

MINNESOTA · REVENUE

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November 25, 2002

Governor Jesse Ventura

020556

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Representative Phillip Krinkie, Chair
Representative Bill Hilty, DFL Lead
House State Government Finance Committee

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

Dear Governor Ventura, et al:

Minnesota Statutes, section 14.05, subdivision 5, states, in part: "By December 1 of each year, an agency must submit . . . a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion."

— Minn. Stat. 14.05 Subd. 5 —

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— 1995 Minn. Laws Chap. 233
Art. 2 Sec. 7 Subd. 5 —

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The rules of the Minnesota Department of Revenue fall within Chapters 8001 through 8175 of the *Minnesota Rules*. In addition, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules.

The Department continues with an ongoing process to review all of its rules, a chapter at a time, to repeal obsolete and duplicative provisions, clarify current language and to recommend clean-up language.

Corporate Franchise Taxes:

In the Fall of 2001, following a complete review and a public rules hearing, we repealed many rules relating to Corporate Franchise Tax as being either obsolete, unnecessary, or duplicative. Those rules were referenced in last year's Obsolete Rule Report. Since that time we have re-reviewed the rules and find that Parts 8007.0300, subpart 3; 8009.7100, 8009.7200, 8009.7300, and 8009.7400 should be repealed as they are based on statutes that have been repealed. We will propose that these rules be repealed legislatively during the 2003 Legislative Session.

Income Taxes:

As stated in our Obsolete Rule Report last year, "In October 2000, the Department requested comments on its planned amendments to rules governing Individual Income Tax. The Department of Revenue began this project because these rules are outdated. Many were first promulgated in the 1970's. The most recent ones were last modified in the early 1990's." We are coming near the end of that rule process, and upon review, decided that a few of the parts that we originally thought should be repealed are proposed to be amended instead. We plan to publish the proposed rule with notice of intent to adopt in December 2002. In it, we propose to repeal the following rules to get rid of obsolete and duplicative provisions: *Minnesota Rules*, parts 8002.0200, subparts 2 and 5; 8038.0100, subparts 1, 2, 3, 5, 7, 9, and 10; 8038.2000; 8093.0100; 8093.0300; 8093.0400, subparts 1, 2, 5, and 6; 8093.0500, subparts 1, 2, and 3; and 8093.4000.

Withholding Taxes:

The proposed modification to the Income Tax rules do not cover the Withholding Tax rules found at *Minnesota Rules*, Chapter 8092. A review shows that Part 8092.1000 should be repealed as obsolete with the enactment of the nonresident entertainer tax (M.S. 290.9201) in 1989. We will propose that this rule be repealed legislatively during the 2003 Legislative Session.

Sales & Use Taxes:

Following statutory amendments to *Minnesota Statutes*, chapter 297A, from legislative sessions in 2001, 2002, and a few years ago, several of the rules in *Minnesota Rules*, chapter 8130, have become obsolete. The Department is currently reviewing the obsolete parts in *Minnesota Rules*, chapter 8130, to determine which parts should be repealed and which amended.

In the 2002 Legislative Session, the parts that we identified in our 2001 Obsolete Rules Report were repealed legislatively, i.e., Parts 8130.1400, 8130.2100, and 8130.5000.

This year we have identified more parts and subpart that should be repealed as obsolete or as duplicative of statutes. Some we think best to be repealed legislatively during the 2003 Legislative

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Session. Those rules are as follows: Parts 8130.0800, subparts 5 and 12; 8130.1300; 8130.1600, subpart 5; 8130.1700, subpart 3 and 4; 8130.4800, subpart 2; 8130.7500, subpart 5; 8130.8000, and 8130.8300.

The remaining rules the Department proposes to repeal within the next two to three months using the “just cause” exemption to the rule process, or as part of a rule project that should be completed sometime in 2003. Those rules are as follows: Parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subparts 6 and 9; 8130.0900, subpart 8; 8130.1200, subparts 5 and 6; 8130.5200; 8130.5600, subpart 3; 8130.7300, subpart 5.

Property Equalization, Ad Valorem Taxes, Utilities:

The Department of Revenue reviewed Chapter 8100 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Ad Valorem Tax, Valuation and Assessment of Railroads:

The Department of Revenue reviewed Chapter 8106 and found that the following rules are either obsolete or duplicative of statute: Parts 8106.0100, subparts 11, 15, and 16; and 8106.0200. We will propose that these rules be repealed legislatively during the 2003 Legislative Session.

Certificate of Real Estate Value:

The Department of Revenue reviewed Chapter 8110 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions. We are proposing to amend this chapter as part of a rulemaking project.

Cigarette and Tobacco Product Taxes:

As mentioned in last year’s Obsolete Rule Report, the Department of Revenue identified rules in Chapter 8120 which needed either to be amended or repealed due to obsolete provisions. These were addressed by rulemaking which began November 2001, and ended with a rule being promulgated and effective October 28, 2002. No further changes are needed at this time.

Metropolitan Solid Waste Landfill Fee:

The Department of Revenue reviewed Chapter 8121 and found no rules that were obsolete, unnecessary, or duplicative of statutory provisions.

Lawful Gambling Tax:

As stated in last year’s Obsolete Rule Report, the Department of Revenue identified an obsolete provision, part 8122.0500, relating to Lawful Gambling, due to a law change in 2001. We are amending that rule using the “just cause” exemption to rulemaking, and published the Notice of Adoption in mid-December 2001. Subsequently, Chapter 8122 has been reviewed and there are no obsolete provisions.

Petroleum Tax:

The Department of Revenue reviewed Chapter 8125 and found the following obsolete provisions (because no longer administered by the Department): 8125.1000; 8125.1300, Subpart 1; and 8125.1400. We will propose repeal of these rules as expeditiously as we can, either through legislation or through use of the “just cause” exemption to the rulemaking process.

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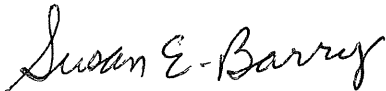
Minnesota State Board of Assessors:

As stated above, the Department of Revenue is responsible for Chapter 1950, the Minnesota State Board of Assessors' rules. While it is that agency's obligation to report on its obsolete rules, we reported last year that the Board proposed to repeal *Minnesota Rules*, part 1950.1000, subparts 2 and 14 as obsolete because each of the acronyms defined in the rule refer to an organization that no longer exists. Those rules were successfully repealed through the rulemaking process, effective April 15, 2002. None of the remaining rules are obsolete, unnecessary or duplicative of statutes.

Continuing process.

At this time, we have identified no other specific Department of Revenue rules that are obsolete, unnecessary, or duplicative. We will, however, continue our process of reviewing and updating current rules, a chapter at a time. If you have any questions regarding this report, please feel free to contact me.

Sincerely,



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(651) 282-5581

cc: Terese Mitchell, Director, Appeals & Legal Services, Department of Revenue
Laura Offerdahl, Governor's Office