will be initiated this spring so that final revisions are completed in advance of the new fiscal year.

Department of Transportation

Minnesota Rules 8835--Public Transit

These rules pertain to funding relationships between the Department of Transportation and private regular route operators in the Twin Cities metropolitan area. The Department indicates it plans to revise this Chapter to reflect statutory changes and alteration of that relationship which is now under the jurisdiction of the Regional Transit Board.

FEES, FINES, AND REVENUE GENERATION

These rules implement regulations that govern the imposition of fees and fines required by statute. Also included in this category are rules of the Department of Revenue governing the raising of revenue through taxes.

Rules Which Do Not Directly Affect Businesses

Department of Revenue

Minnesota Rules 8003 - Income Tax on Corporations

Minnesota Rules 8035 - Income Allocation by Insurance Companies

Minnesota Rules 8043 - Nongame Wildlife Check-off

Minnesota Rules 8097 - Subchapter S Corporations

Minnesota Rules 8115 - Local Government Levy Limitations

Minnesota Rules 8150 - Inheritance and Gift Tax

Minnesota Rules 8003 clarify the applicability of Minnesota Statutes § 290.03, clause (1) to domestic and foreign corporations whose business in Minnesota consists exclusively of interstate commerce. Minnesota Rules 8035 prescribe filing schedules and requirements for insurance companies. Minnesota Rules 8043 deal with the administration of the nongame wildlife check-off procedure for individuals, fiduciaries, trusts and estates. Minnesota Rules 8097 deal with adjustments to federal gross income that must be made by individual shareholders of S corporations. Minnesota Rules 8115 deal with statutory limitations on local government tax levies. Minnesota Rules 8150 deal with valuation and other issues involved in the imposition and collection of inheritance and gift taxes.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order

Department of Health

Minnesota Rules 4735.0200-4735.5100 - Local Officers and County Boards; Fees

These rules establish licensure fees for hospitals, nursing homes, boarding care homes, supervised living facilities, outpatient surgical centers, and ambulances, and records copying. The Department states that these rules are necessary to provide funds for inspecting these facilities. Inspections are necessary to protect the health and safety of consumers of health care services provided by these facilities.

Department of Labor and Industry

Minnesota Rules 5226 - Elevator Permits and Fees

These rules establish fees for the inspection of elevators and related equipment. The Department states that the rules have an immediate, necessary and substantial impact in that the fees are required by statute to cover the costs of operating the enforcement unit. The rules are currently under revision to reflect enforcement costs.

Department of Natural Resources

Commissioner's Order No. 2450, Section 1, Parts 6212.0100 through 6212.1300 - Licenses, Permits and Exemptions

The Department states that this rule exists to ensure timely collection of monies due the state from sale of game and fish licenses and cross country ski passes. It assures the licenses and passes are issued/sold in a correct and fair manner. The Department indicates that legislation will be introduced in the 1993 session to allow license subagents to obtain a letter of credit or a surety bond to cover the cost of receiving licenses or passes on a consignment basis--rather than pay cash or purchase a bond as now required. The letter of credit is seen as a less expensive option for subagents.

Pollution Control Agency

Minnesota Rules 7002.0210-7002.0310 - Water Quality Permit Fees

The Agency is directed by the legislature to recover a portion of the state's cost of developing and processing National Pollution Discharge Elimination System and State Disposal System permits and enforcing the requirements established under these permits. These rules establish a process for determining the fee amount for the various categories of permits. The Agency states that the rules are necessary to determine consistent and uniform permit fees.

Minnesota Rules 7002.0410 - Solid Waste Facility Permit Fees

These rules establish fees for solid waste facility permits to help the agency recover its costs of reviewing and approving or denying permits. The Agency is required by Minnesota Statutes § 116.07, subd. 4d to adopt rules establishing the amounts and methods of collection of permit fees. The Agency states that the rule is needed and will remain in place until the legislature establishes a permanent permit fee by statute.

Minnesota Rules 7042 - Low Level Radioactive Waste

These rules establish a fee schedule for Minnesota generators of low-level radioactive waste. Revenues from the fees support the Agency's involvement in the Midwest Interstate Low Level Radioactive Waste Compact. The compact is the vehicle for siting a low level radioactive waste disposal facility in the state of Ohio by the year 2000. This facility will serve the needs of all generators in the midwest, including five major Minnesota-based generators of radioactive waste. The Agency states that this fee should be retained because it is the sole source of revenue to support the regional compact effort.

Minnesota Rules 7046 - Hazardous Waste Facility and Generator Fees

The Agency is directed by statute to recover a portion of the state's cost of regulating hazardous waste through fees. A review of fee revenues and a fee adjustment, if necessary, is required annually in order to meet the biennial target established by the Legislature. The Agency states that it has attempted to simplify the hazardous waste fee process to make it easier for generators and has proposed

amendments to its fee authority that will further streamline the fee process. If this legislation is enacted, additional rule amendments may be required.

Department of Revenue

Minnesota Rules 8001 - Tax Definitions

As applied to businesses, these rules establish income tax definitions of partnership, partner, corporation, resident, and fiduciary and incorporate federal regulations affecting federal laws that are incorporated by reference into state law. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8002 - Individual Income Determination

These rules explain how part-year Minnesota residents should calculate their tax, and how to calculate the state deduction for interest earned on federal obligations. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8007 - Accounting Methods; Taxable Year

These rules provide direction to taxpayers who wish to change accounting methods and to taxpayers who receive income as a result of a restoration of amounts received or accrued as a claim of right. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8009 - Deductions

As applied to businesses, these rules explain how to calculate and file a claim for a net operating loss or capital loss carryback. The Department states that the rules have an immediate, necessary and substantial impact on providing business with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8014 - Determination of Basis

These rules provide guidance for determining gain or loss on the sale or exchange of property. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8017 - Assignment and Apportionment of Income

These rules establish the procedure for taxpayers to petition for a special apportionment formula other than the formula provided by state law. The Department states that the rules generally have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities. Portions of the rules that are obsolete are expected to be repealed next fiscal year.

Minnesota Rules 8019 - Unitary Business Taxation

These rules define a unitary group of corporations; explain how a unitary group determines income; and how a unitary group of corporations can file a single corporate franchise tax return for the entire group. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8021 - Charitable and Dividend Deductions

These rules explain the deductions for charitable contributions and dividends received by a corporation. The Department states that the rules generally have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities. Parts of the rules containing obsolete terms and references are expected to be amended next fiscal year.

Minnesota Rules 8023 - Estates and Trusts

These rules explain the net operating loss deduction for estates and trusts. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities. This rule contains reference to statutes that have been repealed and is expected to be amended in the next two years.

Minnesota Rules 8030 - Fiduciaries

These rules explain the responsibilities of a fiduciary acting on behalf of a taxpayer. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8031 - Partnerships

These rules explain the income tax responsibilities of a partner in a partnership doing business in Minnesota. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting

businesses in determining their state tax liabilities. This rule contains obsolete language and reference repealed rules. The rule is expected to be amended in the next two years.

Minnesota Rules 8034 - Corporations

These rules explain the types of corporate transactions that are considered an evasion of tax. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8038 - Returns

These rules establish requirements for income tax returns filed by a husband and wife, prescribe the form of the returns, and prescribe the form of partnership returns. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities. The rule contains obsolete references that will be amended over the next two years.

Minnesota Rules 8050 - Overpayments

These rules outline the Commissioner's authority to make refunds and the procedures for crediting a refund as an estimated tax payment. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8052 - Administrative Provisions

These rules govern the practice of tax professionals before the Department. The rules define who may represent taxpayers; set standards for ethical conduct; and establish disciplinary procedures. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8092 - Withholding

These rules establish guidelines for employers making payments of income tax withheld from employee salaries. The rules define payroll period, employer, employee; outline what compensation is subject to withholding; and establish administrative provisions for filing and paying taxes. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities. These rules were amended in 1991 to allow small employers to file annually rather than monthly.

Minnesota Rules 8093 - Estimated Tax

These rules establish the administrative procedures for estimated tax payments made by individuals and businesses. The Department states that the rules have an immediate, necessary and substantial impact on providing business and other taxpayers with clarification of the application of state tax laws to their activities, and on assisting businesses in determining their state tax liabilities.

Minnesota Rules 8100 - Ad Valorem Taxes; Utilities

These rules establish the methods and procedures the Department uses to determine the value of utility company property. The rules also establish reporting requirements whereby the utilities provide the Department with information necessary to make valuation determinations for tax purposes. The Department states that the rules have an immediate, necessary and substantial impact on the interest of maintaining a uniform, central valuation process. Without the rules each taxing district in which the utilities own property would calculate an independent value. This would force utilities to deal with many assessors and many different values.

Minnesota Rules 8106 - Railroad Valuation

These rules establish the methods and procedures the Department uses to determine the value of real property of railroads for ad valorem tax purposes. The rules also establish reporting requirements whereby the railroads provide the Department with information necessary to make determinations of valuation. The Department states that the rules have an immediate, necessary and substantial impact on the interest of maintaining a uniform, central valuation process. Without the rules each taxing district in which a railroad owned property would calculate an independent value. This would force the railroad to deal with many assessors and many different values.

Minnesota Rules 8110 - Certificate of Real Estate Value

These rules establish the information to be supplied on the certificate of real estate value when real property is sold or exchanged. The certificate is necessary to supply information used for sales ratio studies performed by the Department. The study is used by the State Board of Equalization and the Department of Education to equalize property values for state aid payments. The Department plans to revise the certificate form so that it can be read using optical character recognition; however, no specific date for implementation has been established.

Minnesota Rules 8120 - Taxes; Cigarette and Tobacco Products

These rules deal with the administration and collection of taxes imposed on cigarettes and tobacco products by Minnesota Statutes Chapter 297. The Department states that most of the rules are necessary for the Department to administer the cigarette and tobacco tax laws. The Department identified several rules that have been made obsolete by statutory changes; these are discussed in the section of this report on rules which will be eliminated or revised.

Minnesota Rules 8121 - Metropolitan Solid Waste Landfill Fee

These rules facilitate the administration and collection of fees on solid waste accepted at landfills. The Department states that the rules are necessary for the Department to administer the requirements of Minnesota Statutes § 473.843. The Department identified one obsolete part of this rule, which is discussed in the section of this report on rules which will be eliminated or revised.

Minnesota Rules 8125 - Taxation; Inspection; Petroleum Products

These rules clarify record keeping and reporting requirements for distributors and dealers of petroleum products as established by Minnesota Statutes Chapter 296. The Department states that the rules were revised in 1992 and are necessary to administer the motor fuel tax laws.

Minnesota Rules 8130 - Sales and Use Taxation

These rules clarify requirements of the state's sales and use tax law, Minnesota Statutes Chapter 297A. The rules contain general instructions on how to compute the tax, filing requirements, descriptions of exemptions from tax, and forms for exemption certificates. The rules also address the granting and revocation of occupational or operating licenses and permits and reporting requirements for businesses. The Department states that the rules are extensive and specific because Minnesota has a very complex sales and use tax law. Specificity is required so that taxpayers may understand how to comply with the law. The rules also are necessary to put business taxpayers on notice as to the type and quantity of records that will be needed in case of an audit. The rules are necessary to maintain a fair, efficient tax system and promote voluntary compliance with the sales and use tax laws. The Department indicated that its sales and use tax rules were updated in the fall of 1990. This revision repealed all rules which did not have an immediate, necessary and substantial impact on achieving the interest protected by the rules. The Department is, however, in the process of amending four rules, which are described in the section of this report on rules which will be eliminated or revised.

*Department of Public Safety**Minnesota Rules 7507 - Fees for Emergency Response Commission**Minnesota Rules 7513 - Hazardous Substance Notification*

The Department states that these rules meet the test of Executive Order 92-15 by establishing procedures required by statute for reporting the location of hazardous substances to protect emergency responders and the general public. The fees involved support the data management system of the Emergency Response Commission and do not exceed the amount necessary for that support and to provide a portion of the operating costs of the emergency management center.

Rules Which Will Be Eliminated or Revised

Pollution Control Agency

Minnesota Rules 7046 - Facility and Generator Fees

The Agency is proposing statutory amendments to its hazardous waste facility and generator fee authority. If these initiatives are enacted, rule amendments will be required.

Department of Public Service

Minnesota Rules 7602 - License Fees

Proposed amendments have been made to Minnesota Rules 7602 which would increase fees to enable the Weights and Measures Division to collect all costs pursuant to Minnesota Statutes §§ 239.10 and 239.52.

Department of Revenue

The Department states that it constant reviews existing rules in an effort to provide taxpayers with simple, understandable guidance on their state tax responsibilities. The Department has established priorities for rulemaking based on the tax affected by the rule. The first priority is the sales tax, followed by the income tax, special taxes and property taxes. Within these priorities the Department looks first to the portions of the rule that directly affect current filing obligations of taxpayers. Secondly, it looks for ways to clarify or improve existing rules, and finally it examines obsolete rules. The Department has identified the following rules as candidates for revision or repeal:

Minnesota Rules 8017 - Assignment and Apportionment of Income

Minnesota Rules 8017.5000, relating to the Multistate Tax Compact is no longer necessary since the underlying statute, Minnesota Statutes § 290.171, Articles III and IV, has been repealed. The Department stated that amendment of the rule is not a priority because it does not affect existing taxpayer obligations. The Department plans a technical cleanup of obsolete corporate tax rules in the next fiscal year and will address this rule at that time.

Minnesota Rules 8021 - Charitable and Dividend Deductions

Parts of these rules contain obsolete terms and references that make the rule confusing. The underlying statute, Minnesota Statutes § 290.21, has been amended several times since the rule was promulgated. Most of the rule is obsolete due to changes in the state tax law in 1987 that adopted federal tax definitions. The Department states that since the rule has little or no impact on current filing requirements, it is relatively low in priority. An amendment is anticipated in the next fiscal year.

Minnesota Rules 8023 - Estates and Trusts

This rule contains references to statutes that have been repealed. The Department states that since the rule has little or no impact on current filing

requirements, it is relatively low in priority. An amendment is anticipated sometime in the next two years.

Minnesota Rules 8031 - Partnerships

This rule contains obsolete language and references to repealed rules. The Department states that since the rule has little or no impact on current filing requirements, it is relatively low in priority. An amendment is anticipated sometime in the next two years.

Minnesota Rules 8038 - Returns

These rules contain obsolete references to combined filing for a married couple that is no longer allowed under state law. The Department plans a technical cleanup of obsolete references over the next two years. Because the rules do not affect existing taxpayer obligations, amendment is not considered a priority, the Department states.

Minnesota Rules 8110 - Certificate of Real Estate Value

The Department plans to revise the certificate of real estate value form so that it can be read using optical character recognition, but did not indicate that a specific date for implementation has been established.

Minnesota Rules 8120 - Taxes; Cigarette and Tobacco Products

The Department identified a number of rules that are obsolete: Minnesota Rules 8120.0800 dealing with tax meter machines is obsolete because tax meter machines are no longer used. Since January 1, 1990, Minnesota Statutes § 297.03 has required the use of heat-applied cigarette tax stamp machines. Minnesota Rules 8120.1100, subpt. 3 requiring distributors to retain damaged or out-dated cigarette inventory is obsolete because the Department no longer has need for this requirement. Minnesota Rules 8120.1400 can be eliminated because distribution of free samples of cigarettes is prohibited by statute. Minnesota Rules 8120.1700 requiring corporate surety bonds in support of distributors' licenses is obsolete because the statute requiring a corporate surety bond was repealed effective for bonding periods after December 31, 1989. Minnesota Rules 8120.2800 and Minnesota Rules 8120.5100 subpt. 1 dealing with gratuitous distributions of cigarettes and tobacco products by state institutions can be repealed because by statute state institutions must purchase tax-paid cigarettes and tobacco products. The Department states that it has asked that all of these rules be included in a bill providing for the repeal of obsolete rules. The timetable for elimination of the rules is dependent upon passage of that bill.

Minnesota Rules 8121 - Metropolitan Solid Waste Landfill Fee

Minnesota Rules 8121.0500, subpt. 2, dealing with metalcasting facilities is obsolete because the statutory period for exempting these facilities from the landfill fee has expired. The Department states that it has asked that all of these rules be included in a bill providing for the repeal of obsolete rules. The timetable for elimination of the rules is dependent upon passage of that bill.

Minnesota Rules 8130 - Sales and Use Taxation

The Department indicated it is revising the following rules: Minnesota Rules 8130.1200 - Sales of Building Material, Supplies or Equipment; Minnesota Rules 8130.6200 - Charitable, Religious, and Educational Organizations; Minnesota Rules 8130.6500 - Aircraft Commercial Use Permit, and Minnesota Rules 8130.9500 - Aircraft Registration. The Department also indicated that Minnesota Rules 8130.9912-9996 (forms) no longer have an immediate, necessary and substantial impact on achieving the interest intended to be protected. It has asked that all of these rules be included in a bill providing for the repeal of obsolete rules. The timetable for elimination of the rules is dependent upon passage of that bill.

PROCEDURAL RULES

These rules define the procedures an agency will follow as those procedures impact the regulated entities or the general public.

Rules Which Do Not Directly Affect Businesses

Department of Administration

Without comment the Department indicated that the following rules do not affect businesses:

Minnesota Rules 1200--Insurance Claims

Minnesota Rules 1205--Data Practices

Minnesota Rules 1225--Lost Property and Parking

Minnesota Rules 1235--Public Rallies

Minnesota Rules 1245--State-Owned Real Property

Minnesota Rules 1255--State Surplus Property Sales Section

Minnesota Rules 1260--Federal Surplus Property

Minnesota Rules 1200 define the procedures the Department uses in handling insurance claims involving Central Motor Pool vehicles. Minnesota Rules 1205 deal with the administration of the Minnesota Data Practices Act. Minnesota Rules 1225 govern the disposition of personal property found in the capitol complex or other buildings under the custodial control of the Commissioner of Administration and govern the parking of motor vehicles in parking facilities owned or operated by the state of Minnesota and under the custodial control of the Commissioner of Administration. Minnesota Rules 1235 govern the issuance of permits for public rallies in or on the capitol complex buildings and grounds. Minnesota Rules 1245 govern the state's acquisition of real property for the operation of state government. Minnesota Rules 1255 govern the disposition of surplus personal property owned by the state. Minnesota Rules 1260 govern the disposition of federal surplus property made available by the federal government for transfer to governmental or nonprofit organizations for any purpose authorized by federal and state law.

Office of Administrative Hearings

Minnesota Rules 1400 - Hearings

Minnesota Rules 1405 - Power Lines; Plant Siting

Minnesota Rules 1415 - Litigation Procedures

The Office of Administrative Hearings stated that these rules specify procedures for hearings conducted by administrative law judges and workers' compensation judges. The rules relate to the provision of fair and impartial hearings to parties involved in the hearing process. They do not deal with either the regulation or benefit rights of businesses. The Chief Administrative Law Judge added that Minnesota Rules 1400 and 1405 were reviewed and updated in 1991, and the rules relating to workers' compensation litigation procedures are currently being revised.

Minnesota State Arts Board***Minnesota Rules 1900 - Grant Procedures***

These rules set forth procedures and standards to be followed by the Board in receiving, considering, and reviewing requests for and distribution of grants.

Office of the Attorney General***Minnesota Rules 2010 - Rules Review***

These rules establish the criteria and procedure used by the Office of the Attorney General in reviewing rules submitted to it as required by the state Administrative Procedure Act.

State Board for Community Colleges***Minnesota Rules 8450 - Policies and Regulations***

These rules address internal operating policies and procedures of the Board.

Department of Corrections***Minnesota Rules 2940 - Office of Adult Release******Minnesota Rules 6600 - Procedural Rules of the Board of Pardons***

Minnesota Rules 2940 establish policies, procedures, rules, regulations and guidelines which govern the operation of the office of adult release in the Department. Minnesota Rules 6600 establish procedures by which individuals may apply to the Board for a pardon or commutation.

Designer Selection Board***Minnesota Rules 3200 - Procedural Rules***

These rules establish Board operating procedures, including quorum requirements, participation of others at Board meetings, restrictions on member discussion with candidates outside of Board meetings, and selection criteria used by the board.

Department of Education***Minnesota Rules 3560 - Management Information Systems***

These rules establish data standards submitted to the Department of Education or State Board of Education by school districts.

Department of Employee Relations***Minnesota Rules 3900 - Personnel******Minnesota Rules 3905 - Statewide Affirmative Action Program******Minnesota Rules 3910 - Social Security***

Minnesota Rules 3900 establish personnel rules affecting the employment of individuals by the state. Minnesota Rules 3905 establishes the statewide affirmative action program for persons in the classified and unclassified service of executive branch agencies. Minnesota Rules 3910 establishes procedures for handling Social Security contributions and record keeping requirements for the state and political subdivisions.

Environmental Quality Board

Minnesota Rules 4405 - Operating Procedures

Minnesota Rules 4410.8100-4410.9900 - Critical Areas Planning Process

Minnesota Rules 4405 establish board meeting procedures, and procedures for hearings on matters within the Board's jurisdiction. Minnesota Rules 4410.8100-4410.9900 implement the Critical Areas Act of 1973, Minnesota Statutes § 116G.01-116G.14. The rules set forth the duties and responsibilities of the Board, state agencies, regional development commissions and units of local government in the identification and design of critical areas and preparation and implementation of plans for critical areas.

Department of Health

Minnesota Rules 4615.0750-4615.0760 - Maternal and Infant Health

Minnesota Rules 4615.0800 - Maternal and Infant Health

Minnesota Rules 4615.0750-4615.0760 deal with responsibilities of the Department of Health to assure that persons diagnosed with certain metabolic diseases have access to treatment tests and financial assistance. Minnesota Rules 4615.0800 deal with the reporting of maternal deaths by health care providers.

Minnesota Rules 4670 - Merit System

These rules establish standards of personnel administration for local public health agencies.

Minnesota Rules 4700 - Community Health Services

These rules establish a process for allocating state and federal funds in the form of grants and subsidies to assist in establishing and maintaining community health services. The rules relate solely to cities and counties and therefore do not affect businesses.

Minnesota Rules 4735.0100-4735.0120 - Local Officers and County Boards; Fees

These rules allocate duties of the Commissioner of Health and local officers and county boards.

Department of Human Services

Minnesota Rules 9550 - General Administration of Social Services

Minnesota Rules 9566 - Support Payments

Minnesota Rules 9575 - Merit System

Minnesota Rules 9550 deal with the administration of community social services. Minnesota Rules 9566 establish forms that can be used by individuals who are obligated to pay child support or maintenance and by individuals to whom child support or maintenance is owed to request modification of existing court orders such as cost of living adjustments. Minnesota Rules 9575 establish standards for county human service merit systems.

Department of Jobs and Training***Minnesota Rules 3330 - Employment and Economic Development***

These rules interpret and clarify portions of the Minnesota Employment and Economic Development Act authorized by Minnesota Statutes § 268.672 to § 268.682.

Bureau of Mediation Services***Minnesota Rules 5500 - Hearing Procedures******Minnesota Rules 5510 - Public Employment Labor Relations***

Minnesota Rules 5500 establish rules for proceedings before the Commissioner of the Bureau, before appointed commissioners or referees, before labor referees, and before boards of arbitration. Minnesota Rules 5510 apply to proceedings before the Commissioner of Mediation Services involving matters of representation and fair share fee challenges under the Public Employment Labor Relations Act.

Minnesota Planning***Minnesota Rules 4310 - Procedural Rules for Planning***

These are rules of the former State Planning Agency dealing with various state planning matters, including the preparation of comprehensive state plans, the land use planning grant program, public transit financial aid programs, outdoor recreation grant programs, health research programs, health resources planning, and intergovernmental affairs. Minnesota Planning, which took over many of the functions of the State Planning Agency when the State Planning Agency was abolished in 1991, states that these rules do not apply to Minnesota Planning.

Public Utilities Commission***Minnesota Rules 7840 - Conservation Improvement Program Appeals******Minnesota Rules 7845 - Standards of Conduct***

Minnesota Rules 7840 establish procedures for a utility, political subdivision, nonprofit or community organization that has proposed, or filed comments on, a conservation improvement program, or the attorney general acting on behalf of consumers and small business interests, may petition the Commission to modify or reject a Department of Public Service decision regarding a conservation improvement program. Minnesota Rules 7845 establish standards of conduct for Commission members and employees of the Commission.

Minnesota Racing Commission***Minnesota Rules 7869 - General Definitions******Minnesota Rules 7872 - Assignment of Racing Days******Minnesota Rules 7899 - Variances***

Minnesota Rules 7869 establish the general definitions used in all of the Commission's rules. Minnesota Rules 7872 deal with applications for racing days and the assignment of racing days. Minnesota Rules 7899 establish Commission procedure for granting variances.

Secretary of State

Minnesota Rules 8200 - Voter Registration

Minnesota Rules 8205 - Presidential Primary

Minnesota Rules 8210 - Absentee Ballots

Minnesota Rules 8220 - Voting Machines

Minnesota Rules 8230 - Election Judges and Counting Centers

Minnesota Rules 8235 - Recounts

Minnesota Rules 8240 - Election Judge Training Program

Minnesota Rules 8250 - White Ballots

These rules deal with the election process and do not directly affect businesses.

Sentencing Guidelines Commission

Minnesota Rules 3000 - Sentencing Guidelines

These rules govern the promulgation of sentencing guidelines, which are used by judges to determine sentences of persons convicted of criminal offenses.

Board of Water and Soil Resources

Minnesota Rules 9300 - Local Water Management

These rules establish criteria for the development of local water management plans.

Office of Waste Management

Minnesota Rules 9200 - General Operating Procedures

Minnesota Rules 9215 - Solid Waste Planning

Minnesota Rules 9220 - Waste Tire Programs

Minnesota Rules 9200 establish operating procedures of the Waste Management Board, including issues of board governance, public participation, and supplementary review. Minnesota Rules 9215 establish standards for development of comprehensive waste management plans and issuance of certificates of need, and the formation of solid waste management districts. Minnesota Rules 9220, dealing with waste tire programs, are now administered by the Pollution Control Agency and are discussed in connection with that agency's response to the Executive Order.

Rules Which Directly Affect Businesses and Meet the Test of the Executive Order***Department of Commerce***

Minnesota Rules 2655 - Interstate Banking

These rules govern applications by a bank holding company located in another state to acquire a Minnesota bank under the Minnesota Reciprocal Interstate Banking Act (Minnesota Statutes § 48.93 and § 48.99). The rules also establish reporting requirements and provide for annually rating interstate financial institutions operating in Minnesota. The Department states that these rules are necessary to provide a uniform application process and to provide data to businesses and regulators to evaluate interstate-owned financial institutions. The Department notes that

Minnesota Rules 2655.1000 has been effectively repealed by Minnesota Statutes § 47.85 and that it plans to repeal the rule during the first half of 1993.

Minnesota Rules 2660 - Savings and Loan Associations

These rules govern the application by and approval procedures for a savings and loan association with its principal place of business located in another state to acquire or operate a branch office in Minnesota. The Department states that the rules protect Minnesota businesses and residents by ensuring that certain financial standards are met in such acquisitions or savings and loan operations. The Department indicates that Minnesota Rules 2660.0070 has been effectively repealed by the enactment of Minnesota Statutes § 47.85. The Department expects to repeal the rule during the first half of 1993.

Minnesota Rules 2730 - Health Maintenance Organizations

These rules specify the areas for examination for licensure of agents, solicitors, and brokers who wish to engage in the business of enrolling participants in health maintenance organizations. The Department states that the rules are necessary to identify the standards that will be applied by the Department in examining these potential licensees. The Department indicates some portions of the rules should be amended to reflect statutory changes that assign responsibility to the Department of Health to assure that health maintenance organizations do not incur unreasonable expenses.

Minnesota Rules 2820 - Forms for Conveyances of Real Estate

These forms, adopted through the rulemaking process, provide a clear and uniform means of conveying interest in real property, in conformity with state law. The Department states that the rules are necessary and substantial to facilitate the transfer of real estate, which requires precise language and documents. The Department works with members of the Minnesota Bar and real estate practitioners in developing uniform documents.

Minnesota Rules 2890 - Petroleum Tank Release Compensation Board

These rules establish procedural requirements of the Board and the application procedures for making a claim for reimbursement for petroleum tank releases as provided by statute. The Department indicated that while it provides administrative staff to the Board, it has no involvement in the rules governing the Board. The Board was not separately solicited for its response to the Executive Order.

Environmental Quality Board

Minnesota Rules 4400 - Power Plant Siting and High Voltage Transmission Line Routing

These rules implement the Power Plant Siting Act of 1973, Minnesota Statutes § 116C.51. The Board states that the purpose of the program is twofold: (1) to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources, and (2) to provide for the evaluation of the effects of such power facilities on land, water, and air resources and on public

health and welfare. The regulatory review requirements of Minnesota Rules 4400 also incorporate the requirements of environmental review (Minnesota Rules 4410) into the Board's siting and routing process. The process places heavy emphasis on public participation through citizen committees, public meetings and hearings, and the appointment of a public advisor. The Board states that the rules have an immediate, necessary and substantial impact on achieving the interested to be protected by the rule by establishing a process that protects the interests of the public and the applicant, provides for environmental review, and minimizes duplication and delay in the review process. Revisions to Minnesota Rules 4400 were completed in December 1990.

Minnesota Rules 4410.0200-4410.7500 - Environmental Review Rules

The Environmental Review program was established by the Minnesota Environmental Policy Act (MEPA) of 1973. The purpose is to minimize adverse environmental impacts from human activities by informing project proposers, the public, and governmental decision-makers of potential environmental impacts of major development projects and how the impacts could be avoided.

Review is accomplished by analyzing the Environmental Impact Statement (EIS) or the Environmental Assessment Worksheet (EAW), which is prepared by the project proposer. Criteria for both the EIS and the EAW are set forth in the rules. The rules list the types and sizes of projects for which preparation of these documents is mandatory. The rules also provide for a process whereby 25 or more citizens may request preparation of an EAW in cases where an EAW is not required. The Board also has established a generic EIS process which provides for analysis of the impact of a common class of activities, which can later be used to facilitate review of specific projects of the class.

The Board states that the environmental review rules accomplish the interests they were designed to protect by requiring the proposer to provide information about the project through a structured disclosure and review process and by providing the public with a process where they may comment on the project. The process is designed to bring information into the decision making process which may not otherwise have been included.

The Board revises its environmental review rules periodically. Since 1974, the rules have been fundamentally revised twice and were amended less extensively twice more. The Board is currently considering revising the program to address issues that have arisen in recent years.

Gambling Control Board

Minnesota Rules 7865 - Lawful Gambling - Disciplinary Actions

These rules relate to disciplinary actions of the Board, including a description of the process, the suspensions or revocations, fines and stays. The Board states the rules are necessary to implement Minnesota Statutes § 349.151, subd. 4, which provides for fines, suspension and revocation of licenses and premises permits, and other enforcement measures to assure the integrity of and public confidence in lawful

gambling. The rules set for the details of how such disciplinary action will be imposed.

Department of Health

Minnesota Rules 4600 - Vital Statistics

These rules establish procedures for reporting vital statistics to the Health Department. The Department states that these rules are necessary to assure the reporting of births and deaths to the Department. Copies of birth and death certificates are needed by individuals to establish eligibility for services or benefits and rights to citizenship, property, and insurance and pension benefits. Statistics derived from the reporting system are needed by a wide variety of researchers and are essential for health program planning and evaluation.

Minnesota Rules 4605 - Communicable Diseases

These rules establish procedures for reporting communicable diseases to the Department. The rules enable the Commissioner to identify causes and modes of transmission and take necessary action to interrupt transmission of communicable diseases. The Department states that without the reporting of communicable diseases and follow-up by the Department, death and disability may occur.

Minnesota Rules 4606 - Cancer Surveillance System

These rules implement statutes requiring health care providers to report cancers to the Department of Health. The Department states that without such reporting, the Commissioner would not be able to identify causes of cancer and would be unable to identify trends or respond to reported clusters of cancer.

Minnesota Rules 4617 - WIC Program

These rules establish criteria for vendor participation in the Women, Infants, and Children (WIC) program. The Department states that two interests are protected by the rule: assuring that low income women, infants and children who participate in the program have convenient access to supplemental foods that are considered necessary for good health, and establishing procedures for allocating limited and fixed federal funds for the program. The rule achieves these interests by establishing participation criteria and application procedures for vendors to assure convenient vendor location and adequate stock, and establishing sanctions for vendors who violate program requirements. The interests cannot be protected without the rule, because without the rule there may be inadequate numbers of vendors, vendors might not maintain an adequate stock of supplemental foods; vendors might charge excessive prices that would reduce the number of persons who could participate in the program, and vendors might violate program requirements, thereby depriving participants of prescribed foods.

Minnesota Rules 4695 - Human Resources

These rules establish procedures for collection of health-care human resources by the Department and provide for the licensing of sanitarians. (See section on Occupational Licensing.)

Minnesota Rules 9400 - Water Treatment Certification

These rules provide for the classification of public water supply systems based on the degree of hazard to the public, together with the type and loading of plant and the population protected. The rules also provide for the certification of water treatment facility operators (see section on Occupational Licensing). The Department states that these rules are authorized or required by statute, were adopted in accordance with established procedures, and are necessary and reasonable to protect public health and the environment. The Department further states that it regularly monitors and reviews rules to assure that they continue to serve their stated purpose.

*Department of Jobs and Training**Minnesota Rules 3310 - Unemployment Compensation Procedure*

These rules address procedural elements of the state unemployment compensation program. The Department states that these rules were adopted to clarify Minnesota Statutes § 268.03 - § 268.24, to incorporate various administrative and judicial interpretations of the statutes into the rules, and to establish by rule specific requirements not addressed by the legislature but needed to ensure compliance and consistency in administering the unemployment compensation law. The Department states that the rules are necessary to clearly identify for Minnesota employers and others what information must be provided to enable the agency to collect taxes and determine benefit eligibility. The rules are also necessary to enable the Department to meet federal standards.

*Department of Labor and Industry**Minnesota Rules 5210 - Safety and Health Administration*

These administrative rules implement the occupational safety and health act and provide guidance to employers concerning their rights and responsibilities under the act. Most of the rules affect agency operations and outline the procedures used by the occupational safety and health division to propose and adopt standards, conduct inspections, issue citations, process variances, and register trade secrets. The Department recently amended these rules and final adoption will be announced soon.

Minnesota Rules 5215 - Occupational Safety and Health Review Board

These are procedural rules for making an appeal to the Board. The rules also establish the Board's process for accepting, hearing and deciding cases. The Board provides a neutral forum to resolve disputes arising from an occupational safety and health inspection. The Department states that the rules are necessary to assure due process in cases involving OSHA citations. The Department is in the process of amending portions of these rules to conform to recent changes in the law.

Minnesota Rules 5217 - Medical and Rehabilitation: Reviews

Medical and rehabilitation review boards and panels are established by statute to review administrative law judges' reports, Commissioner's Orders, clinical results, rates, discipline, settlements, and participation in public education. The intent of these rules is to provide an objective review of workers' compensation contested cases by a panel comprised of a cross-section of members of the workers' compensation community. The Department states that the rules are necessary to establish impartial and fair procedures and a forum to implement the statutory directives. The review process enables employers and other parties to have contested cases resolved without the need or expense of legal representation. Medical and rehabilitation review is also expected to lower costs by encouraging better, more efficient care and earlier return to work. This in turn is expected to reduce the cost of workers' compensation insurance.

Minnesota Rules 5220 - Compensation and Rehabilitation

These rules provide guidance to the parties on how a workers' compensation claim should proceed through the system. The rules are intended to ensure that all parties' rights are protected, benefits are paid or timely denied, and the employee returns to work in a timely manner. The Department states that the rules are necessary to provide a framework for all parties to implement the statute. The rules also provide for greater employer involvement in the workers' compensation claim process. Early employer intervention in claim and rehabilitation issues can greatly reduce or eliminate the severity of the costs.

Minnesota Rules 5222 - Benefit Reimbursement; Notice of Coverage

Minnesota Rules 5222.0100-5222.1000 establish the procedure by which an employer may apply for an administrative finding of permanent total disability in order to obtain reimbursement for supplementary benefits. Reimbursement allows the employer to reduce its cost for long-term workers' compensation claims, thereby reducing its premiums. Minnesota Rules 5222.2000-5222.2006 govern the filing of insurance coverage notices and are necessary to ensure that employers are given timely notice of coverage and cancellations so that they can remain in compliance with the workers' compensation law. Minnesota Rules 5222.3000-5222.3007 establish procedures for wood mills and qualified logger employers to make reports to the Commissioner under the targeted industry fund reporting process. That process, established by Minnesota Statutes § 176.130, encourages qualified logger employers and their employees to become more safety conscious, thus reducing claims and claim costs and corresponding insurance premiums. Qualified logger employers may directly reduce premiums by qualifying for yearly rebates.

Minnesota Rules 5223 - Disability Schedules

These rules establish specific percentages of disability of the body as a whole for specific permanent partial disabilities. The Department states that these rules have an immediate, necessary and substantial impact on achieving the interests of

predictable payments and avoiding unnecessary litigation, thereby contributing to stability in workers' compensation premiums.

Minnesota Rules 5224 - Independent Contractor

These rules establish standards for distinguishing between an employee and an independent contractor. The rules are immediate, necessary, and substantial to achieve the interests of predictability in determining whether a worker is an employer or an employee and conformity among governmental agencies with similar standards. The Department indicated review of these rules is necessary to further eliminate confusion and promote conformity with the standards of other agencies.

Bureau of Mediation Services

Minnesota Rules 5505 - Collective Bargaining Representatives

These rules govern the conduct of proceedings before the Commissioner of Mediation Services involving investigation and certification of representatives for collective bargaining. The rules require anyone (including the employer) who wishes the Bureau to investigate a question concerning the representation of employees for collective bargaining to file a petition with the Board. The rules specify the information that must be provided in the petition. Filing a petition is a necessary prerequisite to Board investigation or a hearing. The Bureau states that these rules will directly impact an employer in those situations where the company's work force is seeking to be represented by a union.

Pollution Control Agency

Minnesota Rules 7000 - Procedural Rules

These rules establish the general procedures the MPCA Board and staff follow in conducting the business of the Agency, making decisions, and generally providing fair and equitable access to the process by all interested parties. A work group of Agency clients has recently reviewed these rules and made recommendations for improvements to the Commissioner and the Board. The Agency is presently considering these recommendations.

Minnesota Rules 7001.0500-7001.0730 - Hazardous Waste Permits

These rules provide for the permitting of hazardous waste facilities. The state is required to promulgate administrative rules that include federal requirements in order to retain authorization from the federal Environmental Protection Agency to administer and enforce a state hazardous waste management program in lieu of a federal program under Subtitle C of the Resource Conservation and Recover Act.

Minnesota Rules 7001.1000-7001.1100 - NPDES Permits

These rules govern the procedures, issuance, and conditions of a National Pollution Discharge Elimination System (NPDES) permit. Discharge parameters are established based on water quality standards and help assure that public use and benefits are maintained. The Agency states that the rules are necessary to establish uniform standards and procedures for issuing these permits.

Minnesota Rules 7001.1200-7001.1220 - Air Quality Permits

The Agency states that these rules are necessary to comply with the federal Clean Air Act requirement that states establish rules and procedures for issuing operating permits to facilities that emit certain toxic air pollutants. Although Minnesota has had an air quality operating permit program for many years, amendments to these rules are required to conform the state's rules to new federal requirements. Steps the Agency plans to take to amend these rules to conform to federal requirements are discussed in the section of this report on rules that will be eliminated or revised.

Minnesota Rules 7001.1400-7001.1470 - 401 Certifications

These rules govern the processing of certifications by the Agency under Section 401 of the Clean Water Act. The agency states that the rules are necessary to establish the administrative process for the permit program.

Minnesota Rules 7044 - Priority Assessment Criteria

These rules establish criteria for determining priorities for controlling releases and threatened releases of hazardous substances, pollutants, or contaminants. The Agency states that the rules are necessary because they establish procedures by which the Agency must prioritize, evaluate, and allocate funds under the Minnesota Environmental Response and Liability Act. The Agency presently is amending the rules to update and clarify them. The rules are expected to be effective in March, 1993.

Minnesota Rules 7050 - Waters of the State

These rules classify and establish water quality standards for state waters based on their use and characteristics. The Agency states that the rules are necessary to specifically define water pollution, to identify water quality standards for individual waters, and to provide the technical basis for developing permits and taking enforcement action.

Minnesota Rules 7056 - Mississippi River and Tributaries

These rules establish water use and quality standards for the portion of the Mississippi River and its tributaries that supplies the cities of Minneapolis and St. Paul with drinking water. The standards were developed to protect drinking water supplies and to address related public health concerns and issues regarding historical usage of the river. The Agency states that the rules are necessary to assure that water from this segment of the Mississippi River meets drinking water standards.

Minnesota Rules 7060 - Underground Waters

These rules implement the Minnesota Ground Water Protection Act and establish agency policy concerning ground water protection. Technological advances in cleaning up ground water contamination has been advanced and the availability of new programs for ground water cleanup and protection have caused the Agency not to apply these rules extensively and usually only in combination with other rules. The Agency indicated there is a need to revise the rules to accommodate and reflect

changes in environmental protection and response. An advisory group is providing input to this effort and it is expected that revisions will be proposed in 1993.

Minnesota Rules 7065 - Effluent Standards for Disposal Systems

These rules establish standards for effluent quality and purity for intrastate waters lying within the Lake Superior drainage basin in specified Minnesota border counties. The standards were developed to protect against contamination of Lake Superior and Lake St. Croix from state waters that drain into them. The Agency states that the rules are necessary to assure that the quality of Lake Superior and Lake St. Croix will not be degraded.

Department of Public Safety

Minnesota Rules 7505 - Crime Victims Reparation Board Hearing Procedures

The Department states that the section of this rule dealing with providers of mental health, physical therapy, chiropractic, medical and home care services to provide treatment plans for state payment meets the test of Executive Order 92-15 by ensuring that state payments are made only for reasonable services related to the claimant's victimization.

Public Utilities Commission

Minnesota Rules 7815 - Interexchange Calling

These rules establish criteria for petitioning the Commission for extended area telephone service. The Commission states that these rules provide stability in the interexchange calling policies of the various exchanges throughout the state and provide stability and predictability in telephone rates. The rules also provide for a community calling plan which provides business and residential customers with a less costly alternative to toll calling. The Commission notes that most of the rules in this chapter have been superseded by Minnesota Statutes § 237.161 which establishes standards and procedures for extended area calling services. The Commission did not, however, indicate it was planning to repeal the rules.

Minnesota Rules 7817 - Telephone Assistance Plan

These rules implement Minnesota Statutes § 237.69-237.711 which provides a telephone assistance plan to assist elderly or disabled low income telephone subscribers. The Commission states that the rules are necessary to fulfill its responsibilities under the statute. The rules were amended in 1991 to provide uniform standards and procedures for calculating and reimbursing a telephone company's administrative expenses associated with the telephone assistance plan.

Minnesota Rules 7825 - Utilities Regulatory Requirements

These rules establish uniform filing requirements for gas and electric proceedings before the Commission. The Commission states that the rules are a reasonable and necessary exercise of the Commission's regulatory responsibilities. The rules protect utilities from arbitrary and unequal filing requirements and also help protect against the delay and expense that occurs without uniform standards.

Minnesota Rules 7827 - Rate Adjustments

These rules establish guidelines for telephone and utility companies to calculate rate adjustments to reflect reductions in corporate income taxes resulting from the federal Tax Reform Act of 1986. The Commission states that since all of these calculations and filings have been completed, there is no further regulatory burden on these utilities. The Commission did not, however, indicate that it plans to repeal the rules.

Minnesota Rules 7830 - Practice and Procedure

These rules establish rules of practice and procedure for entities that appear before the Commission. The Commission states that the rules are necessary to ensure fairness and to assure predictability as the Commission deals with the approximately 1000 cases filed each year. The Commission indicated it plans to amend these rules this summer.

Minnesota Rules 7831 - Intervenor Compensation

These rules establish procedural and substantive criteria for reimbursing an intervenor for its costs incurred when intervening in a rate change proceeding before the Commission. The Commission states that the rules are necessary to ensure that compensation is provided only to those parties that materially assist the Commission in its deliberations and that do not have sufficient resources to participate in a proceeding without compensation.

Minnesota Rules 7835 - Cogeneration and Small Power Production

These rules establish the basis and informational requirements for determining the rates utilities must pay for energy purchased from energy providers classified as qualifying facilities under the federal Public Utility Regulatory Policies Act of 1978 and the Federal Energy Regulatory Commission regulations related to that Act. The Commission states that the rules are necessary to ensure compliance with federal law and state statutes governing qualifying facilities.

Minnesota Rules 7843 - Resource Planning Process

These rules establish the procedures, standards and informational requirements for regulatory review of utility resource plan filings. A resource plan is a utility's plan to meet the future energy needs of its customers. A plan must be filed every two years, and plans must cover a 15 year period. Plans are evaluated in a public proceeding which allows public input into policy decisions provides advance notice of issues that may arise in future proceedings. The Commission states that the rules are necessary to carry out the Commission's regulatory responsibilities in an efficient and forward looking manner. The rules protect ratepayers and shareholders and help ensure that Minnesota is prepared to meet the challenges of a rapidly changing energy industry.

Minnesota Rules 7847 - Large Energy Facilities

These rules set forth procedures to be followed in issuing a certificate of need for the construction of large energy facilities pursuant to Minnesota Statutes § 216B.243. The rules provide for intervention by interested parties and set forth rules of evidence and timelines to help ensure that the Commission meets the statutorily prescribed deadline for completion of these proceedings. The Commission states that the rules are necessary to carry out its mandate in a manner that ensures full public access and due process.

Minnesota Rules 7849 - Power Plants and Transmission Lines

These rules specify the content of applications for certificates of need under Minnesota Statutes § 216B.243 and set forth criteria for assessment of need for large electric generating facilities and large high voltage transmission lines. The Commission states that the informational requirements and evaluation criteria are necessary to determine need consistent with the requirements of the underlying statute.

Minnesota Rules 7851 - Gas Storage and Pipelines

These rules set forth the contents and evaluation criteria for applications for certificates of need for large liquified gas storage facilities, large underground gas storage facilities, and large gas pipelines for utilities and pipeline companies pursuant to Minnesota Statutes § 216B.243. The Commission states that the rules are necessary to carry out the Commission's statutory mandate to determine whether to permit the building of a large energy facility.

Minnesota Rules 7853 - Oil; LPG; Petroleum

These rules establish the contents and evaluation criteria for applications for certificates of need for large oil and liquid petroleum gas (LPG) storage facilities, large petroleum pipelines, and oil refineries for petroleum suppliers pursuant to Minnesota Statutes § 216B.243. The Commission states that the rules are necessary to carry out the Commission's statutory mandate to determine whether to permit the building of a large energy facility.

Minnesota Rules 7855 - Large Energy Facilities

These rules establish the contents and evaluation criteria for applications for certificates of need for fuel conversion facilities, coal slurry or coal liquid pipelines, nuclear fuel processing facilities, and nuclear waste storage or disposal facilities as provided in Minnesota Statutes § 216B.243. The Commission states that the rules are necessary to carry out the Commission's statutory mandate to determine whether to permit the building of a large energy facility.

*Secretary of State**Minnesota Rules 8260 - Uniform Commercial Code Forms*

These rules establish standardized forms for documents filed under the Uniform Commercial Code. Use of the forms qualifies the submitted for a reduced fee when

the forms are used for filing information in the Uniform Commercial Code database. The rules define what makes a form "standard" and therefore eligible for the lower filing fee. The Secretary of State's office proposed rules to replace these rules, which if adopted would give the Secretary of State the authority to adopt experimental forms. This ability to experiment with forms and content will enable the Secretary of State to establish forms that are clearer and easier to use.

Transportation Regulation Board

Minnesota Rules 7800 - Motor Carrier Operations

These joint rules of the Transportation Regulation Board and the Department of Transportation implement Minnesota Statutes § 221.031, subd. 1(b) and 1(g). The rules establish the procedure for granting certificates of convenience and necessity and permits to motor carriers; establish rules governing various types of motor carrier operations, and establish requirements for shipping documents, charges for shipments and claims against carriers. The Board states that the rules are necessary to carry out the purposes of the underlying statute. Minnesota Statutes Chapter 221 was amended substantially during the 1992 legislative session. As a result, a number of the rules in Minnesota Rules 7800 are obsolete. The rules are scheduled for amendment in 1993.

Minnesota Rules 8900 - Motor Carrier Ratemaking

These rules establish the rate making procedure utilized by the Board. The Board states that the rules have an immediate, necessary and substantial impact on achieving the interests of assuring uniform, reasonable, and nondiscriminatory rates and charges for shippers and receivers, continuation of joint through interline service, and efficiency in establishing, submitting, and considering rate proposals.

Minnesota Rules 8910 - Railroads; Right of First Refusal

These rules implement Minnesota Statutes §§ 222.631-222.633, which require a railroad interest to offer leaseholders a first opportunity to purchase real property within a right-of-way that is either being abandoned or offered for sale. The rules establish a procedure to resolve disputes and provide for the use of independent appraisers. The Board indicated that the statute and rules are intended to protect leaseholders of property within a railroad right of way. Primarily, these are country elevators and feed mills.

Minnesota Rules 8920 - Administrative Practice and Procedure

These rules establish rules of administrative practice and procedure before the Board. The Board states that the rules have an immediate and substantial impact on parties and their attorneys in petitioning for Board approval of new, additional, or modified motor carrier operating authority. The rules establish objective criteria and definite timelines for those proceedings. The rules were adopted in 1992.

Rules Which Will Be Eliminated or Revised

Office of Administrative Hearings

Minnesota Rules 1415 - Litigation Procedures

The Office indicated that these rules are currently being revised, but did not provide a timetable for accomplishing this.

Department of Commerce

Minnesota Rules 2650 - Establishing Financial Institutions

These rules as originally adopted were intended to establish formal procedures for a hearing and review of applicants desiring to form a new savings and loan association, a new bank, or a new industrial loan and thrift company. The procedures described under these rules are no longer applicable to such applicants because Minnesota Statutes § 45.024 requires that any hearing must be conducted in accordance with Minnesota Statutes Chapter 14. The Department indicated it will attempt to complete repeal of Minnesota Rules 2650 within the next year.

Minnesota Rules 2655 - Interstate Banking

Minnesota Rules 2660 - Savings and Loan Associations

These rules have been effectively repealed by Minnesota Statutes § 47.85. The Department plans to repeal the rules during the first half of 1993.

Minnesota Rules 2730 - Health Maintenance Organizations

The Department indicated Minnesota Rules 2730.0500, 2730.0600, and 2730.0700 should be amended to reflect statutory changes that assign responsibility to the Department of Health to assure that health maintenance organizations do not incur unreasonable expenses. The Department indicated it expects the Department of Health to initiate rulemaking to accomplish this.

Department of Labor and Industry

Minnesota Rules 5215 - Occupational Safety and Health Review Board

The Department is in the process of amending portions of these rules to conform to recent changes in the law.

Minnesota Rules 5217 - Medical and Rehabilitation Reviews

These rules are expected to be reviewed in 1993 and amended to include public education as required by statute and to broaden employer participation in resolution of workers' compensation issues.

Minnesota Rules 5220 - Compensation and Rehabilitation

These rules are in the process of being reviewed for revision in light of recent statutory changes to the workers' compensation law.

Minnesota Rules 5223 - Disability Schedules

These rules are being reviewed for revision in 1993.

Minnesota Rules 5224 - Independent Contractor

The Department indicated review and revision of these rules is necessary to make them clearer and to better conform to similar standards of other government agencies. Although this review is not scheduled for 1993, the Department believes review and revision should be accomplished by 1995.

*Bureau of Mediation Services**Minnesota Rules 5500 - Hearing Procedures**Minnesota Rules 5505 - Collective Bargaining Representatives**Minnesota Rules 5510 - Public Employment Labor Relations*

The Bureau indicated it is reviewing all of its rules that apply to employers, and plans to complete this review by June 30, 1993.

*Minnesota Planning**Minnesota Rules 4310 - Procedural Rules for Planning*

The agency indicated that these are rules of the former State Planning Agency. Although Minnesota Planning took over many of the functions of the State Planning Agency when the State Planning Agency was abolished in 1991, it states that these rules do not apply to Minnesota Planning. Thus it would appear these rules could be eliminated, although the Agency did not indicate any plans to do so.

*Pollution Control Agency**Minnesota Rules 7000 - Procedural Rules*

These rules establish the general procedures the MPCA Board and staff follow in conducting the business of the MPCA, making decisions, and providing access to the process by all interested parties. A broad based work group of agency clients has recently reviewed these rules and made recommendations for improvements to the Commissioner and the Board. The recommendations are currently under consideration by the Agency.

Minnesota Rules 7001.1200-7001.1220 - Air Quality Permits

Amendments to the federal Clean Air Act and recent conforming Minnesota statutory amendments require the agency to amend its existing rules. The Agency states that in addition to incorporating new federal requirements into its rules, it will attempt to streamline permitting procedures for smaller sources that are not required to obtain a federal permit. In cases where permits are required by federal law, the Agency states that it will attempt to reduce unnecessary permitting activities to the extent possible.

Minnesota Rules 7060 - Underground Waters

An advisory group is assisting the Agency in reviewing and amending these rules to reflect advances in technology and new groundwater cleanup and protection programs that have occurred since the rules were adopted in 1973. New rules are expected to be proposed in 1993.

Public Utilities Commission***Minnesota Rules 7830 - Practice and Procedure***

The Commission indicated that it has drafted updated rules which clarify issues that have been confusing in the past and which respond to recent statutory changes. It expects to promulgate rule amendments this summer.

Secretary of State***Minnesota Rules 8260 - Uniform Commercial Code Forms***

The Secretary of State's office has proposed new rules for establishing uniform forms which if adopted would give the Secretary of State the authority to adopt experimental forms. The ability to experiment with forms and content and make modifications based on business experience with the forms will enable the Secretary of State to establish forms that are clearer and easier to use.

EFFORTS TO INFORM STAFF OF THE EXECUTIVE ORDER

Licensing boards and agencies took a number of steps to inform staff of the Executive Order. These included:

- * Distributing copies to all staff.
- * Distributing copies to managers and supervisors, who informed staff.
- * Distributing copies to staff members who are responsible for rules.
- * Publishing the Executive Order in the agency's employee newsletter.
- * Posting the Executive Order on employee bulletin boards and at other locations within the agency.
- * Conducting follow-up meetings with appropriate staff on progress in complying with the Executive Order.
- * Distributing copies to members of licensing boards or commissions.

Licensing boards and agencies responded specifically as stated below. Boards and agencies not listed did not respond to this question.

Occupation-Specific Licensing Board Responses

Board of Abstractors

There is only one staff member. A copy of the Executive Order was sent to all Board members.

Board of Accountancy

The Executive Order was discussed at a staff meeting.

Board of Architecture, Engineering, Land Surveying, Landscape Architecture, and Interior Design

A copy of the Executive Order was distributed to each Board member and staff person.

Board of Barber Examiners

The Board indicated that its two office staff have a copy of the Executive Order to which they can refer. In addition, the four Board members were given a copy and it was discussed and noted in Board meeting minutes.

Board of Chiropractic Examiners

Staff were notified of the Executive Order at a staff meeting.

Board of Dentistry

The Executive Order was discussed at a staff meeting.

Board of Electricity

The Executive Order was discussed with all employees at a staff meeting.

Board of Medical Practice

A copy of the Executive Order was distributed to staff.

Board of Nursing

A copy of the Executive Order was given to all supervisors.

Peace Office Standards and Training Board

The Board stated that since none of its rules affect businesses, it made no efforts to inform staff of the Executive Order.

Board of Podiatric Medicine

There is only one staff person.

Board of Teaching

The Board stated that it has two employees, and both have been advised of the Executive Order.

Minnesota Technical College System

All staff with a need to know have been informed.

Board of Veterinary Medicine

The Board indicated that its two staff members are aware of the Executive Order.

Executive Department Responses***Department of Administration***

An article about Executive Order 92-15 was included in the Department's all-employee newsletter. Copies of the Order were given to all Department managers who have discussed the Order with appropriate staff.

Department of Agriculture

Staff who have policy making and rule writing responsibilities were informed of the Executive Order and reviewed the applicable rules as required.

Board of Animal Health

Copies of the Executive Order were distributed to all staff.

Minnesota State Arts Board

The Executive Order was posted in a public area for staff members to review.

Office of the Attorney General

Only one division of the Office of the Attorney General is responsible for attorney general rules. This division received the order and is aware of its requirements.

Department of Commerce

A copy of the Executive Order was distributed to all staff. In addition, numerous staff members were consulted with respect to the agency's response to the Executive Order.

Department of Corrections

The Department distributed the Executive Order to all staff following internal distribution procedures.

Designer Selection Board

Board members were given a copy of the Executive Order, discussed it, and found no need for change of the current rules.

Environmental Quality Board

Executive Order 92-15 was distributed to all members of the agency.

Ethical Practices Board

The Board stated that all staff with input to the formulation of rules were provided with a copy of the Executive Order.

Gambling Control Board

A memo was circulated to each staff with a copy of the Executive Order and a request for input. Staff responses were included in the Board's analysis of its rules.

Department of Health

Copies of the Executive Order were distributed to appropriate personnel in all divisions. To ensure that all employees are aware of the Executive Order, a notice and pertinent parts of the Executive Order were published in the Department's newsletter, which is circulated to all employees.

Minnesota Housing Finance Agency

The Executive Order was reviewed at a senior staff meeting and with staff who actually prepare rules for adoption.

Department of Human Services

All Department assistant commissioners, division directors and treatment center CEOs were provided copies of Executive Order 92-15 and were instructed to advise all of their staff of the Order. The Order also has been posted in various locations throughout the agency.

Indian Affairs Council

A copy of the Executive Order was provided to each member of the staff.

Department of Jobs and Training

All administrative managers and the person in each division responsible for rulemaking were sent a copy of Executive Order 92-15 along with a request for their response to the requirements of the Order.

Department of Labor and Industry

The Executive Order was posted on all employee information bulletin boards located in the Department. All assistant commissioners were given copies of the Executive Order and subsequent communications relating to the Executive Order. The Executive Order and the Department's activity relative to the Order have been discussed in the Department's managers' and supervisors' meetings and in weekly staff meetings held by the assistant commissioners.

Bureau of Mediation Services

A copy of the agenda was given to all staff, and the issue was placed on a staff meeting agenda.

Department of Natural Resources

The Department's administrative rule coordinator met with representatives of all units that have rules to discuss the Executive Order and assign personnel to respond.

Pollution Control Agency

Agency managers were notified of the Executive Order at manager meetings, and staff were assigned in each Division to begin working on the evaluation of rules. In January, the assistant commissioner notified all staff of the Executive Order via the Agency's electronic mail system.

Department of Public Safety

The Department used its newsletter, *Public Safety Pulse*, to advise all staff of Executive Order 92-15. A copy was included with the Department's response to the Executive Order. Further, the director of each division that administers Department rules was notified by letter and received a copy of the Executive Order. In addition, Department employees who supervise the administration of Department rules were interviewed to analyze the effect of Department rules on Minnesota businesses and to help write responses.

Department of Public Service

All managers and supervisors were provided copies of the Executive Order.

Public Utilities Commission

A copy of the Executive Order and letter from Commissioner Gillette was distributed to all Commission staff.

Minnesota Racing Commission

All managers on the Racing Commission staff were consulted on the requirements of the Executive Order, and input was sought from all persons on staff who work with rulemaking and rule promulgation. In addition, the chair of the Commission's rules subcommittee was advised on the need for compliance with the Executive Order.

Department of Revenue

The Department circulated written information and held discussions among management and operational staff to determine which rules could be changed. This has been an ongoing effort by the Department.

Secretary of State

All supervisory staff were informed of the Executive Order on February 10, 1993. Each supervisor notified line staff at subsequent division staff meetings.

Department of Trade and Economic Development

The Executive Order was distributed to staff by the directors of the Department's operating units.

Department of Transportation

The Executive Order was discussed at a deputy commissioner's staff meeting in January. Division staff were subsequently informed.

Transportation Regulation Board

The Executive Order was distributed to all staff.

Department of Veterans Affairs

The Executive Order was discussed at management and supervisory staff meetings.

Office of Waste Management

A copy of the Executive Order was distributed to all staff, and the Order was discussed by Office directors and supervisors.

Board of Water and Soil Resources

The Executive Order was distributed to appropriate staff for their response.

Minnesota Zoological Board

The Executive Order was distributed to all staff and posted on bulletin boards.

METHODS OF ASSISTING BUSINESSES IN COMPLIANCE WITH RULES

Licensing Board Responses

Board of Accountancy

Board staff are available to answer questions on licensing of both individuals and firms. The Board also provides background materials, copies of rules, and other materials.

Board of Architecture, Engineering, Land Surveying, Landscape Architecture and Interior Design

The Board issues renewal notices to all licensees on a biennial basis. The Board publishes a newsletter twice a year, informing licensees of agency rules and regulations.

Board of Barber Examiners

The Board sends out information on examinations, schooling requirements and licensing requirements. Renewal notices are mailed to licensees and shops. The Board also mails a periodic newsletter to licensees informing them of changes in the law and regulations.

Board of Chiropractic Examiners

The Board mails notice of renewal to licensees in advance of the renewal date.

Board of Electricity

The Board amended Minnesota Rules 3800.3620 to provide business with alternative methods of complying with safety standards.

Board of Medical Practice

The Board provides appropriate forms and responds to inquiries.

Board of Veterinary Medicine

The Board publicizes rules to licensees and tests applicants on their understanding of the rules.

Executive Department Responses

Department of Administration

The Materials Management Division has three staff who, as part of their jobs, provide training and advice to vendors. The Building Codes Division provides code training and advice to local building officials and construction and design professionals.

Department of Agriculture

Field and office staff of the Grain Inspection Division provide technical assistance in person and by telephone to licensees and applicants on how to comply with the Department's rules and regulations. Examinations and inspections conducted by field staff are used to monitor compliance with rules and statutes. Businesses are encouraged to contact the Department with questions, and staff are encouraged to answer as completely as possible on the first call and to follow up as necessary. The Division states that it attempts to give licensees and applicants adequate opportunity to understand the law and regulations and come into compliance before taking enforcement action.

The Dairy and Livestock Division assists businesses with compliance through technical assistance provided by field staff and through direct mailings. The Division has staff specifically assigned to provide technical assistance in the areas of law and standards compliance. The Division indicated it has been particularly careful to keep businesses affected by the Milk Over Order litigation informed of the status of the case and their responsibilities under the rules.

Rules governing honey houses are enforced by periodic inspections. Staff work with honey producers to bring the honey house up to standards if necessary. Regulatory action is only taken if the party refuses to work toward full compliance with the standards.

In implementing new rules under the Wholesaler Produce Dealers Act, staff of the Plant Protection Division provided copies of the rules to all licensed Minnesota wholesale produce dealers and gave all interested parties an opportunity to discuss new rule requirements. In implementing rules under the Plant Pest Act, the Division reviewed all provisions of the rules with nursery stock dealers who were unaware of their existence or failed to adhere to their requirements and gave them the opportunity to correctly label or relabel plants before taking enforcement action. The Division routinely gives nursery stock growers and dealers time to cover balled and burlapped stock and allows dormant stock to be potted and sold in a non dormant condition. Inspectors work with the industry to comply with Department rules.

The Food Inspection Division provides businesses with informational materials which are mailed or distributed by inspection personnel. The Division also produces fact sheets on a number of subjects to aid the industry in meeting requirements and producing safe and wholesome food in a sanitary environment. The Division also works with trade associations to publish informational materials on rules and regulations. In addition, Division personnel make presentations to food handlers and the Department issues press releases on important issues. An information desk is staffed full time during weekday business hours to provide information concerning food handling and licensing issues and to handle consumer complaints.

Board of Animal Health

The Board has field staff whose purpose is to contact livestock producers and livestock market operators to make them aware of the rules that apply to them and to assist in compliance. The Board indicated that it is in contact with the livestock industry through its Board, advisory committees, and industry representatives to stay

current with advice on how to control the spreading contagious and infectious livestock diseases without interfering with the orderly raising, movement and marketing of Minnesota livestock.

Office of the Attorney General

Minnesota Rules Chapter 2010 contains a requirement that agencies who give notice of intent to adopt rules include notice to the public of the opportunity to submit comments to the Office of the Attorney General on the legality of adopted rules. The notice must also explain the manner by which a person may request notification that the rules were sent to the Attorney General.

Department of Commerce

Department staff spend considerable time advising licensees and regulated industries on the application of the laws enforced by the Department. Staff routinely engage in oral and written communication with regulated businesses to assist them in complying with filing and application requirements. Bulletins are sent to affected businesses to notify them as to changes in the statutes or rules. The Commissioner and department staff frequently meet with advisory task forces or boards, industry representatives and other interested parties to facilitate cooperation among the Department and licensees or regulated industries to address issues of concern. The Enforcement Division of the Department devotes significant staff resources to resolving disputes between consumers and licensed entities (and between licensed entities) to expedite resolutions. Usually informally, or as necessary through a formal action process, the Enforcement Division provides licensees with the opportunity to explain their positions and/or to come into compliance with Minnesota law without the use of the court system.

Department of Corrections

The Department stated that it provides technical assistance to all homes and facilities governed by its rules. It also acts as a liaison with other state regulatory agencies, e.g., Department of Health, Fire Marshal, Building Code Division of the Department of Administration, and local zoning officials. The Department also maintains a library of manufacturer catalogs and the names and addresses of suppliers, architects, construction consultants, and construction companies to assist entities involved in construction of corrections facilities. In the area of services for battered women, the Department provides technical assistance to grant applicants, monitors grantee compliance, and provides public notice of the availability of grants.

Designer Selection Board

The Board indicated that Board members and staff are available for discussion of Board rules. This discussion ranges from responses to calls from individuals to presentations before professional society meetings.

Environmental Quality Board

The Board stated that it engages in a number of activities to assist business in complying with the rules. Activities include producing guides to some of the rules, granting public access to all Board files, providing examples of similar projects or applications to project proposers, staff meetings with project proposers to advise them on the requirements and time necessary to comply with the review process and maintaining a toll free telephone number. Board staff also makes presentations on the various programs when requested by units of governments or regulated businesses. Other appropriate efforts are also made to assist project proposers in complying with the regulatory review requirements.

Gambling Control Board

Staff conduct seminars and continuing education classes for gambling managers and chief executive officers of licensed gambling organizations. Where appropriate, the Department of Revenue is involved in the seminars to assure all issues are covered. The Board also publishes a monthly newsletter which is mailed free of charge to all licensed organizations. The newsletter includes updates of regulatory information, provides technical guidance, and addresses problematic issues. Special mailings also are done to provide information to licensees where appropriate. Board staff provide technical assistance by telephone and in writing to licensed organizations, exempt organizations, and licensed manufacturers and distributors. Technical assistance also is provided through compliance reviews.

Department of Health

In enforcing Minnesota Rules 4605 - Communicable Diseases, the Department provides technical consultation and assistance to businesses that experience a disease outbreak. Frequently, communicable diseases are the result of foodborne outbreaks from restaurants. The Department states that it provides epidemiologic assistance and outbreak investigation and control measures in a prompt, and if necessary, 24-hour-a-day basis so that businesses affected by communicable disease outbreaks can identify the cause, institute control measures, and re-open as quickly as possible.

In enforcing Minnesota Rules 4606 - Cancer Surveillance System, Department staff provide technical assistance and quality control to hospitals that report cancers so that questions are minimized on the part of reporting institutions.

In implementing Minnesota Rules 4617 - WIC Program, WIC vendors are given a program manual and receive periodic mailings and newsletters. Each is visited every 2 to 4 years (more often if necessary) for technical assistance and monitoring.

In implementing Minnesota Rules 4643 - Traumatic Brain/Spinal Cord Injury Registry, the Department provides technical assistance and training to hospital medical records personnel in order to assist in complying with the reporting requirements for this registry.

In implementing Minnesota Rules 4650 - Health Care Cost Information System, the Department authorizes, on an annual basis, a voluntary nonprofit reporting organization to administer the reporting requirements of hospitals. As part of its role, the organization provides direct assistance to hospitals in complying with the statutory

requirements of the Health Care Cost Information System. Freestanding outpatient surgical centers are provided direct assistance by Department staff on their reporting requirements.

In enforcing Minnesota Rules 4685 - Health Maintenance Organizations, the Department states that quality assurance reviews, as well as market and financial compliance examinations, are used to assist the Department in identifying non-compliance issues and to assist health maintenance organizations in complying with rule provisions. The complaint investigation process also enables the Department to identify and assist with problem areas. Review of contracts, certificates of coverage, and other filings are another proactive means of identifying noncompliance in advance so that problems can be corrected prior to the implementation of the documents. Monitoring of the health maintenance organization provider network for potential access and continuity of care concerns also allows the Department to work with the health maintenance organizations in advance of noncompliance. The Department issues periodic administrative bulletins to all health maintenance organizations regarding changes in rules, as well as other issues relating to the enforcement of these rules. Department staff are available by phone or to meet with health maintenance organization representatives to discuss any concerns, provide consultation on compliance and other matters and to provide directions as health maintenance organizations constantly change.

In enforcing Minnesota Rules 4690 - Ambulance Services, the Department responds to licensure questions, publishes a monthly information bulletin, and provides technical assistance to individual ambulance services through five field consultants located around the state. The Department also passes funding through to eight regional emergency medical services projects which, in turn, provide technical assistance to ambulance services and may also provide certain kinds of funding assistance.

In implementing Minnesota Rules 4740 - Laboratories; Accreditation Requirements, the Department states that there is ongoing communication by quarterly newsletter, annual certificate renewal reminder, and on-site inspection of each laboratory at least once every three years with follow-up information if any deficiencies are identified. Staff assistance is available by telephone or mail whenever a regulated or potentially regulated laboratory needs help. In addition, every certified laboratory is notified whenever any revisions or additions to the rules are contemplated.

As noted in the section on occupational licensing, individuals in occupations registered with the Department are advised that registration applies to persons, not businesses, and that the registration titles may be used to represent qualification by the state. Business also are instructed that titles may not be used in a business name unless all employees are registered. Staff who deal with unlicensed mental health practitioners produce and disseminate a brochure for consumers and unlicensed practitioners and make presentations to professional groups to educate the public about the requirements of laws and rules.

The Environmental Health Division stated that it will be implementing five recommendations in response to the Executive Order: (1) evaluation of variance

requests to determine whether certain regulations are overly prescriptive, ineffective, outdated, or unnecessary, and whether alternative compliance options should be developed; (2) semi-annual analysis of appeals, contested cases, and court actions involving division rules, and updating regulations accordingly; (3) consolidating and making uniform, where possible, regulatory tools like penalty assessments; evaluating rules for fairness and consistency of enforcement; (4) providing adequate notice to the regulated community of the agency's intent to review adopted rules, and (5) analyzing local regulation to identify and remove areas of overlap and inconsistency.

Minnesota Housing Finance Agency

The Agency provides training and technical assistance to lenders that deliver Agency programs.

Department of Human Services

The Department engages in the following activities to assist businesses in complying with Department rules and regulations: (1) training and technical assistance; (2) issuance of bulletins; (3) issuance of manuals; (4) policy phonelines, hotlines; and (5) quarterly updates and expenditure reports (some programs).

Indian Affairs Council

A copy of Minnesota Statutes § 116J.64, the rules, and a synopsis of the program are sent to an applicant along with a loan applications and instructions for completion. If further assistance is needed, the Council provides technical, management, and referral assistance to the client.

Department of Jobs and Training

The Department identified five statutory changes that are part of H.F. 1423 that will directly benefit businesses. The bill is awaiting the Governor's signature.

- * Under current law, severance pay is deducted from unemployment benefits for up to four weeks. The proposed revision would deduct from unemployment benefits one-half of all severance pay based on the employee's regular rate of pay. As a result, employers who provide generous separation pay will be charged for lesser amounts of unemployment benefits and thus lower their unemployment tax rates for future years.
- * Officer services provided for mutual insurance companies will be excluded from unemployment compensation coverage and tax, to simplify reporting and lower costs for affected companies.
- * Owners of more than a ten percent interest in limited liability companies will be excluded from unemployment compensation coverage and tax, which will lower costs for businesses formed as limited liability companies.

- * The amendment will allow an unemployment compensation claimant to try work that would otherwise be unsuitable without jeopardizing benefits if the job doesn't work out. This change will encourage reemployment and reduce benefit payments thereby lowering business unemployment tax rates.
- * The amendment will remove the requirement that a tax debt must be at least four years old before a compromise in the amount owed can be reached. In many cases, such as financial hardship, it is in the best interest of the state and the employer to reach a settlement before the debt is that old.

The Department also identified three rule changes that will be promulgated by August 1, 1993, and changed one policy effective January 22, 1993, in compliance with the Executive Order. See the section of this report on rules which will be eliminated or revised.

Other activities in which the Department engages to assist businesses in complying with the Department's rules and regulations are: an Unemployment Insurance Advisory Committee comprised of representatives of business and labor develops and reviews all proposals for changes in law and rules; Job Service Employer Committees comprised of local business leaders work to improve the Department's relationships with local communities, thereby improving services; a monthly seminar, sponsored in partnership with the Internal Revenue Service provides education and directly assists businesses in compliance with unemployment tax laws and rules; a series of 20 seminars will be conducted across the state during May and June, 1993, through which the Department will join with the Department of Revenue in assisting businesses to comply with tax laws and rules; an employer handbook explaining reporting requirements of the unemployment program is distributed to all new employers; all employers are notified promptly of changes in reporting requirements; the Department is revising key tax forms with the assistance of private sector volunteers to make the forms more user friendly; the Department is developing a strategic plan that focuses on the mission of assisting businesses in compliance with rules and regulations.

In addition, the Department, in partnership with the Departments of Revenue, Labor and Industry, Finance and others, is studying the feasibility of changing statewide data structures to allow a single business identifier or account number that would provide for a common business registration point and one-stop processing. The Department also considers individual circumstances of businesses for reporting requirements. For example, employers may provide quarterly employee wage information by tape, diskette, or scanable document depending on which is more convenient for them. Waiver of tax penalties and compromise of other tax amounts take into consideration individual hardship and business circumstances.

Department of Labor and Industry

Inspectors for the Code Services Division provide information to businesses they inspect. Staff are available to discuss rule requirements and interpretations.

The Labor Standards Division provides telephone consultation and engages in other educational activities.

The Occupational Safety and Health compliance unit provides outreach and training services, including training in the AWAIR (A Written Accident and Injury Reduction Plan) program and sponsorship of regular meetings for high-hazard industries. The unit works with the Minnesota Safety Council and the Midwest Center for Occupational Health and Safety to further promote workplace safety objectives. The occupational safety and health consultation unit works with employers to identify and correct workplace safety and health problems without the threat of citation.

The Workers' Compensation Division distributes booklets on the workers' compensation law to employers, employees, and labor organizations. In addition it offers seminars to employers, insurers, and employees as part of its outreach program to make all parties aware of the workers' compensation law and its requirements.

The Department also has a number of advisory councils that provide the Department and employers with information on issues of mutual concern.

Bureau of Mediation Services

The Bureau participates in and co-sponsors training programs.

Department of Natural Resources

For mining leases the Department makes available a checklist identifying the lessee's obligations. Staff persons are available to answer questions on all the Department's activities. In addition, specialized publications are prepared (e.g., *A Guide to Issuing Agents*, for licensing agents) and public outreach and training sessions are conducted.

Pollution Control Agency

The Agency provides technical assistance and general information orally in response to telephone inquiries and in presentations at workshops, seminars, training sessions, and technical and professional conferences. Written material is provided in the form of newsletters, fact sheets, and other informational materials. The Agency also holds public meetings in communities around the state. In 1992, the Agency created a work group with the Minnesota Chamber of Commerce and several environmental groups to improve communication and understanding of important environmental issues among the parties.

The agency has established a permit by rule process that allows certain facilities whose activities have minimal impact on the environment to apply for and quickly receive a permit. Yard waste compost facilities, certain demolition landfills, recycling facilities, and transfer stations designed for less than 30 cubic yards of solid waste per day may apply for a permit by rule. The agency's target turn around time for issuing a permit by rule is within 48 hours of receipt of a completed application. This process

enables business owners to start operations quickly, and saves generators the expense of preparing permit applications, permit application fees, and annual facility fees.

See also the section of this report on rules that will be eliminated or revised for a discussion of efforts undertaken by the Agency to assure that the needs and concerns of business are taken into consideration in Agency rulemaking activities.

Department of Public Safety

The Department uses newsletters, copies of appropriate statutes and rules, special mailings, and staff knowledgeable of the substance of the rules to answer questions and counsel affected parties. To assist deputy registrars, the Department is available to answer questions through its central office in St. Paul and through regional field offices.

The Department also produces a deputy registrar manual which it updates periodically and conducts an annual deputy registrar school to address new issues and answer questions about rules and procedures.

Department of Public Service

The Department provides notices of proposed rulemaking, uses data and information sheets on how to meet energy code requirements, has personnel attend trade association meetings to explain codes and answer questions. It provides seminars and service advisories.

Public Utilities Commission

The Commission's rules provide variance criteria that exempt utilities from the requirements of any rule that would impose an excessive burden upon the applicant or others affected by the rule if (1) the variance would not adversely affect the public interest; and (2) the variance would not conflict with standards imposed by law.

Minnesota Racing Commission

Commission staff are available to meet with licensees and potential licensees to discuss the application process and offer guidance on what is expected during the licensing process. Wherever practical, the Commission furnishes forms for license applications, and to facilitate compliance with other requirements of the Commission's rules.

Copies of rules and interpretations of rules are available upon request. The Commission keeps a mailing list of persons who wish to have input to the rulemaking process, and those persons are notified of proposed rulemaking. Persons who may be affected by rules and rule amendments are consulted during the rulemaking process.

During pari-mutuel racing meets the Commission maintains an on-site licensing office which is open during racing hours. This allows persons to be licensed who wish to conduct business at the racetrack, and also allows for Commission oversight of the race.

Department of Revenue

The Department holds regular informational meetings, sends instructional letters and bulletins, provides on-site and telephone assistance, and issues press releases. In the sales and use tax area, the Department maintains a technical support unit that writes and distributes fact sheets, newsletters, and other documents to permit holders, their accountants and attorneys and also provides speakers to various taxpayer groups and organizations. A business education unit in the Department offers classes and speakers on various sales and use tax topics. The Department's legal services unit supplies speakers on sales tax topics to professional organizations and continuing education classes.

The Department is authorized by Minnesota Statutes § 270.0604 to issue revenue notices to provide greater guidance to the public on its positions. A revenue notice is an interpretative statement concerning the application of a tax law or rule. It is generally applicable to all similarly situated taxpayers. Policies expressed in revenue notices deal with issues that are not clearly handled in any existing statute or rule. They are binding on the Department until revoked or modified, but are not binding on taxpayers. Revenue notices are published in the *State Register*. The Department published 23 revenue notices in 1991 and 27 revenue notices in 1992. Nine revenue notices were published through February 22, 1993.

Secretary of State

The office issues press releases and advisories and prepares articles for publication in the state bar association's business law section newsletter, the Minnesota Bankers Association newsletter, and in other similar publications.

Department of Trade and Economic Development

The Department's loan and assistance programs are described in its publications like *A Guide to Starting a Business in Minnesota* and *Small Business Notes*. Specialized environmental regulatory assistance is described in its publication *Environmental Issues in Business Operations and Commercial Transactions*. Presentations are made for both loan and assistance programs to groups affected by the rules; and staff provide telephone and in-person consultation.

Department of Transportation

In enforcing Minnesota Rules 8800 - Aeronautics - Commercial Operations, the Department provides educational support and administrative assistance to facilitate the establishment of commercial operations for which licensure is required; conducts on-site inspections as necessary; and investigates specific cases involving rule deviations, safety concerns, and operational problems.

To help promote industry understanding of Minnesota Rules 8810.0900, which deals with restrictions on outdoor advertising along Minnesota highways, Department staff meet regularly with the Minnesota Outdoor Advertising Association to answer questions, address complaints, and update the industry on Department policies and guidelines. The Department also is studying the relationship between the actual cost of issuing permits and annual permit fees charged to advertisers. The Department keeps the Outdoor Advertising Association fully informed of the progress of the study

and is examining ideas proposed by the industry to reform the permit fee structure.

Clientele served by Minnesota Rules 8830 - Railroads have been asked to participate, and have participated, in the rulemaking process. The Office of Railroads and Waterways meets periodically with businesses and keeps them informed through oral and written correspondence.

The Department's Office of Transit has established a procurement advisory committee comprised of public and private transit providers. In implementing Minnesota Rules 8835 - Public Transit, the committee is considering the development of guidelines for use by local government in the procurement of transit services.

The Department through its Office of Motor Carrier Services conducts twice-monthly classes for all motor carriers receiving new operating authority from the Transportation Regulation Board. This class is required by statute and has been well-reviewed by participants. The Department also issues and regularly updates a handbook of regulations for motor carriers and other interested parties.

Department staff provide training seminars and speak on regulatory topics at industry meetings, vocational or technical college classes, and similar functions. The Department's materials specialists conduct in-depth training in hazardous materials regulations for individual carriers and groups. Staff also answer questions in person or by phone during the business day concerning federal and state motor carrier regulations.

The Department also offers printed materials and personal assistance to those regulated by the Department's rules as the need arises. For example, during the 1992 session the legislature made substantial changes to the Minnesota motor carrier regulations. The Department mailed detailed information about the new law to every carrier affected and conducted informational meetings throughout the state to explain the law and answer questions.

Transportation Regulation Board

Board staff meet with businesses as needed to explain and discuss the rules.

Office of Waste Management

The Office assists all grant and loan applicants by providing information over the telephone, through meetings, and by providing applicants with other contacts that may improve their project proposal.

STATE DEPARTMENT RECOMMENDATIONS FOR EXECUTIVE OR LEGISLATIVE ACTION

Department of Administration

The Department suggests establishing some form of formal organization to coordinate the efforts of state agencies involved with the regulation of new construction or remodeling of buildings. In the Department's view such an organization could:

- (1) Coordinate rules of the appropriate agencies to avoid duplication, overlap or conflicts between state agencies;
- (2) Serve as a review council for proposed legislation;
- (3) Coordinate planning to co-locate appropriate state agencies to establish a one-stop shopping approach;
- (4) Recommend to the legislature a reorganization of regulatory or licensing agencies.

Department of Agriculture

The Department has recommended repeal of three rules it believes are unnecessary because the federal government is performing these functions.

Department of Corrections

The Department observed that it had taken part in the CORE rulemaking project, and that any recommendations made by CORE to streamline the rule promulgation process would undoubtedly reduce some of the regulatory burden. The Department cautioned, however, that facilities regulated by the Department are unique in that the Department must not only assure the safety and security of inmates, but also protect their constitutional rights. To reduce the regulatory burden too much may increase the state's liability, the Department stated.

Department of Education

The Department indicated that legislation has been introduced which would eliminate all rules and statutes under the Department of Education. The Department is reviewing that legislation and developing a response.

Environmental Quality Board

The Board indicated that at this time it has are no specific recommendations to change or modify any of the Board's regulatory programs. However, the Board is in the process of reviewing the environmental review rules and an advisory committee is continuing to examine the area of genetic engineering and will make recommendations to the Board. The Board further notes that its regulatory programs are monitored for effectiveness and if significant problems are identified, rule revisions are made. In some instances, the Board states, it is easier to remedy problems by amending statute, rather than revising the rules.

Gambling Control Board

The Board states that the nature of the business of lawful gambling, where large amounts of cash flow daily, demands effective and thorough regulation. Unless the underlying legislation states in detail how the law is to be administered, extensive rulemaking will continue to be necessary.

Department of Health

The Environmental Health Division made five recommendations for legislative or internal rule changes. These include:

- (1) Evaluation of variance requests to determine whether certain regulations are overly prescriptive, ineffective, outdated, or unnecessary, and whether alternative compliance options should be developed;
- (2) Semi-annual analysis of appeals, contested cases, and court actions involving division rules, and updating regulations accordingly;
- (3) Consolidating and making uniform, where possible, regulatory tools like penalty assessments; evaluating rules for fairness and consistency of enforcement;
- (4) Providing adequate notice to the regulated community of the agency's intent to review adopted rules, and
- (5) Analyzing local regulation to identify and remove areas of overlap and inconsistency.

Minnesota Housing Finance Agency

The Agency has asked the legislature to remove the Agency's responsibility for reviewing housing bond issues of local governments and replace regulatory review with a reporting requirement. The Agency states that while this is not a regulation that directly affects business, the Agency's action shows that it is attempting to meet the spirit of the Executive Order.

Department of Human Services

If any progress is to be made in reducing the regulatory burden of DHS rules and regulations, the Administrative Procedure Act (APA) must be reviewed for legislative action. Two concerns need to be addressed:

- (1) The APA requires rule repeal to follow all the required procedures of rule promulgation. For example, notices, possible public hearing, reports, and public comment must all be included. This is a time consuming process and is costly.
- (2) Regulatory burdens can be made less prescriptive, more flexible and outcome based if APA standards about vagueness are modified. One way to modify standards would be to require the regulated service to be designed to meet the consumer's needs as identified in service plans. Compliance with this criterion can be measured through consumer satisfaction surveys.

Indian Affairs Council

The Council asks for a more clear understanding of the impact of the regulations enacted.

Department of Labor and Industry

The Department suggests reducing the regulatory burden on business by reducing the amount of legislation affecting business. Legislation that is enacted needs to be more carefully considered to enable legislators and the executive branch to more clearly discern and carry out legislative intent. For those areas in which public policy requires some level of government regulation (e.g., workers' compensation, health and safety matters, child labor), the legislature should be required to carefully consider the regulatory impact prior to passage of new or amended laws.

The Department explains that rulemaking is an outgrowth of legislation that requires executive branch action to implement the law. To adopt rules, agencies must follow the requirements of the Administrative Procedure Act, which is time consuming for both agencies and those affected by the proposed rules. If the amount of legislation that is enacted is reduced, the business community can have some relief from the constantly changing and growing body of law and rules applicable to their operations.

The Department suggests returning to a part-time citizen legislature as one means of reducing the number of laws that are enacted. When the legislature met every two years, the Department states, legislation received greater scrutiny, and all essential policy considerations were covered by the time the law was enacted. In contrast, laws now are proposed and enacted in a very short period of time, often without much debate. This often gaps in the law which must be amended in subsequent sessions. If rules are adopted, they must be changed to reflect the amended legislation. This imposes an undue burden on the business community which must respond to frequently changing requirements.

Department of Natural Resources

The Department indicates that legislation will be introduced in the 1993 session to allow license subagents to obtain a letter of credit or a surety bond to cover the cost of receiving licenses or passes on a consignment basis--rather than pay cash or purchase a bond as now required. The letter of credit is seen as a less expensive option for subagents.

Board of Podiatric Medicine

The Board recommends repealing Minnesota Statutes § 319A, which requires officers and shareholders of professional corporations to register with their respective boards and pay a fee.

Pollution Control Agency

The Agency provided three recommendations:

(1) Hazardous waste facility and generator fees. Minnesota Statutes § 116.12 directs the agency to recover a portion of the state's cost of regulating hazardous waste. Amendments currently being proposed to this rule will streamline the fee process.

(2) The PCB certificate of exemption. Minnesota Statutes § 116.37 establishes the Agency's PCB certificate of exemption program in the absence of adequate federal

requirements. However, the federal Toxic Substance Control Act now provides more stringent regulation of PCBs so the state statute can be repealed.

(3) Residential lead paint abatement waste. The Agency is supporting a proposal presently before the legislature that will allow these wastes to be managed in an environmentally acceptable manner but not fully regulated as hazardous waste.

Department of Public Safety

Each agency that writes rules should have professionally qualified rule writing staff. The state should provide training or a forum for state rule writers in ways to write rules that accomplish the purposes of authorizing statutes while at the same time imposing as small a burden as possible on businesses. Some agencies are better than others at doing this. The expertise of the agencies that do a good job in this regard should be shared by all agencies. The sharing of agency rule writing expertise has the potential for not only reducing the regulatory burden of rules on businesses, but also for better accomplishing the purposes of authorizing statutes while reducing the burden of rules on all regulated persons.

Public Utilities Commission

The Commission's 1993 legislative proposal provides for an increase in the capacity threshold triggering the requirement to obtain a certificate of need. This would reduce regulation of smaller energy facilities.

Department of Revenue

The Department recommends eliminating the landlord certificate of rent paid which must be prepared for renters under the property tax refund program, Minnesota Statutes § 290A.03, subd. 11 and Minnesota Statutes § 290A.19(d). The Department states that the form poses a particular burden on owners of small residential property such as duplexes, four-plexes and small apartment buildings, particularly those who do not have the assistance of a professional management company. The form is complex and as a consequence has a high rate of landlord errors and frustration, and generates large numbers of calls to the Department for assistance. Further, the computation of tax as a percent of rent reported on the forms is frequently incorrect and leads to underpayment or overpayment of refunds to tenants. The Department recommends eliminating the form completely and allocating a statewide fixed proportion of each tenant's rent to property taxes based on the overall statewide relationship between rents and property taxes. This approach is used by other states.

Secretary of State

The Secretary of State's office recommends abolishing the interpretation that an agency must prescribe forms through the rulemaking process. This would reduce the cost to businesses in following the rules process and give agencies greater flexibility in changing forms to address issues raised by businesses or changes in technology.

Department of Trade and Economic Development

See the text of the report to the Governor developed in response to Executive Order 92-15.

Office of Waste Management

Regulations should be developed with full participation by the regulated community. Negotiated rulemaking should be preferred. The Office supplied a paper on negotiated rulemaking prepared by its supervisor of research and planning.

RESPONSES FROM THE PUBLIC

As noted in the Introduction, the Department of Trade and Economic Development invited public comment on the substance or prevalence of rules and regulations. 34 responses were received.

- * The majority of these responses were specific to a particular business or industry. Those are noted below in the section on Industry Specific Responses.
- * A number of respondents dealt with cross industry issues (e.g., workers' compensation, environmental regulation, workplace health and safety). These are noted below under the topic headings.
- * In cases of both general and industry specific responses, a number of responses dealt not with rules but with underlying regulatory policy and statutory law. These will be apparent from the text.
- * There were only a few comments relating to procedural, rather than substantive issues. These are printed in full in the section on Procedural Issues.

Industry Specific Responses

Financial Services

The law firm of Faegre and Benson responded on behalf of Piper Jaffray Companies, Inc., regarding Minnesota Statutes § 80A.28 establishing filing fees payable by investment companies to register their securities for sale in Minnesota. For registration of most securities registration fees are capped by Section 80A.28 at \$300. There is no cap for redeemable securities issued by an open end management company or unit investment trust.

The response noted that this situation imposes substantial costs on mutual funds which frequently redeem and frequently offer shares to investors. That burden is exacerbated by the fact that mutual funds receive no credit under Minnesota law for registration fees paid with respect to shares later redeemed and replaced by new shares. The response further noted that these fees are unrelated to any additional regulatory burden created--a fact, the response indicates, that has been acknowledged by state officials.

Piper Jaffray believes that the disparate treatment of securities with regard to registration fees imposes an unfair burden on both investment companies and the investing public and needs to be corrected.

Resorts/Tourism

The Causeway on Gull of Nisswa responded with concerns relating to restrictions in Minnesota Statutes on interest rates for financing of timeshares. The response indicates that the average purchase price of a timeshare week is \$10,000 with financing typically over a maximum ten-year period but frequently as few as five to seven years. Many timeshare developers, after originating the mortgage on the timeshare, sell or hypothecate the mortgage to national finance companies which specialize in the purchase of timeshare paper. These companies seek a return of 14 to 18 percent. Minnesota Statutes § 47.20 Subd. 4a, however, fixes the rates which can be charged on such mortgages at the same rate as used for long-term mortgage rates established through Fannie Mae auctions.

The response continues that this situation requires Minnesota developers to substantially discount their mortgages in order to sell them. When coupled with the holdback required by the purchaser of the paper as collateral against timeshare buyer default, the developer is placed in a negative cash flow position. This can have the effect of forcing developers out of business, raising prices to the consumer, and/or limiting the amount of timeshare property available in Minnesota with reduced visitor dollars as a result. The response suggests amending Minnesota Statutes § 47.20 with a new interest rate index formula.

The Upper Cullen Resort of Nisswa notes in its response that many resorts are currently being required by the State Fire Marshall to retro-fit cabin bedrooms with larger windows. The response indicates that the purpose of this requirement is to facilitate firefighter *entry* in case of fire and firefighters almost always break windows to gain access. A better effort, the response continues, would be to require new or remodeled construction to have the new windows but not to require retrofitting.

The response also notes that the Health Department requirements of commercial refrigeration units in all food service businesses does not take account of the low volume of food sales at most resorts and campgrounds. It appears, the response says, that this requirement was intended for restaurants serving bulk food items. The response indicates that "The cost of replacing existing units with commercial ones presents a formidable obstacle to an industry that is already suffering economically."

The Grand View Lodge of Nisswa indicated five concerns in its response:

- * That there is inconsistent application of standards by different health department inspectors and no "sense of perspective or common sense" in some inspectors.
- * That the Health Department and the Minnesota Pollution Control Agency seem to be at odds with each other in implementation of clean up plans for ground water contamination.
- * That the workers' compensation system is ". . . a major problem and poses an undue hardship on (our) small business."

- * That the unemployment compensation review and appeal process is slanted in favor of the employee.
- * That state spending policies are the number one problem. The response suggests tying the growth in state spending to growth in individual incomes.

The Black Pine Beach Resort of Pequot Lakes indicated that greater input from businesses should be sought before rules are made rather than have after-the-fact reviews like that required by the Executive Order.

Food Processing

Morey's Fish House of Motley responded regarding the regulations of the Department of Agriculture. Minnesota, the response states, requires that quarter inch holes be put in cellophane or tray wrapped smoked fish. Morey's believes that this requirement exposes the product, and the consumer, to various bacteria, molds, yeasts and to product tampering. The response notes also that Minnesota does not permit vacuum processing of smoked fish.

Morey's believes that the State Department of Agriculture has moved too slowly to remedy these concerns. New rules have apparently been under discussion since summer of 1991.

Aquaculture

The Minnesota Aquaculture Association and Pure Water Aquaculture Corporation submitted a substantial response. The major elements of that response were:

- * That 1992 legislation giving oversight and regulation of the aquaculture industry to the Department of Natural Resources should be amended to return that oversight and regulation to the Department of Agriculture as originally enacted in 1989 legislation.

Such a change, the response concludes, would eliminate any confusion that aquaculture fish are "wildlife" and instead confirm that they are harvestable agricultural products.

- * The present regulations of the Pollution Control Agency, Department of Natural Resources, Board of Animal Health and others on activities which are small constituent parts of aquaculture (e.g., minnow dealer licenses, aquatic pesticide licenses) are not suited to the conduct of the new aquaculture industry. A new regulatory agenda needs to be developed which ensures protection of public resources but does not cross into regulation of private property livestock. The Aquaculture Association has developed language amending Minnesota statutes.

Tree Service

Carr's Tree Service of Ottertail responded on the unfairness of applying certain unnamed Department of Transportation rules to commercial firms but not to individuals or farmers who operate the same equipment.

Fire Protection Services

All-State Fire Protection, Inc., of St. Cloud responded regarding Minnesota Rules 1805.1600 of the Board of Architecture, Engineering, Land Surveying and Landscape Architecture implementing Minnesota Statutes § 326.14. That rule appears to require that fire protection sprinkler design and drawing of plans be done by or supervised by a professional engineer registered with the Board. The respondent suggests that it is common practice in Minnesota and elsewhere in the country to have such plans designed and drawn by engineering technicians. The respondent further recommends that engineering technicians certified at NICET Level II or above by the National Institute for Certification of Engineering Technicians be allowed to review and approve fire protection sprinkler plans. These individuals, the respondent notes, are capable and knowledgeable at a cost substantially less than a licensed engineer.

Trailers

Northern Hydraulics of Burnsville responded that present rules require a Dealer's License for a trailer manufacturer to move its product to the wholesale location or to the motorized dealer. The current regulations require that the trailer be put on another trailer or truck. See also this respondent's comments in the general section on mandated requirements.

Aviation

The Brainerd-Crow Wing County Regional Airport Commission responded that the extension of the sale tax to previously exempt public agencies has had the effect of requiring the Commission to curtail capital improvement, development and growth projects to make up the funding shortfall. In addition, the presence of this tax discourages businesses from constructing service facilities at the airport.

The Aqua Float Company of Brandon noted that state licensing of their seaplane base is duplicative of federal licensing. Aqua Float sees no benefit in the state's piggy-back licensing.

X-Ray Users

The Maple Grove Animal Hospital noted that there are proposed rules of the Health Department on processing of X-ray films. These rules relate to ensuring the quality of X-ray pictures, not to protection from X-ray radiation. The respondent notes that the proposed rules would be an expensive burden on X-ray users who do only a very small number of films a week.

Similar concerns on X-ray monitoring were expressed by B.H. Ellingson, D.D.S. of Brainerd and the Minnesota Chamber of Commerce.

Nurseries and Plants

Lynde Greenhouse and Nursery of Maple Grove noted that present Department of Agriculture regulations require all retailers of nursery stock to purchase a retail certificate for each selling location. This requirement includes seasonal sellers like supermarkets. Enforcement of this requirement has been selective in the past, respondent notes, and consequently such seasonal sellers are considering not purchasing the certificate for cost reasons, and not selling the nursery stock. This would result in a substantial decrease in the respondent's business. The respondent notes that the plants in question are already subject to inspection at his (producer) level.

Respondent also notes that the Minnesota Plant Pest Act regulates annual, as well as perennial, plants with substantial cost and complexity. The best solution, the respondent states, is to require inspectors and certificates at the producer level only. At the least, certificates and fees should not be required at every level of the distribution chain.

This respondent also made suggestions on improving regulatory process and procedure which are noted in the section on Procedural Issues.

Rehabilitation Facilities

Service Enterprises, Inc., of Redwood Falls responded that regulatory requirements over the last twenty years have required a more than doubling of administrative staff to handle the same number of clients. In addition to concerns about cost of workers' compensation (noted in the section on that topic) the respondent had four other concerns:

- * That OSHA regulations can be costly and burdensome in addressing minimal risks.
- * That complying with Human Rights Department requirements of an affirmative action policy was time consuming in a county with so few minorities that SEI would be required to hire .4 minority employees.

- * That the requirement of a criminal background check for continuing employees is a waste of time and money.
- * That licensing rule requirements are too expensive for minimally funded programs.

Political Philosophy

The Northpoint Teams of Minnesota, Lake Elmo, provided substantial material whose major conclusions were that representative government, commercial contracts, taxation, public education and other incidents of contemporary government are immoral, illegal or inappropriate.

This response did not address specific rules or statutes of Minnesota.

Mandated Activities

Northern Hydraulics of Burnsville objected to handicapped accessibility construction and parking standards in industrial companies with very few handicapped employees. Respondent questioned the need for such accessibility in warehouse or industrial settings where there are few if any handicapped personnel.

GML, Inc., of St. Paul and Y.R. Sharp, Inc., of Maple Grove both questioned the value of using business time and resources to enforce child support laws by withholding child support from an employee's pay. The fact that each case individually requires separate calculations adds to the time and cost burdens.

Champion International Corporation of Sartell responded regarding the requirements of Minnesota Statutes § 202A.19 allowing employees time off for political caucuses and Minnesota Statutes § 204C.04 allowing employees time off to vote. The respondent noted that it believed that the caucus requirement has been subject to abuse and that both requirements can cause a business to shut down.

Taxes

Champion International Corporation of Sartell, Standard Iron and Wire Works, Inc., of Minneapolis, and the Minnesota Chamber of Commerce all raised the issue of the Minnesota Department of Revenue's current interpretation of "manufacturing process" and "replacement capital equipment" for purposes of businesses' obtaining the capital equipment sales tax refund. The respondents indicated that the current view was too restrictive. Champion International indicated that such refunds are important to a capital intensive business in maintaining international competitiveness.

Both the Minnesota Chamber and Champion International indicated the need for statutory relief with respect to real estate taxes on commercial and industrial property. The Chamber pointed out that current commercial tax classifications have the effect of imposing a higher tax rate on a tenant of a mall or large office building than would be paid by a similar sized firm with its own building.

Champion International indicated that pollution control equipment must continue to be eligible for sales tax exemption.

The Minnesota Chamber of Commerce noted that businesses find it burdensome to remit half of June's sales tax with the May 20 remittance.

Champion International Corporation indicated that present rules of the Department of Revenue prevent Champion from having a direct pay permit for sales and use taxes. According to Champion the barrier is outdated language in a rule which has not been updated in many years. Champion also notes that procedures for refund of sales and use taxes requires a separate form filing for every occurrence, even when making a sales tax adjustment on an invoice. Champion suggests being allowed to make adjustments on its books with documentation maintained for audit every three years.

Workers' Compensation

Nine respondents spoke about workers' compensation costs and the workers' compensation system as burdensome to businesses. One, Silent Knight Security Systems of Maple Grove, saw workers' compensation rates (together with income tax rates) as creating a hostile environment for businesses. Service Enterprises, Inc., of Redwood Falls, noting a 500 percent increase since 1989, called workers' compensation costs their ". . . most recent and biggest problem." Y.R. Sharp, Inc., of Maple Grove noted that costs have become "prohibitive" even for a firm with a good experience rating. The situation, that respondent continues, needs to be changed ". . . before even more businesses fail, or fail to grow." Grand View Lodge of Nisswa indicated that the present system "poses an undue hardship on our small business." Noting that cities, as major employers, are also affected by high workers' compensation rates, the City of Madelia noted that such rates make it "difficult for us to keep our tax rates low for our citizens."

Cold Spring Granite Company identified three immediate concerns:

- * The current proposal at the legislature on "joint rules of practices" regarding settling of workers' compensation disputes. Cold Spring Granite believes this proposal will only lessen an employer's ability to defend against a bogus claim.
- * The need to change the current system of managed care for injured employees. The present system does not allow an employer restriction on the type of care sought by an injured employee.

- * The need to aggressively investigate fraud. Cold Spring Granite expressed the concern that Department of Labor and Industry fraud investigation effort "has lost its impetus."

GML, Inc., of St. Paul notes that "In many workers' compensation claims much cost is incurred by employees and insurance carriers determining who is ultimately liable to pay the medical claims." GML suggests consolidating health insurance and workers' compensation into one benefit that employers are required to have.

Champion International Corporation suggests reinstatement of the second injury fund and equating workers' compensation rates with accident and sickness benefits.

Tony Downs Foods of St. James responded that the present system fails to address two problems: "long term compensation benefits for persons without serious disabilities who are able to work at meaningful employment, and an appeals process which encourages unnecessary, costly litigation." Tony Downs Foods proposes four remedies:

- * Adopt a more restrictive definition of a permanent total disability injury.
- * Eliminate supplemental benefits and replace them with a minimum floor for permanent total disability benefits based on a percentage of the state average weekly wage.
- * Abolish the Workers' Compensation Court of Appeals and transfer those functions to the state's regular court of appeals.
- * Establish an appropriate definition of "suitable job offer" and eliminate lump sum payments for permanency awards while continuing periodic payment of those awards.

Workplace Health and Safety

Champion International Corporation responded that Minnesota's Workplace Accident and Injury Reduction (AWAIR) program "is redundant."

Steve Low, Associate Safety Professional, of Minneapolis noted that the AWAIR program was an "excellent safety regulation" and suggested government getting safety-related topics into school curricula.

Champion International Corporation also responded that it believed the carbon monoxide emissions standards of Minnesota Rules 5205.0116 to be too stringent. That respondent also took issue with the requirement to list in the OSHA log minor injuries treated on site.

Environmental Issues

Three respondents, Minco Products, Inc., of Minneapolis, W.W. Thompson Concrete Products Company of Brainerd, and W.F. Scarince, Inc. of Sauk Rapids all addressed the requirements for a storm water discharge permit. The permitting process is seen as unnecessarily complicated, time consuming and expensive. Minco Products also spoke to the overlap of regulatory authority as evidenced by the fact that they must deal with eight different agencies on pollution control matters. Each of these requires inspection, reports and fees.

L-Z Company, Inc., of St. Paul detailed experiences with required removal of underground tanks which yielded no leaks or contamination.

The Minnesota Chamber of Commerce noted that Minnesota is developing special air toxic regulations more restrictive than those required by the federal Clean Air Act. The Chamber suggests that Minnesota should achieve the federal standard before considering imposition of a higher standard.

Public Utilities

Minnegasco, a traditional regulated utility, expressed five concerns regarding the regulatory process:

- * The lack of innovative solutions to rulemaking issues;
- * The lack of clear, consistent policy direction with resultant uncertain expectations and regulatory risk;
- * Conflicting policy directions and decisions from different regulatory agencies create an atmosphere of uncertainty and make business planning difficult;
- * Regulatory bog as a result of short-staffed agencies;
- * Costly and inefficient paper filings.

Minnegasco proposed actions to resolve these concerns:

- * Creation of pilot programs to experiment with innovative rulemaking concepts;
- * Clearer statements by both regulators and regulated parties about their expectations of the regulatory process;

- * Development of an in-government mechanism through legislation or executive branch action to resolve policy disputes involving two or more different state agencies;
- * Streamlining the regulatory process to compensate for continuing downsizing of regulatory agencies;
- * Creation of an electric filing, database and information exchange.

Procedural Issues

There were three suggestions regarding procedures for public information and participation; periodic review of rules; and one-stop licensing and permitting. These are reprinted *verbatim*.

Aqua Float Company

"I think that for licenses and permits, Minnesota businesses and individuals would benefit from dealing with the state as a single entity rather than various departments. A single, annual statement listing what permits/licenses were purchased the previous year, what is due this year and when, and the fee involved. All fees and licenses could be paid at once (or perhaps some payment option). The statement could be updated by the applicant, deleting items no longer necessary and adding new items. Department codes on the returned statement would direct the new data to the proper offices. This would save the state time and postage, and would save applicants time, postage and confusion."

Lynde Greenhouse & Nursery, Inc.

"With respect to adequacy of notice and opportunity to participate in rulemaking, our ability to be involved has almost always occurred after the fact. I am just not made aware of all of the rules and regulations that affect us while they are in process. Also, to be educated in these issues takes considerable study. A good case is the Plant Pest Act where on the surface we are not affected until we read the definition of nursery stock.

"The only recommendation that I can offer at this time is to provide for periodic review of state rules and regulations with respect to their efficiency and value in light of the current environment. This executive order is a good example of this and I suggest that the process should occur all year long and work its way through all areas on a repeating schedule. Almost all rules and regulations are at risk of becoming outdated over time and need to be examined for their need and value. This is a

process that private enterprise uses in its efforts to remain competitive as the environment that it operates in changes."

In addition the earlier section on the public utilities industry contains Minnegasco's procedural recommendations for utility rate cases.

**RECOMMENDATIONS OF COMMISSIONER OF THE
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

RECOMMENDATION:

Agencies should annually review their regulatory statutes and recommend statutory elimination of regulatory activity which is no longer is appropriate, effective or efficient.

As noted earlier in this report the Executive Order did not require agencies to look at the need for the statutes which underlie rules and regulations. Many agencies, however, commented that certain of their statutory regulatory responsibilities could be eliminated. Indeed, the Department of Labor and Industry (in the section of this report on Agency Recommendations) suggested a general reduction in the amount and kind of state regulatory action.

It would appear that agencies do give thought to the substantive statutory law on which their regulations are based, so such a review would not be a *de novo* activity for agencies. The Minnesota Department of Health, for example, has a statutory policy on factors to be used in the identification of the need for regulation of occupations and, if regulation is needed, the degrees of regulation which should be applied and the priority order in which they should be applied. That statute's standards are worth noting as food for thought in developing a model for review of regulatory statutes and activity:

Minnesota Statutes § 214.001

Subd. 2. Criteria for regulation. The legislature declares that no regulation shall be imposed upon any occupation unless required for the safety and well being of the citizens of the state. In evaluating whether an occupation shall be regulated, the following factors shall be considered:

- (a) Whether the unregulated practice of an occupation may harm or endanger the health, safety and welfare of citizens of the state and whether the potential for harm is recognizable and not remote;
- (b) Whether the practice of an occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability;
- (c) Whether the citizens of this state are or may be effectively protected by other means; and
- (d) Whether the overall cost effectiveness and economic impact would be positive for citizens of the state.

Subd. 3. Regulation of new occupations. If the legislature finds after evaluation of the factors identified in subdivision 2 that it is necessary to regulate an occupation not heretofore credentialed or regulated, then regulation should be implemented consistent with the policy of this section, in modes in the following order:

- (a) Creation or extension of common law or statutory causes of civil action, and the creation or extension of criminal prohibitions;
- (b) Imposition of inspection requirements and the ability to enforce violations by injunctive relief in the courts;
- (c) Implementation of a system of registration whereby practitioners who will be the only persons permitted to use a designated title are listed on an official roster after having met predetermined qualifications; or
- (d) Implementation of a system of licensing whereby a practitioner must receive recognition by the state of having met predetermined qualifications, and persons not so licensed are prohibited from practicing.

Two or more of these modes may be simultaneously implemented if necessary and appropriate.

In practical terms such a review needs to ask three questions:

- * Is there a compelling need for a regulatory activity as demonstrated by adequate information rather than by historical precedent or unexamined assumptions?
- * Is there an alternative which can achieve the same result without any state government involvement or with a reduced level? As noted earlier in the text, it has been suggested that private standard setting organizations might take over all or part of the regulation of certain activities or occupations. Minnesota, for example, has already incorporated the National Uniform Fire Code into its building code and uses the standards and testing of the National Association of Securities Dealers for the licensing of securities salespersons.
- * Is state government regulation effective in meeting the identified need and efficient in meeting the need? Effectiveness means that it maximizes the net benefits to society. Efficiency means it does that at the least net cost to society.

RECOMMENDATION:

Agencies should bi-annually, prior to the budget preparation process, review their rules and amend those which are no longer appropriate, effective, or efficient.

A number of agencies indicated that several of their rules are obsolete because the underlying statute was amended or repealed, or that federal law superseded the state statute or rules. Many of these agencies indicated they will initiate rulemaking in response to Executive Order 92-15, but others indicated the rules would remain on the books without enforcement because they did not wish to expend staff or budget resources to formally repeal obsolete rules. The Legislative Auditor similarly found that many agencies initiate rulemaking to update existing rules only when there is substantial outside pressure

to do so. The Legislative Auditor found that nearly half the respondents to its survey believe agencies do not do a good job of keeping rules up to date.

In addition, several sets of rules are on the books although the agency that initially promulgated them has been abolished. For example, although the State Planning Agency was abolished, its rules remain. The successor agency, Minnesota Planning, stated it has no rules, thus indicating it has not adopted its predecessor's rules. The Division of Gaming was replaced by the State Lottery, but there is no indication that the Lottery Commission adopted the Division of Gaming's rules (the Lottery Commission did not respond to the Executive Order).

Some agencies, e.g., the Department of Commerce, the Environmental Quality Board and the Health Department indicated they regularly review and amend rules to respond to legislative changes. There is, however, no statutory or executive branch directive that agencies routinely act to keep their rules current. As the Legislative Auditor and the Commission on Reform and Efficiency (CORE) note, the costs and risks of amending rules can be substantial, so absent legislative or executive directive there is little present incentive for agencies to update their rules.

CORE suggests that agencies can repeal obsolete rules relatively inexpensively through a Revisor of Statutes' technical bill; their annual housekeeping bill, or the procedure for making noncontroversial rules. Substantive amendments will require formal rulemaking, but implementation of the recommendations of the Legislative Auditor and CORE are intended to simplify and streamline the rulemaking process in most cases. Legislative or executive direction is needed, however, to assure that periodic rule review occurs.

RECOMMENDATION:

The executive branch of Minnesota should study ways to implement in statute and rule new procedures for achieving compliance by regulated parties.

There is a growing body of literature which suggests that there are better alternatives for achieving regulatory compliance than traditional command and control regulation. Given the responses of businesses earlier in this report, it appears that in many areas (e.g., environmental regulation) compliance might better and more easily be achieved by a movement away from an adversarial, confrontational mode to one premised on cooperative interaction between regulators and regulated parties. Such a new approach could stress:

- * Increased education of regulatory staff on the practical realities of regulated business--the factors which color and constrain its ability to comply, and implementation of regulations that respond to those realities. The Department of Natural Resources, for example, has proposed legislation that would allow license subagents to obtain a letter of credit or a surety bond to cover the licenses or passes they receive on consignment. At the present time they must

either pay cash up front or obtain a bond. The ability to obtain a letter of credit is expected to be a less expensive alternative for businesses.

- * Increased education of businesses on the purposes and operation of regulatory statutes and rules and limitations on agency staffs' discretion and freedom of action. Annual seminars conducted by the Minnesota Pollution Control Agency, the Office of Waste Management and MnTAP on waste management, pollution prevention, and similar topics are good examples of this type of effort.
- * Encouragement and assistance to businesses with the design of internal compliance systems. MnTAP, a state-funded, non-enforcement provider of technical assistance on waste management issues, for example, will consult with businesses on compliance issues.
- * Agreement by regulators to take no adverse action for apparent violations of regulations at businesses which have an approved compliance program in place. Models for such a position already exist at the federal level; for example, the Justice Department's approval of antitrust immunity for certain actions taken by firms with joint ventures approved under the National Cooperative Research and Development Act. At the state level, the Minnesota Pollution Control Agency may agree to protect from liability owners of contaminated property who undertake voluntary remedial actions.
- * Development of outcome-based permit standards and procedures, similar to the arrangement recently concluded by 3M and the Pollution Control Agency governing hydrocarbon emissions at 3M's tape manufacturing plant in St. Paul. Under the agreement, the parties agreed to a permit that limits maximum level of hydrocarbons that can be emitted from the plant, but allows 3M to vary the mix of emissions so long as the total does not exceed the permit level. The arrangement reduces overall emissions, and allows 3M to make operational changes without the need to obtain separate permits for each operating unit within the facility.
- * Development of rules and standards that take into consideration the size and resources of regulated entities, and modify those rules and standards where possible to do so without jeopardizing the public safety. A number of respondents indicated that existing rules do not take into consideration low sales volume or low demand for a particular service. As both the Legislative Auditor and CORE point out, although Minnesota Statutes § 14.115 requires agencies to consider the impact of rules on small businesses and make modifications where possible, the requirement has had limited effect. The Legislative Auditor found that few agencies modify their rules to make them less stringent for small businesses. Both the Legislative Auditor and CORE propose changes to Minnesota Statutes § 14.115 that are designed to achieve closer analysis of the

regulatory impact of rules on certain targeted groups, and modifications where appropriate and feasible.

- * Development of rules and standards that take into consideration new industries and processes, e.g., biotechnology, aquaculture. Respondents indicated existing rule structures are not always compatible with emerging industries. Mandatory periodic review of agency rules and strengthened procedures for securing public participation in rulemaking proposed by the Legislative Auditor and CORE can be useful methods of assuring that rulemaking is responsive to technological changes and emerging industries.
- * Analysis of areas where regulatory jurisdiction overlaps between or among state agencies, and between the state and federal or local government. A number of public respondents to Executive Order 92-15 expressed frustration that certain of their activities are regulated by several agencies, and that it is difficult and expensive to comply with all applicable regulations. The legislature should examine whether state-level enforcement is appropriate or necessary in those cases where regulatory jurisdiction overlaps with that of other units of government.
- * Improved efficiency in record keeping practices. For example, the Department of Jobs and Training has begun the process of investigating the need for and benefits of a uniform business identifier for Minnesota businesses.

RECOMMENDATION:

Executive branch agencies should prepare appropriate amendments to the Administrative Procedure Act on a continuing basis.

Both the Legislative Auditor and CORE recently completed detailed studies of rulemaking and the Administrative Procedure Act. Although some of their findings and recommendations differ, there are many common conclusions. Many of the findings and conclusions of these entities are echoed by state agencies and members of the public who responded to Executive Order 92-15. All of these raise issues of public policy that are properly addressed by the legislature, with the active participation of the executive branch. Some of the issues include:

- * What is the proper balance in the level of detail in statutes and in rules?
- * What is the best way to secure meaningful public participation in the rulemaking process? Should negotiated rulemaking be a recognized and legally accepted part of the Minnesota rulemaking process?

- * Under what conditions or circumstances (if any) should state laws be more restrictive than comparable federal regulations? (e.g., environmental regulations, OSHA)
- * To what extent should the tax system be used to achieve social or economic development goals? (e.g., sales tax exemption for capital equipment)
- * What is the proper balance between preserving the interest in public safety and minimizing regulation (e.g., in the areas of corrections facilities or gambling)?
- * What kind of statutory changes can be made that will encourage agencies to try innovative and flexible approaches to rulemaking without jeopardizing due process for regulated entities? (e.g., the Department of Human Services indicates it would like to establish outcome-based standards that would allow licensees to develop programs that meet client needs, but believes it cannot do so within the existing definition of vagueness.)

RECOMMENDATION:

Within the existing framework of regulation, agencies should put in place new or improved procedures to improve the day-to-day operations of agencies so as to clarify and shorten the internal critical paths for handling regulatory/permitting matters.

The Minnesota Pollution Control Agency, for example, has begun an information systems improvement initiative, Project Delta, specifically targeted to improvement in the agency's information handling and presentation. That project lists a number of benefits. These include shorter permit processing times and reductions in existing permit backlogs; greater consistency in applying and enforcing regulations; better coordination among separate programs and agencies; faster, more accurate responses to information requests; more efficient allocation of individual and group time to work activities; improved ability to identify the causes of problems in a geographic area, and easier public access to information about rules, issues, and decisions.

The Pollution Control Agency also has a "permit by rule" procedure which enables certain facilities that have minimal impact on the environment to obtain a permit and start up operations quickly. Yard waste compost facilities, certain demolition landfills, recycling facilities, and transfer stations designed for less than 30 cubic yards of solid waste per day are eligible for the permit by rule procedure. In most cases this means that applicants will receive a permit within 48 hours after submitting a complete application.

The Department of Administration is proposing creation of an advisory body to seek improvements in rule-making and enforcement in activities of six state agencies whose current individual rules affect the construction or remodeling of buildings.

The Minnesota Racing Commission has the capability of issuing licenses on-site the day of a racing event, which enables anyone who wishes to participate in a given race to do so.

Agencies also should consider issues raised by some business respondents to Executive Order 92-15 who perceive unequal or inconsistent enforcement of rules within an agency or between agencies and take steps to assure that enforcement standards are clear and consistently applied.

RECOMMENDATION:

The state should study the possibility of true "one-stop shopping" for regulatory matters.

At present such efforts are mostly informational in nature and explicitly retain regulatory authority in existing agencies. As used in this recommendation "one-stop shopping" means:

A single agency or sub-agency in state government (though perhaps with more than one office location) which has the authority, personnel, expertise, procedures and systems resources to:

- * Assist and advise the public with the substance and procedures of individual regulations and the steps to compliance; to include assistance with a regulated party's response to enforcement actions;
- * Provide to and accept from the public necessary forms and documents for regulatory compliance;
- * Process these forms and documents in accordance with statutes and rules;
- * Directly issue licenses and permits.

Several respondents to Executive Order 92-15 suggested the concept of "one-stop shopping." The Aqua Float Company suggested that a system be established for businesses to deal with a single entity rather than with various departments. The company suggests that licensees be given a single annual statement, which could be updated by the applicant. Codes on the returned statement would direct the new data to the proper offices. The company suggested that this would save time and postage for the state, and reduce confusion for the applicant. A state agency respondent, the Department of Administration, suggested "one-stop shopping" for permits related to construction or remodeling of new buildings. It suggested that the permitting organization could coordinate rules of various agencies to avoid duplication, overlap, and conflicts; serve as a review council for proposed legislation; coordinate planning to co-locate appropriate state agencies to enable "one-stop shopping" to occur, and recommend legislation.

Successful implementation of true "one-stop shopping" will require examination and resolution of a number of issues:

- * What is the relationship between the permit agency and the regulatory or enforcement agency?
- * Who performs competency testing or assures competency in cases where that is a prerequisite to securing a license or permit (e.g., licensed professions and building trades)? Who assures or evaluates the adequacy of continuing education where that is a condition of relicensure?
- * How will disputes concerning delays in issuance of a license or permit, denials of licenses or permits, or suspension or termination of a license or permit for disciplinary or other reasons be handled?
- * How will the acceptance of "one-stop shopping" by regulatory and enforcement agencies be secured?
- * Is it possible to acquire a staff that has the level of expertise necessary to provide the level of assistance and advice demanded by true "one-stop shopping?"
- * How will the strengths and limitations of "one-stop shopping" be communicated to regulated parties?
- * How will matters of overlapping jurisdiction (state/federal, state/local) be handled and how will that be communicated to the affected parties?
- * How will the need for legislative change be determined and who will be responsible for securing such change?

APPENDIX I

RULES WHICH WILL BE ELIMINATED OR REVISED

*Department of Administration**Minnesota Rules 1310.0100 to 1310.9300--Building Security**Minnesota Rules 1330.0100 to 1330.2100--Fallout Shelters**Minnesota Rules 1335.0200 to 1335.3100--Floodproofing**Minnesota Rules 1340.0200 to 1340.9900--Facilities for the Handicapped**Office of Administrative Hearings**Minnesota Rules 1415 - Litigation Procedures**Department of Agriculture**Minnesota Rules 1515 - Livestock**Minnesota Rules 1520 - Poultry and Eggs**Minnesota Rules 1535.4000 - Class I Milk Over Order Premium (Emergency Rules)**Minnesota Rules 1540.0060-1540.3700 - Meat Inspection**Minnesota Rules 1540.3960-1540.4340 - Canning of Meat Products**Minnesota Rules 1560.7700-1560.8800 - Warehouses**Board of Animal Health**Minnesota Rules 1705 - Diseases of Domestic Animals**Minnesota Rules 1710 - Diseases of Poultry**Minnesota Rules 1715 - Livestock Exhibitions and Markets**Minnesota Rules 1720 - Miscellaneous**Department of Commerce**Minnesota Rules 2605 - Filing Fees; Insurance**Minnesota Rules 2630 - Administering Safe Toys Act**Minnesota Rules 2642 - Cosmetology; Salons**Minnesota Rules 2644 - Cosmetology; Schools**Minnesota Rules 2650 - Establishing Financial Institutions**Minnesota Rules 2655 - Interstate Banking**Minnesota Rules 2660 - Savings and Loan Associations**Minnesota Rules 2710 - Annual Audits**Minnesota Rules 2730 - Health Maintenance Organizations**Minnesota Rules 2740 - Comprehensive Health Insurance**Minnesota Rules 2765 - Employee Joint Self-Insurance**Minnesota Rules 2767 - Self-Insurance Plan Administrators**Minnesota Rules 2770 - Automobile Insurance**Minnesota Rules 2780 - Workers' Compensation Self-Insurance**Minnesota Rules 2781 - Workers' Compensation Assigned Risk Plan**Minnesota Rules 2782 - Market Assistance; Liquor Liability*

Minnesota Rules 2783 - Liquor Liability Assigned Risk Plan
Minnesota Rules 2785 - Political Subdivision Self-Insurance Pools

Department of Corrections

Minnesota Rules 2900 - New Corrections Facilities
Minnesota Rules 2920 - Adult Halfway Houses
Minnesota Rules 2925 - Group Foster Homes

Department of Education

All rules will be repealed, if pending Senate File 157 is enacted.

Gambling Control Board

Minnesota Rules 7861 - Lawful Gambling - General Provisions
Minnesota Rules 7863 - Lawful Gambling; Distributors

Department of Health

Minnesota Rules 4610.2210 - Serving of Foodstuffs in Funeral Establishments
Minnesota Rules 4640 - Hospital Licensing and Operation
Minnesota Rules 4642 - Medical Records
Minnesota Rules 4645 - Hospital Construction and Equipment
Minnesota Rules 4655 - Nursing; Boarding Homes: Operation
Minnesota Rules 4656 - Medical Assistance Program
Minnesota Rules 4660 - Nursing; Boarding Homes; Physical Plant
Minnesota Rules 4665 - Supervised Living Facilities
Minnesota Rules 4675 - Freestanding Outpatient Surgical Centers
Minnesota Rules 4685 - Health Maintenance Organizations
Minnesota Rules 4690 - Ambulance Services
Minnesota Rules 4740 - Laboratories; Accreditation Requirements
Minnesota Rules 4745 - Hearing Instrument Dispenser Registration
Minnesota Rules 4760 - Lead Abatement in Soil
Minnesota Rules 4761 - Residential Lead Abatement
Minnesota Rules 9000 - Unlicensed Mental Health Providers

Department of Human Services

Minnesota Rules 9503 - Licensing Requirements for Child Care Centers
Minnesota Rules 9505 - Health Care Programs
Minnesota Rules 9510 - Rates for Health Care Facilities
Minnesota Rules 9525 - Programs for Mentally Retarded Persons
Minnesota Rules 9530 - Chemical Dependency Programs
Minnesota Rules 9535 - Program Grants; Mentally Ill Persons
Minnesota Rules 9540 - Program Grants; Mentally Retarded
Minnesota Rules 9545 - Licensing of Facilities for Children
Minnesota Rules 9553 - Payment; Intermediate Care Facilities
Minnesota Rules 9555 - Social Services for Adults

Indian Affairs Council

Minnesota Rules 5100 - Business Loans to Indians

Department of Jobs and Training

Minnesota Rules 3315.0210 - Types of Wages

Minnesota Rules 3315.1020 - Consolidated Reports

Minnesota Rules 3315.1315 - Experience Rates

Department of Labor and Industry

Minnesota Rules 5200 - Wages and Labor

Minnesota Rules 5205 - Safety and Health Standards

Minnesota Rules 5215 - Occupational Safety and Health Review Board

Minnesota Rules 5217 - Medical and Rehabilitation Reviews

Minnesota Rules 5220 - Compensation and Rehabilitation

Minnesota Rules 5221 - Fees for Medical Services

Minnesota Rules 5223 - Disability Schedules

Minnesota Rules 5224 - Independent Contractor

Minnesota Rules 5225 - Boilers and Power Boats

Minnesota Rules 5226 - Elevator Permits and Fees

Minnesota Rules 5230 - Pipefitters; Power Piping Systems

Bureau of Mediation Services

Minnesota Rules 5500 - Hearing Procedures

Minnesota Rules 5505 - Collective Bargaining Representatives

Minnesota Rules 5510 - Public Employment Labor Relations

Minnesota Rules 5520 - Labor-Management Committee Grants

Minnesota Rules 5530 - Arbitration Roster

Board of Medical Practice

Minnesota Rules 5610 - Professional Corporation Rules

Department of Natural Resources

Minnesota Rules 6125 - Mineral Resources

Minnesota Rules 6131 - Peatland Reclamation

Minnesota Rules 6135.0100-6135.1800 - Utility Crossing of Public Lands and Waters

Board of Nursing

Minnesota Rules 6320 - Nursing Scholarships

Minnesota Planning

Minnesota Rules 4310 - Procedural Rules for Planning

Pollution Control Agency

Minnesota Rules 7000 - Procedural Rules

Minnesota Rules 7001.1200-7001.1220 - Air Quality Permits

Minnesota Rules 7001.3000-7001.3550 - Waste Management Facility Permits
Minnesota Rules 7005.0080 - State Ambient Air Quality Standards
Minnesota Rules 7005.0360-7005.2920 - Standards of Performance
Minnesota Rules 7005.0600-7005.0650 - Waste Combustors
Minnesota Rules 7005.0705-7005.0815 - Open Burning Restrictions and Permitting Requirements
Minnesota Rules 7005.0900-7005.0960 - Odor Standard
Minnesota Rules 7005.1860 - Performance Tests
Minnesota Rules 7005.3010-7005.3060 - Offset Rule
Minnesota Rules 7035 - Solid Waste
Minnesota Rules 7045.0125 - Recycling
Minnesota Rules 7045.0225-7045.0250 - Generator Licensing
Minnesota Rules 7045.0320 - Hazardous Waste Consolidation Points
Minnesota Rules 7045.0292 - Satellite Accumulation
Minnesota Rules 7045.0675 - Reduced Regulation for Common Wastes
Minnesota Rules 7045.0685 - Reduced Regulation for Common Wastes
Minnesota Rules 7045.0695 - Reduced Regulation for Common Wastes
Minnesota Rules 7046 - Facility and Generator Fees
Minnesota Rules 7047 - Hazardous Waste Acceptance; Stabilization/Containment Facility
Minnesota Rules 7060 - Underground Waters
Minnesota Rules 7075 - State Fund and Federal Grants
Minnesota Rules 7105 - Underground Storage Tank Contractor Training and Certification
Minnesota Rules 9220 - Waste Tire Management

Department of Public Safety

Minnesota Rules 7406 - Deputy Registrars
Minnesota Rules 7430 - Auto Lamp Adjusting Stations
Minnesota Rules 7435 - Brake Testing Stations
Minnesota Rules 7510.6100-7510.6910 - National Gas Pipeline Facilities and Transportation
Minnesota Rules 7515 - Liquor

Department of Public Service

Minnesota Rules 7600 - Commercial Scales
Minnesota Rules 7602 - License Fees
Minnesota Rules 7605 - Fluorescent Light Ballasts
Minnesota Rules 7625 - Outdoor Display Lighting

Public Utilities Commission

Minnesota Rules 7830 - Practice and Procedure

Minnesota Racing Commission

Minnesota Rules 7870 - Licensure

Department of Revenue

Minnesota Rules 8017 - Assignment and Apportionment of Income
Minnesota Rules 8021 - Charitable and Dividend Deductions
Minnesota Rules 8023 - Estates and Trusts
Minnesota Rules 8031 - Partnerships
Minnesota Rules 8038 - Returns
Minnesota Rules 8110 - Certificate of Real Estate Value
Minnesota Rules 8120 - Taxes; Cigarette and Tobacco Products
Minnesota Rules 8121 - Metropolitan Solid Waste Landfill Fee
Minnesota Rules 8130 - Sales and Use Taxation

Secretary of State

Minnesota Rules 8260 - Uniform Commercial Code Forms

Department of Trade and Economic Development

Minnesota Rules 4351 - Tax Credit Certification
Minnesota Rules 4370 - Challenge Grants

Department of Transportation

Minnesota Rules 7800 - Motor Carrier Operations
Minnesota Rules 7805 - Tariffs and Accounting
Minnesota Rules 8830.0100-8830.3900 - Railroads
Minnesota Rules 8830.5100-8830.6700 - Rail Service Improvement
Minnesota Rules 8830.9900-8830.9950 - Railroads
Minnesota Rules 8835 - Public Transit
Minnesota Rules 8860 - Tank Motor Vehicles; Variances

Transportation Regulation Board

Minnesota Rules 7800 - Motor Carrier Operations

APPENDIX II**PROPOSED EXECUTIVE ORDER**

Executive Order 93-__ : Directing State Departments and Agencies to Take Certain Steps to Assure that Rules and Rulemaking Activities Are Necessary Appropriate, Effective, and Efficient

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, in response to Executive Order 92-15 state departments and agencies have analyzed and reviewed existing rules and regulations affecting Minnesota businesses, and have identified for elimination or revision all rules and regulations which do not have an immediate, necessary, and substantial impact on achieving the interest intended to be protected; and

WHEREAS, the Commissioner of Trade and Economic Development has presented to the Governor a composite report on the implementation of Executive Order 92-15, and has made certain recommendations for further executive and legislative action; and

WHEREAS, it is in the interest of the citizens of the state of Minnesota that rules and regulations which directly affect Minnesota businesses are appropriate, effective, and efficient to achieving the policy and purpose of the underlying legislation but do not unnecessarily restrict economic expansion and job growth; and

WHEREAS, state agencies and departments are in the best position to monitor their rules and regulations and take prompt action to assure that those rules and regulations continue to further their underlying purpose while minimizing adverse effects on job growth and the vitality of Minnesota businesses;

NOW, THEREFORE, I hereby order that:

1. All state departments and agencies shall review their regulatory statutes that directly affect Minnesota businesses and identify for repeal or amendment all statutes which are no longer appropriate, effective, or efficient, and shall, by September 1, 1993, report to the Governor on their specific plans and timetables for securing repeal or amendment of those statutes. The report shall include draft legislation for the 1994 legislative session. State departments and agencies shall then implement their plans, timetables and legislative initiatives and submit to the Governor, by September 30, 1994, a report on the results. This process shall be repeated annually.

2. All state departments and agencies shall develop and implement a plan for bi-annually reviewing, prior to the budget preparation process, their rules and regulations which directly affect Minnesota businesses and for amending or repealing those which are no longer appropriate, effective, or efficient. Departments and agencies shall report the results of implementing their plans to the Governor by September 30, 1994, and bi-annually by September 30 thereafter.

3. All state departments and agencies that have in place alternatives to traditional command and control methods of securing regulatory compliance by businesses shall, by September 30, 1993, publicize their efforts to other state departments and agencies. All state departments and agencies shall evaluate alternatives to traditional command and control regulation and report to the Governor, by January 1, 1994, their proposals, plans, and timetables for achieving appropriate alternatives or their reasons for not implementing such alternatives. Results shall be reported to the Governor by September 30, 1994, and each September 30 thereafter.

4. All state departments and agencies shall identify and implement new or improved procedures to improve their day-to-day operations so as to clarify and shorten the internal critical paths for handling regulatory matters, and shall report the results to the Governor by January 1, 1994.

5. As used in this Executive Order, rules or regulations that directly affect Minnesota businesses are rules which determine a business' eligibility for benefits or programs administered by the state department or agency; rules which pertain to the granting or revocation of occupational or operating licenses or permits; rules which impose fines or penalties on businesses; rules which establish reporting requirements for businesses; rules which govern a business' access to the agency, and any other rules or regulations which directly affect the rights or duties of a business.

6. As used in this Executive Order, the terms appropriate, effective, and efficient have the following meanings: "Appropriate" means regulatory activity for which there is a demonstrated need which can only or best be met by state government regulation. "Effective" means that the regulation maximizes the net benefits to the citizens of Minnesota. "Efficient" means the regulation maximizes the net benefits to Minnesota citizens at the least net cost.

In addition, I hereby encourage all units of local government to take similar actions to reduce the regulatory burdens on Minnesota businesses within their jurisdiction.

Pursuant to *Minnesota Statutes* 1992, Section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1992, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this ___ day of _____,
1993.

Arne H. Carlson
Governor

Filed according to law:

Joan Anderson Growe
Secretary of State

Dated _____

APPENDIX III

PROPOSED EXECUTIVE ORDER

Executive Order 93-__ : Directing State Departments and Agencies to Study the Feasibility of Implementing a "One-Stop Shopping" Concept for Business Regulation

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is in the interest of the citizens of the state of Minnesota, and Minnesota businesses in particular, that business efforts to achieve regulatory compliance are handled efficiently and effectively and that state regulatory requirements are understandable; and

WHEREAS, many businesses perceive that the present process of securing regulatory compliance is complicated, time consuming, costly, and unduly burdensome; and

WHEREAS, it is in the public interest that state departments and agencies assist businesses in achieving regulatory compliance as promptly and expeditiously as possible; and

WHEREAS, the concept of "one-stop shopping" has been proposed as a way of facilitating regulatory compliance by businesses; and

WHEREAS, the Department of Jobs and Training has begun investigating the need for and benefits of a uniform business identifier for Minnesota businesses;

NOW, THEREFORE, I hereby order that:

1. The Commissioner of Trade and Economic Development shall investigate the feasibility of implementing true "one-stop shopping" by businesses for regulatory affairs in Minnesota, and report his findings and recommendations (including any appropriate legislative initiatives) to the Governor by January 1, 1995. All state agencies shall cooperate in the conduct of this feasibility study.

2. True "one-stop shopping" for regulatory affairs means a single agency or sub-agency in state government (though perhaps with more than one office location) which has the authority, personnel, expertise, procedures and systems resources to:

- a. Assist and advise the "business public" with the substance and procedures of individual regulations and the steps to compliance;
 - b. Provide to and accept from business applicants the necessary forms and documents for regulatory compliance;
 - c. Process these forms and documents in accordance with statutes and rules; and
 - d. Directly issue licenses and permits as agent for the applicable agency.
3. Issues to be examined and resolved through this study include:
- a. The relationship between the agency that provides the "one-stop shopping" service and the department or agency which has statutory authority for substantive regulation or enforcement.
 - b. A determination of who should perform competency testing or assure competency in cases where that is a prerequisite to securing a license or permit (e.g., licensed professions and building trades), and who assures or evaluates the adequacy of continuing education or other competency-based criteria that are a condition of relicensure.
 - c. How disputes concerning delay in issuing a license or permit, denial of a license or permit, or suspension or termination of a license or permit for disciplinary or other reasons will be handled.
 - d. How the acceptance of "one-stop shopping" by regulatory and enforcement agencies will be secured and how compliance and enforcement activity will be coordinated.
 - e. How to acquire a staff that has the level of expertise necessary to provide the level of assistance and advice demanded by true "one-stop shopping."
 - f. How the strengths and limitations of "one-stop shopping" will be communicated to regulated parties.
 - g. How matters of overlapping jurisdiction (state/federal, state/local) will be handled and how those issues will be communicated to the affected parties.
 - h. How the need for legislative change will be determined and who will be responsible for preparing and monitoring initiatives to secure such change.
 - i. Legal liability.

JK 6149 .R8 R46 1993
Report of the Commissioner
of the Department of Trade

j. Such other

ropriate.

IN TESTIMONY WHEREOF
I have hereunto set my hand and
the seal of the Department of Trade
this 14th day of June, 1993.

JK 6149 .R8 R46 1993
Report of the Commissioner
of the Department of Trade

Filed according to law:

Joan Anderson Growe
Secretary of State

Dated _____

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