

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 838

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-29-82
DATE FOR REVIEW 8-6-82
DATE DUE 8-12-82

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 8-12-82 Disapproved ____ Returned to Agency 8-12-82

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 8-12-82 Revisor approved 7/30/82 disapproved ____

✓ Rule as Adopted

____ Rule as Proposed

✓ Order Adopting 7.26.82 Date

✓ Notice of Intent to Solicit Outside Opinion 10.27.80 + comments

✓ Order for rulemaking - Note date 1/12/81
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking identical to wording in SR.
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
1.29.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
✓ At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

↓ Chief Hearing Examiner's Report(s)
↓ Approving H.E.'s Report
↓ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

↓ Certificate of Board's Resolution Adopting Rules

↓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

↓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General
mistates number of days allowed for comment - says "5" should be "8".

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : THOMAS L. O'MALLEY
Temp. Commissioner of Insurance

DATE: 8/12/82

ATTN: ROBERT J. CLAYTON, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Amendments to Rules Governing Self-Insurance for Workers' Compensation

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JUDITH WEHRWEIN
Attorney General - Administration

DATE: July 28, 1982

FROM : ROBERT J. CLAYTON RJC
Special Assistant
Attorney General

PHONE:

SUBJECT: RULE REVIEW

Enclosed for review and approval are proposed adoption of amendments to rules governing self-insurance for workers' compensation.

aso
Enc.

PRINTED ON RECYCLED PAPER

In the Matter of the Proposed
Adoption of Amendments to Rules
Governing Self-Insurance for
Workers' Compensation

Rules as Adopted (4 copies)

Order Adopting Rules (2 copies)

Notice of Intent to Solicit Outside Information

Order for Notice of Intent to Adopt Rules

Notice of Intent to Adopt Rules

Rules as Proposed

Affidavit of Mailing

Certificate

Statement of Need and Reasonableness

Comments received

Findings of Fact and Conclusions

Notice of Submission to Attorney General

Affidavit of Mailing, Notice of Submission to Attorney General

Certificate

Statement of Compliance with Rulemaking Procedures

Department of Commerce

Insurance Division

Adopted Amendments to Rules Governing Self-Insurance for Workers' Compensation (4 MCAR SS 1.9285-1.9294)

Rules as Adopted

4 MCAR S 1.9288 Acceptable securities and surety bonds.

H. Any securities deposited with the State Treasurer or surety bonds held by the commissioner may be exchanged or replaced by the depositor with other acceptable securities or surety bonds of like amount so long as the market value of the securities or amount of the surety bond equals or exceeds the amount of deposit required. If securities are replaced by a surety bond the self-insurer ~~shall be required to~~ must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities subject to the limitations on maximum security deposits established in 4 MCAR S 1.9291 G. and S 1.9292 H.

4 MCAR S 1.9289 Filing of reports.

A. Incurred losses, paid and unpaid, specifying both indemnity and medical losses by classification, and payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, and loss information and total workers' compensation liability must be filed by August 1 of the following year.

C. Each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000 with the annual loss report due August 1 and in a manner and on forms prescribed by the commissioner.

E. Each group self-insurer shall, within four months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon ~~either each individual member's annual certified financial statement or~~ an accounting review performed by a certified public accountant ~~if the requirements for use of an accounting review specified in 4 MCAR S 1.9292 B. are met,~~ together with such other financial information the commissioner may require to substantiate data in the group's summary statement. This subdivision shall not apply if the applicable financial requirements have been waived pursuant to 4 MCAR S 1.9292 R.

4 MCAR S 1.9291 Requirements for individual self-insurers.

M. Any individual self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before ~~any such~~ the termination is to ~~take place~~ occur.

4 MCAR S 1.9292 Requirements for group self-insurers.

B. After the initial application and the bylaws or plan of operation have been approved by the commissioner, or at the time of the initial application the group shall ~~then~~ submit: the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group as set forth in Appendix II signed by an officer of each member; and ~~a certified financial statement of each member, provided that~~ an accounting review performed by a certified public accountant ~~may be substituted for a certified financial statement if the group selects the lower retention from the Workers' Compensation Reinsurance Association and deposits a one million dollar ($1,000,000.00) bond in place of the deposit requirement of subdivision H.~~ A certified financial audit may be filed in lieu of an accounting review.

R. The financial requirements of B. and C. of this ~~section~~ rule shall be waived if the group self-insurer has purchased

aggregate excess insurance from an insurer licensed to do business in the State of Minnesota, and that excess insurance indemnifies all losses of the group self-insurer, other than those reimbursable by the Workers' Compensation Reinsurance Association, in excess of the annual premiums collected by the group less the sum of annual administrative costs, premiums payable to the Workers' Compensation Reinsurance Association and premiums payable to the excess insurer. If aggregate excess insurance is terminated, the service company shall inform the commissioner within two days after receipt of notice of cancellation.

S. Any group self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before ~~any such~~ the termination is to ~~take~~ ~~place~~ occur.

Repealer. Rule 4 MCAR S 1.9292 D. is repealed.

APPROVED AS TO LEGALITY

Aug 12 1982

WARREN SPANNAUS, ATTORNEY GENERAL

BY [signature]

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 12 1982
[signature]
Secretary of State

10:35 A.M.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed Adoption of Amendments to Rules Governing Self-Insurance for Workers' Compensation

ORDER ADOPTING AMENDMENT OF RULES

Notice of the Commissioner's intent to adopt the above-entitled amendments to rules without a public hearing was published in the State Register on February 2, 1981 and was sent by the United States mail to all persons on the list maintained by the Insurance Division pursuant to Minn. Stat. § 15.0412, subd. 4 on January 29, 1981.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the amendments to the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these amendments to rules identified as 4 MCAR § 1.9285 - 1.9294 are adopted this 26th day of July, 1982 pursuant to authority vested in me by Minn. Stat. § 176.181, subd. 2.

Thomas L. O'Malley
Temporary Commissioner of Insurance

2. Gas Pilot Light Law

a. Check retail and wholesale outlets to insure residential forced air furnaces, cooking appliances, and clothes dryers are not sold with continuously burning pilot lights.

3. Decorative Gas Lamp Prohibition Law

a. Check residences for operating decorative gas lamps.

4. Heated Commercial Parking Facility Law.

a. Check commercial parking facilities to determine if facility is heated or incidentally heated.

5. Outdoor Display Lighting Law

a. Inspect businesses for compliance.

IV. Terms of the Contract

a. This contract will be in effect from the time the bid is awarded to June 30, 1981.

b. All proposals must be received by 4:30 p.m. Monday, November 10, 1980.

c. The amount of the contract will not exceed $36,000.

For more information and a copy of the proposal, contact:

Jean Dick
Manager of Information and Education
Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone (612) 296-9082

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce Insurance Division

Notice of Intent to Solicit Outside Information on Proposed Amendments to Rules Governing Self-insurance for Workers' Compensation

Notice is hereby given that the Department of Commerce, Insurance Division, is considering amending the rules governing self-insurance for workers' compensation, 4 MCAR §§ 1.9285-1.9294. More specifically the Insurance Division is considering amending the rules as they relate to the deposit of securities, filing requirements, and financial requirements for group self-insurers. In order to determine the nature and utility of such amendments, the Insurance Division of the Department of Commerce hereby requests information and comments from all interested individuals or groups concerning this subject matter.

Written statements should be addressed to:

Dale L. McDonnell
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8591 and in person at the above address.

All statements of information and comment will be accepted until the rulemaking record is closed. Any written material received by the Insurance Division shall become part of the record in the event that the amendments are promulgated.

Department of Natural Resources

Petition(s) Concerning the Designation of Certain Public Waters and Wetlands in Kandiyohi County

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a public hearing in the above-entitled matter pursuant to Minnesota Statutes, Section 105.391, Subdivision 1 (1979) will be held in County Office Building, Meeting Room, 905 W. Litchfield Avenue, Willmar, Minnesota on November 20, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. The hearing will be conducted by a three-person hearings unit consisting of County representative Charles Fladeboe, 309 W. 9th St., Willmar, MN 56201, Department of Natural Resources representative Maynard Nelson, and Kandiyohi Soil and Water Conservation District representative Franklin Berg, Route 2, Sunburg, MN 56289.

Each of the waters listed in this notice is the subject of a petition for a hearing. The issue to be determined at the hearing is whether the following waters shall be designated public waters or wetlands pursuant to Minnesota Statutes, Section 105.391 (1979) and the criteria contained in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15 (1979):

A. Public Waters

1. Basins

Number and Name	Section	Township	Range
34-5 : Unnamed	1; 36	117; 118	33
34-13 : Otter Lake	10, 15	118	33
34-43 : Swenson Lake	15	120	33
34-46 : Taits Lake	18, 19	120	33
34-54 : Hubbard Lake	27, 28, 33, 34	120	33
34-56 : Unnamed	29, 32	120	33
34-62 : Calhoun Lake	16, 20-22, 27-29, 32, 33	121	33
34-88 : Fanny Lake	9, 16, 17	118	34
34-173: Unnamed	7, 18; 13	121	34; 35
34-199: Unnamed	28, 33	120	35
34-205: Unnamed	5; 32, 33	120; 121	35
34-240: Timber Lake	21, 22	122	35
34-247: Unnamed	30, 31; 25, 36	120	35; 36
34-265: Unnamed	22, 27	118	36
34-293: Unnamed	22, 27	120	36
34-294: Lindgren Lake	25, 26	120	36
34-304: Unnamed	5; 32	120; 121	36
34-331: Unnamed	31, 32	121	36
34-336: East Sunburg Lake	5, 6; 31, 32	121; 122	36
34-353: Unnamed	22, 27, 28	122	36
34-359: Sunburg Lake	6; 30, 31; 1; 36	121; 122	36; 37
34-396: Unnamed	8, 9	118	35
34-422: Unnamed	13, 18	121	35; 36
34-439: Two Island Lake	3; 34	117; 118	34
34-441: Unnamed	NE 30	118	34
34-446: Ella Ave Slough	10, 15	119	35
34-453: Unnamed	10, 15	119	36
34-463: Unnamed	35	117	35
34-519: Unnamed	NE 33, 34	121	33
34-534: Unnamed	3; 35	120; 121	35
34-549: Unnamed	21	118	34

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

Before the Commissioner of Insurance

In the Matter of Proposed
Amendments to the Rules
Governing Self-Insurance for
Workers' Compensation
4 MCAR § 1.9285 - § 1.9294 /

Issued and entered
this 12th day of January, 1981
by Michael D. Markman
Commissioner of Insurance

ORDER FOR NOTICE OF INTENT
TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED that Notice of Intent to Adopt Rules Without A Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Insurance Division of the Department of Commerce for that purpose and that said Notice be published in the State Register.

STATE OF MINNESOTA

MICHAEL D. MARKMAN
Commissioner of Insurance

In the Matter of the Proposed Adoption
of Amendments of Rules of the Department of Commerce,
Insurance Division Governing Self-Insurance for
Workers' Compensation

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Pamela Tomfohrde, being first duly sworn, deposes and says:

That on the 29th day of January, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce Insurance Division for the purpose of receiving notice of the proposed adoption of rules by this agency.

Pamela Tomfohrde

Subscribed and sworn to before me
this 4th day of February, 1981.

William J. Elliott
Notary Public

WILLIAM J. ELLIOTT
Notary Public, Hennepin Co., Minn.
My Commission Expires
May 25, 1981

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Amendments of Rules of the Department of Commerce, Insurance Division Governing Self-Insurance for Workers' Compensation

---

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the Department of Commerce, Insurance Division for the purpose of receiving notice of the proposed adoption of rules by this agency is accurate and complete as of 9:00 a.m., this 29th day of January, 1981

Dale T. McDonnell

INSURANCE LIST TO RECEIVE NOTICES OF RULEMAKING HEARINGS

James C. Shipman
Exec. Director
Assn. of Minn. Counties
2305 Ford Parkway
St. Paul, Mn. 55116

Bruce A. Poulsen, Counsel
8th fl., Prudential Ins. Co. of America
P.O. Box 1143
Minneapolis, Mn. 55440

James N. Denn
Minn. Motor Transport Assn.
1821 Univ. Ave., Rm 134N
St. Paul, Mn. 55104

Ohio State Life Insurance Co.
Attn: Harold I. Phillian
471 E. Broad St.
Columbus, Ohio 43215

Martin V. Timmins
Vice President & Gen. Counsel
The Wisconsin Life Insurance Co.
709 North Segoe Road,
Madison, Wisconsin 53705

National Assoc. of Independent
Insurers
2600 River Road,
Des Plaines, Illinois 60018

Compliance Services
Metropolitan Property and
Liability Insurance Co.
700 Quaker Lane, P.O.Box 350
Warwick, Rhode Island 02887

Nicholas T. Kakos
Comp., Insurance & Benefit Fund
Federal Cartridge Corp. / Admin.
Twin Cities Army Ammunition Plant
New Brighton, MN 55112

Jerrold T. Miller
J. T. Miller Co.
1000 Currie Ave.
Minneapolis, Mn. 55403

Colonial Penn Group, Inc.
Government Affairs Dept.
5 Penn Center Plaza
Philadelphia, PA 19103

Security Insurance Co.
1000 Asylum Ave.
Hartford, CT. 06105

Murray M. McColloch
Senior Vice President, Secretary
& Counsel
J. C. Penney Life Ins. Co.
2020 Live Oak
Dallas, Texas 75221

The Connecticut Indemnity Co.
1000 Asylum Ave.
Hartford, CT 06105

The Fire & Casualty Ins. Co.
of Connecticut
1000 Asylum Avenue
Hartford, CT 06105

James M. Shamberger
Vice President-Government Relat:
Reinsurance Assoc. of America
1025 Connecticut Ave. Suite 512
Washington, D. C. 20036

Edward J. Ilsley
Compliance Services
Metropolitan Property & Liabilit
700 Quaker Lane Co.
P.O. Box 350
Warwick, RI 02887

Abe Rosenthal
Executive Vice President
Minnesota Transport Services Assn.
1821 University Ave.
St. Paul, MN 55104

Alliance of American Insurers
Attn: Fred W. Beck
20 North Wacker Drive, Suite 2140
Chicago, Illinois 60606

Richard D. Kothe
Manager
League Service Corporation
575 University Ave.
Saint Paul, MN 55103

Workers Compensation Reinsurance Assoc.
750 Northern Federal Bldg.
386 North Wabasha
St. Paul, MN 55102

Union Fidelity Life Insurance Co.
Union Fidelity Office Park,
Trevose, Pennsylvania, 19049
Attn: Lewis Taylor, Assoc. Counsel

Trauner, King & Cohen Attn: Kevin King
38 Old Ivy Road, N. E
Atlanta, Georgia 30342

Robert E. Swift, Vice President
Title Insurance Co. of Minnesota
400 Second Ave. So.
Minneapolis, MN. 55401

John B. LaMacchia & Associates
Actuaries Management Consultants
12 North Central Avenue
Saint Louis, Missouri 63105

J. Robert Hunter, FCAS
President, The National Ins. Consumer Organization
344 Commerce St.
Alexandria, Virginia 22314

John M. Boothby
Branch Manager, Central Region
Alliance of American Insurers
20 North Wacker Dr.,
Chicago, Illinois 60606

Stan Bass
Snyder Larsen & Peters
2636 Portland Ave.
Mpls., Mn. 55407

GENERAL LIST

TO RECEIVE NOTICE OF RULEMAKING HEARINGS IN COMMERCE

Bonnie Bannanno
Room 300 - 1745 Univ. Ave.
St. Paul, Mn. 55104

Kenneth Peterson
Exec. Director
Minn. Public Interest Research Group
2412 Univ. Ave. S. E.
Minneapolis, Mn. 55414

James Miller, Sr., Attorney
Minn. Public Interest Research Group
2412 Univ. Ave. S. E.
Mpls, Mn. 55414

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Bldg.
Minneapolis, Mn. 55402

Director, Developmental
Disabilities Planning Office
200 Capitol Sq. Bldg.
St. Paul, Mn. 55101

Fredrik M. Christiansen
Room 911 - Capitol Square Bldg.
St. Paul, Mn. 55101

Minnesota Board of Nursing
717 Delaware St. S. E.
Minneapolis, Mn. 55414

John T. Farmer, Exec. Director
Minn. Manufactured Housing Assn.
222 East Little Canada Rd., Suite 222
Little Canada, Mn. 55117

Kent E. Eklund, Coms'r.
Minn. Dept. of Econ. Develop.
480 Cedar St.
St. Paul, Mn.

Charles Schaffer,
Research Analyst
Minn. Dept. of Econ. Develop
480 Cedar St.
St. Paul, Mn.

Richard C. Buske
Administrative Director
Minn. Dept. of Econ. Develop
480 Cedar St.
St. Paul, Mn.

Michael J. Ahern
Moss, Flaherty, Clarkson
& Fletcher
2350 IDS Center
80. South Eighth St.
Minneapolis, Mn. 55402

Charles A. Kroeger
Exec. Director
QSS Inc.
P.O. Box 838
Faribault, Mn. 55021

Courey, Schwinn, Kodadek &
1830 Soo Line Bldg./ Reece
Minneapolis, Mn. 55402

Minneapolis Tribune
425 Portland Ave.
Minneapolis, Mn. 55488

MacArthur Co.
2400 Wycliff St.
St. Paul, Mn. 55114

Susan P. Robertson
Exec. Director
Room 430 - State Office Bldg
St. Paul, Mn. 55155

Legis. Comm. to Review Admin. Rules

State Bond & Mortgage Co.
Attn: David A. Peterson
100-106 No. Minn. St.
New Ulm, Mn. 56073

William F. Brooks, Jr.
900 Midland Bk. Bldg.
Minneapolis, Mn. 55401

Thomas G. Graham
900 Midland Bank Bldg.
Minneapolis, Mn. 55401

Claudia Smith
Corporate Law Dept.
The St. Paul Companies, Inc.
385 Washington St.
St. Paul, Mn. 55101

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room,
State Capitol Bldg.

Paul J. Huber, Ltd.
1821 University Ave.
St. Paul, MN 55104

Donald E. Montgomery
Exec. Director
Minn. Chapter, Assoc. Builders & Contractors, Inc.
6300 Walker St., Suite 109
Minneapolis, MN 55416

John S. Jackson
General Counsel
Minn. Bankers Assn.
332 Baker Bldg.
Minneapolis, MN 55402

David R. Knodell, Esq.
Olson, Gunn & Seran Ltd.
315 Peavey Bldg. 730 Second Av. So.
Minneapolis, Mn 55402

Thomas M. Polt
Attorney at law
McCarthy Bldg.
Eyota, MN 55934

Phillips Legislative Service Inc
459 Rice St.
St. Paul, MN 55103

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
314 Minnesota Bldg.
St. Paul, Mn 55101

R. J. Barto, Plant Manager
Midland Glass Company, Inc.
P. O. Box 69
Shakopee, MN 55379

Prof. Robert Snyder
248 Classroom - Ofc. Bldg.
1994 Buford Ave.
University of Minnesota
St. Paul, MN 55108

C. Blaine Harstad,
Harstad & Rainbow
1036 Midland Bank Bldg.
Minneapolis, MN 55401

Conrad M. Fredin
Attorney at law
811 First National Bank Bldg.
Duluth, MN 55802

Government Center Library
C-2359 Government Center
300 South 6th Street
Minneapolis, MN 55487

Broeker, Hartfeldt, Hedges & Grant
2850 Metro Drive,
Suite 800
Mpls., Mn. 55420

Alice K. Anderson
175 So. Western
St. Paul, MN 55102

Ella Gross
1001 Penn No.
Minneapolis, Mn. 55411

D. Grommen
4410 E. 4th
Hibbing, Mn. 55746

Charlotte Vick, CLE
2507 Fremont N.
Minneapolis, Mn. 55411

Public Interest Advocacy Clinic
Hamline University School of Law
St. Paul, Mn. 55104

Kristin Larson
2215 W. 21st St.
Minneapolis, Mn. 55405

Larry Bakken
Hamline Law School
1536 Hewitt
St. Paul, Mn. 55102

EFFECTIVE AS OF NOON - 12/5/80

City of Brooklyn Center
6301 Shingle Creek Pkwy
Brooklyn Center, Mn. 55430

2/24/80
John M. Broeker
Broeker, Hartfeldt, Hedges & Grant, Atty-at-law
2850 Metro Drive, Suite 800
Minneapolis, Mn. 55420

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Amendments to Rules Governing Self-Insurance for Workers' Compensation

I certify that the list of persons, associations, and other interested groups who have requested that their names be placed on file for the purpose of receiving notice of submission to the Attorney General of the proposed adoption of amendments to rules governing self-insurance for workers' compensation by the Insurance Division is accurate and complete as of 11:00 A.M., this 26th day of July, 1982.

Debbie D. Lindlief

Notice of submission to Attorney General's Office of amendments to rules governing self-insurance for workers' compensation was sent to the following:

Nicholas T. Kakos
Federal Cartridge Corporation
Twin Cities Army Ammunition Plant
New Brighton, MN 55112

Ray C. Peterson
Viking Steel Products, Inc.
Hwy. #101 East
P.O. Box 172
Shakopee, MN 55379

Stephen G. Scholle
Billy Graham Evangelistic Association
1300 Harmon Place
Minneapolis, MN 55403

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce
Insurance Division

Proposed Amendments to Rules Governing Self-Insurance for Workers' Compensation (4 MCAR §§ 1.9285-1.9294)

Notice of Intent to Adopt Rules without A Public Hearing

Notice is hereby given that the Insurance Division of the Department of Commerce proposes to adopt the above-entitled amendments to existing rules without a public hearing. The commissioner has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1980).

Persons interested in these amendments shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Dale L. McDonnell
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
Telephone: (612) 296-8591

Authority for adoption of these amendments is contained in Minn. Stat. § 176.181, subd. 2. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available from Mr. McDonnell upon request.

Upon adoption of the final amendments without a public hearing, the proposed amendments, this notice, the Statement of Need and Reasonableness, all written comments received, and the final amendments as adopted will be delivered to the

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Attorney General for review as to form, legality, and substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as proposed for adoption, should submit a written statement of such request to Mr. McDonnell.

The proposed amendments, if adopted, would change some of the requirements for both individual and group self-insurers. Specifically, the proposed amendments would (a) change the time period for which security deposits must be held, (b) change some of the annual filing requirements for all self-insurers, (c) permit members of a group self-insurer to submit accounting reviews instead of certified financial statements if certain conditions are met, (d) allow certain financial requirements for group self-insurers to be waived if certain conditions are met, and (e) require all self-insurers to notify the commissioner of any decision to terminate their self-insurance authority.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mr. McDonnell.

January 12, 1981

Michael D. Markman
Commissioner of Insurance

Amendments as Proposed

4 MCAR § 1.9288 Acceptable securities and surety bonds.

H. Any securities deposited with the State Treasurer or surety bonds held by the commissioner may be exchanged or replaced by the depositor with other acceptable securities or surety bonds of like amount so long as the market value of the securities or amount of the surety bond equals or exceeds the amount of deposit required. If securities are replaced by a surety bond the self-insurer shall be required to maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities subject to the limitations on maximum security deposits established in 4 MCAR § 1.9291 G. and § 1.9292 H.

4 MCAR § 1.9289 Filing of reports.

A. Incurred losses, paid and unpaid, specifying both indemnity and medical losses by classification, and payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. ~~Such information shall be reported on a calendar year basis and~~ Payroll information must be filed by April 1 of the following year, ~~beginning April 1, 1981~~ and loss information and total workers' compensation liability must be filed by August 1 of the following year.

C. Each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000 ~~within ten days of obtaining knowledge that the claim may exceed $50,000~~ with the annual loss report due August 1 and in a manner and on forms prescribed by the commissioner.

E. Each group self-insurer shall, within four months after the end of the fiscal year for that group, annually file a statement showing the combined net worth of its members based upon either each individual member's annual certified financial statement or an accounting review performed by a certified public accountant if the requirements for use of an accounting review specified in 4 MCAR § 1.9292 B. are met, together with such other financial information the commissioner may require to substantiate data in the group's summary statement. This subdivision shall not apply if the applicable financial requirements have been waived pursuant to 4 MCAR § 1.9292 R.

4 MCAR § 1.9291 Requirements for individual self-insurers.

M. Any individual self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before any such termination is to take place.

4 MCAR § 1.9292 Requirements for group self-insurers.

B. After the initial application ~~along with~~ and the bylaws or plan of operation have been approved by the commissioner, or at the time of the initial application the group shall then submit: the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group as set forth in Appendix II signed by an officer of each member; and a certified financial statement of each member, provided that an accounting review performed by a certified public accountant may be substituted for a certified financial statement if the group selects the lower retention from the Workers' Compensation Reinsurance Association and deposits a one million dollar ($1,000,000.00) bond in place of the deposit requirement of subdivision H.

R. The financial requirements of B. and C. of this section shall be waived if the group self-insurer has purchased aggregate excess insurance from an insurer licensed to do business in the State of Minnesota, and that excess insurance indemnifies all losses of the group self-insurer, other than those reimbursable by the Workers' Compensation Reinsurance Association, in excess of the annual premiums collected by the group less the sum of annual administrative costs, premiums payable to the Workers' Compensation Reinsurance Association and premiums payable to the excess insurer. If aggregate excess insurance is terminated, the service company shall inform the commissioner within two days after receipt of notice of cancellation.

S. Any group self-insurer that voluntarily terminates its self-insurance authority shall give notice to the commissioner not less than 30 days before any such termination is to take place.

Housing Finance Agency

Proposed Temporary Rules Governing the Rental Rehabilitation Loan Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following proposed temporary rules for the purpose of implementing the Rental Rehabilitation Loan Program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register* by writing to Mary Tingerthal, Manager Home Improvement Programs, Minnesota Housing Finance Agency, 333 Sibley Street, Suite 200, St. Paul, Minnesota 55101. The proposed temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the proposed temporary rules.

January 19, 1981

James J. Solem
Executive Director

Temporary Rules as Proposed

Chapter Six A: Rental Rehabilitation Loans

12 MCAR § 3.053 Eligible applications.

A. Each applicant must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation, as determined by the agency or by the lending institution, if any, servicing the loan on behalf of the Agency.

C. To be eligible the structure must be in need of repairs pursuant to § 116H.129, subd. 3, of Minnesota Statutes (state energy conservation standards). For structures less than 15 years old only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible.

D. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for Rental Rehabilitation Loans.

F. Rental Rehabilitation Loan proceeds must be used to finance only improvements upon or in connection with existing structures.

G. All improvements must be reasonably capable of being completed (except for causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials) within nine months of the date of the first disbursement of funds pursuant to the Rental Rehabilitation Loan.

H. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or less shall be occupied by persons and families of low and moderate

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STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed Adoption of Amendments to Rules Governing Self-Insurance for Workers' Compensation

FINDINGS OF FACT AND CONCLUSIONS

After affording interested persons an opportunity to present written and oral data, statements and arguments on the adoption of amendments to rules governing self-insurance for workers' compensation, and having considered all of the evidence brought forward for consideration in the records, files, and proceedings herein, and having considered the recommendations of the Revisor's Office, I find the following:

1. That the proposed amendments to rules, published in the State Register on February 2, 1981, included language which no longer conforms to the laws of Minnesota for workers' compensation group self-insurers as a result of Laws of 1981, ch. 346.

2. That the amendments in 4 MCAR § 1.9289 E. and 4 MCAR § 1.9292 B., as proposed, to eliminate the requirement of a certified financial audit for the workers' compensation group self-insurers conform with Laws of 1981, ch. 346, S 93 codified as Minn. Stat. 176.181, subd. 6 which provides: "No employer shall be required to provide financial statements certified by an 'independent certified public accountant' or 'certified public accountant' as a condition of approval for group self insurance."

3. That the repeal of language relating to "same industry" requirements for group self-insurers in 4 MCAR § 1.9292 D. is proposed to conform with Laws of 1981, ch. 346, S 91 codified as Minn. Stat. 176.181, subd. 2 which provides: "The commissioner of insurance shall also adopt, pursuant to clause (2) (c), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self insurers."

4. That these proposed amendments to the rules governing self insurance for workers' compensation are not substantial in nature.

Based on the foregoing, I conclude that the proposed adoption of amendments to rules governing self-insurance for workers' compensation as modified are adopted.

Thomas L. O'Malley
Temporary Commissioner of Insurance

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed
Amendments to the Rules Governing
Self-Insurance for Workers' Compensation
4 MCAR § 1.9285 - § 1.9294

STATEMENT OF NEED
AND REASONABLENESS
OF PROPOSED AMENDMENTS

STATEMENT OF AUTHORITY

Minn. Stat. § 176.181, subd. 2 requires every employer in the State of Minnesota, except political subdivisions, to either insure payment of compensation under the Workers' Compensation Act (Minn. Stat. ch. 176) through an authorized insurance company, or obtain an order from the Commissioner of Insurance (hereinafter "Commissioner") permitting the employer to self-insure. Pursuant to the authority set forth in Minn. Stat. § 176.181, subd. 2. Rules were adopted on June 10, 1980, setting out the terms conditions, and requirements applicable to employers desiring to self-insure, either individually or as a member of a group, and applicable to those entities who will be administering and servicing workers' compensation self-insurance programs. The above-captioned amendments are proposed by the Commissioner pursuant to the authority set forth in Minn. Stat. § 176.181, subd. 2.

On October 27, 1980, the Commissioner published Notice of Intent to Solicit Outside Information for his consideration of amendments to the rules governing self-insurance for workers' compensation.

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically stated below the proposed amendments are needed in order to better regulate employers self-insuring their workers' compensation liability pursuant to the requirements of Minn. Stat. § 176.181, subd. 2. As more fully indicated below, the proposed amendments reasonably address the above-stated need.

4 MCAR § 1.9288

Rule 4 MCAR § 1.9288 specifies the types of securities and surety bonds that will be accepted by the Commissioner for the purpose of complying with the deposit requirement of 4 MCAR § 1.9291 G and § 1.9292 H. In addition, this rule describes the method by which employers shall file securities or surety bonds and how long those securities or bonds need to remain on deposit.

Subdivision H of this section, which is proposed to be amended herein, presently allows an employer to exchange securities or a surety bond for other securities or surety bond of like amount. The proposed change is needed in this subdivision because it presently provides that when the employer replaces a security deposit with a surety bond, the securities previously deposited are returned to the employer. In such an instance the new surety bond will only assure payment of accruing liabilities beginning on the date the surety bond was effective and will not cover the prior time period during which the employer has used securities to meet the deposit requirement. Since the securities are required to be returned to the employer in this instance there will be no source from which benefits for claims arising in the prior time period can be paid in the event the employer is no longer able to make such payments. Thus, a change is needed in this rule to cure this defect.

The proposed amendment to this subdivision requires that if an employer replaces securities on deposit with a surety bond deposit, it will have to maintain on deposit securities sufficient to meet its outstanding workers' compensation liability for the prior period during which the securities were on deposit. This amendment further anticipates that no securities will need to be maintained on deposit when the outstanding liability reaches zero. This amendment is reasonable since it will provide a source for payment of benefits for claims arising during this time period in the event the employer can no longer pay benefits. Further, a limitation of the amount of securities to be so maintained to the maximums established in 4 MCAR § 1.9291 B and § 1.9292 H is reasonable to the extent that said maximums are prescribed in the original rules.

4 MCAR § 1.9289

Rule 4 MCAR § 1.9289 requires each self-insurer to file certain reports with the Commissioner. Subdivision A of this rule requires the self-insurer to annually report payroll and loss information by April 1 of each year for the preceeding calendar year. In many instances losses from the preceeding calendar year cannot be accurately determined until May or June of the next year. The Workers' Compensation Reinsurance Association (WCRA) recognizes this fact and requires its members, including self-insurer members, to determine losses for the preceeding calendar year on June 1 of each year. In recognizing the reality of determining workers' compensation losses and the requirement of the WCRA there is a need to amend the requirement that loss data must be reported

by April 1. In this regard the proposed amendment to this subdivision would require self-insurers to report loss information by August 1. This would provide self-insurers with a period of two months after their losses are to be reported to the WCRA to report that data to the Commissioner.

Subdivision C of this rule requires self-insurers to report losses with values in excess of $50,000. It appears that there is little need to obtain this information as quickly as originally required and it would be more reasonable and efficient to process this reporting requirement at the same time as the annual loss report is filed. For this reason this subdivision is proposed to be amended to require self-insurers to report claims from the previous year that are in excess of $50,000 along with the annual loss report due on August 1.

Subdivision E of this rule requires that each group self-insurer annually file a statement showing the combined net worth of its members based on each member's annual certified financial statement. To the extent that annual certified financial statements may not be required pursuant to the proposed amendments to 4 MCAR § 1.9292 discussed below, it is reasonable to waive the requirement that the annual financial statement of the group to be based on certified financial statements of individual members. For this reason the proposed amendment to subdivision E of this rule is needed and reasonable.

4 MCAR § 1.9291

Rule 4 MCAR § 1.9291 delineates the requirements for individual self-insurers. Proposed subdivision M of this rule would require individual self-insurers to notify the Commissioner 30 days in advance of any voluntary termination of self-insurance programs. This notice is needed so that the Commissioner can properly notify the Department of Labor and Industry that a particular employer will no longer have the authority to self-insure and, therefore, must obtain insurance to comply with the workers' compensation law. Further, any employer that decides to terminate its self-insurance authority will have made such a decision well in advance of such termination so as to permit proper planning so, therefore, it will not be unreasonable to notify the Commissioner of their decision.

4 MCAR § 1.9292

Rule 4 MCAR § 1.9292 delineates and clarifies the requirements for group self-insurers. More specifically, subdivision B of this rule requires,

among other things, the group self-insurer to file the certified financial statement of each member at the time of its application for authority to self-insure. At the time this rule was adopted it was felt that certified financial statements were needed in order to give the Commissioner independent verification as to the existence of assets. This was needed for the Commissioner to make his statutory determination as to the financial ability for the group to meet all of its workers' compensation liability.

The proposed amendment to subdivision B provides the group with another avenue to meet the financial requirements of this rule while still being able to satisfy the Commissioner that the group will be able to meet all of its workers' compensation liability. This amendment is needed in order to provide greater flexibility for the group. As amended, this rule will still provide the Commissioner with the assurance that the group self-insurer will be able to pay workers' compensation claims as they become due. While this amendment permits an accounting review which is not as reliable as the certified financial statement that is presently required, it provides adequate assurance of ability to meet future liabilities by requiring the group to post a million dollar bond and select the lower retention with the WCRA.

To provide additional flexibility for the prospective group self-insurer this rule is proposed to the amended by adding subdivision R. This proposed subdivision would waive the financial requirements of subdivisions B and C, provided that the group purchases aggregate excess insurance that covers all losses of the group not reimbursable by the WCRA in excess of the annual premium of its members less any applicable administration expenses. This approach is reasonable because it provides the group with added flexiblity, while giving the Commissioner the assurance that the group will pay its claims as they become due. Under this proposed amendment, assuring the financial integrity of the group members becomes less critical since all workers' compensation claims will be able to be met from either the annual premiums of the group, the WCRA, or the aggregate excess insurance coverage. If the group maintains this type of arrangement there will be little need to assess the member employers for any claims thus alleviating the need to hold the group to the stringent financial standards set out in subdivisions B and C of this rules. Further, when the aggregate excess insurance is terminated the Commissioner has a definite need to immediately be informed since the financial requirements of subdivisions B and C would then apply. The Commissioner would thereby be able to make a determination as to

whether the group self-insurer is in compliance with these subdivisions.

Proposed subdivision S to 4 MCAR § 1.9292 is needed and reasonable for the same reasons that the proposed amendment 4 MCAR § 1.9291 subdivision M is needed and reasonable.

CONCLUSION

For the reasons stated above the Commissioner believes that each of the proposed amendments to the existing rules governing self-insurance for workers' compensation 4 MCAR § 1.9285 through § 1.9294 are needed to effectively and properly regulate employers and employer groups who self-insure their workers' compensation liability. The Commissioner further believes that the proposed amendments reasonably effectuate the above stated need.

WILLIAM R. HOWARD
Assistant Commissioner of Insurance

In the Matter of the Proposed Adoption of Amendments of Rules Governing Self-Insurance for Workers' Compensation

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Robert J. Clayton, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Robert J Clayton

Special Assistant Attorney General

Dated: July 28, 1982

In the Matter of the Proposed Adoption of Amendments to Rules Governing Self-Insurance for Workers' Compensation

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Debbi J. Lindlief, being first duly sworn deposes and says:

That on the 26th day of July, 1982, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at the City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Debbi J. Lindlief

Subscribed and sworn to before me this
26th day of July, 1982.

Norene M. Carr

NORENE M. CARR
NOTARY PUBLIC MINNESOTA
RAMSEY COUNTY
My Commission Expires Feb. 24, 1988

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed Adoption of
Amendments to Rules Governing Self-
Insurance for Workers' Compensation

Pursuant to your request and in accordance with Minn. Stat. § 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, July 26, 1982, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least 5 calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of these rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, (612) 296-7030. Please note that the rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact William Howard, Insurance Division, 500 Metro Square Building, St. Paul, Minnesota 55101.

Thomas L. O'Malley

Thomas L. O'Malley
Temporary Commissioner of Insurance