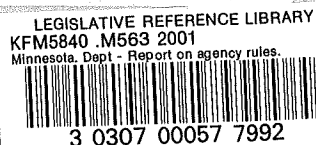


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# MINNESOTA DEPARTMENT OF COMMERCE

## REPORT ON AGENCY RULES



AUGUST 1, 2001

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Minnesota Department of Commerce  
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St. Paul, MN 55101

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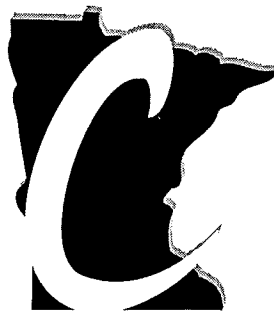
2000 Minn. Laws Chap. 469  
Sec. 4 Subd. 1

Minn. Stat. 14.3691



# MINNESOTA DEPARTMENT OF COMMERCE

## REPORT ON AGENCY RULES



AUGUST 1, 2001

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**REPORT ON AGENCY RULES  
EXECUTIVE SUMMARY  
August 1, 2001**

Pursuant to Minnesota Statutes section 14.3691, the Minnesota Department of Commerce has carefully reviewed all of the rules enforced by this department, and submits the attached Report on Agency Rules dated August 1, 2001. The report contains an analysis of each chapter of Minnesota Rules under the department's jurisdiction, in accordance with the following instructions provided by the legislature under Minnesota Statutes section 14.3691:

- (1) list any rules that the entity recommends for repeal;
- (2) list and briefly describe the rationale for the rules that the entity believes should remain in effect; and
- (3) suggest any changes in rules that would improve the agency's ability to meet regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties.

**BACKGROUND**

This report is divided into two parts. Part I contains the requested analysis for all rules listed in the Minnesota Rules Table of Contents under the heading of "Department of Commerce." Part II contains the requested analysis for all rules listed in the Minnesota Rules Table of Contents under the heading "Department of Public Service."

During the 2001 legislative session, the legislature completed the process of merging the department of public service into the department of commerce. With the enactment of Chapter 4 of the 2001 Special Session Laws, the department of public service was abolished. Consequently, the two departments now function as one, and the Minnesota Rules previously adopted by the department of public service are now enforced by the department of commerce.

To ensure a smooth transition process and to avoid confusion during the 2004 legislative session (when the legislature scheduled the review for the department of public service rules), the department of commerce has decided to include in this Report on Agency Rules a description and analysis of all of the rules previously enforced by the department of public service. These rules include the chapters of Minnesota Rules governing (1) weights and measures (Minnesota Rules parts 7601 and 7602) and (2) energy issues (Minnesota Rules parts 7606 through 7690).

**REPEAL OF OBSOLETE RULES**

On November 30, 2001, the department of commerce filed its annual report on obsolete rules. In that report, the department recommended the repeal of the following rule chapters as being obsolete:

Chapter 7645	Community Energy Grants
Chapter 7660	Energy Audits, Local, 1992 Manual
Chapter 7665	District Heating Systems
Chapter 7680	Local Energy Audits

All of these chapters were repealed by the Minnesota legislature under Chapter 23, Laws of Minnesota 2001 (SF 570/HF 252). Consequently, the department has not included these chapters in the itemized discussion in the report.

In addition to these rules, the department has identified two other chapters of Minnesota Rules that it recommends for repeal. Minnesota Rules Chapter 2782 pertaining to the Liquor Liability Insurance Assigned Risk Plan is no longer needed, since the duties of the Assigned Risk Plan have been transferred to the Minnesota Joint Underwriting Association. The department also recommends that Chapter 2870 of the Minnesota Rules be repealed, since all of the regulations under these rules are covered by Minnesota Statutes sections 332.31 through 332.45 and section 45.027.

#### CREDIT INSURANCE RULES

One of the most controversial issues facing the department of commerce last session was the department's initiative to amend Minnesota Statutes and Rules pertaining to Credit Life, Accident and Health Insurance. The department drafted a bill to address a number of problems with these products, including the fact that the loss ratio requirements currently established under Minnesota Rules Chapter 2760 are too low. As a result, Minnesota consumers are being overcharged for credit insurance resulting in large profits to companies selling the insurance. The department intends to bring this matter before the legislature next session, and intends to ask the legislature to enact revised standards into Minnesota Statutes

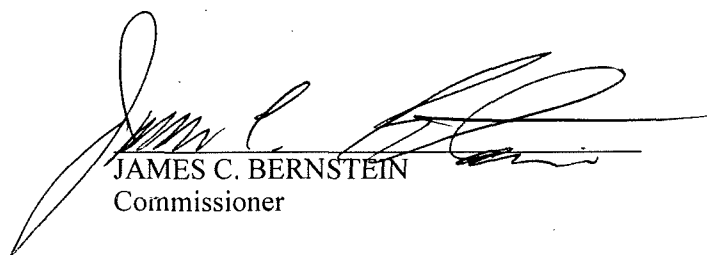
#### COST OF PREPARING THIS REPORT

Minnesota Statutes section 3.197 requires the department to include in any report to the legislature the cost of preparing the report, including any costs incurred by another agency or at another level of government. The department of commerce estimates that it spent approximately \$4,500 to prepare this report, which includes staff time to review the rules and prepare the summaries, a staff attorney's time to prepare the report, support staff time to reproduce the copies, and photocopying costs.

#### CONCLUSION

The department respectfully submits the attached Report on Agency Rules.

August 1, 2001



JAMES C. BERNSTEIN  
Commissioner

**PART I**  
**DEPARTMENT OF COMMERCE RULES**

2605	Insurance Filing Fees
2630	Safe Toys
2642	Cosmetology; Salons
2644	Cosmetology; Schools
2660	Savings Associations
2675	Financial Institutions
2700	Insurance Policies, Practices
2705	Data Service Organizations
2711	Actuarial Opinion and Memorandum
2715	Domestic Stock Companies
2720	Insurance Holding Company Systems
2730	Health Maintenance Organizations
2735	Sexual Discrimination in Insurance
2740	Comprehensive Health Insurance
2742	Coordination of Health Insurance Benefits
2745	Long-Term Care Insurance
2750	Variable Life Insurance
2751	Modified Guaranteed Annuities
2752	Annuity Mortality Tables
2755	Group Insurance Coverage Replacement
2760	Credit Life, Accident, Health Insurance
2761	Credit Involuntary Unemployment Insurance
2765	Employee Joint Self-Insurance
2767	Insurance Plan Administrators
2770	Automobile Insurance
2780	Workers' Compensation Self-Insurance
2781	Workers' Compensation Assigned Risk Plan
2782	Liquor Liability Insurance; Assigned Risk
2785	Political Subdivision Self-Insurance Pools
2790	Insurance Marketing Standards
2791	Medical Malpractice Insurance
2795	Insurance Agents
2800	Real Estate Broker Licensing
2805	Real Estate Broker Practice
2808	Real Estate Appraisers
2809	Prelicensing and Continuing Education
2810	Subdivided Land
2820	Forms and Conveyances of Real Estate
2830	Abstracters and Abstracts
2860	Franchises
2870	Collection Agencies
2872	Currency Exchange Fees
2875	Regulation of Securities
2880	Nonrenewal of Homeowners Insurance
2885	Unclaimed Property
2890	Petroleum Tank Releases
2891	Residential Building Contractors

**PART II**  
**DEPARTMENT OF PUBLIC SERVICE RULES**

7601	Weights and Measures
7602	Weights and Measures; Inspection Fees
7606	Institutional Energy Loans
7607	Energy Conservation Investment Loans
7610	Energy Information Reporting
7615	Petroleum Set-Aside Program
7620	Petroleum Supply Emergencies
7630	Decorative Gas Lamps
7635	Residential Energy Conservation Program
7640	Thermal Insulation Standards
7655	Energy Audits; Rental Buildings
7670	Minnesota Energy Code
7672	Energy Code
7674	Energy Code; Small, Multistory Residences
7676	Energy Code; Other Buildings
7678	Energy Code; Efficiencies, Calculations
7685	Cooling Systems
7690	Energy Conservation Improvement

# PART I

## DEPARTMENT OF COMMERCE RULES

<p>Chapter 2605 Minnesota Department of Commerce Insurance Filing Fees</p>
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**I. Rules Recommended for Repeal**

The department has not identified any part of Chapter 2605 as needing to be repealed.

**II. Rationale for Rules**

This chapter of the Minnesota rules was promulgated pursuant to the authority granted under Minnesota Statutes section 60A.14, subd. 2, which requires the commissioner of commerce to adopt rules to define filings that are subject to a fee. Chapter 2605 is needed because it provides detailed information about filing requirements that is helpful to regulated entities. For example, the rules under Chapter 2605 list certain types of filings that insurers would be likely to file for approval in Minnesota, and list how the insurer should calculate the related filing fees.

**III. Suggested changes**

Chapter 2605 needs to be amended to increase the filing fee amounts from \$10 to \$75 per filing, to make the rules consistent with the fee amounts listed under Minnesota Statutes section 60A.14. The Department discussed with the Revisor's Office various options of amending the dollar amount of the filing fees in the rules. The Revisor's Office recommended that the Department amend the rules using the good cause exemption for rulemaking under Minnesota Statutes section 14.388. The Department intends to initiate the rule changes by the end of the year. Except for the change in the dollar amount for the filing fees, the remainder of the rule should be maintained in its current format.



<p>Chapter 2630 Minnesota Department of Commerce Safe Toys</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2630 requiring repeal.

**II. Rationale for Rules**

Chapter 2630 sets out standards and procedures under which the commissioner of commerce may identify hazardous toys, prohibit their sale and distribution within the state, and require their repurchase by dealers, distributors, and manufacturers or importers. The rules provide authority and guidelines to the commissioner in carrying out the responsibilities imposed by this chapter and by Minnesota Statutes section 325F.08 through 325F.17 (the Safe Toys Act).

**III. Suggested Changes**

None at this time. The commissioner of commerce is currently engaged in discussions with the attorney general concerning the possible transfer of responsibilities under the Safe Toys Act and Rules Chapter 2630 to the attorney general's consumer division. Assuming the transfer takes place, as appears likely, any decisions relating to amendment of these rules should be left to the attorney general.

<p>Chapters 2642 and 2644 Minnesota Department of Commerce Cosmetology Salons; Cosmetology Schools</p>
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**I. Rules Recommended for Repeal**

The department has not identified any part of Chapters 2642 or 2644 as requiring repeal at this time.

**II. Rationale for Rules**

Chapters 2642 and 2644 of the Minnesota Rules provide the specific details for conducting business within the cosmetology industry. These two chapters of rules are intertwined and jointly necessary as the licenses for individuals and salons required under Chapter 2642 are not possible without the properly licensed cosmetology schools provided for in Chapter 2644. The rules under Chapter 2642 and 2644 are critical to both the department and the regulated entities because they provide clear and reasonable guidance or direction to people working in this industry. The industry consists of individuals (cosmetologists, managers, instructors, etc.), salons and schools. Chapters 2642 and 2644:

- Establish the requirements for obtaining, renewing or reinstating individual, manager, instructor, salon and school licenses
- Establish the necessary equipment, safety and sanitation standards for operation of a salon or school; and
- Establish operational standards for the safe operation of salons and schools.

The department considers Chapters 2642 and 2644 to be a critical tool in maintaining the safe and sanitary operation of the businesses within the industry. Chapters 2642 and 2644 should remain in effect.

**III. Suggested changes**

No amendments are immediately necessary at this time. However, the Department has re-established the Cosmetology Advisory Council for the purpose of reviewing the rules and updating them to fit current cosmetology business models and the safety and sanitation standards that exist today. The Cosmetology Advisory Council will make recommendations to the commissioner as to any rule it deems requires amendment.

<p>Chapter 2660 Minnesota Department of Commerce Savings Associations</p>
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**I. Recommended for Repeal**

The department does not believe any part of Chapter 2660 requires repeal at this time.

**II. Rationale for Rules**

Chapter 2660 was adopted pursuant to the enactment of Minnesota Statutes section 51A.58 in 1986, authorizing a savings association chartered in a reciprocating state to establish or operate branch offices in Minnesota. Chapter 2660 sets forth the application and approval procedures to be followed by a savings association with its principal place of business in another state in its efforts to acquire or operate a branch office in Minnesota. The rules under Chapter 2660 set forth a minimum level of requirements for approval of a reciprocal interstate branching authorization, and do not subject prospective savings associations to unnecessary regulatory burden. The rules are needed to provide technical guidance to applicants with regard to the approval process for authorization to do business in Minnesota, while providing sufficient standards for initial supervision of new applicant savings associations. The rules under Chapter 2660 should be retained in their current format.

**III. Suggested changes**

The department has not identified any changes to Chapter 2660 that are needed to give effect to the legislature's regulatory objectives, or to reduce the regulatory burden on regulated parties.

<p>Chapter 2675 Minnesota Department of Commerce Financial Institutions</p>
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**I. Rules Recommended for Repeal**

The department has not identified any part of Chapter 2675 requiring repeal.

**II. Rationale for Rules**

This chapter provides detailed technical guidance to state-chartered banks, credit unions, finance companies and operators of electronic funds transfer terminals (ATMs) on a wide range of issues affecting these regulated entities. The specific areas covered include: documentation requirements for bank loans, real estate loans, investments; accounting and record keeping requirements for banking transactions; fidelity insurance requirements; requirements concerning bank internal control and audit procedures; limits and requirements concerning finance company lending; accounting and operational issues that apply to credit unions; and various consumer protection and disclosure requirements imposed on ATM (automated teller machines) operators. The requirements in this chapter are not controversial and establish minimum standards and procedures to be followed by various financial institutions. They have evolved over time and clarify various issues for the regulated industries. The information in this chapter supplements the requirements of the various statutes. Chapter 2675 should remain in effect in its current form.

**III. Suggested changes**

The department does not believe any amendments are needed at this time to Chapter 2675 to improve the department's ability to regulate financial institutions. The department has not identified any unnecessary burden imposed by these rules on the regulated parties requiring an amendment to Chapter 2675.



<p>Chapter 2700 Minnesota Department of Commerce Insurance Policies, Practices</p>
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**I. Rules Recommended for Repeal**

The department has not identified any post of chapter 2700 as requiring repeal.

**II. Rationale for Rules**

Chapter 2700 of the Minnesota Rules provides important criteria and standards that are applicable to a wide variety of insurance products and policies sold to Minnesota residents. For example, chapter 2700 requires that all policies of insurance must be printed in the English language and in legible typeface styles to facilitate easy-reading of the policy. This chapter also describes acts or practices that are considered to be unfair or deceptive in the business of insurance, such as prohibiting the automatic enrollment of a current policyholder in insurance coverage that is in addition to or greater than the coverage already in force.

Another important section under chapter 2700 allows an insurer to be exempt from certain filing and approval requirements for commercial policies issued primarily to business entities. This exemption reduces the regulatory burden on commercial insurers and allows them to self-regulate their compliance with the statutes and rules regarding policy forms and rates used in Minnesota. The department still has authority to take action against an insurer if the insurer fails to meet the statutory requirements.

The department considers chapter 2700 to be a very important tool in its efforts to regulate insurance practices in Minnesota. Chapter 2700 should remain in effect, and no amendments are necessary at this time.

**III. Suggested changes**

The department does not believe any changes are needed to chapter 2700 to improve the department's ability to meet the legislature's regulatory objectives or to reduce unnecessary burden on the regulated parties.

<p style="text-align: center;">Chapter 2705 Minnesota Department of Commerce Data Service Organizations</p>
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**I. Rules Recommended for Repeal**

Minnesota Rules part 2705.3000 should be repealed as it conflicts with Minnesota Statutes §79.55, subd. 5, which prevents the commissioner, by rule or otherwise, from prohibiting a credit or discount from a manual premium solely because it is greater than a certain fixed percentage of the premium.

**II. Rationale for Rules**

Chapter 2705 should be retained because it sets out the guidelines that provide the basis for the gathering of credible workers' compensation experience in Minnesota. It creates a level playing field by requiring all companies to utilize uniform manuals, with some specific exceptions. This uniformity provides the data service organization with credible experience, used for the development of pure premium base rates in Minnesota. The rules also provide the department with meaningful data and a structure for evaluating rate filings and ensuring that appropriate rate levels are maintained. The rules should be retained.

**III. Suggested Changes**

This chapter should be revised to remove references to the "rating association" (meaning the Minnesota Workers Compensation Insurance Association or "MWCIA"), as well as all of the outdated transition dates. These references are no longer relevant, and are confusing to those who are using the rules. It is not unusual for companies to conclude that the only data service organization permitted under the rules is the MWCIA because it is the rating association referred to in the rule. While the MWCIA is the only workers compensation data service organization currently licensed, it is possible for other data service organizations to become licensed in Minnesota. The rules should be amended to clarify this matter.

<p style="text-align: center;">Chapter 2711 Minnesota Department of Commerce Actuarial Opinion and Memorandum</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules under Chapter 2711 requiring repeal at this time.

**II. Rational for Rules**

Chapter 2711 establishes technical guidelines and standards for statements of actuarial opinion and supporting memorandums which are to be submitted to the commissioner of commerce by life insurance companies and fraternal benefit societies doing business in this state and by all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in Minnesota, pursuant to Minnesota Statute §61A.25. These rules are important to both licensed entities and the department because they provide uniform standards for the rendering of a company's statement of actuarial opinion on reserve adequacy and for the appointment of the qualified actuary charged with rendering that professional opinion. Chapter 2711 also provides rules regarding the asset adequacy testing that may be performed in support of the actuarial opinion, and for the confidential supporting actuarial memorandum that is required to be prepared by the appointed actuary. Asset adequacy testing is currently required for larger companies, and for smaller companies if they cannot meet certain exemption criteria. These rules are substantially similar to the Model Actuarial Opinion and Memorandum Regulation adopted by the National Association of Insurance Commissioners (NAIC). By adopting the model act regulations regarding technical actuarial opinion requirements, Minnesota makes it easier for insurers to comply with similar requirements in other states that have adopted the model regulation. The department's actuarial unit routinely uses the rules under Chapter 2711 to uniformly and fairly ensure the financial solvency of all licensed insurers in Minnesota. The department recommends that Chapter 2711 be retained without amendment.

**III. Suggested Changes**

The department does not recommend any amendments to Chapter 2711 at this time.

<p>Chapter 2715 Minnesota Department of Commerce Domestic Stock Companies</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2715 that requires repeal.

**II. Rationale for Rules**

Chapter 2715 contains substantial technical guidelines and standards for the regulation of insurance companies, domiciled in Minnesota, that are stock owned. The rules under Chapter 2715 are critical to ensuring the financial solvency of these companies, by establishing uniform procedures and standards for the filing of necessary forms and information with the department. The rules set forth filing formats for information filings required by statute, including information about ownership interests, acquisitions, exemptions and changes in ownership. The rules also provide specific guidelines for regulated entities in how to comply with Minnesota statutes applicable to stock companies, stockholders, officers, directors and investors.

The department believes Chapter 2715 should be retained in its entirety.

**III. Suggested Changes**

There are no recommended changes for Chapter 2715.



<p>Chapter 2720 Minnesota Department of Commerce Insurance Holding Company Systems</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2720 requiring repeal at this time.

**II. Rationale for Rules**

Chapter 2720 was adopted in 1992 to set forth procedural requirements and guidelines for Insurance Holding Company Systems doing business in Minnesota, to ensure their compliance with Minnesota Statutes Chapter 60D. For example, these rules provide recommended forms intended to be guides for the regulated entities in the preparation of Acquisition Filing Statements and Registration Statements as is required under Chapter 60D of Minnesota Statutes. The rules under Chapter 2720 are based on model regulations adopted by the National Association of Insurance Commissioners (NAIC). The department believes that the rules under Chapter 2720 provide important standards to assist Insurance Holding Company Systems to obtain proper approval in Minnesota under Minnesota Statutes, and to ensure that Minnesota statutory requirements are enforced fairly and uniformly among regulated holding companies. The department recommends that these rules be retained without amendment.

**III. Suggested Changes**

The department has not identified any rule under Chapter 2720 requiring amendment at this time.

<p>Chapter 2730 Minnesota Department of Commerce Health Maintenance Organizations</p>
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**I. Rules Recommended for Repeal**

The department of commerce has not identified any rule under Chapter 2730 requiring repeal at this time.

**II. Rationale for Rules**

Minnesota Statutes Chapter 62D.22 requires that all persons soliciting or offering enrollment in a health maintenance organization ("HMO") have proper training and education to advise such applicants. The rules under Chapter 2730 outline that the commissioner of commerce shall conduct written examinations for the licensing of HMO agents, solicitors and brokers, and set forth the guidelines for what the examination is intended to determine regarding the agent's knowledge of HMO plans and protections for enrollees.

Chapter 2730 also authorizes the commissioner of health or the commissioner of commerce to investigate whether any expense an HMO incurs or pays is unreasonably high in relation to the value of any service or good provided. The rules list certain factors to be considered by the commissioners in rendering a determination on the reasonableness of HMO expenses.

Chapter 2730 is critically important in authorizing the departments of health and commerce to work together in regulating the HMO industry. The department believes the rules under Chapter 2730 should be retained.

**III. Suggested Changes**

The department has no suggested changes to Chapter 2630.

<p style="text-align: center;">Chapter 2735 Minnesota Department of Commerce Sexual Discrimination in Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2735 requiring repeal at this time.

**II. Rationale of Rules**

Under Minnesota Statutes §72A.20, subd. 16, the Minnesota legislature established as an unfair or deceptive practice any attempt by an insurer to deny insurance coverage to an individual because of the sex or marital status of the applicant or policyholder. Chapter 2735 of the Minnesota Rules were adopted to provide guidance to regulated entities and Minnesota policyholders to what acts or practices of an insurer or underwriter would be examples of prohibited sexual discrimination. Examples of prohibited acts are stated in Chapter 2735 and include, (1) offering lower maximum monthly benefits to women and men, (2) establishing different conditions based on gender by which the policyholder may exercise benefit options, (3) using marital status as a limitation on the amount of coverage an insured or prospective insured may purchase, or (4) denying maternity benefits to insurers or prospective insurers purchasing an individual contract when comparable family coverage contracts offer maternity benefits.

These rules are important in that they provide specific examples and guidance to regulated insurers as to what might constitute sexual discrimination in insurance policies or underwriting. The department of commerce needs these rules to effectively regulate insurers doing business in Minnesota and to prevent the act of denying benefits or coverage on the basis of sex or marital status. No amendments to Chapter 2735 are needed at this time.

**III. Suggested Changes**

The department does not have any recommended changes to Chapter 2735.

<p style="text-align: center;">Chapter 2740 Minnesota Department of Commerce Comprehensive Health Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2740 requiring repeal.

**II. Rationale of Rules**

The rules under Chapter 2740 provide significant guidance in interpreting and applying requirements under Minnesota Statutes Chapter 62E. These rules are needed to establish parameters for qualified comprehensive health insurance plans that must be offered by all licensed health carriers in Minnesota. The rules also establish the requirements for offering a policy of conversion upon termination of coverage. Finally, the rules under Chapter 2740 provide substantial structure to the organization and operation of the Minnesota Comprehensive Health Association ("MCHA") for uninsurable individuals in Minnesota.

All health insurance companies licensed in Minnesota must offer a comprehensive (qualified) health insurance policy to each applicant. The rules under Chapter 2740 establish definitions, preexisting condition provisions, minimum benefits for qualified plans, certification requirements by the commissioner of commerce that these plans are "qualified," and provisions on offering a conversion privilege to another health plan upon termination of the original policy. These rules permit health carriers to either offer a qualified plan established by Minnesota Statutes §62E.06 or one that is an actuarial equivalent to those qualified plan's benefits. An actuarial equivalent table is established within the rules and updated yearly to allow carriers to provide a qualified plan with alternative benefits and coverages. Without these guidelines, licensed insurers would have very little definitive guidance as to what criteria must be met to obtain approval for a qualified plan or its actuarial equivalence.

Regarding MCHA, the rules establish the mandatory membership by health carriers, and the process of assessing health carriers to pay their proportionate share of MCHA's operating expenses. The rules also establish: (1) the MCHA Board of Directors and public meeting schedule, (2) the minimum benefits of health coverage that has to be offered under MCHA, (3) the process for Minnesota residents to enroll in MCHA, (4) the appeal process, and (5) the authority to make reinsurance available to licensed health carriers.



The rules under Chapter 2740 are essential to the regulation of insurance in Minnesota since they establish the details and criteria for the qualified plans, and create regulation of the health insurance pool for Minnesota's uninsured resident population through MCHA. They facilitate in the implementation, enforcement and application of these standards to all persons affected. The department strongly recommends that Chapter 2740 be retained in its entirety.

### **III. Suggested Changes**

The department recognizes that some references to the base tables of 1984 appear to be out-dated. Although the department sees some value to updating the actuarial equivalence rules, a rulemaking endeavor of this magnitude is likely to be cost prohibitive to the department. The department publishes updated values in the State Register each year, pursuant to Minnesota Rules part 2740.9914. In addition, these updated values are also available on the department of commerce website, making the current factors easily available for all interested parties. To date, no regulated entity has requested any changes to Minnesota Rules chapter 2740. Until additional funding is available to go through the rulemaking process, the department is not in a position to recommend any changes to these rules at this time.

<p>Chapter 2742 Minnesota Department of Commerce Coordination of Health Insurance Benefits</p>
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**I. Rules Recommended for Repeal**

There are no rules under Chapter 2742 recommended for repeal.

**II. Rational for Rules**

These rules under Chapter 2742 are needed to avoid claim payment delays and duplication of benefits when a person is covered by two or more insurance policy plans providing benefits or services for medical, dental or other care of treatment. For example, where a child is has dependent health insurance coverage on both working parents' group insurance plan, Chapter 2742 sets forth rules as to which insurer is considered the primary insurer. These rules are important because they avoid delays by establishing an order in which plans pay claims (who pays first) and provides an orderly transfer of information needed to pay these group claims promptly. It avoids duplication of benefits, thus reducing health care costs. Coordination of benefits rules are intended to establish uniformity for both the policyholder and the insurance company in the optional use of an over-insurance provision and to avoid claim delays and misunderstanding that otherwise result from the use of inconsistent or incompatible provisions among insurance policies or plans.

These needed rules provide necessary definitions, establishes who pays first, provides modeling language for use by insurers, established procedures for alternative versions, and establish provisions for excess and other non-conforming types of health care coverage.

These coordination of benefit rules are used currently by licensed health carriers and self-insured employers to prevent duplication of benefits, reduce health care costs, avoiding claim payment delays. These rules are fair and equitable to both the policyholder and the insurer.

**III. Suggested Changes**

The department has not identified any amendments that are needed to Chapter 2742.

<p style="text-align: center;">Chapter 2745 Minnesota Department of Commerce Long-Term Care Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2745 as requiring appeal.

**II. Rational for Rules**

The purpose of these rules is to establish general standards to ensure that assessments used in prescribing long-term care are reliable, valid and clinically appropriate for non-qualified long-term care policies (Minnesota Statutes §§62A.46 through 62A.56). They are used to determine policy benefits, based on assessments of the insured's ability to perform activities of daily living and to perform basic cognitive functions. These rules also establish the specific definitions for activities of daily living (bathing, dressing, toileting, transferring and eating) and cognitive impairment.

For these non-qualified long-term nursing care policies, activities of daily living and cognitive impairment assessments can be used as the basis for defining when a service, type of care or procedure could not be omitted without adversely affecting the patient's illness or condition. The rules determine the impairment level by stating that the policy's definition of impairment cannot be more restrictive than cognitive impairment. Alternative standards and certification may be used by the insurance company, but the department of commerce must assess the methodology used for these alternative assessments.

These rules provide the department of commerce with adequate standards to evaluate if the insurance company's long-term care policy's assessment is appropriate. They protect the policyholder who purchased these long-term care policies, and assure the department that the assessments would be reasonable to produce reliable, valid and clinically appropriate results.

**III. Suggested Changes**

No amendment to Chapter 2745 is needed at this time.

<p>Chapter 2750 Minnesota Department of Commerce Variable Life Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2750 as requiring repeal.

**II. Rationale for Rules**

Chapter 2750 is important because it sets forth comprehensive and technical requirements for any insurer seeking authority to issue variable life insurance in Minnesota, as well as any insurer authorized to issue variable life policies in Minnesota. The rules are needed to provide regulated entities with the specific information they need to comply with Minnesota Statutes §§ 61A.13 to 61A.21. The rules require insurers to create separate investment accounts in order to fund variable life insurance business. These rules provide the framework for policy form requirements, reserving, and all aspects of the establishment and maintenance of the separate accounts. The rules also require that an agent must hold a valid life insurance agent license as well as comply with all applicable state and federal securities laws to sell variable life insurance products in Minnesota.

**III. Suggested Changes**

Chapter 2750 was based on a model regulation adopted by the National Association of Insurance Commissioners (NAIC). There were changes to the NAIC model regulation in 1989 that were never adopted by Minnesota or a number of other states. Recently, however, an actuarial guideline on reserving has been adopted by the NAIC, with its sole purpose being to update the reserving guidance for variable life policy designs not anticipated by the original model rule or the changes made to it in 1983 and 1989. With this actuarial guideline in place, we do not anticipate a need to change these rules at this time.



<p>Chapter 2751 Minnesota Department of Commerce Modified Guaranteed Annuities</p>
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**I. Rules Recommended for Repeal**

The department does not believe any part of Chapter 2751 requires repeal.

**II. Rational for Repeal**

Chapter 2751 regulates issuance or sale of modified guaranteed annuities, which provide guaranteed interest returns if a contract is held to its fixed maturity date. The rules establish (1) the qualification of agents to be authorized to sell these products; (2) the requirements imposed on insurers to be authorized to issue modified guaranteed annuity contracts; (3) the required contract form and issuance provisions; and (4) the manner in which separate account assets supporting these contracts are to be maintained and reported. While somewhat dated, these rules are still fairly effective today in the department's regulation of these products. The department recommends that the rules be retained to enable it to continue to effectively supervise the offering of these products in Minnesota.

**III. Suggested Changes**

The popularity of modified guaranteed annuities has appeared to decrease in recent years. Since the rules are adequate to regulate the issuance of the contracts in Minnesota, the department does not recommend any changes be made to Chapter 2751 at this time.

<p style="text-align: center;">Chapter 2752 Minnesota Department of Commerce Annuity Mortality Tables</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2752 requiring repeal.

**II. Rationale for Rules**

Chapter 2752 was adopted in 1998 (effective for new annuities purchased on or after January 1, 1999) to update the minimum mortality standard for the reserve valuation for individual life annuities and for purchases arising from a group annuity master contract. The annuity mortality tables referenced in Chapter 2752 were developed by the Society of Actuaries and have been adopted as recognized mortality tables for annuities by the National Association of Insurance Commissioners (NAIC). The minimum valuation basis for mortality for new life annuities must be kept current to recognize ever-increasing life expectancies. The valuation mortality basis for purchases arising from a group annuity master contract contains a dynamic updating feature built into the rules themselves.

Chapter 2752 is needed to establish current uniform guidelines for insurance company actuaries and department actuaries that are consistent with industry standards and the regulations used in other states.

**III. Suggested Changes**

The department recommends no changes to Chapter 2752.

<p style="text-align: center;">Chapter 2755 Minnesota Department of Commerce Group Insurance Coverage Replacement</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2755 as requiring repeal.

**II. Rationale for Rules**

Chapter 2755 of the Minnesota Rules communicates to insurers the responsibilities of each insurer in situations where one insurer is replacing another insurer's group insurance policy sold to Minnesota residents. The rules set forth under this chapter are important because of the technical contractual nature of insurance policies. The rules assist insurers, policyholders, claimants and regulators in interpreting the application of two policies or contracts when a transition in insurance coverage is occurring. Chapter 2755:

- Establishes the prior insurer's liability;
- Establishes the replacing insurer's liability;
- Clarifies how the insurers must treat pre-existing condition limitations, deductions and waiting periods.

The department considers Chapter 2755 to be a useful tool in its efforts to provide an orderly transition from one group insurance policy to another in instances where group insurance coverage is being replaced by another insurer. Chapter 2755 should remain in effect, and no amendments are necessary at this time.

**III. Suggested Changes**

The department does not believe any amendments are needed to Chapter 2755.

<p style="text-align: center;">Chapter 2760 Minnesota Department of Commerce Credit Life, Accident and Health Insurance</p>
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**I. Rules Recommended for Repeal**

At the present time, the department does not recommend that any rule under Chapter 2760 be repealed.

**II. Rationale for Rules**

Minnesota Statutes §62B.07, subd. 2 authorizes the commissioner of commerce to disapprove any credit life or credit accident and health insurance form “if the premium rates charged or to be charged are excessive in relation to the benefits, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of coverage...” The rules under Chapter 2760 were adopted to provide guidelines to assist the department and the regulated entities in establishing what premium rates would be considered reasonable in accordance with Minnesota Statutes §62B.07, subd. 2.

In 1989, the department of commerce went through a long and expensive rulemaking hearing, resulting in the establishment by rule of a loss ratio standard of 50 percent as the minimum measure of reasonable benefits to premium for credit life and credit health products sold in Minnesota. The rules hearing also established schedules of prima facie premium rates for different types of credit insurance products. If an insurer chooses to use the prima facie rates, the rates would be presumed not to be excessive in relation to the benefits provided. The department uses the rules under Chapter 2760 to review filings submitted by credit insurance companies.

Many years have passed since the presumptive rates were adopted into Chapter 2760 of the rules. A new actuarial study of these credit insurance products would almost certainly result in a recommendation that the presumptive rates in the rules should be reduced to meet loss ratio standards. However, a study of this sort would require outside actuarial analysis and would be very expensive. The department’s budget does not currently provide for the amount that would be needed to produce the required actuarial analysis and the significant expenses that would be incurred to go through a rulemaking hearing to amend the presumptive rates in the rules.

Consequently, although Chapter 2760 contains presumptive rates that the department believes are too high, resulting in excessive charges to Minnesota consumers, the department has little option except to use the standards available under Chapter 2760, until other statutory remedies can be implemented.

### **III. Suggested Changes**

During the 2001 legislative session, the department of commerce drafted proposed language to address some of the concerns and marketing abuses the department has discovered regarding the sale of credit insurance in Minnesota. House File 1428 was heard in committee and was laid over for interim study. The bill would, in part, establish a loss ratio standard in statute, rather in the rules, thus giving the legislature more direct control and oversight over the loss ratio standards to be used in Minnesota. The bill would also raise the loss ratio requirements to bring Minnesota rates closer to loss ratio standards used in other states and with model provisions recommended by the National Association of Insurance Commissioners. The department does not want to eliminate or restrict the sale of credit insurance in Minnesota. However, the department believes that the legislature needs to carefully examine the issue to ensure that Minnesota consumers are not being charged excessive rates for the coverage.

The department believes that it would be premature to make any specific recommendations for rule changes at this time. The department will work with the legislature while it completes the interim study on the credit insurance reform bill.

<p>Chapter 2761 Minnesota Department of Commerce Credit Involuntary Unemployment Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2761 requiring repeal.

**II. Rationale for Rules**

Chapter 2761 of the Minnesota Rules establishes the requirements to be followed by an insurance company that wants to offer or sell credit involuntary unemployment insurance in Minnesota. This type of insurance provides certain loan installment payments to a creditor (with respect to a specified loan or credit transaction) in the event of the involuntary unemployment of the debtor. The rules are important since they provide comprehensive regulation of how the product can be sold in Minnesota, what the policy must include, and what premium rate limitations apply to these types of policies. The rules under Chapter 2761 should be retained to ensure that insurers have the ability to sell credit involuntary unemployment insurance, while protecting Minnesota insureds from exorbitant prices, inadequate policy provisions or dishonest business practices on the part of the agent or the insurer.

**III. Suggested Changes**

No changes to Chapter 2671 are needed at this time.

<p>Chapter 2765 Minnesota Department of Commerce Employee Joint Self-Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2765 as requiring repeal.

**II. Rationale for Rules**

Chapter 2765 governs the formation, operation and dissolution of multiple employer plans for joint self-insurance of employee health, dental or short term disability benefits. These rules exist to ensure the solvency and integrity of all self-insured plans under Minnesota Statutes chapter 62H, and to ensure that they are administered competently and equitably. Chapter 62H explicitly requires the commissioner of commerce to promulgate rules to regulate the operation of these self-insured plans. The rules remain essential to the department's ability to regulate multiple employer joint self-insurance plans.

**III. Suggested Changes**

The department has no recommended changes to Chapter 2765 at this time.



<p style="text-align: center;">Chapter 2767 Minnesota Department of Commerce Insurance Plan Administrators</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2767 requiring repeal.

**II. Rationale for Rules**

Minnesota Rules chapter 2767 continues to be an essential tool in enforcing the provisions of Minnesota Statutes §60A.23, subd. 8. The rules further define administrators as vendors of risk management services who perform services that include accounting, record retention, actuarial in conjunction with other services, claims administration, general administration, insurance, legal, loss control and other safety, rehabilitation, risk management and analysis and other services related to the establishment and the maintenance of a program of self-insurance or a program of insurance.

The rules provide the requirements for licensing and renewal of an entity to be authorized as a third party administrator in the State of Minnesota. The rules also provide the department with the ability to regulate the company and the establishment of certain financial thresholds and reporting requirements in order to continue to be licensed in the State of Minnesota. The rules contain certain requirements that are needed for notification of termination of contracts and contain the bond amount formulas for companies required to post bonds when administering a self-insured or an insured plan whether commingling or not commingling client financial accounts. The rules should be retained without amendment.

**III. Suggested Changes**

No changes to Chapter 2767 are needed.

<p style="text-align: center;">Chapter 2770 Minnesota Department of Commerce Automobile Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules under Chapter 2770 requiring repeal at this time.

**II. Rationale for Rules**

Chapter 2770 sets forth a variety of rules related to the regulation of automobile insurance in Minnesota. There are five main categories of rules found under this chapter.

*A. Surcharge Disclosure Plans (2770.1100-2770.1900)*

These rules provide specific format and filing requirements for the surcharge disclosure statement required under Minnesota Statutes §65B.133. These requirements are necessary “to assure that surcharge disclosure statements contain minimum basic information which allows insureds to make sound decisions when comparison shopping for automobile insurance.” More specifically, these requirements are necessary to assure that the surcharge plans offered by various insurance companies can be easily compared one to the other (i.e. on an “apples to apples” basis).

By being able to more easily make these “price” comparisons, consumers of insurance can make informed purchasing decisions. Without such rules, consumers would be unable to expeditiously discern significant pricing differentials among insurance companies.

*B. Auto Accident Reparations Arbitration (2770.3100-2770.5200)*

These rules are intended to promote efficient settlement of claims involving economic loss between insurers. The claims for loss or injury must arise out of accidents involving a commercial vehicle under the jurisdiction of the Minnesota No-Fault Act, giving subrogation or direct action recovery rights to an insurer for payments or benefits paid to insureds or third parties.

The department of commerce is not involved in this arbitration process. The establishment of the arbitration panel and the operation of the arbitration process is run by an arbitration committee, which is appointed from full-time salaried representatives of insurance companies. The

department has not been able to locate any entity serving as the arbitration committee. Consequently, the department is not in a position to determine whether changes need to be made to these rules.

*C. Auto Self-Insurance (2770.6100-2770.7300)*

These rules are needed to ensure that any person or entity wanting to be self-insured under the Minnesota No-Fault Insurance Act has the financial and administrative resources necessary to satisfy all of the obligations and responsibilities under the act. The rules set forth the application requirements for self-insurance and the standards to be used by the commissioner in deciding whether to grant the applicant self-insurance authority. The rules are important, since they provide applicants and self-insured entities with clear guidelines for self-insurance approval and reporting requirements.

*D. Auto Insurance Nonrenewals (2770.7500-2770.8500)*

These rules specify conditions for nonrenewing personal auto insurance required under Minnesota Statutes Chapter 65B. These requirements are designed to "limit the reasons a policy of private passenger vehicle insurance may not be renewed." More specifically, these rules define what are considered to be "nonrenewal" actions on the part of insurance companies. The rules further set up a point system that must be satisfied before a policy can be nonrenewed. And finally, the rules prescribe notice requirements (to insureds) as well as penalties for a company's failure to comply.

By limiting the circumstances under which a company may nonrenew, the rules assure that consumers do not suddenly and unexpectedly find themselves to be without the auto insurance required under Minnesota Statutes. Insureds are thereby given adequate time to secure coverage elsewhere. Further, the rules promote a level playing field for consumers by assuring consistency among insurance companies in their nonrenewal practices.

*E. Health Claims Appeals Arbitration (2770.9010-2770.9170)*

These rules were promulgated pursuant to Minnesota Statutes §72A.327. They were designed to provide a claimant who has been denied coverage for a health insurance claim with an arbitration process to have the denial reviewed expeditiously by independent third parties. The rules establish a process similar to the Supreme Court No-Fault Arbitration Rules, and the arbitration is administered by the American Arbitration Association.

The department does not believe that many claimants have pursued an appeal pursuant to this arbitration process. Further study is needed before the department can recommend whether changes should be made to these rules.

### **III. Suggested Changes**

No changes are recommended at this time. Further study may result in amendments to certain parts of this chapter in the future.

<p>Chapter 2780 Minnesota Department of Commerce Workers' Compensation Self-Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules under this chapter requiring repeal.

**II. Rationale for Rules**

Chapter 2780 contains rules that were adopted years ago pursuant to the Workers Compensation Act under Minnesota Statutes Chapter 176. In 1988, the legislature enacted Chapter 79A of the Minnesota Statutes, which established additional requirements and standards for employers desiring to establish self-insurance programs for workers compensation. The rules under Chapter 2780 continue to be necessary because they provide basic requirements for all types of workers compensation self-insurance plans (such as application information, financial standards and investment procedures) as well as detailed guidelines for group self-insurance regarding the contents of the plan bylaws and plans of operation.

**III. Suggested Changes**

Further study is needed to determine which rules under Chapter 2780 are no longer needed due to the enactment of Minnesota Statutes Chapter 79A, and which rules could be amended to assist regulated entities in meeting statutory mandates regarding workers' compensation self-insurance in Minnesota while reducing any unnecessary burden on the regulated parties. The department intends to set up a committee with members of the regulated industry, the self-insurance security trust fund and the commissioners advisory board to discuss how Minnesota Rules Chapter 2780 should be amended to provide more effective standards for the workers compensation self-insurers in Minnesota.

<p style="text-align: center;">Chapter 2781 Minnesota Department of Commerce Workers Compensation Assigned Risk Plan</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2781 requiring repeal at this time.

**II. Rationale for Rules**

Chapter 2781 was adopted pursuant to Minnesota Statutes §79.251 and 79.252, which established the Workers Compensation Assigned Risk Plan ("ARP"). The rules under this chapter govern the administration of the ARP, which provides workers compensation coverage to employers unable to obtain coverage through licensed workers compensation insurance companies. These rules are necessary to the department as they set out the requirements for qualifying for coverage under the ARP. The rules also set out how the rating and merit plan for the ARP are to be developed and give the commissioner the right to monitor and have jurisdiction over its reserves.

**III. Suggested Changes**

Minnesota Rules part 2781.0600 refers to the assigned risk plan review board. This reference should be deleted from part 2781.0600, since the review board ceased to exist as of June 30, 1997, pursuant to statutory mandate.

<p style="text-align: center;">Chapter 2782 Minnesota Department of Commerce Liquor Liability Insurance; Assigned Risk</p>
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**I. Rules Recommended for Repeal**

The department recommends that the entire Chapter 2782 be repealed.

This chapter authorizes the creation of market assistance program committee, consisting of 12 appointed members, which is to review all applications from liquor vendors that request liquor liability insurance coverage from the assigned risk plan. The original intent in authorizing the committee was to assist liquor vendors in finding insurance coverage in the voluntary market. To the best of the department's knowledge, no market assistance committee has been appointed for many years.

In 1994, the legislature repealed the language under Minnesota Statute §340A.409, subd. 2 that authorized the operation of the market assistance program for liquor liability insurance, and transferred the duties to the Minnesota Joint Underwriting Association ("MJUA"). See 1994 Laws of Minnesota, Chapter 485, section 61. The legislature also repealed all of the statutes and rules (under Chapter 2783) related to the liquor liability assigned risk plan, and transferred the duties to the MJUA under Minnesota Statutes Chapter 62I. See 1994 Laws of Minnesota, Chapter 285, sections 62, 63 and 65. The department believes that all functions of the market assistance committee referred to under Chapter 2782 are being performed by the MJUA. It appears that it was an oversight in 1994 not to have repealed Minnesota Rules Chapter 2782 at that time.

Consequently, the department recommends that Chapter 2782 be repealed, since it serves no functional purpose.

**II. Rationale of Rules**

None

**III. Suggested Changes**

None



<p>Chapter 2785 Minnesota Department of Commerce Political Subdivision Self-Insurance Pools</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2785 requiring repeal.

**II. Rationale for Rules**

Minnesota Statute §471.617 and 471.982 authorize certain political subdivisions to join together to form a self-insurance fund or pool. Chapter 2785 was adopted to provide guidelines and standards covering the formation, operation and dissolution of political subdivision self-insurance pools. The rules are needed to ensure that the financial integrity of these pools is maintained, and that the pools are administered competently and equitably. The rules provide detailed guidelines as to the application process for political subdivisions to create a pools, as well as ongoing reporting requirements. The rules under Chapter 2785 should be retained to provide uniform standards and guidelines to political subdivisions.

**III. Suggested Changes**

No changes are recommended to Chapter 2785 at this time.

<p style="text-align: center;">Chapter 2790 Minnesota Department of Commerce Insurance Marketing Standards</p>
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**I. Rules Recommended for Repeal**

The department does not believe that any rule under Chapter 2790 should be repealed.

**II. Rationale for Rules**

Chapter 2790 of the Minnesota Rules communicates to insurers and insurance agents advertising standards for insurance products and policies sold to Minnesota residents. Chapter 2790:

- Provides definitions and procedures that establish boundaries for the review and analysis of advertising and marketing;
- Identifies specific terms, phrases and practices that are prohibited;
- Delineates the additional information required to ensure the clear and effective communication of appropriate information regarding advertising claims made to consumers;
- Identifies appropriate disclosures for financial planning and interest rates;
- Establishes the advertising control procedures for insurers and agents.

The department considers Chapter 2790 to be a critical tool in its efforts to regulate insurance marketing practices in Minnesota. Chapter 2790 should remain in effect, and no amendments are necessary at this time.

**III. Suggested Changes**

No changes to Chapter 2790 are recommended at this time.

<p style="text-align: center;">Chapter 2791 Minnesota Department of Commerce Medical Malpractice Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2791 requiring repeal.

**II. Rationale for Rules**

Chapter 2791 is needed because it specifically identifies those classes of physicians, hospitals, and other health care providers who are entitled to obtain medical malpractice insurance from the Joint Underwriting Association ("JUA") since they are unable to obtain such insurance in the voluntary market. By specifically listing these classes of professionals in the rules, the JUA and the persons needing malpractice insurance have clear direction as to which types of professionals are entitled to coverage from the JUA. The JUA monitors the need to update these rules to add or subtract classes of people requiring JUA coverage. The JUA has confirmed that no changes are needed to Chapter 2791 at this time.

**III. Suggested Changes**

No changes are needed to Chapter 2791.

<p>Chapter 2795 Minnesota Department of Commerce Insurance Agents</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2795 requiring repeal.

**II. Rationale for Rules**

Chapter 2795 establishes standards and duties to be followed by all licensed insurance agents in Minnesota. These rules clearly set forth what the agent must do or is prohibited from doing with respect to loans from clients, delivery of policies to clients, maintaining financial records and complaint records, reporting a criminal conviction to the commissioner and maintaining high standards of commercial honor. The rules also set forth the duties of supervising agents.

These rules are critical to the department's ability to adequately regulate the actions of insurance agents. The rules are also important to licensees so that they have guidelines as to what actions constitute an untrustworthy or prohibited practice in Minnesota. Chapter 2795 should be retained without amendment.

**III. Suggested Changes**

At this time, the department does not have any suggested changes to Chapter 2795.

<p style="text-align: center;">Chapter 2800 Minnesota Department of Commerce Real Estate Broker Licensing</p>
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**I. Rules Recommended for Repeal**

Minnesota Rules part 2800.0100, subp. 6 should be repealed. This subpart provides a definition of an “Override clause.” The identical definition is also found under Minnesota Rules chapter 2805, Real Estate Broker Practice. An override clause deals with a provision contained in a listing agreement. Since chapter 2800 outlines the requirements to obtain a real estate license, this definition is not appropriate or necessary under this chapter.

Minnesota Rules part 2800.0100, subp. 10 should be repealed. This subpart provides a definition of a “Protective list.” The identical definition is also found in Minnesota Rules chapter 2805, Real Estate Broker Practice. A protective list is a list that must be provided to sellers under certain circumstances by a real estate agent. Since chapter 2800 outlines the requirements to obtain a real estate license, this definition is not appropriate or necessary under this chapter.

**II. Rationale for Rules**

Chapter 2800 clarifies important information for both real estate brokers and salespersons and the department regarding the license process. This chapter is a guide for licensees when utilizing an automatic transfer of their license or when applying for a temporary broker’s license. The chapter also specifies prerequisites when applying for a dual license and provides instructions for applying for a waiver of certain experience requirements. These rules are essential to the department in regulating the real estate industry and serve as a guide for licensees in the licensing process.

**III. Suggested Changes**

Minnesota Rules part 2800.1700, subp. 2 should be amended. This subpart contains an incorrect fee. The automatic transfer fee of \$10 in this section conflicts with the fees outlined in this statute. The correct fee is \$20 for transfers as outlined in this statute, Minnesota Statutes §82.21.

<p>Chapter 2805 Minnesota Department of Commerce Real Estate Broker Practices</p>
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**I. Rules Recommended for Repeal**

Minnesota Rules part 2805.0600, C (1) and (2) should be repealed. The rule is in conflict with the statutory requirements. This rule requires that an earnest money check shall be deposited into a trust account not later than the **next business day** after delivery.

In response to industry concerns that require trust funds to be deposited with the next business day was burdensome, the department amended Minnesota Statute § 82.24, subd. 5(b) (1) and (2) to require that the check be deposited not later than the **third business day**.

This rule should be repealed since the change in the statute rendered it obsolete and inaccurate.

**II. Rationale for Rules**

Chapter 2805 clarifies the procedures for handling trust funds, outlines the standards of conduct for loan brokers and identifies what practices are considered fraudulent, deceptive and dishonest, specifies the responsibilities of brokers and indicates what information must be disclosed by licensees in real estate transactions. This chapter is essential to the department in regulating the real estate industry and serves as a guide for licensees in conducting real estate activities.

**III. Suggested Changes**

The department does not have any recommended changes to Chapter 2805.

<p style="text-align: center;">Chapter 2808 Minnesota Department of Commerce Real Estate Appraisers</p>
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**I. Rules Recommended for Repeal**

Minnesota Rules part 2808.2200, subp. 6: Licensed real property appraiser  
Minnesota Rules part 2808.2200, subp. 7: Certified residential real property appraiser  
Minnesota Rules part 2808.2200, subp. 8: Certified general real property appraiser

These rules specify the experience requirements necessary to be eligible for licensure as a licensed real property appraiser, certified residential real property appraiser and certified general real property appraiser. The Federal Subcommittee which is charged with oversight of the licensing and enforcement programs of each state changed the experience requirements. In response to the federal changes, the department amended the statute relating to appraisers (Minnesota Statutes chapter 82B) to reflect the new experience requirements. Accordingly, the experience requirements noted in the above rules are obsolete and should be repealed.

**II. Rationale for Rules**

Chapter 2808 outlines certain license and examination requirements for appraisers, indicates the standards of conduct to be followed in conducting appraisals and specifies the uniform examination content outline for the varying levels of licensure. These rules are essential to the department in the licensing and regulation of appraisers and also serve as a guide to the industry in conducting appraisal activities.

**III. Suggested Changes**

No changes are recommended to Chapter 2808.



<p>Chapter 2809 Minnesota Department of Commerce Pre-Licensing and Continuing Education</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under chapter 2809 requiring repeal.

**II. Rationale for Rules**

The separate chapters of rules previously regulating pre-licensing and continuing education requirements were consolidated into Chapter 2809 in July, 1996. This consolidation provided education sponsors across all licensing areas with a single source of information regarding education regulations. With approximately 1,700 such sponsors, this consolidated rule has provided for efficiency in interpretation and consistency in application of these regulations.

It is important to keep these rules in effect due to the need to have pre-license and continuing education practices uniformly administered by all sponsors. Licensees are assured that sponsors have specific standards they must apply in development, delivery, and administration of education courses. Sponsors know they must comply with these standards if they are to maintain their status as an approved sponsor.

**III. Suggested Changes**

These rules were revised in 1996, and have not required any amendment since that time. Therefore, there is no need to consider amending Chapter 2809 at this time.

<p>Chapter 2810 Minnesota Department of Commerce Subdivided Land</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules requiring repeal under Chapter 2810.

**II. Rationale for Rules**

Chapter 2810 contains a comprehensive set of rules designed to protect Minnesota consumers from incomplete or fraudulent sales practice involving subdivided land offerings. The rules set forth guidelines as to the form and informational content of an application for registration required by the commissioner of commerce to ensure compliance with Minnesota Statutes Chapter 83. The rules outline advertising criteria, required disclosures to purchasers, permit requirements and provisions to be included or omitted from the owner's association contracts. Chapter 2810 provides important information to entities or persons wishing to engage in subdivided land business in Minnesota. The rules should be retained without amendment.

**III. Suggested Changes**

The address for the department of commerce is incorrect as listed under Minnesota Rules part 2810.2150. The rule should be changed to remove a specific address from the rules and simply state that the form should be mailed to the commissioner.

<p>Chapter 2820 Minnesota Department of Commerce Forms for Conveyances of Real Estate</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2820 requiring repeal.

**II. Rationale for Rules**

Chapter 2820 consists entirely of forms for use in conveying real property. The purpose of the chapter is to make clear, modern, and uniform forms available to the public and the real estate bar, for use in real estate transactions and related matters, that are consistent with the laws of the state and can be relied upon to accomplish their intended purpose. The forms in Chapter 2820 have been drafted and recommended for use in Minnesota by the Uniform Conveyancing Blanks Advisory Task Force, which is appointed by the commissioner of commerce under the authority of Minnesota Statutes, section 507.09. The Task Force, which meets monthly, recommends new forms, revisions to existing forms, and repeal of obsolete forms on an ongoing basis. The rules are adopted under the rulemaking procedures of Minnesota statutes, section 14.386. The forms currently published under Chapter 2820 are up-to-date and require no changes at this time.

**III. Suggested Changes**

None.

<p>Chapter 2830 Minnesota Department of Commerce Abstracters and Abstracts</p>
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**I. Rules Recommended for Repeal**

Minn. R. 2830.0020 BOARD MEETINGS  
Minn. R. 2830.0030 ABSTRACTERS'S LICENSE AND BOND OR INSURANCE  
Minn. R. 2830.0040 TEMPORARY LICENSE  
Minn. R. 2830.0050 CHANGE OF NAME ON LICENSE  
Minn. R. 2830.0060 EMPLOYING LICENSED ABSTRACTERS  
Minn. R. 2830.0100 ABTRACTER'S LIABILITY INSURANCE POLICY

In 1993, the Legislature transferred regulatory authority over the abstracting industry from the Board of Abstracters to the commissioner of commerce. Subsequent to this transfer, changes were made by statutory amendment to certain licensing requirements and procedures to bring them into line with uniform processes used by the commissioner of commerce in the regulation of a number of other industries. The rules specified above have either become obsolete or are redundant with current statutes.

**II. Rationale for Rules**

Chapter 2830 provides definitions of terms, and establishes standards of conduct and a list of practices deemed fraudulent, deceptive, or dishonest in the business of creating and providing abstracts of title. These rules provide an industry-specific framework to which the commissioner can refer in the exercise of his general regulatory authority. The rules are useful to the Department in the licensing and regulation of abstracters and also serve as a guide to the industry in conducting abstracting activities.

**III. Suggested Changes**

None.

<p style="text-align: center;">Chapter 2860 Minnesota Department of Commerce Franchises</p>
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**I. Recommended for Repeal**

The department has not identified any rules requiring repeal under Chapter 2860.

**II. Rationale for Rules**

Chapter 2860 contains guidelines and forms for franchisors to sell franchises in Minnesota. The rules were set-up for the protection of Minnesota consumers purchasing a franchise. The rules set out advertising and disclosure requirements for consumer protection and compliance with Minnesota Statutes Chapter 80C.

Chapter 2860 provides a delicate balance between the franchisor wanting to expand their business in Minnesota and the Minnesota franchise wanting to start their business here. The rules should be retained with the minor change suggested below.

**III. Suggested Changes**

The following changes need to be made to Chapter 2860 to bring the rules into compliance with Minnesota Statutes Chapter 80C.

- Minnesota Rule 2860.1200 Subp. 4 – change \$250.00 fee to \$400 fee.
- Minnesota Rule 2860.2200 – change \$50.00 fee to \$100 fee.
- Minnesota Rule 2860.2500 Subp. 1 – change \$100.00 fee to \$200 fee.

<p>Chapter 2870 Minnesota Department of Commerce Collection Agencies</p>
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**I. Rules Recommended for Repeal**

After substantial review and analysis, the department of commerce is recommending that the entire Chapter 2870 be repealed. The department has determined that all of the provisions set forth under Chapter 2870 are substantially similar to or adequately covered by the state collection agency statutes (Minnesota Statutes §§332.31 through 332.45) and/or the department of commerce general enforcement provisions (Minnesota Statutes §45.027). The rules under Chapter 2870 are redundant of statutory requirements and are not needed by the department to effectively regulate in this area. Repealing the rules would reduce unnecessary burden on the regulated entities, since collection agencies would only need to refer to Minnesota Statutes for laws applicable to their business activity in Minnesota.

In the next month or so, the department will analyze whether it will include a repeal of Chapter 2870 in its legislative package for the 2002 session, or whether it will proceed with a rule repeal by another process.

**II. Rationale for Rules**

None.

**III. Suggested Changes**

None.

<p>Chapter 2872 Minnesota Department of Commerce Currency Exchange</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules under Chapter 2872 requiring repeal.

**II. Rationale for Rules**

Minnesota Statutes Chapter 53A regulates the licensing and business operations of currency exchanges in Minnesota. A currency exchange is any person, except a bank, trust company, savings bank, savings association, credit union or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or travelers checks for a fee. However, a currency exchange does not include a person who provides these services incidental to the person's primary business if the charge for the service does not exceed \$1 or one percent of the value of the check or draft, whichever is greater.

Chapter 2872 of Minnesota Rules contains only one rule related to currency exchange fees. The rule is needed because it establishes a fee level for check cashing services that will be presumed by the department to be fair and reasonable for purposes of department approval under Minnesota Statute §53A.07. This "safe harbor" rule assists currency exchanges by giving them a uniform standard for fees that will be acceptable to the department. Of course, currency exchanges can choose to apply for department approval to charge higher fees.

The rules under Chapter 2872 should be retained without amendment.

**III. Suggested Changes**

No changes are recommended to Chapter 2872

<p style="text-align: center;">Chapter 2875 Minnesota Department of Commerce Regulation of Securities</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rules requiring repeal under Chapter 2875.

**II. Rationale for Rules**

Chapter 2875 provides procedures, disclosure requirements and guidelines to comply with state securities laws under Minnesota Statutes Chapter 80A. Minnesota consumers rely on documents required by the rules under Chapter 2875 to make their investment decisions. The rules provide important financial and disclosure information for these informed decisions. Issuers of securities in Minnesota look to Chapter 2875 for the forms and guidelines on how to file to make securities sales in Minnesota. The rules level the playing field in the area of securities purchases. The rules should be retained without amendments except for the minor change suggested below.

**III. Suggested Changes**

The only change needed in the securities rules is to Minnesota Rule part 2875.9960, the form for Statement of Issuer. The form should be amended to refer to Minnesota Statutes §80A.15, subd. 2(a)(2) not to Minnesota Statutes §80A.15, subd. 2(h).



<p>Chapter 2880 Minnesota Department of Commerce Nonrenewal of Homeowners Insurance</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2880 requiring repeal.

**II. Rationale for Rules**

These rules specify conditions for nonrenewing homeowners insurance required under Minnesota Statute §65A. These requirements are designed to limit the reason a policy of homeowners insurance may not be renewed. More specifically, these rules define what are considered to be “nonrenewal” actions on the part of insurance companies. Further, these rules prescribe notice requirements (to insureds) as well as penalties for a company’s failure to pay.

By limiting the circumstances under which a company may nonrenew, the rules ensure that consumers do not suddenly and unexpectedly find themselves to be without the homeowners insurance, which is required in order to obtain home financing. Insureds are thereby given adequate time to secure coverage elsewhere. Further, the rules promote a level playing field for consumers by assuring consistency among insurance companies in their nonrenewal practices.

**III. Suggested Changes**

No changes are needed to this chapter at this time.

<p style="text-align: center;">Chapter 2885 Minnesota Department of Commerce Unclaimed Property</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2885 requiring repeal.

**II. Rationale for Rules**

The purpose of the rules in this chapter are for implementing provisions of the Uniform Disposition of Unclaimed Property Act, Minnesota Statutes §345.31 through 345.60.

Rule 2885.0300 SERVICE CHARGES contains a description of the term “service charge” as it applies to property considered unclaimed under this statute.

Rule 2885.0400 REPORT OF SERVICE CHARGES contains a description of the requirements a holder (the business or financial institution) remitting unclaimed property must follow to deduct a service charge prior to remittance of the property.

Rule 2885.0500 REPORT OF DISCONTINUANCE OF INTEREST OR DIVIDENDS contains a description of the requirements a holder remitting unclaimed property must follow to allow the remittance of unclaimed property without including an interest or dividend payment.

Rule 2885.0600 REPORT OF ABANDONED PROPERTY HELD BY BANKING OR FINANCIAL INSTITUTION OR BUSINESS ASSOCIATION contains the effective date of the provision which allows for the non-reporting of an owner of unclaimed property who received tax reports or regular statements of deposit from a financial institution or business.

Rule 2885.0700 RECEIPT OF STATEMENT contains a description of a tax report or regular statement of deposit.

Rule 2885.0800 NEGATIVE PROPERTY REPORT requires a holder with no property reportable pursuant to the Minnesota Unclaimed Property Act to report that fact to the department of commerce if so requested in writing by the commissioner of commerce.

The Unclaimed Property rules continue to be an effective and valuable tool in implementing provisions of the Uniform Disposition of Unclaimed Property Act, Minnesota Statutes §345.31 through 345.60, as amended.

**III. Suggested Changes**

No changes to Chapter 2885 are needed at this time.

<p>Chapter 2890 Minnesota Department of Commerce Petroleum Tank Releases</p>
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## **I. Rules Recommended for Repeal**

*To be determined (see section III below)*

## **II. Rationale for existing Rules**

### **2890.0010 Definitions.**

This rule is necessary to define terms used in the rules governing Petrofund reimbursements for petroleum tank releases.

### **2890.0020 Board Meetings; Time, Place, Notice.**

This rule is necessary to provide members of the public with information as to the frequency of Petro Board meetings.

### **2890.0030 Vice-Chair.**

This rule is necessary to ensure the election of a vice-chair and to ensure that the vice-chair will preside over regular Petro Board meetings in the chair's absence.

### **2890.0040 Conduct of Meetings.**

This rule is necessary to ensure that a quorum is present, that Petro Board meetings are recorded, and that the meetings are conducted in accordance with parliamentary procedure.

### **2890.0050 Conflict of Interest.**

This rule is necessary to require Petro Board members to disclose their interests on matters before the Petro Board and to require a board member to refrain from participating in, or voting upon, the matter.

### **2890.0060 Reimbursement of Costs.**

This rule is necessary to provide general guidance on reimbursement and to state the conditions of reimbursement.

### **2890.0065 Reduction of Reimbursement Amount.**

This rule is necessary to provide eligible applicants with information on why reimbursement may be reduced, how reductions in reimbursement are calculated, what deviations may be considered, and how reductions affect subsequent applications.

### **2890.0070 Eligible Costs.**

This rule is necessary to inform members of the public about the types of costs that are eligible for reimbursement and to clarify the responsibility of maintaining records that document incurred costs.

**2890.0071 Ineligible Costs.**

This rule is necessary to specify the tasks which are commonly associated with petroleum tank release sites but which do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment. It is necessary to specify that these costs are ineligible so that applicants will not inadvertently claim and expect reimbursement for them.

**2890.0072 Overview of Rules Governing Reasonableness of Costs for Consultant Services.**

This rule is necessary to serve as a table of contents for the consultant services rules and to provide applicants and members of the regulated community with a guide to the major topics covered in the ensuing parts.

**2890.0073 Definitions Related to Consultant Services.**

This rule defines terms used in Part 2890.0073, subparts 2-68 and is necessary for proper interpretation and application of the rules. The terms are commonly used in the environmental remediation industry and relate to aspects of the process of cleaning up petroleum tank releases, from methods used to determine the extent of the release and its potential threat to human health and the environment to various strategies for remediating any petroleum contamination. The list of terms includes the currently foreseeable elements of the process of environmental consulting which are regulated by the subsequent schedule of maximum costs for consultant services. It is therefore essential that applicants understand these terms.

**2890.0074 Written Proposal and Invoice Required for Consultant Services.**

This rule is necessary to ensure a reasonable approach to a primary component of cost containment. The applicant will have several opportunities to examine the costs to be incurred because the consultant must submit a proposal at each step of the clean-up process prior to performing the work. At any of these stages, the applicant may choose the most cost-effective work plan by soliciting competitive proposals from additional consulting firms.

Subpart 2. Invoice. This subpart conforms the rules to the statutory requirements of Minn. Stat. 115C.07, subd. 3 (c), which stipulates that the invoice format must be consistent with the bid format and with the application for reimbursement. This consistency will simplify the billing and reimbursement processes and allow applicants to understand and manage their incurred costs more efficiently.

**2890.0075 Reasonableness of Work Performed; Standard Tasks for Each Step of Consultant Services.**

This rule is necessary to establish the limits on which consultant services are considered reasonable for purposes of reimbursement and to categorize the tasks by phases which are meant to be generally compatible with the reimbursement steps found in Minn. Stat. 115C.09, subd. 2 (a). It also identifies which tasks are necessary and which are unnecessary in an effort to conform with Minn. Stat. §115C.09, subd. 3 (b), which

stipulates that a reimbursement may not be made until the Board has determined that the costs for which reimbursement is requested were reasonable.

**2890.0076 Maximum Costs for Consultant Services.**

This rule regulates costs for consulting labor and hourly rates associated with remediating petroleum tank releases (see Subpart 1 and Subpart 2). It is necessary to specify maximum costs for these activities because previously, without such controls, unnecessary and excessive costs were incurred by applicants and submitted for Petrofund reimbursement. Subpart 3 regulates the allowable level of expertise. It is necessary to specify allowable levels of expertise because consultants charge hourly rates which vary according to the professional qualifications of the person performing the task. This subpart ensures (a) that a person performing environmental consulting tasks is appropriately qualified to perform those tasks, and (b) that the charged hourly rates result in reasonable costs based on the actual level of expertise necessary to perform the task. Subpart 4 identifies maximum drilling and well charges. Because soil boring drilling, piezometer installation, vent point installation, well abandonment, and well installation are tasks which vary according to the specific characteristics of each leaksite, their costs differ greatly from site to site and cannot reasonably be standardized. As a result, it is necessary to allow consultants to estimate the amount of time and materials which will be needed to install necessary borings, wells, piezometers, or vent points, or to abandon wells. The costs for these tasks will be limited to the amounts specified in the consultant's proposal and will be required to meet the statutory standard of reasonableness. Subpart 5 is necessary to specify maximum costs for items A-D because previously, without such controls, unnecessary and excessive costs for them were incurred by applicants and submitted for Petrofund reimbursement.

**2890.0077 Competitive Bidding Requirements for Consultant Services Proposals.**

This rule informs the applicant of their responsibility to obtain written competitive consultant proposals for the work completed at their site. This is necessary in order to help ensure that the costs incurred by the applicant are reasonable for the services provided.

**2890.0078 Deviation from Standard Tasks and Maximum Costs for Consultant Services.**

This rule is necessary to provide flexibility and therefore, greater equity in making reimbursement determinations. Because the consultant on a given site may determine that the data which could be obtained by advancing soil borings would be obtained more easily by using an alternative method, Subpart 1 helps contain costs by allowing the consultant to implement a technology other than soil borings if that technology is more cost-effective. This subpart also allows for the use of newly-developed technologies which would be more economical. In addition, because site characteristics vary and may necessitate modifications to the standard workplan, it is reasonable to allow consultants to submit to the applicant proposals listing additional or different tasks, or proposals stating the need for an additional number of hours to complete a task, or to allow reimbursement for additional drilling costs if the additional drilling is necessitated by

subsurface conditions (e.g., the presence of rock rather than unconsolidated soil) or drilling depths which differ from the stated assumptions.

Subpart 2 provides criteria for deviations to be made from standard tasks or maximum costs after proposal approved by applicant. Because unforeseeable difficulties may arise at a site and necessitate unexpected modifications or additional hours than listed in the original workplan, it is reasonable to allow consultants to submit change orders to the applicant. Because difficulties due to subsurface conditions may also arise when drilling is performed at a site, it is reasonable to allow consultants to submit a change order to the applicant. Furthermore, the Minnesota Pollution Control Agency may determine that circumstances at a site require that additional or different tasks or additional hours of work be performed, it is reasonable to allow applicants to be reimbursed for reasonable costs incurred for those tasks if the agency's directive is specified in writing.

**2890.0079 Reasonable, Necessary, and Actual Consultant Services Costs.**

This rule is necessary to ensure that the board does not reimburse for maximum costs when less than the maximum was actually required or actually done in connection with the clean-up.

**2890.0080 Overview of Rules Governing Reasonableness of Costs for Contractor Services.**

This rule is necessary to serve as a table of contents for the contractor services rules and provides applicants and members of the regulated community with a guide to the major topics covered in the ensuing parts.

**2890.0081 Definitions Related to Contractor Services.**

This rule is necessary to define terms used in these rules (subparts 2-16). These definitions are necessary for proper interpretation and application of the rules.

**2890.0082 Maximum Costs For Contractor Services.**

This rule is necessary to ensure that reasonable standards are established for costs for contractor services because virtually every leak site requires that they be performed, and virtually every application for reimbursement includes costs for them.

**2890.0083 Competitive Bidding Requirements for Contractor Services.**

This rule informs the applicant of their responsibility to obtain written competitive contractor bids for the work completed at their site. This is necessary in order to help ensure that the costs incurred by the applicant are reasonable for the services provided.

**2890.0084 Deviations from Maximum Costs for Contractor Services.**

This rule is necessary because site characteristics vary and may necessitate modifications to the standard workplan and it is reasonable to allow contractors to submit to the applicant bids listing costs higher than the allowable maximum costs if unusual conditions exist at the applicant's site. This rule provides flexibility and ensures greater equity.

**2890.0085 Reasonable, Necessary, and Actual Costs.**

This rule is necessary to ensure that the board does not reimburse for maximum costs when less than the maximum was actually required or actually done in connection with the clean-up.

**2890.0086 Invoice.**

This rule is necessary to conform the rules to the statutory requirements of Minn. Stat. 115C.07, subd. 3 (c), which stipulates that the invoice format must be consistent with the bid format and with the application for reimbursement. This consistency will simplify the billing and reimbursement processes and allow applicants to understand and manage their incurred costs more efficiently.

**2890.0089 Exemptions from Competitive Bidding.**

This rule is necessary to provide members of the public with information about what documentation is required to receive an exemption from the competitive bidding requirements listed in Minn. Rule 2890.0077 and Minn. Rule 2890.0083. It provides flexibility and greater transparency in the competitive bidding exemption decision making process.

**2890.0090 Application Process**

This rule is necessary to provide members of the public with information about the application process (including what the application must include, timeliness, subsequent applications, signatures, and certification). It is also necessary to ensure that the Commissioner of the Minnesota Pollution Control Agency submits a timely report to the Petro Board.

**2890.0100 Review and Determination.**

This rule is necessary to provide the framework for the review and determination process. It also ensures that the applicant receives timely notice of the Petro Board's determination.

**2890.0110 Right to Appeal.**

This rule is necessary to ensure the applicant due process.

**2890.0120 Funding of MPCA Actions.**

This rule is necessary to provide the Petro Board with the evaluation criteria to determine funding levels to the Minnesota Pollution Control Agency.

**2890.0130 Action on Notice of Lien Filing.**

This rule is necessary to provide the criteria for filing an environmental lien.

### **III. Changes to Minn. Rules Chapter 2890**

In response to the changing marketplace, the Petroleum Tank Release Compensation Board (Petro Board) recently determined that amendments to Minn. Rules Chapter 2890 may be necessary to assist them to better meet the regulatory objectives that have been prescribed by the legislature and to ensure that members of the regulated community are not unnecessarily burdened by the above administrative rules.

Although the above rules include a great deal of flexibility, the Board is continuing to look for ways to make the reimbursement process more user-friendly. In addition, rule amendments would most likely assist the Petro Board in keeping pace with the changes that have been made by the agency that regulates petroleum storage tank clean-ups, the Minnesota Pollution Control Agency, and with the changes that have taken place in the petroleum tank investigation and clean-up market after the passage of the Environmental Protection Agency's December 22, 1998 deadline for removing or closing regulated underground storage tanks.

The Commissioner of Commerce, who provides staff to the Petro Board, has appointed an advisory committee to advise the Petro Board on drafting rule amendments. This rule revision advisory committee consists of several petroleum storage tank owners, environmental consultants and contractors, and interested third parties (including the Administrator of the House Commerce Committee). To date, the advisory committee has met four times and is in the process of producing a list of recommendations for possible amendments to Minn. Rules Chapter 2890.

The Petro Board is committed to ensuring that potential changes to Minn. Rules Chapter 2890 are considered only after significant stakeholder involvement. It also remains the Petro Board's position that if amendments to Minn. Rules Chapter 2890 are not adopted, the current reimbursement rules will be necessary to govern the program in the remaining years prior to the Petrofund sunset date of June 30, 2005.



<p style="text-align: center;">Chapter 2891 Minnesota Department of Commerce Residential Building Contractors</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 2891 requiring repeal.

**II. Rationale for Rules**

The rules that govern residential building contractor, Chapter 2891, take up just a page and a half in the rules. Each section contains provisions that enhance the Department's ability to regulate the industry by providing fair but detailed requirements for contractors to maintain records, provide customers with written contracts, and inform the Commissioner of various changes in their business status. Two sections also provide more specific definitions of acts or omissions, which would constitute violations of the more general statutes prohibiting fraudulent, deceptive, or dishonest practices and incompetence, untrustworthiness, or financial irresponsibility. All of these provisions help legitimate contractors to operate their businesses more professionally and responsibly without creating undue burdens to them.

**III. Suggested Changes**

No changes are needed to Chapter 2891.

## PART II

# DEPARTMENT OF PUBLIC SERVICE RULES

<p style="text-align: center;">Chapter 7601 Minnesota Department of Commerce Weights and Measures</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 7601 that requires repeal.

**II. Rationale for Rules**

The department is required by Minnesota Statutes, Chapter 239, to inspect and test commercial weighing and measuring equipment in Minnesota. The rules in this chapter specify requirements that guide the department in carrying out the directives of the statutes. Specifically, the chapter provides detailed definitions and explanations for granting of variances and enforcing uniform codes. It also specifies the requirements for the design, installation and performance of scales used in commercial transactions. This includes railroad track scales, vehicle and livestock scales, and hopper scales.

Additionally, this chapter requires a temperature correction be applied when selling or delivering liquefied petroleum gas. This is important because the volume of liquids varies significantly with temperature.

Finally, this chapter contains guidelines for the voluntary placing in service program for registered service persons. A program has been designed that allows repair or service companies to place commercial measuring devices into service. This program is important to industry in Minnesota because it allows devices to be used immediately after repair or installation, rather than waiting for a State inspection. At the same time, it protects the consumer by ensuring that the persons making the repair or performing the installation are properly trained and knowledgeable.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p style="text-align: center;">Chapter 7602 Minnesota Department of Commerce Weights and Measures; Inspection Fees</p>
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**I. Rules Recommended for Repeal**

The department has not identified any rule under Chapter 7602 that requires repeal.

**II. Rationale for Rules**

The department is required by Minnesota Statutes, Section 239.101 to recover the full cost of all Weights and Measures Division operations by charging direct fees to the persons and businesses that the division serves and regulates. Chapter 7602 is designed to meet the requirements of Section 239.101. The Department costs are recovered through two separate fee systems. The inspection fees in this chapter are designed to recover the cost of the following services:

Scale inspections;  
Metrological services;  
Petroleum quality control test services provided to licensed petroleum distributors;  
Package inspections and;  
Overhead costs associated with the above services (which must be equitably apportioned and recovered through fees.)

There is a separate fee that recovers the cost for petroleum equipment inspection and petroleum product quality inspection. These costs, including related overhead and indirect costs, are recovered by the Petroleum Inspection Fee collected by the Commissioner of Revenue under Minnesota Statutes, Section 239.101, Subdivision 3.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapter 7606 Minnesota Department of Commerce Institutional Energy Loans</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rules under Chapter 7606 requiring repeal.

**II. Rationale for Rules**

These rules establish application procedures for loan participation, set criteria for review and approval of loan participation applications, and set criteria for loan participation agreements. These rules are in place for our current operating Exxon oil overcharge loan program. The rules should remain in effect because the program is on-going.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapter 7607 Minnesota Department of Commerce Energy Conservation Investment Loans</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rules under Chapter 7607 requiring repeal.

**II. Rationale for Rules**

These rules establish procedures for providing energy conservation loans to schools and municipalities. The rules are in place for our currently operating energy investment loan program and set forth the details of the application process, the loan approval procedures, and how the funds are disbursed. The rules should remain in effect. The program, while not replenished by the legislature in the last two capital bonding sessions, has current program participants and the Department will again request capital bond funds.

**III. Suggested changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p style="text-align: center;">Chapter 7610 Minnesota Department of Commerce Energy Information Reporting</p>
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**I. Rules Recommended for Repeal**

As part of the Department's annual report on obsolete rules filed December 1, 2000, the Department identified several parts under Chapter 7610 that were unnecessary or obsolete. Parts 7610.0100, subp. 17, 7610.0160, and 7610.0700 of Chapter 7610 were repealed during the 2001 legislative session as part of SF 570 (Chapter 23, Laws of Minnesota 2001). No further repeal is needed at this time.

**II. Rationale for Rules**

The rules under Chapter 7610 were adopted to establish procedures to implement the forecasting, statistical, and informational reporting requirements under Minn. Stat. § 216C.17 and 216C.18. Specifically, the rules set forth reporting requirements for electrical utilities, gas, and pipeline utilities and prime petroleum suppliers and petroleum pipelines to assist in identifying emerging energy trends based on (1) supply and demand, (2) conservation, and (3) public health and safety factors. These reports are also used to determine the level of statewide and service area energy needs. The department uses the information provided in the reports under Chapter 2710 to assist Minnesota consumers as well as regulated entities in future planning for their energy needs. The rules should remain in force without amendment.

**III. Suggested changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p style="text-align: center;">Chapter 7615 Minnesota Department of Commerce Petroleum Set-Aside Program</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7615 requiring repeal.

**II. Rationale for Rules**

These rules govern the administration of the state petroleum product set-aside program, which provides emergency petroleum supplies to relieve the hardship caused by shortages of refined petroleum products or other emergencies. The purpose of the program is to minimize the adverse impacts of shortages and dislocations on the state's citizens and economy. The rules should remain in effect. While the state has not had to activate the program, with the current volatility of energy prices it is prudent to have the program rules in place.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.



Chapter 7620  
Minnesota Department of Commerce  
Petroleum Supply Emergencies

**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7620 requiring repeal.

**II. Rationale for Rules**

The rules under Chapter 7620 identify measures that may be used in the event of a petroleum supply emergency. The rules are intended to protect the health and safety of the citizens of Minnesota by ensuring that certain priority petroleum users have sufficient fuel to conduct essential activities. They also (1) identify and authorize the actions to be undertaken by governmental agencies in an energy supply emergency; (2) describe the responsibilities of major employers and school district authorities in petroleum supply emergency planning and implementation; (3) establish an appeals system and procedures for exemption from and exceptions to emergency measures; and (4) to authorize the state executive to provide for the public health, safety and welfare during on energy supply emergency. These rules are important and should remain in effect especially now, in a time where there is greater petroleum price and supply volatility, since there is greater likelihood of the need to implement these measures.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p style="text-align: center;">Chapter 7630 Minnesota Department of Commerce Decorative Gap Lamps</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7630 requiring repeal.

**II. Rationale for Rules**

These rules specify the contents of applications for variances to the statutory prohibition on the use of decorative gas lamps and specify the criteria under which variances can be granted. These rules should remain in effect because the statute provides for lifetime variances for persons 65 years or older as of April 20, 1977, renewable every four years. While the renewals are few at this date, the program is not yet obsolete.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p style="text-align: center;">Chapter 7635 Minnesota Department of Commerce Energy Conservation Program</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7635 requiring repeal at this time.

**II. Rationale for Rules**

Chapter 7635 identifies procedures for certifying residential energy auditors, and conducting residential audits. The purpose of the rules is to establish a program requiring major regulated utilities to offer their residential utility customers services related to the promotion of energy conservation. The most important of these services include: conducting home energy audits to determine areas of major heat loss and other energy inefficiencies in the home; distributing lists of approved contractors, supplies and lenders from whom energy improvements and financing services may be obtained; and arranging for the installation of home energy improvements. The rules are important because they provide clear guidelines as to how to run the program in Minnesota. Recent trends in the energy area indicating reduced supplies in the future could result in additional use of the rules under Chapter 7635.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapter 7640 Minnesota Department of Commerce Minnesota Thermal Insulation Standards</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7640 requiring repeal.

**II. Rationale for Rules**

These rules provide procedures regarding quality, information, and product safety specifications for the manufacture, labeling, installation, and thermographing insulation. Specifically, these rules establish standards for insulation products used in residential buildings(i.e. walls, floors, pipe insulation, and duct insulation). The rules are needed to ensure that proper quality standards and installation guidelines are followed to protect consumers in Minnesota. These rules should remain in effect. These rules have been used to bring action against violators, resulting recently in one assurance of discontinuance, and resulting in corrections in product literature of several manufacturers.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapter 7655 Minnesota Department of Commerce Energy Audits, Rental Buildings</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7655 requiring repeal.

**II. Rationale for Rules**

Minnesota Statutes § 216C.27 requires that the Commissioner adopt rules containing minimum energy efficiency standards for existing residences. The statute specifies that the rules shall include standards appropriate for evaluating the energy efficiency of each major type of residential housing, including rental property (one-to-four family dwellings, apartment buildings, etc.) Minnesota Rules Chapter 7655 was promulgated in response to the statutory requirements under § 216C.27. The rules under Chapter 7655 provide very technical requirements for meeting mandatory minimum energy efficiency standards for rental buildings, as well as the procedures for certifying evaluations and conducting energy evaluations. The rules under Chapter 7655 are essential to the Department's ability to enforce the statutory requirements under Minnesota Statutes section 216C.27. The rules should be retained without amendment.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapters 7670, 7672, 7674, 7676 and 7678 Minnesota Energy Code (Previously enforced by Department of Public Service)</p>
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Under the Laws 1999, Chapter 135, section 7, the Minnesota legislature transferred the authority to adopt the energy code portion of the building code from the Commissioner of Public Service to the Commissioner of Administration. Chapters 7670, 7672, 7674, 7676 and 7678 of the Minnesota Rules are all parts of the energy code that were transferred to the Department of Administration as of July 1, 1999.

Accordingly, the Department of Commerce/Public Service is not in a position to make any recommendations regarding the amendment of or continued existence of the above-reference Chapters of Minnesota Rules that are part of the energy code.

<p>Chapter 7685 Minnesota Department of Commerce Cooling Systems</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rule under Chapter 7685 requiring repeal.

**II. Rationale for Rules**

The Commissioner is authorized by Minn. Stat. § 446A.21, subd. 2 to establish energy efficient criteria for replacement cooling systems. The rules under Chapter 7685 are needed to ensure that regulated entities and Minnesota residents have uniform standards for the determination of what constitutes an energy efficient system. The rules are used in connection with applications for loans to cover the cost of replacements for environmentally acceptable cooling systems governed by Minn. Stat. § 446A.21. The rules should be retained.

**III. Suggested Changes**

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.

<p>Chapter 7690 Minnesota Department of Commerce Energy Conservation Improvement</p>
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**I. Rules Recommended for Repeal**

The Department has not identified any rules under Chapter 7690 requiring repeal.

**II. Rationale for Rules**

Minnesota Statutes § 216B.241 requires investor-owned electric and natural gas utilities to invest a specific percentage of their gross operating revenues in energy conservation improvements. The commissioner of commerce is required to reject, approve or modify the Conservation Improvement Program (CIP) proposed by each utility, and to set energy-and demand-savings goals for each of the utilities. Minnesota Rules 7690 sets the timelines for utilities to file their programs with the department, the required contents of the filing, when a utility can include less information about a project, how other parties can comment on the filings or submit project proposals, and the criteria the commissioner shall use when making a decision about a utility's conservation program. The rules should remain in effect to ensure that:

- the utilities' conservation programs save energy in a cost-effective manner,
- the programs are filed, reviewed and approved in a timely manner,
- members of the public understand how they can participate in the process, and
- utilities and other parties are treated in a fairly consistent manner.

**III. Suggested Changes**

The 2001 Minnesota Legislature made several changes to the Minnesota Statutes § 216B.241, including changing the definition of what constitutes an energy conservation improvement, when plans must be filed and approved. In addition, the new legislation requires and evaluation of the CIP program by June 1, 2002. Consequently, it is likely that modifications to the rules will be commenced by the third quarter of 2002.

Since the Department of Public Service has been merged into the Department of Commerce, any reference to the Commissioner of Public Service should be changed to the Commissioner of Commerce. Likewise, any reference to the Department of Public Service should be amended to read Department of Commerce.