



ICE OF THE COMMISSIONER

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

133 EAST 7th STREET
ST. PAUL, MN 55101
612/296-4026

December 29, 1996

Ms. Maryanne V. Hruby
Executive Director
LCRAR
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

RE: Proposed Rules Concerning Consolidation of Prelicensing and Continuing
Education Rules

Dear Ms. Hruby:

Enclosed please find the Statement of Need and Reasonableness for the above-referenced rules. These proposed rules appeared in the State Register on December 26, 1995.

For your information, we are also enclosing copies of the Notice of Intent to Adopt Rules and proposed rules.

If you have any questions about these rules, please contact me at 296-6593.

Sincerely,

DAVID B. GRUENES
Commissioner of Commerce

By:

A handwritten signature in cursive script that reads "Donna M. Watz" with "(da)" written below it.

Donna M. Watz
Staff Attorney
(612) 296-6593
DBG/DMW/da

STATEMENT OF NEED AND REASONABLENESS

STATEMENT OF AUTHORITY

The Minnesota Department of Commerce regulates the required prelicense and continuing education programs mandated by the legislature for several industries. This includes the approval of courses and instructors as well as the person responsible for monitoring the educational program, the coordinator. Currently the insurance education rules are found in Minnesota Rules, Part 2725, the real estate education rules are found in Minnesota Rules, Part 2800, real estate appraiser education rules are found in Minnesota Rules, Part 2808 and building contractor education rules are found in Minnesota Rules, Part 2891. The purpose of these proposed rules is to provide standards for the approval of courses and consistency among the course offerings. Authority for the development of these rules comes from Minnesota Statutes Sections 60K.19, Subd 6(c); 82.22, Subd. 6 & 13; 82B. 13, Subd. 3 and 326.87.

Although the current rules governing the educational offerings in each of the industries have some differences, the approaches taken by each of the industries is similar. As a matter of fact, the real estate education rules were used as a guide as each industry developed its education rules. Over the years since the promulgation of the real estate education rules, many education institutions have assumed responsibility for the offering of courses in each of the regulated industries. Since any differences in the rules were minor, it seemed practical to consolidate all of the rules relating to these four industries into one set of rules, consistent across all of the industries. The rules this document addresses encompass the effort of the Department of Commerce to do just that.

As these rules were being developed, the department consulted with industry trade groups and representatives of those entities offering courses. Committees were formed consisting of representatives from private schools, public schools, industry trade groups and individual instructors. These committees met at least two times and were sent drafts of the proposals as they have been changed. The idea and the final product won high praise from all groups. We believe that we have addressed all of the concerns expressed and that the results produced by this project will benefit the citizens of the State of Minnesota.

FACTS ESTABLISHING NEED AND REASONABLENESS

As mentioned above, the legislature mandated prelicense and/or continuing education for the licensees of each of the four industries addressed in these proposed rules. Real estate was the first industry to have mandated education requirements, and the rules were developed in the early 1980's. Following real estate, it became mandatory in the mid - 1980's that licensees in the insurance industry have a continuing education requirement each year. In developing the rules governing the offering of courses, the insurance industry used the real estate rules as a guide. Both of these sets of rules used the same principles, that there would be a person called a coordinator who was responsible for the course offerings. In the late 1980's, appraiser licensing came into being and with it, both prelicense and continuing education. Again, the real estate and insurance education rules, were used as a guide in drafting the appraiser rules, with only minor changes. The last industry regulated by the department to be subject to continuing education was

the building contractor industry. Once again the real estate, insurance and then the appraiser education rules were used as a guide with only minor changes. Over time, the number of persons requiring these education courses grew and schools were established to offer the required courses in more than one of the regulated areas. It became apparent that it would be of great benefit to both the public and the department if the rules governing the offering of these courses were consolidated into one chapter of Minnesota Rules so that both the schools and the department were able to refer to one consistent set of rules.

ANALYSIS

Part 2809.0010 Definitions

Part 2809.0010 defines terms as they relate to the prelicense and continuing education of real estate, insurance, appraiser and building contractor licensees. These definitions clarify the terms used in the body of the rules.

Subp. 2. Appropriate and related knowledge. This subpart defines the term used to indicate whether or not a course should be approved. It is a uniform standard to be used in determining whether a course should be submitted by a school, and whether it should be approved by the department. The term used in the existing rules, "substantive and procedural", has been deemed to be ambiguous and confusing. This new standard will tie the relevance of the course to the duties required of the licensee.

Subp. 3. Classroom hour. This subpart defines the time period for which a student must attend class in order to receive credit, and for which a course is approved. It takes into consideration the fact that breaks are to be given in a specific time period. In the existing rules, this term was not consistent within the various industries and caused confusion on the amount of time allowed for breaks.

Subp. 4. Commissioner. This subpart restates the definition found in the statutes and is included in these rules for easy reference and clarification.

Subp. 5. Coordinator. This definition identifies the person responsible for monitoring educational offerings which are governed by these rules. This definition is consistent with the definition currently found in existing rules for the various regulated industries.

Subp. 6. Instructor. This subpart's broad definition is designed to include anyone who lectures in an approved course offering. The rules define the standards by which instructors will be approved.

Subp. 7. Licensee. This subpart clarifies that the term licensee, as used in the rules, means a person regulated by the Department of Commerce and who must take an exam to obtain a license.

Subp. 8. Overpayment. This subpart is needed to explain in what instance a refund must be paid. The term "overpayment" is defined in connection with the fees set in the statute.

Subp. 9. Person. This subpart adopts the definition of "person" used in the statutes. The definition covers both natural persons and a wide variety of business entities that are subject to these rules.

Subp. 10. Professional designation. Because of the variety of licensees covered by these rules, it is important to have a defined term that references a title or classification granted by the particular industry of the licensee indicating a certain level of expertise. This subpart requires that there be a written exam and that the licensee must pass the exam in order to be considered as

receiving a professional designation. This definition is needed because the rules allow approval for courses which lead to a professional designation.

Subp. 11. Sponsor. Sponsor is defined as any "person" offering or providing approved education. This definition appears in current rules and is designed to remove any doubt that anyone offering any type of approved education comes within the scope of these rules.

Part 2809.0020 Payment of fees

Subp. 1. Manner of payment. This subpart specifies the methods that an applicant may use to tender the required fees for course approvals. The methods allowed are generally available to the public. Cash is not allowed so as to reduce the potential for mishandling of proceeds and to make proof of payment easier to verify. A similar provision is currently in the education rules for each industry.

Subp. 2. Refund. Within six months of payment and upon a written request, an applicant may receive a refund of any overpayment of approval fees. An overpayment would be the only reason that a refund would be made by the department. This provision puts the course sponsor and coordinator on notice that they have a reasonable time for discovering an overpayment and making a request for a refund before forfeiture is required. The current rules contain a similar provision.

Part 2809.0030 Forms

The commissioner's ability to prescribe the forms used in the approval process is necessary to ensure that the applications contain all relevant information for the commissioner to access the information necessary to assess qualifications and ensure compliance with these rules..

Standardization of these forms also helps to assure timely approval. Since some of the education providers keep the necessary information on computer, it is helpful to them to be able to supply the necessary information in this format. The proposed rule under this part is more liberal than the current rules in allowing the use of a form generated from a computer, even if the form is different than the form approved by the department.

Part 2809.0040 Textbooks required

This subpart requires that students be provided with a textbook which relates current and accurate information. This requirement is designed to assure that students gain an adequate understanding of the principles in their industry and that the information they receive is not outdated. The current rules contain a similar provision.

Part 2809.0050 Initial Education

Subpart 1. Content. This subpart describes under what circumstances a person shall be deemed to have completed the prelicense training. To gain the maximum exposure to topics covered, students are required to be in full-time attendance throughout the term of the course, complete readings and assignments. In addition, to determine whether students understand the material present, they must pass an examination that fully tests their comprehension of the topics covered. This subpart also allows for flexibility in the material covered in prelicensing education courses but assures that the course of study includes at least the information required for a basic understanding of the industry. This is the same as that required by current rules.

Subpart 2. Course submission. This subpart requires that sponsors must submit their materials to the commissioner at least 30 days prior to the date on which the course is to be taught. This period allows the commissioner sufficient time to review the course and sponsor and to advise the coordinator as to any problems so that they can be corrected in a timely fashion. The 30-day period is a minimum. Sponsors may submit courses for approval prior to this deadline. This is the same as that required by current rules.

Part 2809.0060 Continuing education

Subpart 1. Content. This subpart sets forth the criteria by which courses will be approved. The term "appropriate and related" is defined in the definition portion of these rules, and is the language suggested by the Office of the Attorney General as language which is clear and defensible. This subpart also allows that any course which has been approved by the Minnesota Office of Continuing Legal Education relating to the industry for which it is submitted will be automatically approved, since the course is subject to scrutiny and approval by another appropriate entity. This proposed rule also recognizes education obtained through course work developed and presented for accreditation with various national organizations and leading to a nationally recognized designation, and to educational offerings approved by the regulatory authority in another state if it does not conflict with Minnesota law. These provisions are present in current rules.

Subpart 2. Examinations. This subpart clarifies that course examinations are not required for continuing education courses but also that they are not prohibited if the instructor believes they are necessary and an integral part of the course. It also states that when certain prelicense courses are allowed for credit toward a continuing education requirement, the examination must be taken; this takes into consideration that the examination is an integral part of a prelicense course.

Subpart 3. Textbooks. This subpart clarifies that textbooks are not mandatory for continuing education courses. However, if textbooks are not used, certain criteria are set forth to assure that the students obtain the maximum benefit from the course. As a minimum requirement certain information including the course title, times and dates of the course and an outline of the subject matter to be covered is required. The textbook or syllabus must be available for each individual student's use during the course. This precludes sharing of materials and other inconveniences that might reduce the educational value of the course. Also, any textbook used must be as accurate and current as to the subject matter being taught. This subpart exists in current rules.

Subpart 4. Credit earned. To help assure that time spent in continuing education classes is meaningful and promotes a licensee's knowledge, this subpart sets out guidelines for the amount of credit to be given for the time spent in the classroom. A licensee will only receive credit for attending a course in its entirety even if this is accomplished by attending more than one presentation of the same course.

As with other types of continuing education, instructors are allowed additional credit for the time spent in course preparation. This recognizes the additional time spent and understanding gained by instructors in preparing to teach others.

Also, to assure that the objectives of increasing licensee's knowledge and keeping them current on changes, neither student or instructors may earn credit for taking or teaching the same course repeatedly during a three-year period.

This rule also allows that partial credit be given for attendance at a course. Any one course may contain material which would provide information for more than one industry. This rule would allow a licensee to obtain credit for the material appropriate to that industry.

Subpart 5. Non approved courses for continuing education. The statutes governing education for each of the industries limits continuing education offerings to courses that provide licensees with current knowledge of the pertinent industry. The subject areas excluded in this subpart will not improve a licensee's knowledge or ability to serve the public. This subpart specifically restricts the approval of courses that are designed to improve a licensee's office operations (the exception is building contractors, which is specifically allowed), sales skills, motivation and business skills. In addition, because the statute requires "classroom" instruction, correspondence courses are prohibited. The commissioner can disapprove a course not specifically identified in this subpart of the rules, but which does not offer substantive knowledge in the field. These rules, with the exception of computer courses, are currently in the rules. The advisory committees felt that computer courses should be allowed, as long as the course was not a basic course designed to teach a licensee how to use a computer.

Subpart 6. Credit for prelicense courses. This subpart allows a licensee to take a prelicense course for purposes of meeting his or her continuing education requirement as long as the licensee has not taken the course in the previous three years. The industries governed by these rules are dynamic and constantly changing. It was believed by the advisory committees that these prelicense courses, taken after a period of time, would be useful.

Subpart 7. Course approval. This subpart requires that courses will be approved in advance. The commissioner and the advisory committees believe that students should know whether a course is approved before they attend.

In certain instances, licensees may attend courses sponsored by parties that have not sought the approval of the commissioner. This subpart offers a procedure by which the licensee may submit a request for approval and be granted course credit.

This subpart also requires that sponsors must submit their materials to the commissioner at least 30 days prior to the date on which the course is to be taught. This period allows the commissioner sufficient time to review the course, and to advise the sponsor as to any problems so that they can be corrected in a timely fashion. The 30-day period is a minimum. Sponsors may submit courses for approval prior to this deadline.

As a means of reducing the burden of course approval for sponsors and the department, this subpart allows subsequent offerings of previously approved education courses upon the submission of a "notice of subsequent course offering" to the commissioner. As with initial approvals, the notice must be filed at least 30 days before the course is taught. This period allows the department time to reconsider its prior approval if problems have subsequently arisen.

Subpart 8. Courses open to all. This subpart is designed to prevent discrimination and to increase the access of students to continuing education courses. It requires that courses offered by any entity, such as a particular appraisal organization, must be open to all students, including those who may chose not to become a member of the organization. This requirement, therefore, will increase the availability of courses to licensees.

Part 2809.0070. Course Coordinator

Subpart 1. Requirement. This subpart mandates that each course have one coordinator who is responsible for assuring compliance with the laws relating to continuing education. This person is

the one accountable in all respects regarding the course and its compliance with the applicable statutes and rules. The subpart allows for assistants to be hired but does not remove the ultimate responsibility from the coordinator.

Subpart 2. Approval. This subpart sets forth the qualifications of a coordinator. These qualifications take into consideration the fact that the person who is in charge of the education program must have either experience in one of the industries or education experience, or both. The approval process is intended to insure that the coordinator has working knowledge of the practical aspects of what the licensees are facing and accordingly, can better relate the course materials to the licensee's profession. This proposed rule also allows, as a qualification, experience as an administrator of an education program. The standards set forth in this subpart are needed and reasonable to ensure that courses are organized and offered in a way that is helpful to the students needing the course work.

Subpart 3. Responsibilities. Since the coordinator is primarily responsible for the course offering, this subpart is necessary to set standards by which the courses must be conducted. This proposed rule reiterates the coordinator's responsibility to assure compliance with all laws and rules pertaining to educational offerings. To ensure that the commissioner has current and accurate information relating to course approval, coordinators are required to notify the commissioner of any changes in information previously submitted. Several sections of this subpart pertain to the coordinator's responsibility to students taking courses. The coordinator must monitor the courses to assure that the information provided these students is current and accurate and, therefore, of benefit to them and to the department. The coordinator is required to supervise the courses and instructors and to evaluate both to assure that students actually receive the information they are advised will be provided. To assure this, the commissioner is allowed to request written evaluation of the courses and instructors either by the students or the coordinators themselves.

The coordinator is also the person to whom written complaints may be made regarding the course offerings and instructors. The coordinator is charged with the duty of forwarding the complaints to the Department of Commerce regardless of their merit. The general intent of these requirements is to make the coordinator a guarantor of the quality of the courses and the instructors and to clarify that it is the coordinator's responsibility to do this rather than only assure the profitability of the course. In this regard, the coordinator is charged with maintaining appropriate records relevant to these rules and the responsibilities the rules impose.

A mechanism for transferring records is provided for students under this subpart of the rules. The commissioner is specifically prohibited from acting as custodian of the records to assure that the commissioner is an impartial party in regard to the activities of the coordinator. The responsibilities of the coordinator, in addition to those already set forth, require that the coordinator be available to the instructors and students throughout the time of the course offerings and that information be provided as to the coordinator's name and telephone number. This helps assure access by interested persons to the person ultimately responsible for the course presented.

As a final requirement, coordinators are charged with providing course completion certificates to students. Certificates must be provided within 30 days of course completion, provided that the coordinator may require payment of outstanding tuition to providing a certificate. This requirement is essential to verify student attendance and completion of the course, but does not preclude the sponsor from obtaining payment. The notice required to be posted on the

completion certificate is important as a way for the Department to be sure students are aware that they can advise the Department of any problems (or accolades) about the courses.

2809.0080 Instructors.

Subpart 1. Requirement. To assure the quality of course content and presentation, this subpart requires that the coordinator hire only qualified instructors to teach courses. It also sets forth a penalty for failure to have only approved instructors in an approved course, i.e. loss of course approval.

Subpart 2. Qualification for continuing education instructors. This subpart sets forth the specific qualifications for continuing education instructors. Because of the wide range of potential course content and the need for an adequate number of qualified instructors, it is necessary to allow for different categories of qualifications. These criteria consider advanced education and/or significant practical experience to suffice as basic qualifications for ensuring competent instruction. A degree and two years of experience is considered a necessary minimum for qualification as an instructor. Five years of recent experience in the subject area being taught is considered a necessary minimum when the instructor has no formal education in the topic area. A college or graduate degree is also presumed sufficient to assure a basic understanding of a subject area.

Subpart 3. Qualifications for prelicensing instructors. This subpart sets forth the specific qualification for prelicensing education instructors. Because of the wide range of industries covered by these rules, an allowance has to be made for a wide range of qualifications of instructors. The qualifications allowed for either education or education and experience to be used as a qualification, in order to obtain an adequate supply of instructors. Each of the qualifications under clauses (A) through (H) will ensure that courses are offered by knowledgeable instructors.

Subpart 4. Responsibilities. This subpart describes the responsibilities of instructors in broad, yet sensible, terms. The intent is to ensure competent instruction and a good educational experience for students by placing an onus on instructors to maintain a good learning environment. At a minimum, and as an example to their students, instructors must comply with the laws and rules pertaining to education. To assure that the knowledge imparted to students is of value, instructors must provide them with current and accurate information and be available to answer questions related to the subject being taught. These are basic tenets for sound instruction in any good classroom setting and must be provided to students in the various industries. It is also expected that the department will hold sessions with instructors that will explain department policy and new procedures. This subpart requires instructors to attend those sessions.

2809.0090 Prohibited Practices for Coordinators and Instructors.

Subpart 1. Prohibitions. This subpart specifies conduct that is prohibited on the part of the education course coordinators and instructors. Prelicensing and continuing education are meant to provide instruction to licensees regarding the principals and practices of the relevant industry. It has also been established to ensure that industry members provide sound services to their respective clients. Therefore, the educational setting may not be used as a recruiting, promotion or sales tool for any particular company, firm, franchise or organization. Allowing sponsors, coordinators and instructors to require students to participate in other services or programs as a

condition to attending a required course must be prohibited as this serves no purpose other than the benefit of the coordinator and instructor.

Likewise, to ensure the integrity of the licensing examination process, sponsors, coordinators and instructors are restricted from taking these tests without the approval of the commissioner and from discovering test questions, answers or information that may be passed on to students. Just as applicants are restricted from cheating on examinations, educators will not be allowed to engage in activities that promote dishonest conduct or undermine the integrity of the licensing examination. Additionally, since the integrity of the educational programs rests with the coordinators and instructors, it is incumbent upon them to ensure the accuracy of information submitted to the commissioner.

Subpart 2. Notification of disciplinary action. This subpart is designed to assure that the commissioner is provided with current, pertinent information regarding instructors and coordinators. The subpart requires those approved as education course coordinators and instructors to provide information to the commissioner regarding significant criminal convictions of licensees.

Subpart 3. Notification of approval application information. As with the requirement placed on licensees to keep the commissioner current with regard to applications submitted to the department, coordinators must report changes in the information submitted for approval.

2809.0100 Fees. This subpart articulates the basic premise that all information provided to students regarding fees must be clear and understandable. Likewise, the fees charged must be reasonable in regard to the courses offered. Discounts are allowed but, they must also be reasonable. The basis for any discounts is not set forth in the rules to allow sponsors a wide latitude that should help keep the market for courses competitive and provide a good value to students. Because the refund process can lead to numerous complaints in regard to how promptly the fees for cancellation of a course are returned, this rule specifies that under all circumstances fees must be returned no later than 15 days after cancellation. To allow students better scheduling options in the case of postponement of a course, the choice of attending the rescheduled course or receiving a tuition refund must be provided.

2809.0110 Facilities. This subpart states that classrooms and other locations where courses are offered must provide a conducive atmosphere for learning. It is the intent of these rules that students receive what they pay for, namely a good learning environment. Noisy, poorly ventilated or poorly lighted facilities are considered unacceptable. Sponsors will not be allowed to sacrifice learning opportunities to reduce costs.

2809.0120 Supplementary materials. This subpart requires that, when students are given supplementary handouts for a class that a sufficient number be available so that each student has one. It also requires that students be able to clearly read the handout, for example, that it has not been reproduced so many times that it is unreadable.

2809.0130 Advertising courses. This subpart provides a general requirement that all continuing education advertising must be truthful, clear and not deceptive or misleading. Licensees may spend a substantial amount on such courses and must attend the same to ensure their continued licensure. Accordingly, they must be able to rely on the veracity of the information upon which

they base their decisions regarding course attendance. This subpart also provides guidelines for the advertising of approved courses and is intended to provide a disclosure to potential students regarding approval and the credit to be given. Prospective students should know whether the course is approved and how many hours of credit may be received. This subpart also requires that advertising materials contain a statement disclosing that the course has been approved by the commissioner of commerce for whichever industry is applicable as well as setting forth the hours for which the course has been approved for credit. Licensees, thus, can choose not to attend a course or pay for a course for which they are going to receive less credit than they believe they are getting. Brochures for courses are often printed well in advance of a course, before the course has been approved, this subpart allows a sponsor to advertise a course as "approval pending" before formal approval has been received. The provision stating that course numbers cannot be included in any advertising is so that course numbers not be made common knowledge, thus increasing the chances for fraudulent course completion certificates. Also, approved courses must be clearly distinguishable from non approved courses so that licensees do not become confused into thinking that a non approved course is approved.

2809.0140. Notice to Students. As an additional measure for assuring that students know the number of approved credit hours for each prelicensing or continuing education course they are attending, a specific notice is required to be read at the beginning of each course stating the number of hours for which the course has been approved. The notice also clarifies that students have the right to make comments about the course offerings to the commissioner of commerce and gives the address of the commissioner.

2809.0150. Audits. This part allows the commissioner to audit courses. It is necessary so that the commissioner may determine compliance with these rules. On occasion the commissioner may wish to determine compliance without notice so a more accurate picture may be seen. The possibility of an audit, announced or otherwise, places sponsors, coordinators and instructors on notice of the risk of not complying with the statutes, rules and the disclosures governing education offerings.

2809.0160. Falsification of Reports. Falsification of an education report to the commissioner reflects upon the honesty and integrity of the licensee and is sufficient to provide grounds for suspension or revocation of his or her license. The reporting system provided under these rules is an honor system essentially relying upon the truthfulness and honesty of the licensees as an alternative to a more rigid, cumbersome and expensive approach. Activities which undermine this system must be severely penalized or confidence in it could be easily eroded. Additionally, falsification of reports to the licensing authority is reasonable grounds to presume questionable conduct in the performance of a licensee's duty to the clients, which is the most basic reason for the licensing statute and rules in the first place.

2809.0170. Disciplinary action. This subpart allows for the use of the commissioner's powers of denial, censure, suspension or revocation of an approval in the case in which the coordinator, or course instructor is not in compliance with the rules. This subpart is needed to clearly identify the penalty for failure to comply with the rules.

2809.0180. Waivers and extensions. This subpart recognizes that extenuating circumstances can arise which make timely completion of a licensee's continuing education requirement difficult or impossible. Sickness, injury, and incapacity are possible examples. The commissioner is allowed the authority to extend the period within which the requirement must be met by 90 days. However, loss of income from attendance or license cancellation for failure to satisfy the requirement are not to be considered valid reasons for extension. To allow otherwise would open this provision up to the potential for considerable abuse.

Consistent with the concept of extenuating circumstances discussed above, this subpart provides the commissioner with the authority to waive the classroom attendance requirement where a licensee can demonstrate that he or she has a physical disability or other inability to attend class. However, to assure that the licensee meets the objectives of the continuing education requirement, the commissioner can require alternative study arrangements and approve credit consistent with similar classroom course work. The waiver is not on-going but may be granted annually upon reapplication by the licensee.

2809.0190. Reporting requirements. This part establishes the requirement that compliance with prelicensing and continuing education requirements under these rules must be reported to the commissioner in a manner prescribed by the commissioner. The commissioner has forms available for licensees to use to comply with this part of the rules. Different industry applicants or licensees may need to provide information specific to that industry. By allowing the commissioner the authority to establish the manner and form of reporting, the applicants and licensees are assured of a stream-lined and effective method for reporting their compliance with the educational requirements.

2809.0200. Real estate education; real estate course curriculum. This part sets forth the subjects which must be studied by licensees both before they are licensed, and immediately after they are licensed. The basis for this curricula exists in current Minnesota Rules Part 2800.6000 - 2800.6600, however, during the course of writing these new rules, the outlines were made more current and reflective of what a real estate agent should know. The practice of real estate has changed significantly since the original rules were promulgated in the early 1980's. As stated in the Statement of Authority, industry representatives met and made recommendations to the commissioner concerning the information which the real estate agent should be expected to know. These industry representatives consisted of practitioners, representatives of the Realtor's trade group, and educators.

Minnesota Statutes section 82.22 sets forth the education requirements for real estate salespersons and brokers. Specifically, an applicant for a salesperson's license must successfully complete 30 hours of instruction before taking the licensure exam required under Minn. Stat. 82.22 subd. 1. In addition, Minn. Stat. 82.22 subd. 6 requires applicants to complete 60 more hours of instruction approved by the commissioner, covering the topics generally listed in subpart 6 of this statute. Subparts 1, 2, and 3 of part 2809.0200 of these proposed rules contain a detailed curriculum designed to ensure that applicants receive instruction on key topics concerning their work in the real estate area. The specific course outlines were developed by the commissioner with substantial input from experts in the real estate field. The department believes

that the course requirements are needed and reasonable to carry out the legislature's intent to have adequately prepared applicants for licensure as real estate agents in Minnesota.

Subpart 5 of proposed Part 2809.0200 establishes a course outline for prelicense education required of applicants for a real estate broker's license. Minn. Stat. 82.22 subd 6(c) states that an applicant for a broker's license must successfully complete a course of study consisting of 30 hours of instruction approved by the commissioner. The course requirements contained under subpart 5 are needed and reasonable since they set forth critical topics that a person must understand and master to be a knowledgeable real estate broker. By including the detailed outline in the rules, applicants and schools can understand what areas must be covered in prelicense courses. The topics listed in this subpart 5 were approved by the commissioner based on substantial input from experts in the real estate field.

2809.0210. Insurance education. This part sets forth the subjects with which a new insurance licensee must be familiar before getting their license. The provisions contained in this proposed Part 2809.0210 are contained in Part 2725.0110.

2809.0220. Appraiser education. This subpart refers to the material with which a newly licensed appraiser must be familiar. All of the information and requirements contained under this part of the proposed rules currently exist in Parts 2808.7200, 7300-7400 Minnesota Rules. This Department is relocating the text of these rules for clarity and ease in enforcing the education requirements. No substantive change has been made to these provisions. This, again, was brought to these rules from the previous rules.

2809.0230. Building contractor and remodeler education. This subpart sets forth the requirement that building contractor and remodeler licensees must take one hour of lead abatement and one hour of energy codes in order to maintain their license. As described in the previous two sections, rules currently existing elsewhere in Minnesota Rules are being restated/relocated under this new proposed Chapter 2809 for ease in complying with and enforcing education requirements. These education requirements currently exist under Part of Minnesota Rules. No substantive changes have been made to these provisions.

SMALL BUSINESS CONSIDERATIONS

Minn. Stat. § 14.115, subd. 2 (1994) requires the Department, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

- a. the establishment of less stringent compliance or reporting requirements for small business;
- b. the establishment of less stringent schedules or deadlines for compliance of reporting requirements for small businesses;
- c. the consolidation or simplification of compliance or reporting requirements for small businesses;
- d. the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- e. the exemption of small business from any or all requirements of the rule.

The Department believes that most, if not all licensees will fall within the definition of a small business. Accordingly, in regard to compliance with Minnesota Statutes § 14.115, the impact on small business was considered at each and every stage, and in regard to every requirement.

The Department of Commerce considered the impact of these proposed rules on small business and whether the rules could establish less stringent compliance or reporting requirements for small businesses. It is believed that these rules are directed at licensees that are mainly small businesses and that changes in reporting requirements are unnecessary. These rules were established with the small business in mind and promulgated to make the conducting of business less burdensome for them. As a result, it would be neither prudent nor effective to establish less stringent compliance or reporting requirements for small businesses. To do so would defeat the purpose of the proposed rules. Compliance with the proposed rules is necessary of all licensees, regardless of size, to protect the public and ensure that licensees are knowledgeable in the regulated industry.

EXPENDITURE OF PUBLIC MONEY BY LOCAL PUBLIC BODIES

Minn. Stat. § 14.11, subd. 1 does not apply because adoption of these rule amendments will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

IMPACT ON AGRICULTURE LANDS

Minn. Stat. § 14.11, subd. 2 does not apply because adoption of these rule amendments will not have an impact on agricultural land.

DEPARTMENTAL CHARGES

Minn. Stat. § 16A.1285 does not apply because the proposed amendments do not establish or adjust departmental charges.

CONCLUSION

Based on the foregoing, the Department's proposed rules are both necessary and reasonable.

Date: December 21, 1995

/s/ Patrick L. Nelson
Patrick L. Nelson
Acting Commissioner of Commerce